

IN THE SUPREME COURT OF MISSISSIPPI COURT OF
APPEALS OF THE STATE OF MISSISSIPPI

COPY

Robert S. Scruggs

FILED

Appellant

V

MAR 15 2007

NO. 2006-CP-01942

Joe Caldwell

OFFICE OF THE CLERK
SUPREME COURT
COURT OF APPEALS

Appellee's

Brief In support For Relief From The
Denial Of Public Records

Comes now Appellant Robert S. Scruggs, with This Brief
From The dismissal of public records in The Chancery Court
Of Alcorn County, Mississippi,

Miss. Code Ann. 25-61-1 + 25-61-13, nothing in this section
shall be construed to prevent any and all public bodies From
The public Request.

STATEMENT OF THE CASE

Appellant Robert S. SCRUGGS. Requested Public Records under Miss. Code ANN. 25-61-1 + 25-61-13 and 25-61-15, This Request was confronted with opposition the Appellee's hired the services of counsel.

The Appellee's Counsel acknowledge the Rights to inspect and copy these Requested Public Records, A Trial date was set, and Appellant SCRUGGS was present in open Court, what Appellant was presented for his examination was not the full public Records Requested, some was not legible, not capable of being read, others were so taking visual representation, that they could not be used, or clearly seen.

The Appellee's Claimed to not have other Requested public Records, such as stamped filed copy of the indictment in CAUSE CR-1998-016. Also the minutes of the Grand Jury proceedings, certified copies showing elected, empaneled, sworn and signed by the presiding judge prior to the Courts adjournment.

This Request also was denied. The witness for the Appellee's said it would be impossible to provide Appellant SCRUGGS with

Question Presented

This Appeal ARRIVES here from the Chancery Court of Lee County but jurisdiction being in Alcorn County Chancery Court, Appellant SCAUGGS has standing to bring this action as a citizen of this state aggrieved by the conduct of the Alcorn County Circuit Clerk, by his denial by not being affording certain requested public records as required by MISS. CODE ANN 25-61-1 + 25-61-13, Thus SCAUGGS seeks relief thereunder.

Legal Authority

These Courts has stated that the right to be sued in the county of one's residence is a valuable right, not a mere technicality.

JEFFERSON V. MAHEE, 209 So.2d 281, 283 (MISS. 1967) CROSBY V. ROBERTSON, 243 MISS. 420, 426, 137 So.2d 916, 918 (1962) LONG V. PATTERSON, 198 MISS. 554, 562, 22 So.2d 490, 492 (1945)

This Appeal calls into question constitutionality of the Circuit Clerk of Alcorn County to deny public access.

- (A). the right of a private citizen to challenge his denial of his right of access to public records under statutory authority,
- (B). the right of a private citizen to challenge the denial of his rights to inspect, copy or mechanically reproduce or obtain a legible reproduction of any public record of a public body in accordance with reasonable written procedures shall be given by the public body, must address the applicability of the Open Record Act to these public records.

Appellant SCRUOGGS claims that the denial of the Circuit Clerk access to requested public records, that this injury constitutes the

Argument of the facts

This argument persists that citizens should have the authority to challenge the constitutionality and/or review of state officials actions, and "if individuals do not have such authority", how else may constitutional conflicts can be raised.

This is particularly true when a public official charged with such duty fails to act.

Constitutional litigation may be maintained in cases where there compliance with the statute, or discrimination against, or when a decision hinders proper state duty.

Furthermore, providing access to public records is a duty of each public body and automation of public records must not erode the right of access to those records.

The Chancellor's ruling and findings in this case amounts to manifestly wrong. Clearly erroneous, subject to abuse of discretion standards.

Attorney fees are "expenses" that may be awarded against state entity for willfully and knowingly denying public records request.

The Circuit Clerk are subject to disclosure under the public records act and liable for \$100 civil penalty and association's expenses including mailing and other expenses suffered by appellant.

It must acknowledged that the circuit clerk did not fully comply with the public records request, to satisfy the obligation imposed

by the Mississippi Public Records Act to disclose requested information
sought by appellants

Information contained in the Ratio Request is mandated by the
Clerks office, subject to review by the general public pursuant
to the Public Records Act set forth in Section Miss Code Ann 25-61-1.

