

[Until this opinion appears in the Ohio Official Reports advance sheets, it may be cited as *State ex rel. Striker v. Frary*, Slip Opinion No. 2011-Ohio-4705.]

NOTICE

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SLIP OPINION NO. 2011-OHIO-4705

**THE STATE EX REL. STRIKER, APPELLANT, v. FRARY, CLERK, ET AL.,
APPELLEES.**

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may be cited as *State ex rel. Striker v. Frary*,
Slip Opinion No. 2011-Ohio-4705.]**

*Mandamus — Public records — R.C. 149.43 — Court clerks have no duty to
provide access to records not in their possession — Judgment denying
writ affirmed.*

(No. 2011-0570 — Submitted September 7, 2011 — Decided
September 21, 2011.)

APPEAL from the Court of Appeals for Richland County,
No. 10 CA 01, 2011-Ohio-1021.

Per Curiam.

{¶ 1} We affirm the judgment of the court of appeals denying a writ of mandamus to compel appellees, Richland County Common Pleas Court Clerk

SUPREME COURT OF OHIO

Linda Frary and Mansfield Municipal Court Clerk Daniel F. Smith, to provide access to certain records pursuant to R.C. 149.43, Ohio's Public Records Act. As to the records that Striker requested but claims he did not receive, appellees have no duty to provide records that they did not possess. See *State ex rel. Striker v. Smith*, ___ Ohio St.3d ___, 2011-Ohio-2878, ___ N.E.2d ___, ¶ 28. Nor was Striker entitled to records that he requested initially in his mandamus complaint. *State ex rel. Am. Civ. Liberties Union of Ohio, Inc. v. Cuyahoga Cty. Bd. of Commrs.*, 128 Ohio St.3d 256, 2011-Ohio-625, 943 N.E.2d 553, ¶ 33. Appellees complied with their applicable duties.

Judgment affirmed.

O'CONNOR, C.J., and PFEIFER, LUNDBERG STRATTON, O'DONNELL, LANZINGER, CUPP, and MCGEE BROWN, JJ., concur.

Lori McGinnis, for appellant.

James J. Mayer Jr., Richland County Prosecuting Attorney, and Daniel J. Benoit, Assistant Prosecuting Attorney, for appellee Frary.

David L. Remy, Mansfield Law Director, for appellee Smith.
