

# SUPREME COURT OF OHIO

## State ex rel. Gooden v. Kagel

Gooden, 138 Ohio St. 3d at 343 (Ohio 2014) · No. 2013-1159 · Decided March 13, 2014

### SUMMARY

The Ohio Supreme Court affirmed dismissal of Martine Gooden’s mandamus action seeking victim-loss statements from the Marion County Clerk of Courts. The court held that Gooden failed to comply with R.C. 2969.25(C) by omitting the required inmate-account statement and failed to establish by clear and convincing evidence that the requested documents existed or were in the clerk’s possession or control.

### CASE DETAILS

|                       |                                                                                                                                                                                                                                                |
|-----------------------|------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| COURT                 | Supreme Court of Ohio                                                                                                                                                                                                                          |
| WRITING FOR THE COURT | O'Connor, C.J.; Pfeifer, J.; O'Donnell, J.; Lanzinger, J.; Kennedy, J.; French, J.; O'Neill, J.                                                                                                                                                |
| JURISDICTION          | Ohio                                                                                                                                                                                                                                           |
| DECIDED               | March 13, 2014                                                                                                                                                                                                                                 |
| DOCKET                | 2013-1159                                                                                                                                                                                                                                      |
| DISPOSITION           | affirmed                                                                                                                                                                                                                                       |
| PROCEDURAL POSTURE    | Appeal from the dismissal of a petition for a writ of mandamus seeking certified copies of victim-loss statements under Ohio's Public Records Act.                                                                                             |
| STANDARD OF REVIEW    | The court applied the statutory requirements for an inmate seeking waiver of filing fees and required clear and convincing evidence that the requested public records existed and were subject to the respondent's legal duty to produce them. |
| PRECEDENTIAL VALUE    | Published Ohio Supreme Court opinion; binding precedent in Ohio subject to subsequent treatment.                                                                                                                                               |
| PARTIES               | Martine P. Gooden v. Julie Kagel, Clerk of Courts                                                                                                                                                                                              |

### TOPICS

civil procedure

appellate procedure

remedies

appellate jurisdiction

## PRACTICE AREAS

civil procedure

public records

mandamus

appellate procedure

## QUESTIONS PRESENTED

1. Whether Gooden's mandamus petition was fatally defective because he failed to attach the inmate-account statement and other documentation required by R.C. 2969.25.
2. Whether Gooden was entitled to a writ of mandamus compelling the clerk to produce victim-loss statements when he failed to prove by clear and convincing evidence that the statements existed or were in the clerk's possession or control.

## HOLDINGS

1. An inmate who seeks waiver of filing fees in a mandamus action must comply with R.C. 2969.25(C), including attaching a statement of the inmate account; failure to do so is a fatal defect warranting dismissal.
2. A relator seeking public records through mandamus must prove by clear and convincing evidence that the requested records exist and that the respondent has a legal duty to produce them; an unsubstantiated allegation that the records exist is insufficient.

## KEY QUOTATIONS

*“Mandamus is the appropriate remedy to compel compliance with R.C. 149.43, Ohio’s Public Records Act.”*  
(¶ 6)

*“Therefore, because he has failed to prove by clear and convincing evidence that the victim-loss statements he requested even existed, he cannot show that Kagel had a legal duty to produce them.”* (¶ 8)

## FACTUAL BACKGROUND

Gooden was ordered to pay restitution as part of a 2006 criminal sentence and sought certified copies of victim-loss statements allegedly used in that case. He claimed that he repeatedly requested the documents from Marion County Clerk of Courts Julie Kagel, but Kagel responded that she had never possessed them. Gooden supplied no proof of his requests, Kagel's denials, the documents' existence, or their filing in the clerk's records.

## PROCEDURAL HISTORY

Gooden filed a mandamus petition in the Third District Court of Appeals against the Marion County Clerk of Courts. The court of appeals dismissed the petition after finding that Gooden failed to attach the documentation required by R.C. 2969.25 and failed to provide evidence that the requested victim-loss statements existed or were in the clerk's possession or control. The Supreme Court of Ohio affirmed.

## DISPOSITION

affirmed

## CASES CITED

- State ex rel. Physicians Comm't. for Responsible Medicine v. Ohio State Univ. Bd. of Trustees, 108 Ohio St. 3d 288, 2006-Ohio-903, 843 N.E.2d 174, ¶ 6
- State ex rel. Data Trace Information Servs., L.L.C. v. Cuyahoga Cty. Fiscal Officer, 131 Ohio St. 3d 255, 2012-Ohio-753, 963 N.E.2d 1288, ¶ 25
- State ex rel. Am. Civ. Liberties Union of Ohio, Inc. v. Cuyahoga Cty. Bd. of Commrs., 128 Ohio St. 3d 256, 2011-Ohio-625, 943 N.E.2d 553, ¶ 24
- State ex rel. McCaffrey v. Mahoning Cty. Prosecutor's Office, 133 Ohio St. 3d 139, 2012-Ohio-4246, 976 N.E.2d 877, ¶ 26

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