

OPINION NO. 67-018**Syllabus:**

1. A court reporter is required by the terms of Section 2301.23, Revised Code, to prepare transcripts of shorthand notes taken by him of court proceedings, only upon request by the court, or a party to the suit.

2. A demand by a party not included within the terms of Section 2301.23, Revised Code, upon the court reporter to transcribe and deliver a copy of such transcription is not a request to make available public records under the terms of Section 149.43, Revised Code.

3. Transcripts already prepared for parties included in Section 2301.23, Revised Code, are available to disinterested parties upon demand as public records under the terms of Section 149.43, Revised Code.

To: Neil M. Laughlin, Licking County Pros. Atty., Newark, Ohio
By: William B. Saxbe, Attorney General, January 30, 1967

I have before me your request for an opinion which reads as follows:

"This office requests your opinion relative to Section 2301.23 of the Revised Code of the State of Ohio. This section of the Revised Code provides as follows:

"When shorthand notes have been taken in a case as provided in Section 2301.20 of the Revised Code, if the Court, either party to the suit, or his attorney, requests transcripts of any portion of such notes in long hand, the shorthand reporter reporting the case shall make full and accurate transcripts thereof for the use of such Courts or party. The Court may direct the official shorthand reporter to furnish to the Court and parties copies of decisions rendered and charges delivered by the Court in pending cases. * * *

"Your further attention is directed to Section 149.43 of the Revised Code which states as follows:

"As used in this Section, "public record" means any record required to be kept by any governmental unit including, but not limited to, state, county, city, village, and school district units, except records pertaining to physical or psychiatric examinations, adoption, probation, and parole proceedings, and records the release of which is prohibited by state or federal law.

"All public records shall be open at all reasonable times for inspection. Upon request, a person responsible for public records shall make copies available at cost within a reasonable period of time."

"Your further attention is directed to 1946 O.A.G. 1143. The Syllabi of said opinion, under the former General Code of the State of Ohio, provides that the stenographic notes of any court proceedings are public records. That the reporter is required, on request, by party to the suit or his attorney, or the Court, or upon request of any person, to make a transcript.

"In view of the foregoing statutes heretofore set forth and the Attorney General's opinion previously referred to, this office wishes your opinion if the Court Re-

porter who has been officially appointed by the Court is obligated to reduce his shorthand notes taken by stenographic machine to transcript form upon the request of any party regardless of whether said party making the request has an interest in the proceedings being either a party-plaintiff or defendant. In other words, can any person walk into a court reporter's office and request a transcript of the stenographic notes of the court reporter which would be contrary to Section 2301.23 of the Revised Code of the State of Ohio."

In the situation you describe a disinterested party could not compel the official court reporter to prepare a transcript of his shorthand notes and make it available under Section 149.43, Revised Code. Although Opinion No. 1143, Opinions of the Attorney General for 1946, provides that the stenographic notes of any court proceedings are public records, the transcription of such notes by the court reporter is required only upon demand by the particular parties as are specifically prescribed in Section 2301.23, Revised Code. A demand upon the official court reporter by a party not included in the provisions of Section 2301.23, supra, to provide a transcription of stenographic notes on file as a public record is not the same as a request for a copy of a public record as envisioned by Section 149.43, supra. Thus a request for a transcription of stenographic notes is mandatory upon the official court reporter only when it comes from a party to the suit, or his attorney, or the court itself.

On page 598 of Opinion No. 1143, supra, paragraph No. 3 of the syllabus reads as follows:

"Under the provisions of Section 1551, General Code, when shorthand notes of a proceeding in the court of common pleas have been taken by the official shorthand reporter said reporter is required, on request of a party to the suit or his attorney, or of the court, to make a transcript of such proceedings, and may make such transcript on request of any other person."

On page 601 of Opinion No. 1143, supra, it is further stated:

"* * * * *"

"* * * * *When it comes to securing a transcript from such record it appears from the statute referred to that the only person who would have a right to demand a transcript would be the party to the suit or his attorney or the court itself. However there is no prohibition in the statute against the reporter making a transcript for an outsider if he sees fit to do so.

"* * * * *"

There is nothing in Opinion No. 1143, supra, which would create a right in a party other than those announced in Section 2301.23, supra, to be provided with a transcript upon demand. Opinion No. 1143, supra, does provide that the court could grant a disinterested party the right to have the stenographic notes transcribed. On page 601 of the opinion it is stated:

"* * *and the court is required to grant the request if made by an attorney for either of the parties but is privileged to grant the request if made by an attorney who is not of record or by any other person * * *

"* * * * * * *"

Thus by the terms of Opinion No. 1143, supra, there is no right in a party not listed in Section 2301.23, supra, to have the stenographic notes transcribed upon demand. The opinion grants a discretionary power in the reporter to make a transcript for disinterested parties and further provides that the court is privileged to direct the court reporter to transcribe his notes for an outsider.

This opinion is not to be constructed to mean that a person outside the provisions of Section 2301.23, supra, may not receive a copy of transcribed stenographic notes on file with the appropriate official as public records. If the reporter has already transcribed the stenographic notes for one of the legitimate parties under Section 2301.23, supra, and has a copy on file, then the provisions of Section 149.43, supra, apply and a disinterested party may request and receive copies of the prepared transcript. Only when the reporter has not previously transcribed the stenographic notes is a disinterested party prevented by Section 2301.23, supra, from demanding the notes be transcribed and be delivered to him.

In conclusion and in specific answer to your questions, I am of the opinion and you are advised:

1. A court reporter is required by the terms of Section 2301.23, Revised Code, to prepare transcripts of shorthand notes taken by him of court proceedings, only upon request by the court, or a party to the suit.
2. A demand by a party not included within the terms of Section 2301.23, Revised Code, upon the court reporter to transcribe and deliver a copy of such transcription is not a request to make available public records under the terms of Section 149.43, Revised Code.
3. Transcripts already prepared for parties included in Section 2301.23, Revised Code, are available to disinterested parties upon demand as public records under the terms of Section 149.43, Revised Code.