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SLIP OPINION NO. 2026-OHIO-4074

THE STATE EX REL. HAMBEL v. FRANKLIN COUNTY PROSECUTOR'S OFFICE

ET AL.

[Until this opinion appears in the Ohio Official Reports advance sheets, it may be cited as *State ex rel. Hambel v. Franklin Cty. Prosecutor's Office*, Slip Opinion No. 2026-Ohio-4074.]

Mandamus—Public-records requests—R.C. 149.43—Relator not entitled to writ against (1) sheriff's office, because he failed to show that he submitted a public-records request to that office or (2) police department or prosecutor's office, because he requested public records from those public offices on behalf of his incarcerated nephew, who previously sought and was denied the same records for failure to comply with R.C. 149.43(B)(8)—Writ and relator's requests for statutory damages, attorney fees, and court costs denied.

(No. 2024-1689—Submitted August 6, 2025—Decided October 20, 2026.)

IN MANDAMUS.

DETERS, J., authored the opinion of the court, which FISCHER, DEWINE, BRUNNER, HAWKINS, and SHANAHAN, JJ., joined. KENNEDY, C.J., concurred in part and dissented in part, with an opinion.

DETERS, J.

{¶ 1} Relator, John Hambel, filed this original action in mandamus against respondents, the Franklin County Prosecutor’s Office, the Franklin County Sheriff’s Office, and the City of Columbus Division of Police (“CDP”). He largely seeks records pertaining to criminal cases involving his nephew, James Conway III, and he asks this court to issue a writ of mandamus compelling respondents to provide him with the requested records.

{¶ 2} We deny Hambel’s request for a writ of mandamus. We also deny his request for awards of statutory damages, attorney fees, and court costs. And we deny Jennifer Hudson’s “Civ.R. 20 and 21 Motion for Joinder.”

I. BACKGROUND

A. Hambel’s public-records requests and the responses he received

{¶ 3} In his petition for a writ of mandamus, Hambel claims that he mailed identical public-records requests to each respondent in May 2021 seeking records related to Conway’s criminal cases. Hambel requested the following from each respondent:

- Item No. 1: Copies of exhibits used in Franklin C.P. No. 02-CR-1153, including photographs, diagrams, and crime-scene-search-unit forms.
- Item No. 2: The ballistics report associated with Franklin C.P. No. 02-CR-1153 for a firearm that was recovered on February 23, 2002, from the parking lot of Big Mike’s Palace, located at 1312 South High Street in Columbus, Ohio.
- Item No. 3: “Any audio or video surveillance recordings” as well as “any transcripts or summaries of such recordings made by [CDP or the sheriff’s office]” between January 1 and February 23, 2002, at Big Mike’s Palace.

- Item No. 4: “Any statements or summaries of statements made by Riyadh Altalla regarding or related to” Franklin C.P. Nos. 02-CR-1153, 02-CR-3117, and 02-CR-3118.
- Item No. 5: The grand-jury testimony of Mike Arthurs in Franklin C.P. Nos. 02-CR-1153, 02-CR-3117, and 02-CR-3118.
- Item No. 6: The phone records and billing statements for [a particular phone number] listing every phone call made between Ronald Trent and the sheriff’s office from May 16 through 30, 2002.
- Item No. 7: “Any documentation including but not limited to notes, statements, or summaries relating to Ronald Trent [p]roviding any information to any law enforcement agency or government official including but not limited to [respondents], the Chillicothe Police Department, and any individual working for the Ohio Department of Rehabilitation and Corrections.”
- Item No. 8: “Any personnel records regarding complaints or any misconduct by Franklin County Sheriff’s Detective Zach Scott . . . related to [Franklin C.P. Nos. 02-CR-1153, 02-CR-3117, and 02-CR-3118], during his career in law enforcement.”
- Item No. 9: “The [sheriff’s office’s] policy, and any related policy of any state agency, regarding the procedures for keeping trial witnesses separated when they are housed in the Franklin County jail and a court order that [said] witnesses should have no contact[, which was] in effect between, January 1 and December 31, 2003.”
- Item No. 10: “The original unedited audio recordings of conversations between Ronald Trent and other individuals including James Conway, Calvin Horton, and Shawn Nightengale made by the [sheriff’s office]” in May 2002.

{¶ 4} According to Hambel, he received records in response to his requests for item No. 1 but has not received all the records responsive to his requests for

item Nos. 2 through 10, so he asks for a writ of mandamus compelling the production of those records.

{¶ 5} Despite Hambel’s claims that he sent identical public-records requests to each respondent, Mary Jane Martin, the risk manager for the sheriff’s office, attests in an affidavit that the sheriff’s office never received Hambel’s public-records request. According to Martin, she checked the electronic log kept by the sheriff’s office documenting its receipt of public-records requests and found no indication that the office had received the May 2021 request from Hambel. Martin attests that the sheriff’s office became aware of Hambel’s public-records request when it received his mandamus petition in December 2024.

{¶ 6} Unlike the sheriff’s office, both the prosecutor’s office and CDP acknowledge receiving Hambel’s public-records request. Kathryn Hartshorne, a public-safety manager at CDP, attests in an affidavit that CDP does not have responsive records to certain items requested by Hambel, because it is not responsible for maintaining such records. She also states that CDP could not locate responsive records to other items requested by Hambel, because Hambel used common-pleas-court case numbers as the basis for identifying the items sought and CDP does not organize its records by case number. According to Hartshorne, CDP informed Hambel by email that he needed to provide clarification about what he was requesting but Hambel did not send CDP any additional communication about his public-records request.

