

COURT OF APPEALS
FILED
LORAIN COUNTY
ss:
2021 JUN 17 P 3:25
COURT OF COMMON PLEAS
TOM ORLANDO
9th APPELLATE DISTRICT

STATE OF OHIO
COUNTY OF LORAIN

IN THE COURT OF APPEALS
NINTH JUDICIAL DISTRICT

GIBSON BROS., INC., et al.

et al. TOM ORLANDO

C.A. No. 20CA011648

Appellees

v.

OBERLIN COLLEGE, et al.

Appellee

MAGISTRATE'S ORDER

and

WEWS-TV, et al.,

Appellants

On June 17, 2021, this Court dismissed this appeal. Because the appeal was dismissed, costs are taxed to appellant. App.R. 24(A)(1).

The clerk of courts is ordered to mail a notice of entry of this judgment, and the judgment entered on June 17, 2021, to the parties and make a notation of the mailing in the docket, pursuant to App.R. 30, and to provide a certified copy of the order to the clerk of the trial court. The clerk of the trial court is ordered to provide a copy of this order to the judge who presided over the trial court action.

C. Michael Walsh

C. Michael Walsh
Magistrate

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STATE OF OHIO)
)ss:
COUNTY OF LORAIN)

GIBSON BROS., INC., et al.

Appellees

v.

OBERLIN COLLEGE, et al:

Appellee

and

WEWS-TV, et al.,

Appellants

COURT OF APPEALS

FILED IN THE COURT OF APPEALS
LORAIN COUNTY NINTH JUDICIAL DISTRICT

2021 JUN 15 A 10:02

COURT OF COMMON PLEAS
TOM ORLANDO

9th APPELLATE DISTRICT No. 20CA011648

JOURNAL ENTRY

Appellant WEWS-TV ("WEWS") has attempted to appeal a journal entry of the Lorain County Court of Common Pleas that denied its motion to unseal exhibit G of the Defendants' combined summary judgment reply brief. For the following reasons, this Court dismisses the appeal.

I.

Following the trial in this case, WEWS and others filed a motion to unseal one of the exhibits that had been submitted to the court in connection with a motion for summary judgment. The trial court denied the motion, concluding that continued restriction of public access is warranted under Superintendence Rule 45. The court also found that there was no less restrictive alternative than to completely restrict access to the exhibit. WEWS filed a timely notice of appeal of the trial court's journal entry.


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II.

The preliminary issue is whether a non-party may seek direct appellate review if it is denied access to a case document under Rule 45. Rule 47(B) provides that “[a] person aggrieved by the failure of a court * * * to comply with the requirements of Sup. R. 44 through 47 may pursue an action in mandamus pursuant to Chapter 2731. of the Revised Code.” Interpreting that rule, the Ohio Supreme Court has stated that “[m]andamus is the appropriate remedy * * * to enforce the provisions of the Superintendence Rules granting public access to court records, Sup.R. 47(B).” *State ex rel. Cincinnati Enquirer v. Lyons*, 140 Ohio St.3d 7, 2014-Ohio-2354, ¶ 11. It also identified mandamus as the “specific remedy” for “[a] person who is denied access to court records” in *Lyons*. *Id.* at ¶ 13; *State ex rel. Harris v. Pureval*, 155 Ohio St.3d 343, 2018-Ohio-4718, ¶ 11 (“[M]andamus is the *only* remedy provided by Sup.R. 47(B).”).

In *S.C. v. T.H.*, 9th Dist. Summit No. 29594, 2020-Ohio-2698, this Court allowed a party to the action to bring a direct appeal challenging the denial of her request for an order *restricting* access to certain case records. *Id.* at ¶ 8. Unlike *S.C.*, however, this case involves a non-party to a civil action that has been *denied* access to court records, as in *Lyons*.

Upon review of the record and in accordance with the decisions of the Ohio Supreme Court, we conclude that mandamus is WEWS’s exclusive remedy for the trial court’s continued restriction of a discovery exhibit. Accordingly, WEWS’s appeal is not properly before this Court. Appeal dismissed.



Judge Jennifer Hensal

Concur:
Carr, J.
Sutton, J.



**COURT OF APPEALS
NINTH JUDICIAL DISTRICT
LORAIN COUNTY, OHIO
LORAIN COUNTY JUSTICE CENTER
225 COURT STREET
ELYRIA, OHIO 44035**

TO: File Copy

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GIBSON BROS. INC. VS. OBERLIN COLLEGE

CASE NO. .20CA011648

Hon. Court of Appeals, Court of Appeals

* * * * * **NOTICE** * * * * *

Pursuant to *Appellate Rule 30*, Notice is hereby given that judgment was rendered in the above captioned case and was entered upon the journal of the Court on 6/17/21. A certified copy has been sent to the trial court.

Distribution: All parties or attorneys of record.

20CA011648