

3. Respondent was reminded in the requests of his statutory obligations as custodian of the public documents under Wisconsin Statute §19.35(4)(a)&(b), which mandates that he either provide the requested public documents promptly, or that he provide requestor with detailed reasons for refusal and advise requestor of mandamus option. Respondent failed to answer petitioner's repeated requests in any fashion, completely ignoring repeated lawful demands for documents that the Respondent is required to provide under the Open Records Law.

4. Petitioner, as an inmate in a correctional institution, is not exempted from the almost absolute rights conferred upon individuals by The Open Records Law. §19.31, 19.32, 19.34, 19.35 "Inmates in correctional institutions are entitled to access to public records under law, and therefore to benefits of presumption that public record is open to all unless clear statutory exception or limitation under common law or overriding public interest exists in keeping record confidential." Tratz v. Zunker (App. 1996) 550 N.W.2d 141, 201 Wis.2d 774. No statutory limits apply.

5. Petitioner suffers harm if copies of requested public records are not provided where the specific requested records are required for evidentiary purposes in seeking post-conviction relief and are needed for evidentiary purposes regarding a pending John Doe inquest action filed by petitioner in Iron County in September of 2002, concerning commission of the crime of perjury at petitioner's trial, which perjury has caused petitioner's conviction and incarceration.

6. Petitioner has no other recourse under law by which to compel respondent to provide the public documents that petitioner requires and that he is entitled to receive under the law.

7. Petitioner's requested documents are public documents within the scope of The Open Records Law. "Sheriff's radio log, intradepartmental documents kept by sheriff and blood test records of deceased automobile drivers in hands of sheriff are public records subject to inspection and copying under sec. 19.21(2), Stats." 67 Wis. Op. Atty. Gen. 12.

8. Petitioner's only remedy is this mandamus action. "Mandamus was an appropriate remedy for compelling chief of police to disclose police records which reflected charges upon which arrests were made." Newspapers, Inc. v. Breier (1979) 279 N.W.2d 179, 89 Wis.2d 417.

9. Respondent completely ignored petitioner's requests and failed to provide any reason for denial of requests or to advise requestor of his right to seek mandamus action. Therefore, writ of mandamus must issue: "If custodian gives no reasons or gives insufficient reasons for withholding public record, writ of mandamus compelling production of records must issue." Chvala v. Bubolz (App. 1996) 552 N.W.2d 892, 204 Wis.2d 82; WSA 19.35(b).

10. Respondent has clear duty to comply with petitioner's records requests: "Every sheriff...shall open to the examination of any person all books and papers required to be kept in his or her office and permit any person so examining to take notes and copies of such books, records, papers or minutes therefrom..." WSA 59.20(3)(a); s.59.23.

11. Respondent has the duty as custodian to keep the requested records in his possession. "The sheriff is authorized to destroy all sheriff's dockets, daily jail records and cash books dated prior to 1901. It shall be the duty of the sheriff to retain and safely keep all such records for a period of 8 years." WSA 9.27(8)
(The requested records are less than 6-years old)

12. Respondent is subject to forfeiture fines of \$5.00 per day of non-compliance, and to punitive sanctions payable to petitioner, and petitioner requests same from the court. "Punitive damages. If a court finds that an authority or legal custodian under s.19.33 has arbitrarily and capriciously denied or delayed response to a request or charged excessive fees, the court may award punitive damages to the requester," s.19.37(3); 783.04; s.59.20 (3)(b).

13. Respondent has acted capriciously and arbitrarily as evidenced by his complete lack of response to requests that included reference to his statutory duties to comply or respond.

14. Respondent's failure to comply is contrary to public interests. "Denial of public access to public records is contrary to public interest and is to be allowed only in exceptional case and exceptions to general rule of disclosure must be narrowly construed," Oshkosh Northwestern Co. v. Oshkosh Library Bd. (App. 1985) 373 N.W.2d 459, 125 Wis.2d 480.

15. Petitioner has absolute right to requested records. "Court may not in its discretion deny writ of mandamus where plaintiff has an absolute legal right to the remedy sought to be compelled." International Union, UnAuto., Aircraft and Agr. Implement Workers v. Goodin, (1947) 29 N.W.2d 730, 251 Wis. 362.

