

[Cite as *Speros v. Ohio Secy. of State*, 2017-Ohio-9413.]

JOHN WILLIAM SPEROS	Case No. 2017-00389-PQ
Requester	Judge Patrick M. McGrath
v.	<u>ENTRY ADOPTING</u>
OHIO SECRETARY OF STATE	<u>RECOMMENDATION OF</u>
Respondent	<u>SPECIAL MASTER</u>

{¶1} On April 27, 2017, requester John Speros filed a complaint under R.C. 2743.75 alleging denial of access to public records in violation of R.C. 149.43(B) by respondent Ohio Secretary of State (“SOS”). Speros requested 2001-2017 Ohio congressional voting results in machine-readable format, in a single, comprehensive file including year, district, candidate name, candidate political party affiliation, and number of votes received. The SOS had initially referred Speros to its online files of elections results, which at the time were incomplete. After the filing of this action, the SOS provided complete, final election results in machine readable format, although not in a single comprehensive electronic file. Speros maintained that he was entitled to the results either in a single electronic file (as he believed the SOS was technically capable of producing), or as results for each election year in an electronic format that would allow him to aggregate the results using his own software. The SOS moved to dismiss the claims on the grounds that: 1) the SOS had timely produced all pertinent documents that were responsive to Speros’ request, 2) Speros made an impermissible request for the SOS to create new records, and 3) Speros failed to identify the records sought with reasonable clarity.

{¶2} On October 27, 2017, Special Master Clark issued a report recommending that the court issue an order finding that Speros had requested records with reasonable specificity, but dismissing the complaint as moot with respect to the election results data

produced before the issuance of the report and recommendation. The Special Master further found that based on the evidence submitted, Speros failed to show by clear and convincing evidence that the SOS has a database programmed to produce the provided data in the format of a single, comprehensive file, and that the SOS did not violate R.C. 149.43(B) in not providing such a file. The Special Master further found that the SOS's provision of all existing congressional election results data, in machine readable format, had fully complied with the terms of the request. However, the Special Master recommended that the court's order grant Speros' claims that he was denied access to all of the requested data within a reasonable period of time, and that he was not provided with a written explanation for the portions of his request that were denied.

{¶3} R.C. 2743.75(F)(2) states, in part: "Either party may object to the report and recommendation within seven business days after receiving the report and recommendation by filing a written objection with the clerk * * *." No objections were filed by either party. The court determines that there is no error of law or other defect evident on the face of the Special Master's decision. Therefore, the court adopts the Special Master's report and recommendation as its own, including findings of fact and conclusions of law contained therein.

{¶4} Court costs are assessed against respondent, and respondent is further ordered to make payment of twenty-five dollars to requester as recovery of his filing fee in this case. The clerk shall serve upon all parties notice of this judgment and its date of entry upon the journal.

PATRICK M. MCGRATH
Judge

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ORDER

cc:

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