

STATE OF WISCONSIN CIRCUIT COURT IRON COUNTY

DONALD MILLER,
Plaintiff

v.

ROBERT BRUNEAU,
Defendant

Iron County Case No. 03 CV 36

CLERK
REFUSED
TO FILE

MOTION FOR COURT TO ISSUE WRIT OF MANDAMUS

DONALD MILLER, Plaintiff, moves this court for lawful resolution of case 03-CV-36, in which case Miller petitioned this court to issue a writ of mandamus to compel Robert Bruneau, custodian of public records requested by Miller pursuant to §§ 19.31 and 19.35 Wis. Stats., to comply with Miller's lawful request that Bruneau provide Miller with true, accurate, and complete copies of the Sheriff's Department log book entries which document the movement, travels, times, and whereabouts of himself and his deputies, including radio communication log book entries, concerning the 19th and 20th days of October, 1997, all of which specific public records are required to be kept by Bruneau and are subject to public disclosure.

By refusing to answer Miller's lawful open records requests, Bruneau failed to comply with Wisconsin's public records law, in disregard of his mandatory duty to disclose requested public documents. (FN1). This court's denial of Miller's request and petition for mandamus was ambiguous and contrary to law; TO WIT:

- On July 29, 2003, this court answered Miller's lawful petition for a writ of mandamus by stating that the petition was "*overbroad and lacks specificity*". (EXHIBIT 1)
- Miller re-wrote and re-submitted the Petition, making it as specific as the English language allows, clearly identifying exact records requested. On August 18, 2003, the court responded by stating that the request was "*intended to harass*", "*serves no legitimate purpose*", and that there is "*no lawful articulable reason to grant the Writ of Mandamus; it is therefore denied.*" (EXHIBIT 2)

Though Miller is not required to state a purpose or reason for a records request (FN2), he did so, yet on August 18, 2003, the court improperly denied Miller's right to obtain the requested public documents proving that the crime of perjury was committed by Connie Vargovich in Iron County case No. 97-CF-60, which perjury caused an unjust and unlawful conviction of an innocent person contrary to the will of the people of the State of Wisconsin.

Exhibit

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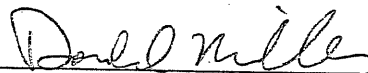
- On February 15, 2005, this court entered a 'Dismissal Order' in case no. 03-CV-36. The court's stated reason for the dismissal was that "*This matter has not been diligently prosecuted.*" (EXHIBIT 3)

The Dismissal Order of 2/15/05 conflicts with the court's original reason for denial which it gave on 8/18/2003. Contrary to the Dismissal Order of 2/15/05, Miller did not fail to diligently prosecute that matter where it was in fact denied in August of 2003. Because of the court's inconsistent position in this matter, any delay was by no fault of Miller's.

- On February 24, 2005, Miller motioned the court to correct the Dismissal Order to reflect the original reason why the petition was denied in 2003. (EXHIBIT 4).
- The court failed to respond to that motion dated February 24, 2005, and has not corrected the inaccurate reason stated in its Dismissal Order dated February 15, 2005, signed by Judge Patrick J. Madden.

WHEREFORE, for reasons set forth in his original petition for a writ of mandamus filed in the above captioned matter, and for reasons set forth herein, Miller moves the court to grant relief he requested in this matter : that the court issue the writ of mandamus to compell Sheriff Bruneau to provide Miller with complete, true, and accurate copies of requested public records in compliance with the Legislative intent made known and binding upon the Sheriff and the court under Wisconsin Statutes §§ 19.31 through 19.37.

Respectfully submitted and signed this 22nd day of April, 2005,



Donald Miller #343005
NLCI-PO BOX 4000
New Lisbon, WI 53950

(FN1) "Statute pertaining to public records must be broadly construed to favor disclosure, and exceptions should be narrowly construed, and unless the exception is explicit and unequivocal, it should not be held to be an exception." Hathaway v. Joint School Dist. No. 1, City of Green Bay, 342 N.W.2d 682, 116 Wis.2d 388 (Wis. 1984); W.S.A. 19.21; "Because the denial of public access under open records statute is generally contrary to public interest, access may be denied only in exceptional cases." Id.; W.S.A. 19.31.

(FN2) Section 19.35, STATS., governs access to records under ch. 19, STATS., "General Duties of Public Officials." Section 19.35(1)(i) provides in relevant part: "Except as authorized under this paragraph, no request...may be refused because the person making the request is unwilling to be identified or to state the purpose of the request.."



Iron County Clerk of Court

300 TACONITE STREET
SUITE #207
HURLEY, WISCONSIN 54534
TELEPHONE: (715) 561-4084
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KAREN L. RANSANICI
CLERK OF COURT

NADYA KANGAS
DEPUTY CLERK

HON. PATRICK J. MADDEN
CIRCUIT JUDGE

DIANE M. ERICKSON
REGISTER IN PROBATE

4/25/05

Don Miller #343005
P.O. Box 4000
New Lisbon, WI 53950

Re: Return of Documents

Dear Mr. Miller:

Please be advised that per Judge Madden, I was ordered to return these documents to you.

Sincerely,

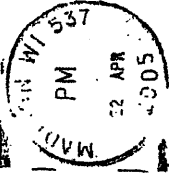
Karen L. Ransanici
Iron County Clerk of Court

Enc.

Exhibit

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DOM MILLER #343003
MCI-PO BOX 4000
New Lisbon, WI 53950



~~Robert Bruneau~~

Robert Bruneau

REASON CHECKED

Unclaimed

Refused

Attempted Not Known

Insufficient Address

No Such Street

No Such Number

No Such Office In State

Do not re-mail in this envelope

**THIS LETTER HAS
BEEN MAILED FROM
WI PRISON SYSTEM**

mailed 4/22/85

Exhibit
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