This Honorable Court shall review the Chancellor's findings of fact
and Review and Remand due to the manifestly wrong and clearly
erroneous Ruling.

There is substantial evidence in these Records, to support the
Argument that Seargys did not receive or acquire the information
from the Clerks office.

Therefore, based upon the Record before this Honorable Court, it
must conclude that the Circuit Clerk denied public Records, and
the Chancellor erred in concluding that some of the public Records
satisfies the expectation that all public Records in its possession
would be provided to Seargys.

The erroneous findings inherent in the Chancellor's findings that
that these incomplete Release by the Clerk's office, Judicial Records
Required by law to be kept, are said to impact increasing veracity,
and to be conclusive evidence against all the world as to their

existence, date, and legal consequences.

The law requires the Record to be complete, and when it so purports to be on its face in law it is complete, and it is not subject to impeachment.

The Clerk in this Cause claims that parts of the Requested Record do not exist.

In this case the Clerk claims there never was any such Records because of the absolute want of power on the part of the Circuit Clerk to enter anything on the Records, or to maintain Records of such proceedings of the Court, which is mandatory.

SUMMARY ARGUMENT

It is the policy of the legislature that public records must be available for inspection, copying, Furthermore, providing access to public records is a duty of each public body and automation of public records must not erode the right of access to those records.

Records maintained by the Circuit Clerk's office are subject to disclosure under the public records Act.

This matter is an appeal of a denial of request made under the Mississippi public records Act, SCRUGGS made request for all information and/or records pertaining to CAUSE NO. CR-1998-016 which was denied.

Then SCRUGGS initiated a complaint in the Alcorn County Chancery Court, against MR JOE CALDWELL in his official capacity as the Executive Director of the Circuit Court.

The Circuit Clerk then hired counsel, which set a court date SCRUGGS was present at this hearing, and was provided belts and pieces of the requested public records requested, but was not provided the full requested material, what was provided was unsatisfactory condition consisting of unclear copies, others claimed not to exist or in the Mississippi Supreme Court's possession: public records.

The Chancery Court entered its Order Denying Motion to Reconsider which specifically did not address the denial issues.

Motion for Reconsideration to identify any and all records which containing information related to the requested information not provided, information as to any and all such records destroyed by it and/or tampered, by it during the period of 1998 - 2006 and to give in writing the location of all originals of exhibits Affidavits, indictments, transcripts of proceedings in this case.

These public records request clearly is subject to disclosure under the Act.

The Act declares the public policy of Mississippi to be that:
-- public records shall be available for inspection by any person unless otherwise provided by this chapter, furthermore, it is providing access to public records is a duty of each public body and automation of public records must not erode the right of access to those records... MISS. CODE ANN. 25-61-2 (1999).

The intent of the legislature is manifestly clear from these provisions: public records which do not fall into a carefully defined exception provided by law are entirely open to access by the general public.

Therefore based upon this persuasive record evidence there was no justification for the circuit clerk's denial, willful and knowing denial of these requested public records.

Relief Requested

Issuing a preliminary and final injunction, wherein grant specific relief under the MISSISSIPPI Public Records Act,

While this case was filed in Alcorn County Chancery Court the Chancery Court of Lee County Justice entered the final judgement.

Therefore this adverse ruling of the Chancellor, was abuse of discretion, The Records Confessed the same. Therefore the Public Records Request in the Chancery Court of Alcorn County has now been resolved.

Therefore giving Scruggs standing to bring this action in this honorable Court,

The MISSISSIPPI Public Records Act creates a new cause of action in favor of Appellant Scruggs who has been denied full access to the requested public records

Date 3-15-07

Appellant
Rebel J Scruggs #19644
DCF 3800 Court Rd 540
Grenada MS 38930

CERTIFICATE OF SERVICE

This is to certify that I, the undersigned, have this day and date mailed, via United States Mail, postage pre-paid, a true and correct copy of the foregoing and attached instruments to the following:

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Charney Creek

MR LARRY W. MCCOLLUM

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This the 15 day of MARCH, 2007

Kelvin S. Sengupta
PETITIONER

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