

IN THE SUPREME COURT OF APPEALS OF WEST VIRGINIA

JAY LAWRENCE SMITH,

PETITIONER/APPELLANT,

APPEAL CASE NO. _____

VS.

APPEALED FROM
GRANT COUNTY CIRCUIT COURT
CASE NO. 19-C-7

ANGELA B. VAN METER, ET AL.,

RESPONDENT/APPELLEES.

APPELLANT'S STATEMENT OF NATURE OF CASE, RELIEF SOUGHT AND OUTCOME BELOW

Petitioner/Appellant Smith (hereinafter "Smith") is a freelance legal researcher and journalist who sought to obtain copies of certain public records from the Grant County Circuit Clerk's office. At the Circuit Clerk's office, Smith requested to review State v. Hartman, Case No. 18-F-22. Smith was provided with the file by a deputy clerk and informed that he was prohibited from using a camera to take pictures of any of the file's contents because it was the Clerk's "policy". Smith requested to see a copy of the policy. The deputy clerk deferred to Circuit Clerk Van Meter.

Clerk Van Meter informed Smith that she was "obligated" to charge Smith \$1.00 per page for copies of documents. Smith informed Clerk Van Meter that he didn't need copies of the documents and that he could take digital images of the filings with his cell phone camera. Clerk Van Meter left, ostensibly to discuss the matter with Judge James Courier. Upon her return, Clerk Van Meter informed Smith that he could take digital images, but that Smith would still have to pay \$1.00 per page for each image he made. Van Meter stated that Circuit Clerks are required to charge for any reproduction of any document held by their office. Smith exited the premises.

Smith then traveled to the Hardy County Circuit Clerk's office, was given access to public records (in digital format on a public access terminal), and was allowed to take digital images of a number of documents in full view of the Circuit Clerk's staff and without objection. Smith was not

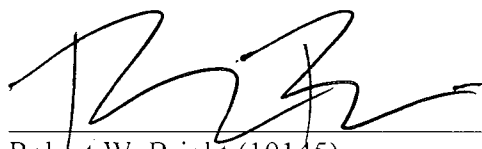
asked to pay any fee for digital images he took at the Hardy County Circuit Clerk's office. Smith has been permitted to take digital images of public records without charge at Circuit Clerk's offices in Clay, Gilmer, Jackson, Kanawha, Logan, Mason, Putnam, Roane, Tucker, and Wood counties.

On or about November 30, 2018, Smith sent Clerk Van Meter a FOIA request asking for a copy of several documents in four (4) cases. Smith enclosed five dollars (\$5.00) as payment to cover costs of duplication and postage.

Clerk Van Meter declined to provide the copies and stated that she was "obligated to charge copy fees according to W.V. Code 59-1-11" of one dollar (\$1.00) per page. Smith responded by noting that, on or about June 7, 2015, H.B. 2636 became law and revised the FOIA law at W.V. Code 29B to require that the fees charged for photocopying records be "reasonable" and based on the "actual cost" of duplication. Smith persisted with additional, similar requests, which were all denied for similar reasons.

Smith then filed suit in the Grant County Circuit Court against the Defendants. The Defendants answered and filed motions to dismiss. After a brief hearing held on June 18, 2019, the Court below granted the Defendants' Motions to Dismiss by Order dated July 1, 2019. Smith appeals from that Order.

Petitioner/Appellant Jay Lawrence Smith
By Counsel



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