

Bond Case Briefs

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PUBLIC RECORDS - OHIO

State ex rel. DiFranco v. S. Euclid

Supreme Court of Ohio - February 19, 2014 - N.E.3d - 2014 -Ohio- 538

Records requester brought action seeking writ of mandamus requiring city to produce public records, and seeking damages and attorney fees. The city produced the documents, rendering the writ moot.

The remaining issue was whether requester was entitled to statutory damages and attorney fees, given that (i) the city delayed two months in providing any response to the request at all and (ii) the original production of documents was incomplete—only after requester presented an expert affidavit indicating that there were additional records to be produced did the city complete its production of the requested records.

After city produced the records, the Court of Appeals, entered summary judgment in favor of city and denied requester's claims for damages and fees. Requester appealed.

The Supreme Court of Ohio held that:

- Requester was entitled to damages, but
- Requester was not entitled to attorney fees.

Requester was entitled to mandatory award of damages under Public Records Act, as a result of city's two-month failure to respond to request and city's eight-month failure to make compete production, without any requirement that requester make a showing of public benefit. Absence of any response over two-month period was a failure to respond within a reasonable amount of time and a violation of requirement that records be promptly prepared and made available, and section of Act governing mandatory damages did not require a showing of public benefit.

Records requester was not entitled to award of attorney fees under Public Records Act, as a result of city's two-month failure to respond to request and city's eight-month failure to make compete production, since no court issued a judgment ordering city to comply with Act. Even though court had issued an interlocutory order requiring production of any responsive documents that had not yet been produced, city made its production prior to that order, and final judgment in case disposed of the complaint on grounds of mootness.