

SUPREME COURT OF OHIO

State ex rel. Morgan v. City of New Lexington

112 Ohio St. 3d 33 (Ohio 2006) · Decided December 20, 2006

SUMMARY

Victoria Morgan brought an original mandamus action under Ohio’s Public Records Act to compel the City of New Lexington to provide records supporting her discharge from employment. The Supreme Court of Ohio held that her request was sufficiently specific, that the requested routine employment records were not confidential law-enforcement investigatory records, and that neither the clean-hands doctrine nor the availability of other remedies barred mandamus. The court granted the writ but denied attorney fees.

CASE DETAILS

COURT	Supreme Court of Ohio
WRITING FOR THE COURT	Moyer, C.J.; Pfeifer; Lundberg Stratton; O'Connor; O'Donnell; Lanzinger; Resnick
JURISDICTION	Ohio
DECIDED	December 20, 2006
DISPOSITION	writ_granted
PROCEDURAL POSTURE	Original mandamus action under the Ohio Public Records Act, R.C. 149.43, seeking access to employment and disciplinary records. The Supreme Court of Ohio granted an alternative writ, considered the merits, granted the writ, and denied attorney fees.
STANDARD OF REVIEW	The court strictly construes Public Records Act exceptions against the records custodian, and the custodian bears the burden of establishing an exception. Motions to strike are reviewed under the court's broad discretion.
PRECEDENTIAL VALUE	Published opinion of the Supreme Court of Ohio; precedential.
PARTIES	Victoria Morgan v. City of New Lexington

TOPICS

- remedies
- civil procedure
- municipal law
- employment law
- attorney fees

PRACTICE AREAS

QUESTIONS PRESENTED

1. Whether Morgan's public-records request identified the requested records with sufficient clarity under R.C. 149.43.
2. Whether the availability of alternative discovery or other legal remedies barred Morgan's mandamus action.
3. Whether the requested employment and disciplinary records were confidential law-enforcement investigatory records exempt from disclosure.
4. Whether Morgan's alleged misconduct or lack of clean hands barred her request for mandamus relief.
5. Whether the city was required to provide personnel records and policies that it claimed did not exist in the requested form.
6. Whether Morgan was entitled to attorney fees.

HOLDINGS

1. Morgan's request was sufficiently specific to invoke the Public Records Act because it sought records supporting the city's identified disciplinary charges and identified particular categories of records; a request need not specify each record's author and date when the public office knows which records are sought.
2. The lack of an adequate remedy in the ordinary course of law is not a prerequisite to mandamus relief in a public-records case, and the availability of civil discovery or another remedy does not preclude a Public Records Act mandamus action.
3. The requested records were not exempt confidential law-enforcement investigatory records because they were created in the routine course of public employment before the investigations began and related to employment matters rather than directly to law enforcement.
4. Morgan's alleged misconduct did not bar her Public Records Act mandamus claim under the clean-hands doctrine.
5. The city had not established that the requested personnel records and policies did not exist, although a public office has no duty to create new documents to satisfy a records request.
6. Morgan was not entitled to attorney fees because she failed to establish a sufficient public benefit; the requested records primarily benefited her in a potential civil action.

KEY QUOTATIONS

"We do not require perfection in public-records requests." (112 Ohio St. 3d at 39, ¶ 37)

"Therefore, Morgan's records request was sufficiently specific for purposes of invoking the Public Records Act." (112 Ohio St. 3d at 40, ¶ 39)

"Consequently, New Lexington has not met its burden to establish that the requested records are excepted

from disclosure under R.C. 149.43.” (112 Ohio St. 3d at 42, ¶ 52)

FACTUAL BACKGROUND

Morgan was employed by New Lexington as the clerk of the mayor's court and payroll clerk and was terminated after the city charged her with payroll, leave-reporting, payment, dishonesty, and other employment violations. She requested records supporting the 18 charges, along with personnel records, applicable policies, and collective-bargaining provisions. The city denied access, asserting that the records had been provided to investigators and were exempt, although the records were later returned to the city's possession. Morgan sought a writ of mandamus compelling disclosure under Ohio's Public Records Act.

