

**NOT DESIGNATED FOR PUBLICATION**

STATE OF LOUISIANA

COURT OF APPEAL

FIRST CIRCUIT

NO. 2007 CA 1171

JAMES P. DESONIER

VERSUS

PETER GAVAN, M.D., CORONER OF ST. TAMMANY  
PARISH

Judgment Rendered: February 8, 2008.

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On Appeal from the  
22nd Judicial District Court,  
in and for the Parish of St. Tammany  
State of Louisiana  
District Court No. 2006-16061

The Honorable William J. Burris, Judge Presiding

\* \* \* \* \*

James P. DeSonier  
Mandeville, La.

Plaintiff/Appellee,  
In Proper Person

Jack Hoffstadt  
Abita Springs, La.

Counsel for Defendant/Appellant,  
Peter Galvan, M.D., Coroner for the  
Parish of St. Tammany

\* \* \* \* \*

BEFORE: CARTER, C.J., PETTIGREW AND WELCH, JJ.

*J.P.D.*  
*Pettigrew, J. Concurs*

*B.P.*  
*J.P.W.*

## **CARTER, C.J.**

The defendant, Peter Galvan,<sup>1</sup> M.D., Coroner for the Parish of St. Tammany (the coroner), appeals a trial court judgment granting the plaintiff, attorney James P. DeSonier, attorney fees and court costs pursuant to La. R.S. 44:35. For the reasons that follow, we reverse.

### **FACTS AND PROCEDURAL HISTORY**

On August 7, 2006, Mr. DeSonier sent a letter to the coroner requesting a certified copy of Gary D. Bartley's autopsy report. Mr. DeSonier sent a second letter to the coroner on October 11, 2006. Therein, Mr. DeSonier acknowledged receipt of the copy of Mr. Bartley's toxicology and autopsy report. According to Mr. DeSonier, the word "copy," written across the text of the report, prevented him from making readable copies of the report. In this second letter, Mr. DeSonier requested a "clear" copy of the report.

On December 7, 2006, Mr. DeSonier filed suit in his own name, seeking mandamus relief under the Louisiana Public Records Act, La. R.S. 44:1, *et seq.* Mr. DeSonier alleged that the Public Records Act contains no "provision allowing the custodian of any public record to alter any reproduction of any record to make it illegible upon copying." Mr. DeSonier sought an order directing the coroner to provide him with a copy of Mr. Bartley's toxicology and autopsy report "without a red stamp stating 'copy,' or any other mark or stamp which makes the underlying text illegible upon copying." Mr. DeSonier also sought reasonable attorney fees, costs, and damages.

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<sup>1</sup> The correct spelling of defendant's name is Galvan.

Trial was held on January 4, 2007; Mr. DeSonier appeared in proper person and was the only witness. The allegedly illegible copy of the toxicology and autopsy report was not introduced into evidence. Mr. DeSonier testified that, after filing the petition for mandamus relief, he received a second set of “satisfactory” copies. Accordingly, the request for mandamus relief was moot, and the only matters remaining before the trial court were Mr. DeSonier’s entitlement to attorney fees, costs, and damages pursuant to La. R.S. 44:35.

By judgment dated February 21, 2007, Mr. DeSonier was awarded attorney fees in the sum of \$500.00 and costs in the sum of \$214.97. Mr. DeSonier’s request for damages was denied. The coroner appeals, assigning as error the trial court’s award of attorney fees and costs.

### **DISCUSSION**

Autopsy reports prepared by the coroner in his official capacity are public records under the Public Records Act. **Bozeman v. Mack**, 97-2152 (La. App. 1 Cir. 12/21/98), 744 So.2d 34, 37, writ denied, 99-0149 (La. 3/19/99), 740 So.2d 113. Article XII, section 3, of the Louisiana Constitution provides that no person shall be denied the right to examine public documents, except in cases established by law. This constitutional provision has been codified in the Public Records Act. In accordance with the provisions of the Public Records Act, a person may “inspect, copy, or reproduce any public record” and “may obtain a copy or reproduction of any public record.” La. R.S. 44:31B(1)-(2). It is only after a person “has been denied the right to inspect or copy a record” under the Public Records Act that the person “may institute proceedings for the issuance of a writ of

mandamus” together with attorney fees, costs, and damages. See La. R.S. 44:35A.

The coroner did not withhold the requested report from Mr. DeSonier or refuse to provide Mr. DeSonier with the requested copies. The coroner complied with both of Mr. DeSonier’s written requests for a copy of the report. The copy of the report stamped with a red “copy” stamp was in substantial compliance with the Public Records Act, as were the later copies provided to Mr. DeSonier. Therefore, Mr. DeSonier is not entitled to any relief under the Public Records Act.

For the above stated reasons, the trial court’s judgment is reversed. Costs of this appeal in the amount of \$186.55 are assessed to plaintiff/appellant, Mr. DeSonier.

**REVERSED.**