{¶ 7} As for the prosecutor’s office, it initially responded to Hambel’s public-records request by (1) producing some of the records that Hambel asked for, (2) informing Hambel that certain records that he requested were not maintained as part of its criminal-case files, and (3) claiming that some of the requested records

were exempt from disclosure under R.C. 149.43(A)(1)(h) and 149.43(A)(2)(c)¹ or Crim.R. 6(E).

{¶ 8} In a January 2022 follow-up email, Hambel contested certain aspects of the prosecutor’s initial response, and the prosecutor’s office provided Hambel with two supplemental responses. In its first supplemental response, the prosecutor’s office provided revised responses to Hambel’s request for item Nos. 2, 5, and 7 through 9. The prosecutor’s office stated that it was unable to locate the ballistics report (item No. 2); it reaffirmed its denial of the request for grand-jury testimony (item No. 5); it denied the request for records related to Ronald Trent (item No. 7) as overly broad and informed Hambel that it did not have authority over records maintained by other public offices; and it denied the request for Detective Scott’s personnel file (item No. 8) and the sheriff’s office’s policy regarding the separation of jailed trial witnesses (item No. 9) as overly broad but also informed Hambel that it did not have responsive records for those requested items.

{¶ 9} In its second supplemental response to Hambel’s public-records request, the prosecutor’s office provided revised responses to Hambel’s request for item Nos. 3, 4, 6, and 10. The prosecutor’s office provided Hambel with redacted surveillance logs in its possession that had been prepared by the sheriff’s office (item No. 3) but advised Hambel that “any responsive audio recordings are exempt from release” under the exemption for confidential law-enforcement investigatory records (“CLEIR”) set forth in R.C. 149.43(A)(1)(h) and (A)(2). The prosecutor’s office also informed Hambel that it had “no authority over records maintained by” CDP or the sheriff’s office and directed Hambel to those offices regarding his

1. The General Assembly recently amended Ohio’s Public Records Act, R.C. 149.43, most notably in 2024 Sub.H.B. No. 265 (effective Apr. 9, 2025), and some provisions have been renumbered. This opinion applies the version of the act that was enacted in 2020 Sub.S.B. No. 284 (effective Mar. 24, 2021).

request for surveillance records. The prosecutor’s office denied Hambel’s request for statements or summaries of statements made by Riyad Altalla in three specific criminal cases (item No. 4) as both overly broad and not subject to disclosure under the CLEIR exemption set forth in R.C. 149.43(A)(2)(a) and (d). The prosecutor’s office informed Hambel that it had “no records responsive” to his request for phone logs made between the sheriff’s office and Ronald Trent at a specified phone number for a range of dates in May 2002 (item No. 6), because it has “no authority over records maintained by [the sheriff’s office].” It directed Hambel to seek those records from the sheriff’s office. And in response to Hambel’s request for audio recordings made by the sheriff’s office of conversations between various identified persons in May 2002 (item No. 10), the prosecutor’s office informed Hambel that it had “no authority over records maintained by [the sheriff’s office],” and it advised him to direct his request to that office. It also informed Hambel that the records he asked for in item No. 10 are exempt from disclosure under the CLEIR exemption set forth in R.C. 149.43(A)(1)(h) and (A)(2)(a) and (d).

B. Hambel’s mandamus action

{¶ 10} Hambel filed a petition for a writ of mandamus, asking that we compel respondents to provide him with records responsive to his requests for item Nos. 2 through 10. He also seeks awards of statutory damages, attorney fees, and court costs.

{¶ 11} We issued an alternative writ, setting the schedule for the presentation of evidence and filing of briefs. 2025-Ohio-598. In addition to the affidavits discussed above, the prosecutor’s office and CDP also submitted as evidence public-records requests that they each received from Hambel’s nephew, Conway, in April 2021. Conway asked each of those respondents for the ballistics report associated with Franklin C.P. No. 02-CR-1153, and he also requested from the prosecutor’s office the exhibits used in that criminal case. In April 2021, both the prosecutor’s office and CDP informed Conway that responsive records would

be provided only after he obtained permission from the trial court for their release to him under R.C. 149.43(B)(8).

{¶ 12} A week before respondents filed their respective merit briefs, Hudson filed a motion seeking leave to join Hambel’s mandamus action as another relator. In her memorandum in support of that motion, Hudson claims that she also submitted a public-records request to the prosecutor’s office, asking for copies of records related to Conway’s criminal cases, and she asserts that “it would conserve her resources as well as those of this Court” to resolve any mandamus claim she might file in combination with Hambel’s. Respondents do not oppose Hudson’s motion.

II. ANALYSIS

A. We deny Hudson’s motion for joinder

{¶ 13} Hudson requests that we “join [her] as a Relator” in this action under Civ.R. 20 and 21. Both rules relate to the joinder (or misjoinder or nonjoinder) of parties to an action. Because Hudson is not a party to this action, she cannot invoke Civ.R. 20 and 21 to be joined as a relator. We therefore deny Hudson’s motion.

