

# Cartwright v. Commonwealth Transp. Comm. Of Virginia

## Virginia Supreme Court

June 9, 2005

This case involves the use of the Virginia Freedom of Information Act as a discovery device. The plaintiff was a landowner whose property was being taken by the state, and was thus involved in condemnation proceedings, in fact was in suit and had filed discovery requests for a certain document relating to the valuation of his property. VDOT had not answered the discovery request. The plaintiff therefore, instead of going to the trial judge and asking for an order requiring the production of the document, filed a FOIA request for it. When this was refused the plaintiff then went to court and asked for a writ of mandamus requiring VDOT to produce the document. The trial judge ruled that the writ would not lie because the plaintiff had an adequate remedy at law, that is, go before the trial judge in the lawsuit and demand that VDOT comply with the discovery request.

The Virginia Supreme Court reversed. While the common law issuance of a writ of mandamus will be denied if there is an adequate remedy at law, that rule does not apply where FOIA is concerned. That statute contains within its terms relief in the form of a writ of mandamus, and the requirement of refusal if there is a legal remedy does not appear. In construing the statute liberally, as its terms expressly state, granting the plaintiff the writ liberally would serve the purposes of the Act.