PROCEDURAL HISTORY

Morgan requested records from the City of New Lexington concerning the charges underlying her termination. The city denied the request, asserting that the records were not in its possession, were exempt trial-preparation or confidential law-enforcement investigatory records, and that the request was insufficiently specific. Morgan filed an original mandamus action; the court granted an alternative writ and, after receiving evidence and briefs, granted the writ.

DISPOSITION

writ_granted

REMAND INSTRUCTIONS

New Lexington was ordered to provide Morgan access to the requested records. The court denied her request for attorney fees.

CASES CITED

- Drake v. Bucher, 5 Ohio St. 2d 37, 213 N.E.2d 182 (1966)
- State ex rel. Queen City Chapter of Soc. of Professional Journalists v. McGinnis, 10 Ohio St. 3d 54, 461 N.E.2d 307 (1984)
- State ex rel. Mora v. Wilkinson, 105 Ohio St. 3d 272, 824 N.E.2d 1000 (2005)
- State ex rel. Dann v. Taft, 109 Ohio St. 3d 364, 848 N.E.2d 472 (2006)
- State ex rel. Fant v. Tober, 68 Ohio St. 3d 117, 623 N.E.2d 1202 (1993)
- State ex rel. Lanham v. Ohio Adult Parole Authority, 80 Ohio St. 3d 425, 687 N.E.2d 283 (1997)
- State ex rel. Kemer v. State Teachers Retirement Board, 82 Ohio St. 3d 273, 695 N.E.2d 256 (1998)
- State ex rel. Thomas v. Ohio State University, 70 Ohio St. 3d 1438, 638 N.E.2d 1041 (1994)
- State ex rel. Cater v. N. Olmsted, 69 Ohio St. 3d 315, 631 N.E.2d 1048 (1994)
- State ex rel. Warren Newspapers, Inc. v. Hutson, 70 Ohio St. 3d 619, 640 N.E.2d 174 (1994)
- State ex rel. Zauderer v. Joseph, 62 Ohio App. 3d 752, 577 N.E.2d 444 (1989)

- State ex rel. Vaughn Industries, L.L.C. v. Ohio Department of Commerce, 109 Ohio St. 3d 482, 849 N.E.2d 31 (2006)
- State ex rel. Gaydosh v. Twinsburg, 93 Ohio St. 3d 576, 757 N.E.2d 357 (2001)
- State ex rel. Dist. 1199, Health Care & Social Serv. Union, SEIU, AFL-CIO v. Lawrence County General Hospital, 83 Ohio St. 3d 351, 699 N.E.2d 1281 (1998)
- State ex rel. Steckman v. Jackson, 70 Ohio St. 3d 420, 639 N.E.2d 83 (1994)
- Gilbert v. Summit County, 104 Ohio St. 3d 660, 821 N.E.2d 564 (2004)
- State ex rel. McGowan v. Cuyahoga Metropolitan Housing Authority, 78 Ohio St. 3d 518, 678 N.E.2d 1388 (1997)
- State ex rel. Physicians Committee for Responsible Medicine v. Ohio State University Board of Trustees, 108 Ohio St. 3d 288, 843 N.E.2d 174 (2006)
- State ex rel. Yant v. Conrad, 74 Ohio St. 3d 681, 660 N.E.2d 1211 (1996)
- State ex rel. Multimedia, Inc. v. Snowden, 72 Ohio St. 3d 141, 647 N.E.2d 1374 (1995)
- State ex rel. Lorain Journal Co. v. Lorain, 87 Ohio App. 3d 112, 621 N.E.2d 894 (1993)
- State ex rel. Musial v. N. Olmsted, 106 Ohio St. 3d 459, 835 N.E.2d 1243 (2005)
- Christman v. Christman, 171 Ohio St. 152, 168 N.E.2d 153 (1960)
- State ex rel. Albright v. Haber, 139 Ohio St. 551, 41 N.E.2d 247 (1942)
- State ex rel. Fant v. Enright, 66 Ohio St. 3d 186, 610 N.E.2d 997 (1993)
- Norris v. Budgake, 89 Ohio St. 3d 208, 729 N.E.2d 758 (2000)
- State ex rel. Cranford v. Cleveland, 103 Ohio St. 3d 196, 814 N.E.2d 1218 (2004)