

COURT OF APPEALS OF OHIO, ELEVENTH APPELLATE DISTRICT,
PORTAGE COUNTY

State ex rel. Souare v. Ravenna Police Dept.

2026-Ohio-2981 · No. 2025-P-0092 · Decided August 3, 2026

SUMMARY

The Ohio Eleventh District Court of Appeals denied Elhadj Alpha Mahmoud Souare’s petition for a writ of mandamus seeking public records from the Ravenna Police Department. The court held that Souare failed to establish by clear and convincing evidence that the requested records existed and were maintained by the department, and that a public office has no duty to create or provide nonexistent records. The court also addressed the Public Records Act, the confidential law-enforcement investigatory-record exemption, and the effect of records allegedly provided in criminal discovery.

CASE DETAILS

COURT	Court of Appeals of Ohio, Eleventh Appellate District, Portage County
WRITING FOR THE COURT	Per curiam; Matt Lynch, Presiding Judge; John J. Eklund, Judge; Eugene A. Lucci, Judge
JURISDICTION	Ohio
DECIDED	August 3, 2026
DOCKET	2025-P-0092
DISPOSITION	denied
PROCEDURAL POSTURE	Relator brought an original action for a writ of mandamus seeking public records, statutory damages, attorney fees, costs, sanctions, and referral to disciplinary counsel. After denying the respondent's motion to dismiss, the court ordered cross-motions for summary judgment, granted the respondent's motion, denied the relator's motion, and denied the petition.
STANDARD OF REVIEW	Summary judgment is reviewed under the rule that the moving party must show no genuine issue of material fact, entitlement to judgment as a matter of law, and that reasonable persons could reach only a conclusion adverse to the nonmoving party. A mandamus relator must establish entitlement to relief by clear and convincing evidence.
PRECEDENTIAL VALUE	Published Ohio Court of Appeals opinion

PARTIES

Elhadj Alpha Mahmoud Souare v. Ravenna Police Department

TOPICS

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PRACTICE AREAS

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QUESTIONS PRESENTED

1. Whether Souare established by clear and convincing evidence that Ravenna Police possessed or maintained the requested public records, thereby creating a clear legal duty enforceable through mandamus.
2. Whether a public office must create or produce records that do not exist or are not in its possession or control.
3. Whether Souare's March 6, 2026 supplemental filing, submitted after his indictment and concerning an agency involved in the criminal investigation, constituted a criminal-discovery demand under Crim.R. 16(H) rather than a proper public-records request in mandamus.
4. Whether Souare was entitled to statutory damages, sanctions, attorney fees, costs, or disciplinary referral.

HOLDINGS

1. The petition for a writ of mandamus was properly denied because Souare failed to prove by clear and convincing evidence that the requested records existed and were maintained by Ravenna Police.
2. The March 6, 2026 supplemental filing was properly treated as a more detailed version of the original request, but because it sought information from an agency involved in the criminal investigation after Souare had been indicted, it constituted a demand for criminal discovery under Crim.R. 16(H) and was not a proper substitute for criminal discovery in a mandamus action.
3. Souare was not entitled to statutory damages under the circumstances.
4. Sanctions against Ravenna and referral to disciplinary counsel were unwarranted.

KEY QUOTATIONS

“When a public office attests that it does not have responsive records, the relator in a public-records mandamus case bears the burden of proving by clear and convincing evidence that the requested records exist and are maintained by the public office.” (¶ 40)

“A public office is under no duty to create new documents to satisfy a public-records request.” (¶ 41)

“This rule implies that a public-records request is not a proper substitute for criminal discovery afforded under Crim.R. 16.” (¶ 49)

“Because there is no genuine issue of material fact that remains to be litigated, we hold respondent is entitled to judgment as a matter of law.” (¶ 56)

FACTUAL BACKGROUND

Souare was stopped by Silver Lake police on December 8, 2025, after his vehicle allegedly had been designated "under search" in connection with an alleged rape investigation. He requested records from the Ravenna Police Department concerning vehicle alerts, database searches, dispatches, communications, warrants, and related investigative activity. Souare was indicted for rape on December 24, 2025, and discovery relating to the criminal prosecution was provided to him through counsel on February 9, 2026. Ravenna submitted affidavits stating that many requested records did not exist, were unavailable, or were not maintained by the department, while relevant prosecution materials had been provided in discovery.

PROCEDURAL HISTORY

Souare filed a mandamus petition seeking records concerning a December 8, 2025 vehicle stop and an alleged rape investigation. Ravenna Police moved to dismiss on jurisdictional, service, pleading, and public-records-exemption grounds; the court denied the motion, finding jurisdiction and service adequate and the initial CLEIR assertion insufficiently supported. The parties then filed cross-motions for summary judgment. The court held that the respondent had shown that many requested records did not exist or were unavailable, that other relevant materials had been provided through criminal discovery, and that Souare was not entitled to statutory damages or sanctions.

DISPOSITION

denied

CASES CITED

- State ex rel. Everhart v. McIntosh, 2007-Ohio-4798, ¶ 10
- Lundeen v. Turner, 2020-Ohio-274, ¶ 4 fn. 1
- In re Estate of Centorbi, 2011-Ohio-2267, ¶ 18
- Welsh-Huggins v. Jefferson Cty. Prosecutor's Office, 2020-Ohio-5371, ¶¶ 25, 27
- State ex rel. Berry v. Booth, 2024-Ohio-5774, ¶ 51
- State ex rel. Wallace v. State Med. Bd. of Ohio, 2000-Ohio-213, ¶ 16
- State ex rel. Cincinnati Enquirer v. Jones-Kelley, 2008-Ohio-1770, paragraph two of the syllabus
- State ex rel. Howard v. Shuler, 2025-Ohio-4964, ¶ 31
- State ex rel. Taylor v. Glasser, 50 Ohio St.2d 165, 166 (1977)
- State ex rel. Kriss v. Richards, 102 Ohio St. 455 (1921)
- State ex rel. Skinner Engine Co. v. Kouri, 136 Ohio St. 343 (1940)
- State ex rel. Waters v. Spaeth, 2012-Ohio-69, ¶ 6
- State ex rel. Cleveland Right to Life v. State Controlling Bd., 2013-Ohio-5632, ¶ 2

- State ex rel. Andrews v. Chardon Police Dept., 2013-Ohio-338, ¶ 5
- Swann v. Olivier, 22 Cal. App. 4th 1324, 1329 (1994)
- State ex rel. Culgan v. Jefferson Cty. Prosecutor, 2024-Ohio-4715, ¶ 13
- State ex rel. Horton v. Kilbane, State ex rel. Horton v. Kilbane, 2022-Ohio-205, ¶ 11
- State ex rel. McDougald v. Greene, 2020-Ohio-5100, ¶ 10
- State v. Athon, 2013-Ohio-1956, paragraph one of the syllabus
- Lusane v. Heverly, 2015-Ohio-714, ¶ 10
- State ex rel. Henderson v. Washington Court House, 2026-Ohio-110, ¶ 24
- State ex rel. Wells v. Lakota Local Schools Bd. of Edn., 2024-Ohio-3316, ¶ 11
- State ex rel. Martin v. Greene, 2019-Ohio-1827, ¶ 7
- State ex rel. Woods v. Lawrence Cty. Sheriff's Office, 2023-Ohio-1241, ¶ 7
- State ex rel. DiFranco v. S. Euclid, 2015-Ohio-4915, ¶ 15

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