

SUPREME COURT OF OHIO

State ex rel. Parker Bey v. Loomis

2020-Ohio-1463 (Ohio 2020) · No. 2019-1240 · Decided April 16, 2020

SUMMARY

The Supreme Court of Ohio reversed the dismissal of Vincent El Alan Parker Bey’s mandamus action seeking public records from the Trumbull Correctional Institution. The court held that the request was not moot because the respondents had sought additional information to locate the requested records and had not shown compliance with the request. The case was remanded for further proceedings, including consideration of statutory damages and court costs.

CASE DETAILS

COURT	Supreme Court of Ohio
WRITING FOR THE COURT	Per Curiam; Maureen O'Connor, C.J.; Maureen O'Connor; Pat DeWine; Judith L. French; Patrick F. Fischer; Michael P. Donnelly; Jennifer Brunner; Melody J. Stewart
JURISDICTION	Ohio
DECIDED	April 16, 2020
DOCKET	2019-1240
DISPOSITION	reversed_and_remanded
PROCEDURAL POSTURE	Parker Bey appealed the Eleventh District Court of Appeals' dismissal under Civ.R. 12(B)(6) of his complaint seeking a writ of mandamus to compel production of public records, statutory damages, and court costs.
STANDARD OF REVIEW	De novo review of dismissal of a mandamus complaint under Civ.R. 12(B)(6).
PRECEDENTIAL VALUE	Published
PARTIES	Vincent El Alan Parker Bey v. Trumbull Correctional Institution, Julie Loomis

TOPICS

[administrative law](#)[civil procedure](#)[appellate procedure](#)[standard of review](#)[remedies](#)

PRACTICE AREAS

Public records

Mandamus

Administrative law

Civil procedure

QUESTIONS PRESENTED

1. Whether Parker Bey's public-records mandamus claim was moot when the record did not show that the institution had complied with the second part of his records request.
2. Whether Parker Bey could potentially recover statutory damages and court costs on remand based on his certified-mail public-records request.
3. Whether the court of appeals improperly granted a motion to dismiss without converting it to a motion for summary judgment.

HOLDINGS

1. The claim was not moot because the institution's undated letter showed that it was requesting additional information to locate the records, and the institution presented no evidence that it had complied with the second part of the request.
2. Because Parker Bey sent his public-records request by certified mail, he may be entitled to statutory damages if the court of appeals determines on remand that Loomis failed to respond timely or fully. If the court grants a writ concerning the second part of the request, Parker Bey will also be entitled to court costs under the applicable former statute.

KEY QUOTATIONS

“Contrary to the court of appeals’ determination, the undated letter unambiguously indicates that Parker Bey’s request is not moot, because Loomis was requesting additional information so that she could locate the relevant documents.” (¶ 8)

“Dismissal is appropriate only if it “appear[s] beyond doubt from the complaint that the relator can prove no set of facts warranting relief, after all factual allegations of the complaint are presumed true and all reasonable inferences are made in the relator’s favor.”” (¶ 6)

FACTUAL BACKGROUND

While incarcerated at Trumbull Correctional Institution, Parker Bey requested copies of legal-mail logs for January and February 2019 and records showing when the institutional inspector made housing-unit rounds from December 2018 through February 2019. The institution provided portions of the legal-mail logs containing Parker Bey's name but did not establish that it had supplied the requested inspector-round records. An undated letter indicated that additional information was needed to locate those records, and Parker Bey stated that he had never received that letter.

PROCEDURAL HISTORY

Parker Bey submitted a certified-mail public-records request to the Trumbull Correctional Institution. After receiving only portions of the requested legal-mail logs, he filed a mandamus complaint seeking the remaining

records and related relief. The Eleventh District dismissed the complaint as moot and denied statutory damages and court costs. The Supreme Court of Ohio reversed and remanded.

DISPOSITION

reversed_and_remanded

REMAND INSTRUCTIONS

The case was remanded to the Eleventh District Court of Appeals for further proceedings consistent with the opinion, including determining whether Loomis failed to timely or fully respond to the second part of the public-records request and resolving Parker Bey's entitlement to statutory damages and court costs if the statutory conditions are met.

CASES CITED

- State ex rel. Brown v. Nusbaum, 152 Ohio St. 3d 284, 2017-Ohio-9141, 95 N.E.3d 365, ¶ 10
- State ex rel. Zander v. Judge of Summit Cty. Common Pleas Court, 156 Ohio St. 3d 466, 2019-Ohio-1704, 129 N.E.3d 401, ¶ 4

OPINION

PER CURIAM.

[Until this opinion appears in the Ohio Official Reports advance sheets, it may be cited as State ex rel. Parker Bey v. Loomis, Slip Opinion No. 2020-Ohio-1463.] NOTICE This slip opinion is subject to formal revision before it is published in an advance sheet of the Ohio Official Reports. Readers are requested to promptly notify the Reporter of Decisions, Supreme Court of Ohio, 65 South Front Street, Columbus, Ohio 43215, of any typographical or other formal errors in the opinion, in order that corrections may be made before the opinion is published.

SLIP OPINION NO. 2020-OHIO-1463 THE STATE EX REL. PARKER BEY, APPELLANT, v. LOOMIS ET AL., APPELLEES. [Until this opinion appears in the Ohio Official Reports advance sheets, it may be cited as State ex rel. Parker Bey v. Loomis, Slip Opinion No. 2020-Ohio-1463.] Mandamus—Public-records requests—Inmate's records request not moot—Court of appeals' dismissal of complaint reversed and cause remanded.