B. Hambel’s mandamus action

{¶ 14} “Mandamus is an appropriate remedy to compel compliance with Ohio’s Public Records Act, R.C. 149.43.” *State ex rel. Clark v. Dept. of Rehab. & Corr.*, 2025-Ohio-895, ¶ 9; R.C. 149.43(C)(1)(b). To obtain a writ of mandamus, Hambel must prove by clear and convincing evidence a clear legal right to the records requested and a corresponding clear legal duty on the part of respondents to provide them. *State ex rel. Mobley v. Banks*, 2026-Ohio-2525, ¶ 7, citing *State ex rel. McDougald v. Sehlmeier*, 2020-Ohio-4428, ¶ 7. His burden includes pleading and proving by clear and convincing evidence that he requested the public records from respondents under R.C. 149.43(B)(1) and that respondents failed to make the requested records available. *State ex rel. Ware v. Beggs*, 2024-Ohio-611, ¶ 11. “Clear and convincing evidence” is a measure or degree of proof that requires

more than a preponderance of the evidence but less than proof beyond a reasonable doubt—the burden of proof in criminal cases—and that will produce in the trier of fact’s mind a firm belief as to the fact sought to be established. *State ex rel. Griffin v. Doe*, 2021-Ohio-3626, ¶ 5.

{¶ 15} For the reasons discussed below, we deny Hambel’s request for a writ of mandamus against respondents.

1. We deny Hambel’s request for a writ of mandamus against the prosecutor’s office and CDP

{¶ 16} Both the prosecutor’s office and CDP argue that Conway, who is incarcerated, is using Hambel to obtain records that Conway would not be entitled to without approval of the judge who sentenced him. *See* R.C. 149.43(B)(8).² Because they are claiming a statutory exception, the prosecutor’s office and CDP have the burden to show that the exception applies. *See Mobley* at ¶ 8, citing *State ex rel. Gatehouse Media Ohio Holdings II, Inc. v. Columbus Police Dept.*, 2025-Ohio-5243, ¶ 11. We agree that the exception applies here.

{¶ 17} R.C. 149.43(B)(8) permits a public office to withhold a public record from an incarcerated person, unless the incarcerated person’s sentencing judge makes a finding “that the information sought in the public record is necessary to support what appears to be a justiciable claim of the person.” As stated above, both the prosecutor’s office and CDP denied public-records requests they received from Conway on the grounds that he had not satisfied R.C. 149.43(B)(8). They argue here that Conway is attempting to skirt the R.C. 149.43(B)(8) requirement by having his uncle, Hambel, obtain the public records for him.

{¶ 18} Hambel protests that a public-records requester is not required to inform the public office about his intended use for the records he requests, *see*

2. The version of R.C. 149.43(B)(8) that applies in this case, *see* ¶ 7, fn. 1, is substantially similar to the version that was in effect when the comparison cases that are discussed later in this opinion were decided.

R.C. 149.43(B)(5), and that applying the exception found in R.C. 149.43(B)(8) to a person requesting public records related to a family member is irreconcilable with R.C. 149.43(B)(4), which prohibits limiting the availability of public records based on the requester's intended use for the records. But R.C. 149.43(B)(4)'s application is limited to circumstances in which the public office's refusal to turn over records to a requester is not "specifically required or authorized by state or federal law." And we have specifically authorized public offices to deny public-records requests that have been made to skirt the R.C. 149.43(B)(8) requirement.

{¶ 19} In *State ex rel. Barb v. Cuyahoga Cty. Jury Commr.*, this court reviewed the Eighth District Court of Appeals' judgment denying a writ of mandamus requested by the brother of an inmate. 2011-Ohio-1914, ¶ 1. The facts of *Barb*, as discussed by the Eighth District, are similar to those presented here. Herbert Barb had requested verdict forms and the prospective-juror list from his brother Danny's criminal case. Herbert averred in his complaint that he was seeking the records "in his 'pursuit to obtain documents that would clearly show the violation of Danny Barbs [sic] right to a fair trial.' " (Bracketed text in original.) *State ex rel. Barb v. Cuyahoga Cty. Jury Commr.*, 2010-Ohio-6190, ¶ 2 (8th Dist.). Previously, Danny had filed suit in the Eighth District seeking a writ of mandamus to compel the production of lists of jurors who had been summoned for his case. *Id.* at ¶ 4. The court of appeals had denied the writ, partly because Danny had not satisfied R.C. 149.43(B)(8)'s requirement that he first receive approval from his sentencing judge to obtain the requested records. *Id.* at ¶ 4-5. In denying Herbert's subsequent request for a writ of mandamus, the court of appeals grounded its decision largely in the doctrine of res judicata. *See id.* at ¶ 10-12. But it also noted that "Herbert may not do indirectly what Danny is prohibited from doing directly." *Id.* at ¶ 13.

{¶ 20} When we affirmed the Eighth District’s judgment, we explained, “[The inmate] cannot circumvent the requirement of R.C. 149.43(B)(8) . . . by designating his brother to request the records for him.” *Barb*, 2011-Ohio-1914, ¶ 1.

{¶ 21} Hambel states in an affidavit, “I am not [Conway’s] ‘designee’ or his agent or acting on behalf of anyone other than myself,” and he argues that this court “severely restricted, if not overturned” *Barb* in *State ex rel. Summers v. Fox*, 2020-Ohio-5585. In *Summers*, this court again considered the question whether a family member may obtain copies of public records on behalf of an incarcerated relative. In that case, Charles Summers sought a writ of mandamus to compel the Mercer County Prosecuting Attorney and the Mercer County Sheriff (collectively, “the county”) to provide him with copies of public records related to his son’s criminal case. The county argued in part that Summers was acting as his son’s designee in requesting the records and that under R.C. 149.43(B)(8), permission from the son’s sentencing judge was required before those records could be produced to Summers. Summers denied that he was acting as his son’s designee. In response, the county pointed out that Summers had posted items to Facebook ““at the explicit instruction of [the son].” ” *Summers* at ¶ 32.

