

OPINIONS OF THE SUPREME COURT OF OHIO

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The State ex rel. Morales, Appellee, v. City of Cleveland et al., Appellants.

[Cite as State ex rel. Morales v. Cleveland (1993), Ohio St. 3d .]

Mandamus to compel release of public records relating to relator's convictions for kidnapping and aggravated murder -- Writ granted when witness statements not exempt as "trial preparation records" under R.C. 149.43(A)(4). (No. 93-268 -- Submitted September 14, 1993 -- Decided November 10, 1993.)

Appeal from the Court of Appeals for Cuyahoga County, No. 62165.

In 1985, a jury convicted relator-appellee Alfred Morales of kidnapping and murdering Mario Trevino. The jury recommended the death penalty, and the trial judge sentenced Morales to death. We upheld the convictions and death sentence. State v. Morales (1987), 32 Ohio St.3d 252, 513 N.E.2d 267, certiorari denied, Morales v. Ohio (1988), 484 U.S. 1047, 108 S.Ct. 785, 98 L.Ed.2d 871.

In June 1991, Morales's counsel requested that Cleveland officials release public records relating to the offenses for which Morales had been convicted and sentenced. Before the city released the records, Morales petitioned the court of appeals for a writ of mandamus under R.C. 149.43 against respondents-appellants, the city of Cleveland and Cleveland's mayor, police chief, and director of public safety (the "city"). The city then released one hundred and fifty-five documents, some with redactions, and claimed thirteen documents were totally exempt from release. After an in camera review, the court of appeals, inter alia, held that five witness statements were not exempt trial preparation documents as the city claimed.

The city now appeals the decision of the court of appeals as a matter of right.

James Kura, Ohio Public Defender, Dale A. Baich and Kathleen A. McGarry, Assistant Public Defenders, for appellee. Danny R. Williams, Director of Law, and Pamela A. Pfleger

Walker, Assistant Director of Law, for appellants.

Per Curiam. The court of appeals did not abuse its discretion in finding these particular witness statements not exempt as trial preparation records. See State ex rel. Williams v. Cleveland (1992), 64 Ohio St.3d 544, 597 N.E.2d 147; State ex rel. Coleman v. Cincinnati (1991), 57 Ohio St.3d 83, 566 N.E.2d 151. Accordingly, the judgment of the court of appeals is affirmed.

Judgment affirmed.

Moyer, C.J., A.W. Sweeney, Douglas, Wright, Resnick, F.E. Sweeney and Pfeifer, JJ., concur.