

IN THE COURT OF COMMON PLEAS
OF MONTGOMERY COUNTY, OHIO
CIVIL DIVISION

DAVID ESRATI, *PRO SE*
113 Bonner Street
Dayton OH 45410

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Trial Ct. No. 2018 CV 00560
Judge E. Gerald Parker Jr.

Plaintiff

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**MOTION REQUESTING
DAMAGES AND HEARING
MOTION FOR SANCTION**

vs.

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DAYTON METRO LIBRARY et. Al.
215 E. Third Street
Dayton, OH 45402

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Defendants

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Today, it is 1229 days since I legally requested the surveillance video inside the Dayton Metro Library on 19 Aug 2017 as a public records request. This was to be used in court, for a civil rights case that had a 2 year filing deadline (that's 730 days). To date, I still do not have a copy of the video as requested in a format that would be comparable to that which is routinely supplied to every other requestor, public or private.

My video request was delayed for over two years, because it clearly showed that DML had violated my first amendment rights to photograph in public. It was the only PRR request to be delayed like that. Despite knowing my rights, and the Ohio Sunshine laws, this case has been prolonged

because the State seems to be immune from contempt of court, the applicable ORC and even charges of perjury. Last I checked, Obstruction of Justice is also still a crime. And according to ORC [2317.48 Action for discovery](#) which was what this Mandamus action effectively was, “the complaint shall be fully and directly answered under oath by the defendant. Upon the final disposition of the action, the costs of the action shall be taxed in the manner the court deems equitable.” They were not.

Please see “Court of Appeals Nos. OT-01-018, OT-01-014, Trial Court No. 00-C” *Smith v. Baumgartner*, Court of Appeals Nos. OT-01-018, OT-01-014, Trial Court No. 00-CVH-244, (Ohio Ct. App. Jan. 25, 2002) <https://casetext.com/case/smith-v-baumgartner>

Currently, the Prosecutor last filed a motion to strike because I made a suggestion in my last filing that he didn't like (he didn't specify which part). I didn't like being slandered as a possible sex offender by the Library guards either- that is an actual fact and appears in my own video which is part of this case.

Additional evidence via the attached affidavit has come forward about the library's normal response on requests for video evidence. It is included at the end of this filing.

It is clear that the state acted with malicious intent in delaying the delivery of the surveillance video, and never actually properly delivered the video as requested (with time code- which is standard for court cases).

I would like to present, at minimum 2 witnesses to the court about the capabilities of the system, and the normal operations of DML when responding to public records requests.

I contend that the award of \$1000 statutory fine as the maximum allowable payment is immaterial when the State used its power to delay as a legal strategy and as an abuse of power.

That this court refused to grant the plaintiff court costs was further supporting the criminal contempt of the sunshine laws by unfairly burdening the plaintiff with legal fees over 4x the maximum allowable statutory fines that were awarded, and the massive delays forced the abandonment of this case by counsel when he switched employer, which also saved the DML from additional costs, which now were instead my costs- acting on my own behalf.

That the court did manage to get the defendant to pay the filing fees in the original case- much after the fact, is only made more insulting when the Clerk of Courts has turned the plaintiff (me) over to collections for costs incurred in the filing of the 60B motion which had to be filed to get this court to do its job. That the plaintiff who "won" a public records request is being saddled with court costs is yet another miscarriage of justice.

The defendant clearly knew that they had broken the law and used the infinite power of the State to delay delivery of the requested video is both contempt of court, obstruction of justice and mocks the reason we have Sunshine Laws.

The plaintiff has had to take over his own defense, because of the ways the law is written with a maximum fine of \$100 a day and \$1000 cap which acts as an incentive for the state to engage in criminal behavior. By allowing the defendant to lie in court, delay delivery, it has continued to cost the plaintiff money and continues to damage his reputation in his pursuit of justice.

I ask for a hearing, for damages, costs, and to make sure that no citizen ever gets treated this way by the state again.

I'm asking for damages to my reputation, waste of my time, and as the victim of a state-run criminal organization, the Montgomery County Prosecutors office.

These delays and lies in court amount to a conspiracy between the Prosecutors Office, the Library, and this Court to damage my integrity and cause personal financial hardship.

If there is to be justice there can't be two separate standards for delivering video, one to the state and another to the public.

These actions and the courts actions have rendered the Ohio Sunshine Laws impotent, meaningless and downright cruel.

In conclusion, this courts action to date has proved that the State can be a bully, skirt the law, use the taxpayers infinite resources to ignore their responsibilities and that having a law license in the hire of the state is a get out of jail free card.

If I lied in court the way Mr. Peterson did, I'd be in jail.

It is within the ORC that public officials who violate the law can be removed from office.

Is it unreasonable for the plaintiff to demand sanctions on Mr. Peterson, Mr Kambitsch and the Dayton Metro Library for their abuse of power? Why should they not suffer personally for their criminal actions?

Attached: Signed and notarized statement of Clarissa J. Sampson

Respectfully submitted

/s/ David Esrati

David Esrati
100 Bonner Street
Dayton, OH 45410

CERTIFICATE OF SERVICE

I hereby certify that on Dec 30 2020, I electronically filed the foregoing with the Clerk of Court, using the Montgomery County Electronic Filing System, which will (hopefully) send notification of such filing to all parties in this case registered with if they are registered users or, if they are not, by placing a true and correct copy in the United States mail, postage prepaid, to their address of record.

/s/David Esrati

David Esrati
100 Bonner Street
Dayton OH 45410

December 23, 2020

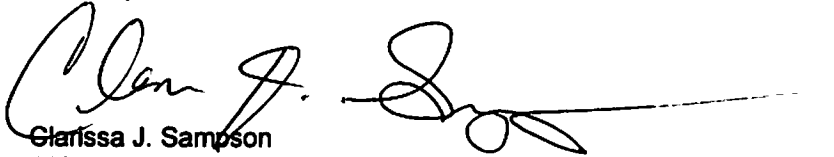
David Esrati v. Dayton Metro Library

Re: Statement

Dear Mr. Esrati and counsel,

I worked for Dayton Metro Library for 4 years as a security contractor working as a supervisor of all security officers assigned to the contract. In January of 2019, I was offered a position as the security assistant, working directly for the Dayton Metro Library, which I accepted. My job duties included reviewing video footage of incidents and patron complaints that occurred on DML property. I have firsthand knowledge that the video footage has a time stamp at the bottom of the recording in the form of a red bar that can be manipulated to go to a specific day and time. I recall when Mr. Esrati placed his request for video footage of the incident that resulted in the lawsuit against the Dayton Metro Library. The video footage was downloaded rather quickly but not released to Mr. Esrati. Other cases where I had to issue video footage took no more than 24-48 hours before the person who requested it had the footage in hand. I saw that the library tried to stonewall Mr. Esrati by delaying his receipt of said footage.

Sincerely,



Clarissa J. Sampson
1137 Irving Ave.
937-732-3296



JEFFREY G WREN
Notary Public
State of Ohio
My Comm. Expires
October 20, 2025

