

[Cite as *Neff v. Orange Twp. Trustee, Knapp*, 2019-Ohio-1612.]

STACEY A. NEFF	Case No. 2018-01124PQ
Requester	Judge Patrick M. McGrath
v.	<u>ENTRY ADOPTING</u>
ORANGE TOWNSHIP TRUSTEE LISA KNAPP	<u>SPECIAL MASTER REPORT</u>
Respondent	<u>AND RECOMMENDATION</u>

{¶1} Requester Stacey A. Neff, proceeding pro se, objects to a special master’s report and recommendation issued on February 14, 2019.

I. Background

{¶2} On July 26, 2018, pursuant to R.C. 2743.75(D), Neff filed a complaint against respondent Orange Township Trustee Lisa Knapp, alleging a denial of access to public records. The court appointed an attorney as a special master in the cause. The special master referred the case to mediation. After mediation failed to successfully resolve all disputed issues between the parties, the court returned the case to the special master’s docket.

{¶3} In a single filing, Knapp responded to Neff’s complaint and moved to dismiss Neff’s complaint. On February 14, 2019, the special master issued a report and recommendation (R&R). In the R&R the special master identified an “original request” and a “revised request.” The special master recommended granting Knapp’s motion to dismiss regarding the “original request,” and denying Knapp’s motion regarding the “revised request.” (R&R, 4.) The special master found that Neff had not proven by clear and convincing evidence that responsive records existed at the time of her request. (R&R, 6.) And, upon consideration of the pleadings and attachments, the special master recommended that the court issue an order denying Neff’s claim for production of records.

{¶4} Seven business days after the special master issued the R&R, Neff filed written objections to the special master's R&R. In a certificate of service, Neff certified that, on February 25, 2019, she sent a copy of her written objections to Knapp's counsel "via certified United States Mail, return receipt requested." Neff contends the special master's R&R is in error because the R&R "does not include a finding that [Knapp] is in violation of R.C. 149.43(B)(2) and (3)."

{¶5} On March 11, 2019, Orange Township Trustee Lisa Knapp, through counsel, filed a response to Neff's objections. In a certificate of service, Knapp's counsel certified that, on March 11, 2019, he sent a copy of Knapp's response to Neff "via certified United States Mail, return receipt requested." Knapp asks the court to overrule Neff's objections and adopt the special master's R&R.

II. Law and Analysis

{¶6} The court finds that Neff's objections are timely filed because Neff filed the objections within seven business days after the R&R was issued and Neff has certified that a copy of the written objections was sent to Knapp's counsel "via certified United States Mail, return receipt requested" on February 25, 2019. The court also finds that Knapp's response is timely filed because Knapp filed a response within seven business days after receiving a copy of Neff's written objections and Knapp's counsel has certified that he sent a copy of Knapp's response "via certified United States Mail, return receipt requested" on March 11, 2019.

{¶7} By her objections, Neff contends that the special master erred by not finding a violation of R.C. 149.43(B)(2) and (3). Notably, in her objections Neff does not appear to challenge the special master's finding that Neff "has not proven by clear and convincing evidence that responsive records existed at the time of her request." (R&R, 6.) Instead, Neff contends that she provided a valid records request on June 18, 2018. (Objections, 3.) Notwithstanding Neff's contention, in view of the special master's finding that Neff failed to sustain her burden to prove by clear and convincing evidence

that responsive records existed at the time of her request, the court determines that the special master did not err because the special master did not find a violation of R.C. 149.43(B)(2) and (3). The court concludes that Neff's objections to the special master's R&R should be overruled.

III. Conclusion

{¶8} For reasons set forth above, the court OVERRULES Neff's objections to the special master's R&R issued on February 14, 2019. The court adopts the special master's R&R, including the findings of fact and conclusions of law contained in it. Judgment is rendered in favor of Orange Township Trustee Lisa Knapp. Court costs are assessed against Neff. The clerk shall serve upon all parties notice of this judgment and its date of entry upon the journal.

PATRICK M. MCGRATH
Judge