WHEREFORE: BASED UPON THE ABOVE FACTS AND LAW, PETITIONER RESPECTFULLY MOVES THIS COURT FOR AN ORDER COMMANDING THAT:

1. THE RESPONDENT ROBERT BRUNEAU PERFORM THE DUTIES OF HIS OFFICE BY PROVIDING PETITIONER WITH TRUE, ACCURATE, AND COMPLETE COPIES OF SAID REQUESTED DOCUMENTS, BRINGING HIM INTO COMPLIANCE WITH THE WISCONSIN OPEN RECORDS LAW, AND;
2. THE RESPONDENT ROBERT BRUNEAU PAY COSTS IN THE AMOUNT OF \$30.00 TO PETITIONER FOR POSTAGE, PRODUCTION, AND COPYING COSTS, AND;
3. THE RESPONDENT ROBERT BRUNEAU PAY APPROPRIATE FORFEITURE FINES, AND;
4. THE RESPONDENT ROBERT BRUNEAU PAY PUNITIVE SANCTIONS FOR DISREGARDING WISCONSIN LAW AND BREACH OF SHERIFF'S DUTY WHERE RESPONDENT HAS ACTED IN CAPRICIOUS AND ARBITRARY MANNER DEMONSTRATED BY COMPLETE AND TOTAL DISREGARD OF LAWFUL REQUESTS.

STATE OF WISCONSIN
CIRCUIT COURT FOR IRON COUNTY

AFFIDAVIT IN SUPPORT OF PETITION

State of Wisconsin,)
) ss.
County of Chippewa)

I, DONALD R. MILLER, hereby depose and say under oath, that after reading the attached petition for writ of mandamus, the information contained in the petition for writ of mandamus is a true and accurate depiction of facts within my first hand and personal knowledge.

Signature

Donald Miller

Date Signed

July 21, 2003

Subscribed and sworn before me this 21st day of July, 2003:

Betty Eslinger
Notary Public, State Of Wisconsin.
My Commission Expires on: 6-3-2007

Circuit Court of Iron County

300 TACONITE STREET
(715) 561-3434 • FAX: (715) 561-4054

ILENE D. GIACOMINO
JUDICIAL ASSISTANT

JEAN M. PETERSON
COURT REPORTER



PATRICK J. MADDEN
CIRCUIT JUDGE

VIRGINIA M. GIACOMINO
CLERK OF COURT

DIANE M. ERICKSON
REGISTER IN PROBATE

July 29, 2003

Donald Miller
100 Corrections Drive
Stanley, Wi. 54768

RE: Donald Miller vs. Robert Bruneau
Iron County Case Number 03 CV 36

Mr. Miller:

The petition is overbroad and lacks sufficient specificity to cause the Court to grant the Order.

Sincerely,

A handwritten signature in black ink that reads "Patrick J. Madden".

Patrick J. Madden
Circuit Court Judge

PJM/idg

cc: Sheriff Robert Bruneau

4. "Every sheriff, clerk of the circuit court, register of deeds, county treasurer, register of probate, county clerk and county surveyor ... shall open to the examination of any person all books and papers required to be kept in his or her office and permit any person so examining to take notes and copies of such books, records, papers or minutes...." s. 59.14(1), Wis.Stats., and these are subject to disclosure under s. 19.35;
5. Petitioner is entitled to the records requested from custodian Bruneau. The records are for purposes of post-conviction relief processes. Sheriff Bruneau is required to give petitioner specific reasons for refusal when he chose to refuse the documents request. Robert Bruneau failed to provide requested copies of records and further failed to give any reason for refusal;
6. Sheriff Robert Bruneau should be ordered to produce copies of requested documents, pay costs forfeiture fines at \$5.00 per day of non-compliance (45days), and be subject to punitive costs at the discretion of the court. Petitioner requests the court to donate any punitive awards to the HOPE animal shelter in Ironwood, Michigan under my name;
7. General rule is that pleading will be fairly and liberally construed to give effect to its object and purpose, which rule is especially applicable where action is to compel public officers to perform their prescribed statutory duties. State ex rel. Dalton v. Mundy (1977) 257 N.W.2d 877, 80 Wis.2d 190; Every reasonable intendment and presumption as to be made in favor of complaint, and plaintiff is entitled to all reasonable inferences which can be drawn from facts pleaded. Conrad v. Evans (1955) 69 N.W.2d 478, 269 Wis. 387
8. Petitioner can see no further areas or issues in his Petition for Writ of Mandamus conceivably needing increased specificity.

BY THIS AMENDMENT, Petition for Writ of Mandamus, Iron County Case No. 03CV36 has been narrowed in scope, and specificity increased, so as to cause the court to grant the Order for Sheriff Robert Bruneau to turn over copies of the requested documents to petitioner immediately pursuant to petitioner invoking Wisconsin Statute Chapter 19.

Thank you.