{¶ 22} We declined to find that Summers was acting as his son’s designee. We noted that Summers’s Facebook posts were written after he made his public-records requests. *Id.* at ¶ 33. And we declined the county’s invitation “to assume that if [the son] was directing his father in the operation of the Facebook page, then he must have also been the driving force behind the [public-records] requests.” *Id.* We did not overturn *Barb*; we distinguished it.

{¶ 23} With this in mind, we turn to the facts of this case. In a letter dated April 5, 2021, Conway made the following request of CDP:

I need the ballistics report from a gun associated with [case No. 02-CR-1153]. The gun was a Colt. 45 M1991A1 Compact with a 3.5

inch barrel. I believe the serial number was CP29695. It was recovered from the parking lot at 1312 South High Street, on the corner of South High and East Moler in Columbus, Ohio on February 23, 2002.

{¶ 24} That same day, he sent the following request to the prosecutor's office:

This is a public information request for several exhibits that were used in the trial for case # 02-CR-1153. The first group of exhibits I am requesting are photographs, marked exhibits P-1 through P-34. These photographs have to be printed so that the details are just as visible as they were at trial. Simple black and white grainy photocopies won't work.

The second set of exhibits I am requesting are a set of two diagrams, marked exhibits V-1 and V-3. They are a scale drawing of the parking lot at Dockside Dolls, where the incidents that were the subject of the trial were located. Exhibit V-1 was rather large, but I need an accurate depiction of it.

Lastly, from this trial, I need exhibits W-4 through W-8, all of which are forms used by the crime scene search unit.

Finally, I need the ballistics report from a gun associated with the above case. The gun was a Colt .45 M1991A1 Compact with a 3.5 inch barrel. I believe the serial number was CP29695. It was recovered from the parking lot at 1312 South High Street, on the corner of South High and East Moler in Columbus Ohio on February 23, 2002.

{¶ 25} Both CDP and the prosecutor's office responded to Conway, informing him that he needed to obtain approval from his sentencing judge before they could provide him with the requested records. Conway never supplemented his public-records requests with proof of having secured approval from his sentencing judge to obtain the requested records.

{¶ 26} Just over a month later, Hambel sent a public-records request to CDP and to the prosecutor's office, asking for the following:

1. Exhibits that were used in the trial for case #02-CR-1153.

(a) The first group of exhibits I am requesting are photographs made of the parking lot at a nightclub known at the time as "Dockside Dolls" located at 2210 East Dublin-Granville Road, Columbus, Ohio. These were marked at trial as exhibits P-1 through P-34. These photographs have to be printed so that the details are just as visible as they were at trial. Simple black and white grainy photocopies are not sufficient.

(b) The second set of exhibits I am requesting are a set of two diagrams, marked exhibits V-1 and V-3, of the same parking lot listed in (a) above. Exhibit V-1 was large, but I need an accurate copy of it.

(c) Lastly, from this trial, I need exhibits W-4 through W-8, all of which are forms used by the crime scene search unit.

2. The ballistics report from a gun associated with case #02-CR-1153. The gun was a Colt .45 M1991A1 Compact with 3.5-inch barrel. I believe the serial number was CP29695. It was recovered from the parking lot at 1312 South High Street, on the corner of South High and East Moler, known at the time as "Big Mike's Palace," in Columbus, Ohio on February 23, 2002.

{¶ 27} The reader can be forgiven for thinking he or she experienced déjà vu: not only did Hambel request four of the same records that Conway requested little more than a month earlier, he also used nearly identical wording in making some of his requests. Hambel's requests in this case can be contrasted against those made in *Summers* because there was no evidence in *Summers* showing that the requester's incarcerated relative had ever made public-records requests—much less nearly identical requests—for the records that his family member sought. Instead, Hambel's requests are more akin to the requests made by the incarcerated person's relative in *Barb*. Like Herbert Barb did, Hambel claims to be seeking certain public records that he says are needed to vindicate an incarcerated relative. And both Hambel and Barb requested the same records that their incarcerated relative had previously requested, in addition to asking for at least one other record. (There is no indication that Danny had requested the verdict forms that Barb requested.)

{¶ 28} We conclude that the evidence in this case clearly and convincingly shows that Conway was using Hambel to obtain the public records that Conway sought so that Conway did not have to comply with R.C. 149.43(B)(8). But Hambel may not do indirectly what Conway is prohibited from doing directly. We therefore deny Hambel's request for a writ of mandamus against the prosecutor's office and CDP.³

2. *We deny Hambel's request for a writ of mandamus against the sheriff's office*

{¶ 29} As discussed above, Martin, the risk manager for the sheriff's office, attests in her affidavit that she reviewed the electronic log used by the sheriff's office to record public-records requests received by that office and that she found

3. Because Hambel claims he made identical requests of the sheriff's office, his request for a writ of mandamus against that office arguably could be denied on the same grounds. But the sheriff's office did not make that argument. And we decline to determine Hambel's request as to the sheriff's office on grounds not presented to this court. Instead, we consider the arguments that the sheriff's office did make.

nothing indicating that the sheriff’s office had received a request from Hambel. Hambel counters with his own affidavit in which he states that he mailed a public-records request to the sheriff’s office. Considering the testimony presented in both affidavits as evenly balanced, we find that Hambel has failed to meet his burden of showing that he submitted a public-records request to the sheriff’s office before filing this mandamus action. *See Griffin*, 2021-Ohio-3626, at ¶ 8 (“evenly balanced” evidence in the record regarding whether a public-records request was sent to a public office does not satisfy a relator’s clear-and-convincing-evidence burden of proof). We therefore deny Hambel’s request for a writ of mandamus against the sheriff’s office.

