

SUPREME COURT OF OHIO

State ex rel. Fenstermaker v. McConville

2026-Ohio-530 · No. 2025-0090 · Decided February 19, 2026

SUMMARY

The Supreme Court of Ohio addresses an inmate’s public-records mandamus action against the Knox County Prosecuting Attorney. The court holds that R.C. 2969.25 does not apply to original actions filed in the Supreme Court of Ohio, denies mandamus relief because the requested records were either produced or not shown to exist, and awards \$700 in statutory damages for an unreasonable delay in producing a records-retention schedule.

CASE DETAILS

COURT	Supreme Court of Ohio
WRITING FOR THE COURT	Per Curiam; Kennedy, C.J.; DeWine, J.; Brunner, J.; Deters, J.; Hawkins, J.; Shanahan, J.
JURISDICTION	Supreme Court of Ohio
DECIDED	February 19, 2026
DOCKET	2025-0090
DISPOSITION	writ_denied
PROCEDURAL POSTURE	Original mandamus action in the Supreme Court of Ohio arising from a public-records request. The relator sought production of three categories of records, statutory damages, and court costs.
STANDARD OF REVIEW	A relator seeking a public-records mandamus writ must prove by clear and convincing evidence a clear legal right to the requested record and a corresponding clear legal duty to provide it. The existence of requested records is likewise required to be shown by clear and convincing evidence.
PRECEDENTIAL VALUE	Published Ohio Supreme Court opinion
PARTIES	Tony Fenstermaker, relator v. Charles McConville, Knox County Prosecuting Attorney, respondent

TOPICS

- administrative law
- remedies
- civil procedure
- statutory interpretation

PRACTICE AREAS

civil procedure

public records

mandamus

remedies

administrative law

QUESTIONS PRESENTED

1. Whether R.C. 2969.25 required dismissal of the inmate's original mandamus action filed in the Supreme Court of Ohio.
2. Whether Fenstermaker's mandamus claim concerning the records-retention schedule was moot after the prosecutor produced that record.
3. Whether Fenstermaker established by clear and convincing evidence that the requested certified statements and cashbook existed and were maintained by the prosecutor's office.
4. Whether the prosecutor's nearly three-month delay in producing the records-retention schedule violated the reasonable-time requirement of R.C. 149.43(B)(1) and entitled Fenstermaker to statutory damages.
5. Whether Fenstermaker was entitled to an award of court costs.

HOLDINGS

1. R.C. 2969.25 does not require dismissal of an inmate's original mandamus action filed in the Supreme Court of Ohio because R.C. 2969.21(B) excludes such an action from the statutory definition of a civil action or appeal against a government entity or employee.
2. Fenstermaker's request for a writ of mandamus concerning the records-retention schedule was moot because the prosecutor provided that requested record.
3. Fenstermaker was not entitled to mandamus relief compelling production of the certified statements or cashbook because he failed to prove by clear and convincing evidence that those records existed and were maintained by the prosecutor's office.
4. Fenstermaker was entitled to \$700 in statutory damages because the prosecutor failed to provide the records-retention schedule within a reasonable period of time.
5. Fenstermaker was not entitled to an award of court costs because he filed an affidavit of indigency and therefore had no court costs to recover.

KEY QUOTATIONS

“To obtain the writ, “the requester must prove by clear and convincing evidence a clear legal right to the record and a corresponding clear legal duty on the part of the respondent to provide it.”” (§ 11)

“Under these circumstances, we conclude that the prosecutor’s failure to respond or provide Fenstermaker the records-retention schedule for nearly three months is a failure to provide responsive records “within a reasonable period of time,” as required by R.C. 149.43(B)(1).” (§ 27)

FACTUAL BACKGROUND

Fenstermaker, an inmate, requested by certified mail three categories of records from the Knox County prosecuting attorney: certified statements for 2016 through 2021, the office's records-retention schedule, and a

cashbook or journal for 2016 through 2022. The prosecutor did not respond until after Fenstermaker filed suit, then supplied the retention schedule and stated that the certified statements and cashbook did not exist. The retention schedule was a single document, required no redaction, and was produced nearly three months after the request was received.

PROCEDURAL HISTORY

Fenstermaker sent the Knox County prosecuting attorney a certified-mail public-records request on October 29, 2024, received November 1, seeking certified statements, a records-retention schedule, and a cashbook or journal. After Fenstermaker filed this original mandamus action on January 21, 2025, the prosecutor responded on January 30, providing the retention schedule and stating that the other requested records did not exist. The Supreme Court of Ohio denied mandamus relief, awarded \$700 in statutory damages for the delayed production of the retention schedule, and denied court costs.

DISPOSITION

writ_denied

CASES CITED

- State ex rel. Wells v. Lakota Local Schools Bd. of Edn., 2024-Ohio-3316, ¶ 11
- State ex rel. Griffin v. Sehlmeier, 2021-Ohio-1419, ¶ 10
- State ex rel. Lanham v. Smith, 2007-Ohio-609, ¶ 15
- State ex rel. Ohio Patrolmen's Benevolent Assn. v. Mentor, 2000-Ohio-214, ¶ 37
- State ex rel. McDougald v. Greene, 2018-Ohio-4200, ¶ 10
- State ex rel. Martin v. Greene, 2019-Ohio-1827, ¶¶ 7-8
- State ex rel. Scott v. Toledo Correctional Institution, 2024-Ohio-2694, ¶ 12
- State ex rel. Cordell v. Paden, 2019-Ohio-1216, ¶ 8
- State ex rel. Mobley v. Bates, 2024-Ohio-2827, ¶ 9
- State ex rel. Mobley v. Witt, 2025-Ohio-868, ¶ 13
- State ex rel. Ayers v. Sackett, 2025-Ohio-2115, ¶ 30
- State ex rel. Ware v. Akron, 2021-Ohio-624, ¶ 18
- State ex rel. Mobley v. Powers, 2024-Ohio-104, ¶ 33
- State ex rel. Cincinnati Enquirer v. Deters, 2016-Ohio-8195, ¶ 23
- State ex rel. Mobley v. Powers, 2024-Ohio-3315, ¶¶ 9-11
- State ex rel. Morgan v. Strickland, 2009-Ohio-1901, ¶¶ 12-16
- State ex rel. Straughter v. Department of Rehabilitation and Correction, 2023-Ohio-1543, ¶ 16