

**STATE OF MICHIGAN**  
**COURT OF APPEALS**

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NAPOLEON HARTSFIELD,

Plaintiff-Appellant,

v

MICHIGAN DEPARTMENT OF CORRECTIONS,

Defendant-Appellee.

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UNPUBLISHED

June 25, 1996

No. 171571

L.C.No. 93-75487-CZ

Before: Gribbs, P.J. and Marilyn Kelly and White, JJ.

PER CURIAM.

Plaintiff, acting in propria persona, appeals the circuit court's grant of defendants' motion for summary disposition in plaintiff's action to compel disclosure of certain documents pursuant to the Freedom of Information Act (FOIA), MCL 15.231 et seq; MSA 4.1801(1) et seq. MCR 2.116(C)(10). We affirm.

The circuit court properly granted defendants' motion for summary disposition because the action was resolved after plaintiff filed suit and defendants provided the requested documents. The trial court concluded that plaintiff was the prevailing party and awarded him filing costs. Plaintiff argues on appeal that the trial court erred in not awarding him additional damages under the statute. We do not agree.

As the trial court noted, defendants engaged in "bureaucratic" behavior in denying plaintiff's earlier FOIA requests. Although defendants' earlier refusals were later determined to be erroneous, the trial court did not err in finding that defendants' actions were not arbitrary or capricious. The mistakes here were due to administrative oversight, rather than bad faith. *Laracey v Fin Inst Bureau*, 163 Mich App 437, 441; 414 NW2d 909 (1987). Because defendants' actions were not arbitrary and capricious, the trial court did not err by not awarding plaintiff \$500 in punitive damages. The trial court did not abuse its discretion in not awarding plaintiff his out of pocket costs because plaintiff did not submit any costs to the trial court. An action for legitimate costs must be raised in the trial court.

*Swickard v Wayne Co Medical Examiner*, 196 Mich App 98, 102; 492 NW2d 497 (1992). Finally, the trial court did not err in revoking an earlier grant of waiver of filing fees based on plaintiff's indigence, because the trial court found that plaintiff was the prevailing party and ordered defendants to pay the costs. Plaintiff was not harmed by this ruling.

Affirmed.

/s/ Roman S. Gribbs

/s/ Marilyn Kelly

/s/ Helene N. White