3. *Hambel is not entitled to awards of statutory damages, attorney fees, or court costs*

{¶ 30} To obtain an award of statutory damages, a public-records requester must prove that he transmitted “a written request by hand delivery, electronic submission, or certified mail” to the public office or person responsible for the requested public records and that the public office “failed to comply with an obligation in accordance with [R.C. 149.43(B)].” R.C. 149.43(C)(2). As discussed above, we conclude that the prosecutor’s office and CDP properly denied Hambel’s public-records requests and that Hambel did not prove that he made a public-records request of the sheriff’s office, so we deny statutory damages. And because find that respondents did not fail to comply with R.C. 149.43(B) in responding to Hambel’s public-records requests and we deny Hambel’s request for a writ of mandamus, we also deny his request for awards of attorney fees and court costs, respectively. *See* R.C. 149.43(C)(3)(a) and (b).

III. CONCLUSION

{¶ 31} We deny Hambel’s request for a writ of mandamus and his request for awards of statutory damages, attorney fees, and court costs. And we deny Hudson’s motion for joinder.

Writ denied.

KENNEDY, C.J., concurring in part and dissenting in part.

{¶ 32} I agree with the majority’s judgment denying relator, John Hambel, a writ of mandamus to compel respondents Franklin County Sheriff’s Office and City of Columbus Division of Police (“the police”) to comply with his public-records requests, and the majority correctly denies Hambel awards of statutory damages, attorney fees, and court costs as to his requests sent to these two respondents. Further, I agree with the majority’s decision denying Jennifer Hudson’s motion for joinder.

{¶ 33} While there is reason to question this court’s development of the rule that a “designee” of an incarcerated person may not request records related to a criminal investigation or prosecution under R.C. 149.43(B)(8)—the rule has no textual basis in Ohio’s Public Record Act, R.C. 149.43, and seems to add words to the statute—that matter is not presently before the court since none of the parties here have raised it. But as for the majority’s determination that Hambel is a designee of his incarcerated nephew, James Conway III, with respect to the public-records requests that Hambel sent to respondent Franklin County Prosecutor’s Office, I disagree.

{¶ 34} In my view, the prosecutor’s office has not met its burden to prove by clear and convincing evidence that Hambel is Conway’s designee. Importantly, the prosecutor’s office appeared to be satisfied with statements Hambel made before filing this mandamus action in which he denied being Conway’s designee and said that he was looking into the matter of his nephew’s criminal cases for his own purposes; the evidence bears this out, as it shows that the prosecutor’s office then began providing Hambel copies of the records he requested. The fact that Hambel asked for some of the same records that Conway previously asked for in his own public-records requests and used similar language as Conway does not,

standing alone, provide clear and convincing evidence that Hambel is Conway's designee—especially since Hambel averred in an affidavit that he is not Conway's designee and he asked for many other records that Conway did not request. And since Hambel is not Conway's designee, this court should reach the merits of the case.

{¶ 35} I would grant a limited writ ordering the prosecutor's office to, within 21 days, either produce responsive records to Hambel's request for item Nos. 3 and 4 and certify to this court the date that the records were produced or certify by affidavit that it does not possess responsive records. I would also award Hambel \$1,000 in statutory damages related to the public-records request that he sent to the prosecutor's office by email on January 3, 2022, as well as court costs. Because the majority does otherwise, I concur in part and dissent in part.

I. Background

A. Hambel's May 2021 Public-Records Request

{¶ 36} Hambel sent public-records requests to the police and the prosecutor's office on May 24, 2021. Hambel requested the following ten categories of records:

1. Exhibits that were used in the trial for case #02-CR-1153.

(a) The first group of exhibits I am requesting are photographs made of the parking lot at a nightclub known at the time as "Dockside Dolls" located at 2210 East Dublin-Granville Road, Columbus, Ohio. These were marked at trial as exhibits P-1 through P-34. These photographs have to be printed so that the details are just as visible as they were at trial. Simple black and white grainy photocopies are not sufficient.

(b) The second set of exhibits I am requesting are a set of two diagrams, marked exhibits V-1 and V-3, of the same parking lot

listed in (a) above. Exhibit V-1 was large, but I need an accurate copy of it.

(c) Lastly, from this trial, I need exhibits W-4 through W-8, all of which are forms used by the crime scene search unit.

2. The ballistics report from a gun associated with case #02-CR-1153. The gun was a Colt .45 M1991A1 Compact with a 3.5-inch barrel. I believe the serial number was CP29695. It was recovered from the parking lot at 1312 South High Street, on the corner of South High and East Moler, known at the time as “Big Mike’s Palace,” in Columbus, Ohio on February 23, 2002.

3. Any audio or video surveillance recordings, surreptitious or otherwise, and any transcripts or summaries of such recordings made by the Columbus Police Department or the Franklin County Sheriff’s Department at 1312 South High Street, on the corner of South High and East Moler, known at the time as “Big Mike’s Palace,” in Columbus, Ohio between January 1, 2002 and February 23, 2002.

4. Any statements or summaries of statements made by Riyadh Altalla regarding or related to any of the above cases.

5. The grand jury testimony of Mike Arthurs in any of the above listed cases. (Arthurs was a named codefendant in cases 02-CR-3117 and 02-CR-3118.)

6. The phone records and billing statements listing every phone call made between May 16, 2002 and May 30, 2022 on the phone provided to Ronald Trent by the Franklin County Sheriff’s Department

7. Any documentation including but not limited to notes, statements, or summaries relating to Ronald Trent [p]roviding any

information to any law enforcement agency or government official including but not limited to the Columbus Police Department, Franklin County Sheriff's Department, the Franklin County Prosecutor's Office, the Chillicothe police department, and any individual working for the Ohio Department of Rehabilitation and Corrections.