Respectfully:

Donald R. Miller,
Petitioner, *pro se*

cc :rmd,ndm,wsc,file

Circuit Court of Iron County

300 TACONITE STREET
(715) 561-3434 • FAX: (715) 561-4054

ILENE D. GIACOMINO
JUDICIAL ASSISTANT

JEAN M. PETERSON
COURT REPORTER



PATRICK J. MADDEN
CIRCUIT JUDGE

VIRGINIA M. GIACOMINO
CLERK OF COURT

DIANE M. ERICKSON
REGISTER IN PROBATE

August 18, 2003

Donald Miller
SCI – 100 Corrections Drive
Stanley, WI. 54768-6500

RE: Donald Miller vs. Robert Bruneau
Iron County Case Number 03 CV 36

Mr. Miller:

Your request is intended to harass. It serves no legitimate purpose. There is no lawful articulable reason to grant the Writ of Mandamus; it is therefore denied.

Sincerely,

A handwritten signature in cursive script that reads "Patrick J. Madden".

Patrick J. Madden
Circuit Court Judge

PJM/idg

cc. Sheriff Robert Bruneau

STATE OF WISCONSIN, CIRCUIT COURT, IRON

COUNTY

For Official Use

Case Caption

DONALD MILLER VS ROBERT BRUNEAU

Dismissal Order

FILED
IRON COUNTY, WI

FEB 15 2005

Case No. 03 CV 36

CIRCUIT COURT
KAREN L. RANSANICI, CLERK

THE COURT FINDS:

- No service was made of an authenticated copy of the summons and complaint upon the defendant(s) within the required statutory time period.
- A bankruptcy proceeding has been filed in the United States Bankruptcy Court.
- A petition has been filed for removal to the United States District Court.
- The parties have agreed to have this matter submitted to binding arbitration.
- The plaintiff moves to dismiss this matter.
- This matter has not been diligently prosecuted.
- Other:

THE COURT ORDERS:

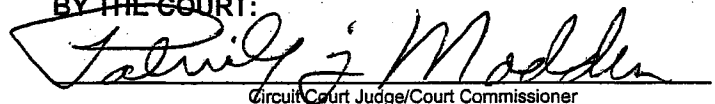
- This case is dismissed.
- This case is dismissed twenty days after the date of this Order unless good cause is shown within the twenty days why this order should not take effect.

This dismissal is

- with prejudice.
- without prejudice.

- This case may be reopened upon notice from plaintiff's attorney that:
 - The bankruptcy proceedings have been terminated or the bankruptcy stay has been lifted.
 - The petition for removal to the United States District Court has not been allowed or the case has been remanded to the circuit court.

BY THE COURT:


 Circuit Court Judge/Court Commissioner

Patrick J. Madden

Name Printed or Typed

02/15/05

Date

Distribution:

1. Original - Court
2. Parties
3. Attorneys

Donald Miller,

Plaintiff,

V.

ROBERT BRUNEAU,

Sheriff for Iron County,

Defendant.

FILED
IRON COUNTY, WI

Iron County

Case Number: 03-CV-36

FEB 28 2005

CIRCUIT COURT
KAREN L. RANSANICI, CLERK

MOTION TO CORRECT INACCURATE DISMISSAL ORDER

This court entered a DISMISSAL ORDER in the above captioned matter which was filed in the circuit court on Feb. 15, 2005. This DISMISSAL ORDER (attached) is in ERROR. Miller now moves this court to correct the DISMISSAL ORDER to reflect the true and accurate reason for dismissal. Case 03-CV-36 was DENIED ON JUDGE PATRICK MADDEN'S FINDING THAT MILLER'S REQUEST FOR A WRIT OF MANDAMUS TO COMPEL SHERIFF BRUNEAU TO COMPLY WITH WISCONSIN STATUTE § 19.32, § 19.35, BY PROVIDING MILLER WITH DOCUMENTS RELEVANT TO AN INVESTIGATION UNDER § 968.26, WAS "HARASSMENT", "WITHOUT ANY LEGAL PURPOSE".

THEREFORE, Miller moves the court to correct its DISMISSAL ORDER stating that the case was dismissed because "This matter has not been diligently prosecuted". The matter was diligently prosecuted, the case was dismissed on Judge Madden's finding that Miller's Open Records Law request to compel evidence from the sheriff was harassment without legal purpose, though the documents requested were for the purpose of investigation into District Attorney Lipske's knowing use of perjury at Miller's trial, and Connie Vargovich's multiple instances of perjury causing Miller's convictions in Case No. 97-CF-60. Let the DISMISSAL ORDER be corrected accordingly.

Dated this 24th day of 2005,

