

[Cite as *Parks v. Pickaway Cty. Bd. of Commrs.*, 2019-Ohio-1824.]

MICHAEL R. PARKS	Case No. 2018-01479PQ
Requester	Special Master Scott Sheets
v.	<u>REPORT AND RECOMMENDATION</u>
BOARD OF COMMISSIONERS- PICKAWAY COUNTY	
Respondent	

{¶1} Requester Michael Parks (“Mr. Parks”) filed his complaint against Respondent Pickaway County Board of Commissioners (“the Board”) on or about November 27, 2019 after making several public records requests to the Board. Mr. Parks requested board minutes from the Board’s October 23, October 30, and November 6, 2018 meetings. After an unsuccessful mediation, the Board filed a Motion to Dismiss. For the following reasons, the special master recommends that the Court GRANT the Board’s Motion to Dismiss.

{¶2} Though Mr. Parks asserts that the Board has violated his “right to public records,” he does not assert that the Board failed to respond to his requests. Instead, Mr. Parks asserts that the documents the Board produced are either not authentic and/or were created after he issued his requests to the Board. He bases this assertion on metadata associated with the minutes, which the Board produced via email attachments. Mr. Parks suggests that these allegedly created records were produced to him in lieu of the actual minutes he requested.

{¶3} In addition to evidence establishing that the minutes were produced to Mr. Parks, the Board has also provided evidence through the affidavits of the Board’s clerk, Angela Karr and the Pickaway County technology director, Robert Adkins. This evidence explains the process by which Karr transmitted the requested records to Mr.

Parks and explains discrepancies with the metadata, specifically the size and creation date of the files.

{¶4} Mr. Parks is required to demonstrate, by clear and convincing evidence, that additional records exist and were withheld. *See, Foulk v. City of Upper Arlington*, Ct. of Cl. No. 2017-00132 PQ, 2017-Ohio-4249, ¶ 3. However, without supporting evidence, “[a] reasonable and good faith belief... does not constitute sufficient evidence to establish that a responsive document exists.” *Id.* at ¶ 6; *State ex rel. Dehler v. Collins*, 10th Dist. No. 09AP-703, 2010-Ohio-5436, ¶ 8-9; *State ex rel. Mun. Constr. Equip. Operators’ Labor Council v. City of Cleveland*, 8th Dist. No. 83051, 2004-Ohio-1261, ¶ 9.

{¶5} Mr. Parks presents a belief that additional and/or different records exist. However, he has not produced any evidence establishing their existence. In contrast, the special master finds the Board’s evidence establishes that the Board has provided all requested records to Mr. Parks. As such, the special master also finds that the Board’s production of the requested records renders Mr. Parks claim for the same records moot. *See, State ex rel. Cincinnati Enquirer v. Dupuis*, 98 Ohio St.3d 126, 2002-Ohio-7041, ¶ 8.

{¶6} Given the above, the special master recommends that the Court GRANT the Board’s Motion to Dismiss and that the costs of this action be assessed against Mr. Parks.

SCOTT SHEETS
Special Master