8. Any personnel records regarding complaints or any misconduct by Franklin County Sheriff's Detective Zach Scott, whether related to any of the above entitled cases, during his career in law enforcement.

9. The [F]ranklin County Sheriff's Department policy, and any related policy of any state agency, regarding the procedures for keeping trial witnesses separated when they are housed in the Franklin County jail and a court order that witnesses should have no contact [that was] in effect between January 1 and December 31, 2003.

10. The original unedited audio recordings of conversations between Ronald Trent and other individuals including James Conway, Calvin Horton, and Shawn Nightengale made by the Franklin County Sheriff's Department on May 20, 2002 (there are at least two on this date), May 26, 2002, and May 28, 2002. There were at least 34 similar recordings made between May 16, 2002 and May 28, 2002, but I am looking for all recordings made on these specific dates.

{¶ 37} On July 16, Hambel exchanged emails with Seth Gilbert, chief counsel of the criminal division's appellate unit in the prosecutor's office. Gilbert stated,

I received your voicemail message in response to the letter I sent you regarding your “public information request” relating to inmates James Conway and Calvin Horton. I wanted to check whether you are acting on Mr. Conway’s and/or Mr. Horton’s behalf. If you could explain the relationship between you and the inmates that would be helpful in moving forward. The more details the better.

{¶ 38} In response, Hambel stated, “Thank you for your reply. James Conway is my nephew. I hope this helps the process. Let me know if there is anything further you’ll need from me.”

{¶ 39} Gilbert then emailed back, “Thank you for your response. To follow up, are you acting on Mr. Conway’s or Horton’s behalf?” Hambel responded, “I am not acting on behalf of either. I’m following the case because James is my nephew and there is additional info I’m trying to get clarity on.”

{¶ 40} Gilbert was apparently satisfied that Conway was not acting as a designee of either Conway or Horton, because on September 21, Jeanine Hummer, an assistant prosecuting attorney with the prosecutor’s office, emailed Hambel, telling him that the prosecutor’s office was “actively working” on his request. She further stated: “Given the number of records to review and redact, it takes time. Each record . . . has to be legally reviewed and appropriate redactions made. We will provide you with the requested records.”

B. The Prosecutor’s Office’s Response

{¶ 41} The prosecutor’s office responded to Hambel’s May 2021 public-records request on October 7, providing Hambel with some of the requested records and claiming that it did not possess others or that the requested records were exempt from release.

{¶ 42} On January 3, 2022, Hambel emailed the prosecutor’s office, explaining why he believed it should have produced more of the records he had requested and demanding an explanation for why it did not.

{¶ 43} The prosecutor’s office provided Hambel with two supplemental responses—one dated September 19, 2022, and the other dated October 12, 2023. Once again, it provided Hambel with some records while claiming that it did not have others or asserting that the other requested records were exempt from release.

C. Hambel’s Mandamus Action

{¶ 44} On December 6, 2024, Hambel filed this action requesting a writ of mandamus against the prosecutor’s office, the sheriff’s office, and the police. On March 12, 2025, Hambel filed his evidence in this case in compliance with the court’s order, *see* 2025-Ohio-598.

{¶ 45} In an affidavit submitted with his evidence, Hambel denies that he is Conway’s “designee.” Hambel states: “Some of the public information I requested relates to the capital convictions of James T. Conway III, who is my nephew. However, I am not his ‘designee’ or his agent or acting on behalf of anyone other than myself.”

{¶ 46} Because the majority finds Hambel to be Conway’s designee based on the similarity between Hambel’s and Conway’s public-records requests to the prosecutor’s office, Conway’s requests are relevant for purposes of comparison.

D. Conway’s Public-Records Requests

{¶ 47} On April 5, 2021, Conway mailed both the police and the prosecutor’s office a public-records request. To the police, Conway said:

This is a public information request for information associated with case #02-CR-1153. I need the ballistics report from a gun associated with the above case. The gun was a Colt .45 M1991A1 Compact with a 3.5 inch barrel. I believe the serial

number was CP29695. It was recovered from the parking lot at 1312 South High Street, on the corner of South High and East Moler in Columbus, Ohio on February 23, 2002.

In his request to the prosecutor's office, Conway wrote:

This is a public information request for several exhibits that were used in the trial for case # 02-CR-1153. The first group of exhibits I am requesting are photographs, marked exhibits P-1 through P-34. These photographs have to be printed so that the details are just as visible as they were at trial. Simple black and white grainy photocopies won't work.

The second set of exhibits I am requesting are a set of two diagrams, marked exhibits V-1 and V-3. They are a scale drawing of the parking lot at Dockside Dolls, where the incidents that were the subject of the trial were located. Exhibit V-1 was rather large, but I need an accurate depiction of it.

Lastly, from this trial, I need exhibits W-4 through W-8, all of which are forms used by the crime scene search unit.

Finally, I need the ballistics report from a gun associated with the above case. The gun was a Colt .45 M1991A1 Compact with a 3.5 inch barrel. I believe the serial number was CP29695. It was recovered from the parking lot at 1312 South High Street, on the corner of South High and East Moler in Columbus, Ohio on February 23, 2002.

{¶ 48} Fourteen days later, on April 19, 2021, the prosecutor's office responded, denying the request under R.C. 149.43(B)(8) and informing Conway

that he needed permission from the sentencing court to obtain the requested records. And on April 20, the police responded to Conway, denying his request for records for the same reason.