(No. 2019-1240—Submitted February 11, 2020—Decided April 16, 2020.) APPEAL from the Court of Appeals for Trumbull County, No. 2019-T-0035, 2019-Ohio-3446. _____ Per Curiam. {¶ 1} Appellant, Vincent El Alan Parker Bey, appeals the judgment of the Eleventh District Court of Appeals dismissing his complaint for a writ of mandamus against appellees, Trumbull Correctional Institution and Julie Loomis (collectively, "TCI"), the assistant to the warden.

We reverse the court of appeals’ judgment and remand the case for further proceedings consistent with this opinion. SUPREME COURT OF OHIO Background {¶ 2} While incarcerated at the Trumbull Correctional Institution, Parker Bey submitted a handwritten public-records request to appellees. He sent the request by certified mail on March 5, 2019, and asked for copies of (1) “the legal mail log for the months of January [and] February of 2019” and (2) “the dates and times that the institutional inspector (Ms.

Fredericks) ma[de] rounds in the housing units” for the months of December 2018 through February 2019. Loomis received the request on March 8. {¶ 3} On April 11, 2019, Parker Bey received Loomis’s response, which provided copies of the portions of the requested legal-mailroom logs in which Parker Bey’s name appeared.

In her cover letter, Loomis stated that the mailroom logs “will satisfy all requests made for records that have been received by this office.” Citing Ohio Adm.Code 5120-9-49(B)(1) and R.C. 149.43(A)(1)(v), Loomis explained that she was prohibited from providing copies of nonpublic records, but she did not expressly mention the second part of Parker Bey’s request. {¶ 4} Parker Bey filed a complaint for a writ of mandamus in the Eleventh District on June 24, 2019, seeking to compel TCI to provide him with the rest of the records he had requested—i.e., “the dates and times that the institutional inspector (Ms.

Fredericks) ma[de] rounds in the housing units” for the months of December 2018 through February 2019. Parker Bey also sought an award of statutory damages and court costs. {¶ 5} The court of appeals granted TCI’s motion to dismiss, determining that Parker Bey’s complaint was moot because he had already received all the requested records to which he was entitled.

The court also denied Parker Bey’s request for statutory damages and court costs. Legal Analysis {¶ 6} We review *de novo* the dismissal of a mandamus complaint under Civ.R. 12(B)(6). *State ex rel. Brown v. Nusbaum*, 152 Ohio St. 3d 284, 2017-Ohio- 2 January Term, 2020 9141, 95 N.E.3d 365, ¶ 10. Dismissal is appropriate only if it “appear[s] beyond doubt from the complaint that the relator can prove no set of facts warranting relief, after all factual allegations of the complaint are presumed true and all reasonable inferences are made in the relator’s favor.” *State ex rel.*

Zander v. Judge of Summit Cty. Common Pleas Court, 156 Ohio St. 3d 466, 2019-Ohio-1704, 129 N.E.3d 401, ¶ 4. {¶ 7} In concluding that Parker Bey’s public-records claim is moot, the court of appeals relied on documents attached to Loomis’s motion to dismiss. Attached to the motion was a declaration and two letters that Loomis referred to in her declaration, Exhibits A and B. Exhibit A is an undated and unsigned letter that Loomis purportedly wrote to Parker Bey indicating that she needed additional information from him to process the second part of his public-records request.

Parker Bey attests that he never received this letter. Exhibit B is a copy of Loomis’s April 11, 2019 letter to Parker Bey that is signed by both Parker Bey and Loomis. With regard to the second part

of Parker Bey's request, Loomis stated in the undated letter as follows: "I am not required to conduct research for your request. There are 10 blocks, each with a 24 hour visit log and you are requesting 3 months of copies.

Is there a specific block(s) you are requesting? Please advise so I may proceed with this item in the letter." ¶ 8} Contrary to the court of appeals' determination, the undated letter unambiguously indicates that Parker Bey's request is not moot, because Loomis was requesting additional information so that she could locate the relevant documents.

Accordingly, the court of appeals erred when it concluded that Parker Bey's claim is moot. TCI has provided no evidence demonstrating that it complied with the second part of Parker Bey's records request. ¶ 9} The court of appeals also denied Parker Bey's request for statutory damages and court costs.

Under the version of R.C. 149.43(C)(2) in effect when Parker Bey made his request, statutory damages were available if the request was 3 SUPREME COURT OF OHIO made by hand delivery, electronic submission, or certified mail. 2018 Sub.H.B. No. 34.

Because Parker Bey sent his request by certified mail, he may be entitled to statutory damages if the court of appeals, on remand, determines that Loomis failed to timely or fully respond to his request. Under former R.C. 149.43(C)(3)(a)(i), if the court of appeals grants a writ of mandamus with respect to the second part of Parker Bey's records request on remand, he will also be entitled to an award of court costs. ¶ 10} Parker Bey also argues that the court of appeals erred when it granted Loomis's motion to dismiss without converting it into a motion for summary judgment and giving appropriate notice to the parties.

However, we decline to rule on this alleged error, in light of our conclusion that the appellate court erred in dismissing Parker Bey's public-records mandamus complaint. Judgment reversed and cause remanded. O'CONNOR, C.J., and KENNEDY, FRENCH, FISCHER, DEWINE, DONNELLY, and STEWART, JJ., concur. _____ Vincent El Alan Parker Bey, pro se. Dave Yost, Attorney General, and Jared S. Yee, Assistant Attorney General, for appellees.