II. Law and Analysis

A. *The “Designee” Rule*

{¶ 49} There is some cause to question this court’s development of the rule that a “designee” of an incarcerated person may not request records related to a criminal investigation or prosecution. There is no textual basis in the Public Records Act for such a rule, and the court would have to add the italicized language to R.C. 149.43(B)(8)⁴ to establish one:

A public office or person responsible for public records is not required to permit a person who is incarcerated pursuant to a criminal conviction . . . *or that person’s designee* to inspect or to obtain a copy of any public record concerning a criminal investigation or prosecution . . . , unless the request to inspect or to obtain a copy of the record is for the purpose of acquiring information that is subject to release as a public record under this section and the judge who imposed the sentence . . . finds that the information sought in the public record is necessary to support what appears to be a justiciable claim of the person.

R.C. 149.43(B)(8) is the only limit on the right of “any person” to request public records under R.C. 149.43(B)(1).

{¶ 50} But that matter is not presently before this court, because no one has argued that R.C. 149.43(B)(8) does not apply to an incarcerated person’s designee.

4. This opinion applies the version of the Public Records Act enacted in 2021 Sub.S.B. No. 284 (effective Mar. 24, 2021).

As for the majority's determination that Hambel is Conway's designee, the prosecutor's office has not met its burden of proving by clear and convincing evidence that that is so.

B. Hambel Is Not Conway's designee

{¶ 51} R.C. 149.43(B)(8) places certain requirements on an incarcerated person requesting public records concerning a criminal investigation or prosecution. The prosecutor's office argues that to circumvent those requirements, Conway had Hambel request public records as his designee and therefore Hambel is not entitled to the requested records. In response, Hambel states that he acted of his own accord, not as Conway's "designee," in making the request.

{¶ 52} As noted above, R.C. 149.43(B)(8) provides that a public office is not required to provide an incarcerated person with a public record "concerning a criminal investigation or prosecution" unless that person first obtains a finding by the judge who imposed the sentence, or the judge's successor, "that the information sought in the public record is necessary to support what appears to be a justiciable claim of the person." Without that finding, an incarcerated person "is not entitled to receive public records related to any criminal investigation or prosecution," *State ex rel. Mack v. Richland Cty. Sheriff's Office*, 2024-Ohio-2748, ¶ 14.

{¶ 53} This court has held that an incarcerated person may not circumvent the requirements of R.C. 149.43(B)(8) by designating someone who is not incarcerated to request the public records for him or her. *State ex rel. Barb v. Cuyahoga Cty. Jury Commr.*, 2011-Ohio-1914, ¶ 1. "A 'designee' is '[s]omeone who has been designated to perform some duty or carry out some specific role.' " *State ex rel. Summers v. Fox*, 2020-Ohio-5585, ¶ 31, quoting *Black's Law Dictionary* 541 (10th Ed. 2014). And "to 'designate' means '[t]o choose (someone or something) for a particular job or purpose.' " *Id.*, quoting *Black's*.

{¶ 54} The definition of "designee" implies some intention to create an agency relationship. *Id.* And to establish that a public-records requester acted as

an incarcerated person’s designee requires clear and convincing evidence that the person who submitted the public-records request did so at the behest of the incarcerated person. *See id.* at ¶ 33-34. Clear and convincing evidence is “‘that measure or degree of proof which is more than a mere “preponderance of the evidence,” but not to the extent of such certainty as is required “beyond a reasonable doubt” in criminal cases, and which will produce in the mind of the trier of facts a firm belief or conviction as to the facts sought to be established.’ ” *State ex rel. Rogers v. Dept. of Rehab. & Corr.*, 2018-Ohio-5111, ¶ 5, quoting *Cross v. Ledford*, 161 Ohio St. 469 (1954), paragraph three of the syllabus. A mere assumption that a public-records requester is acting as an incarcerated person’s designee “does not rise to the level of clear and convincing proof necessary to apply an exception to the Public Records Act.” *Summers* at ¶ 33.

{¶ 55} In *Summers*, this court declined to apply R.C. 149.43(B)(8)’s requirements to a father who made public-records requests related to his incarcerated son’s criminal conviction. The father testified in an affidavit that he was not his son’s designee, and the evidence submitted by the public office to prove otherwise showed only that the son had directed his father to make certain social-media posts on his behalf. The evidence did not clearly and convincingly establish that the father acted as his incarcerated son’s designee when making the public-records requests; instead, it showed only that the father requested records to benefit his son. *See id.* at ¶ 32-34. “[B]y its plain terms, R.C. 149.43(B)(8) applies to requests from an inmate; there is no textual basis for extending the statutory language to someone who simply wants to benefit an inmate.” *Id.* at ¶ 34. Accordingly, for R.C. 149.43(B)(8)’s requirements to apply to someone who is not incarcerated, the public-records requester’s status as the incarcerated person’s designee must be proven by clear and convincing evidence. *See Summers* at ¶ 33.

{¶ 56} To establish that Hambel acted as Conway’s designee when requesting public records, the prosecutor’s office submitted as evidence the public-

records request that it received from Conway in April 2021 in which he asked for a copy of the same ballistics report that Hambel asked for (item No. 2). He also asked the Prosecutor’s Office for the same trial exhibits that Hambel asked for (item No. 1). The prosecutor’s office did not provide the requested records to Conway, because Conway did not comply with R.C. 149.43(B)(8).

{¶ 57} The prosecutor’s office also submitted as evidence a copy of a public-records request that Conway sent to the Franklin County Court of Common Pleas in August 2024 and a public-records request that Hudson sent to the common-pleas court later that same month. This evidence shows that shortly after the common-pleas court denied Conway’s public-records request for noncompliance with R.C. 149.43(B)(8), Hudson submitted her own public-records request to the court, seeking one of the same documents that Conway had asked for.

{¶ 58} Hambel states in his merit brief that he, along with Hudson and Conway’s daughter, have been “looking into” Conway’s criminal cases. And he concedes in his merit brief that he requested public records from the prosecutor’s office because Conway’s prior public-records requests had been denied. The prosecutor’s office argues that Hambel’s concession of having requested the public records that Conway was unable to obtain because of his noncompliance with R.C. 149.43(B)(8) proves that Hambel was acting as Conway’s designee in requesting public records. But the prosecutor’s office is mistaken.

{¶ 59} Hambel told the prosecutor’s office that he is not Conway’s designee but rather is looking into matters for himself—a representation that initially seemed to satisfy the prosecutor’s office—and Hambel attests in his affidavit that he is not Conway’s “‘designee’ or agent.” Even though Hambel did request two public records that Conway previously requested (compare item Nos. 1 and 2 of Hambel’s May 21, 2021 request with Conway’s April 5, 2021 request), he also requested records that Conway did not ask for. Again, the prosecutor’s office was initially

satisfied with Hambel’s explanation that he is not Conway’s designee and began providing responsive records to Hambel.

{¶ 60} At most, the evidence in this case shows that Hambel was making public-records requests of his own volition, not as Conway’s designee. Just because Hambel’s public-records request may benefit Conway, that is not enough to prove that Hambel is Conway’s designee, since R.C. 149.43(B)(8) does not apply to someone “who simply wants to benefit an inmate,” *Summers*, 2020-Ohio-5585, at ¶ 34.

{¶ 61} Furthermore, the public-records requests sent by Conway and Hudson to the common-pleas court in August 2024 provide little, if any, probative value that Hambel acted as Conway’s designee in requesting public records. *See Summers* at ¶ 32-33 (communication between a father and his incarcerated son that occurred more than a year after the father submitted public-records requests for information related to his son’s conviction did not mention the public-records requests that the father made and therefore had little probative value in determining whether the father was acting as his son’s designee). Because the evidence here does not clearly and convincingly show that Hambel acted as Conway’s designee in requesting public records from the prosecutor’s office, R.C. 149.43(B)(8)’s requirements do not bar Hambel from receiving the records he requested.

{¶ 62} Nevertheless, the majority believes that the prosecutor’s office provided clear and convincing evidence to the contrary since Conway and Hambel asked for similar records and used similar wording in their requests. However, this amounts to nothing more than an assumption. Just because someone asks for some of the same records that another person previously asked for does not, as a matter of law, make that person the other’s “designee.” Nor does using similar wording to request a public record. After all, there are only so many ways to frame a request when trying to provide the specificity required to make a public-records request. And while one person’s asking for a record in the same way that another person

asked for the same record might show a desire by the second requester to benefit the first requester, it does little to show an intent by the first requester to make the second requester his or her “designee.”

{¶ 63} Under the majority’s reasoning, anyone who wants to ask for public records to benefit another person who has made a similar public-records request must examine the request previously submitted by the other person to ensure that the requests are not so similar that a court will find the second requester to be the first requester’s designee. The person seeking records to benefit another will not be able to request the same records that the other person asked for or use the same specificity when submitting a public-records request. Such an extratextual requirement fails to hold the public office to its burden, substituting the “clear and convincing evidence” standard with what is, at most, an assumption.

{¶ 64} And despite the majority’s contentions, Conway and Hambel’s public-records requests to the prosecutor’s office were not mirrors of each other. Conway requested two of the same records as Hambel—the trial exhibits and the ballistics report. While Hambel did ask for some of the same records as Conway, he also asked for others. And in his request to the prosecutor’s office for the two records that Conway also requested, it does not appear that the request was simply copied and pasted. Hambel provided more specificity in his request, such as the name and address of the place that the first group of photographic exhibits depicted and the name of the place where the firearm for which he sought the ballistics report was recovered.

{¶ 65} Nevertheless, the majority asserts that the facts presented in this case resemble those of *Barb*, 2011-Ohio-1914, and not *Summers*, 2020-Ohio-5585. However, as even the majority notes, *Barb* was decided on res judicata grounds, not a reexamination of the record, see *Barb* at ¶ 1. In fact, the factual background appears nowhere in the opinion. *Id.*

{¶ 66} Further, Hambel has averred that he did not act as Conway’s “designee” in requesting public records from the prosecutor’s office, but rather he requested the records to benefit Conway. The prosecutor’s office has not presented any evidence that Conway has ever communicated with Hambel about the records request. The evidence shows only that Hambel asked for some of the same records as Conway—in addition to many others—and that Hambel used similar language when making his request. There is simply no evidence of an intent on the part of Hambel to circumvent R.C. 149.43(B)(8)’s statutory requirements.

III. Conclusion

{¶ 67} In the end, I would grant a limited writ ordering the prosecutor’s office to, within 21 days, either produce records responsive to Hambel’s request for item Nos. 3 and 4 and certify to this court the date that the records were produced or certify by affidavit that it does not possess responsive records. I would also award Hambel \$1,000 in statutory damages for the public-records request that he sent to the prosecutor’s office by email on January 3, 2022, as well as court costs. Since the majority does not, I concur in part and dissent in part.

John Hambel, pro se.

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