[Cite as *State ex rel. Fraley v. Ohio Dept. of Rehab. & Corr.*, 2026-Ohio-4292.]

THE COURT OF APPEALS OF OHIO

TENTH APPELLATE DISTRICT

State ex rel. James K. Fraley,	:	
Relator,	:	
v.	:	No. 25AP-732
Ohio Department of Rehabilitation & Correction,	:	(REGULAR CALENDAR)
Respondent.	:	

D E C I S I O N

Rendered on October 29, 2026

On brief: *James K. Fraley*, pro se.

On brief: [*D. Andrew Wilson*], Attorney General, and *D. Chadd McKitrick*, for respondent.

IN MANDAMUS
ON REVIEW OF MAGISTRATE'S DECISION

BEATTY BLUNT, J.

{¶ 1} On September 11, 2025, relator, James K. Fraley, an inmate at the London Correctional Institution in London, Ohio, filed a complaint in the instant mandamus action; and on October 10, 2025, respondent, Ohio Department of Rehabilitation and Correction, filed a motion to dismiss relator's complaint. Pursuant to Civ.R. 53 and Loc.R. 13(M) of the Tenth District Court of Appeals, this matter was referred to a magistrate. In an entry issued December 9, 2025, the magistrate recommended that we grant the motion to dismiss the action based upon relator's failure to comply with R.C. 149.43(C)(1) and (2). But on review, a panel of this court found that ODRC was not entitled to dismissal of the action, pursuant to R.C. 149.43(C)(1) and (2), and remanded the matter to the magistrate for further proceedings and to consider the respondent's alternative grounds for dismissal. *See State ex rel. Fraley v. Ohio Dept. of Rehab. & Corr.*, 2026-Ohio-1156 (10th Dist.). On March 31,

2026, the magistrate issued a second decision and recommended that we grant the motion to dismiss the action based upon relator's failure to comply with R.C. 2969.26(A).

{¶ 2} Relator has not filed any objection to the magistrate's decision. "If no timely objections are filed, the court may adopt a magistrate's decision, unless it determines that there is an error of law or other defect evident on the face of the magistrate's decision." Civ.R. 53(D)(4)(c). Our review of the magistrate's decision reveals no error of law or other evident defect. *See, e.g.*, *State ex rel. Alleyne v. Indus. Comm.*, 2004-Ohio-4223, ¶ 32-33 (10th Dist.) (adopting the magistrate's decision where no objections were filed).

{¶ 3} As we have found no error of law or other defect on the face of the magistrate's decision, we adopt it as our own, including the findings of fact and conclusions of law as they are set forth in the decision. In accordance with the magistrate's recommendation, the respondent's motion to dismiss is sustained and the relator's petition for writ of mandamus is dismissed as moot.

Respondent's motion to dismiss sustained;
relator's petition dismissed.

BOGGS, P.J., and JAMISON, JJ., concur.

IN THE COURT OF APPEALS OF OHIO

TENTH APPELLATE DISTRICT

State ex rel. James K. Fraley,	:	
Relator,	:	No. 25AP-732
v.	:	(REGULAR CALENDAR)
Ohio Department of Rehabilitation & Correction,	:	
Respondent.	:	

M A G I S T R A T E ' S D E C I S I O N

Rendered on August 24, 2026

James K. Fraley, pro se.

[*D. Andrew Wilson*], Attorney General, and D. Chadd McKitrick, and *Andrew T. Gatti*, for respondent.

IN MANDAMUS ON
RESPONDENT'S MOTION TO DISMISS

{¶ 4} Relator, James K. Fraley, has filed this original action requesting that this court issue a writ of mandamus ordering respondent, Ohio Department of Rehabilitation and Correction ("ODRC"), to provide the public records he requested. In a December 9, 2025, decision, the magistrate granted ODRC's motion to dismiss based upon relator's noncompliance with R.C. 149.43(C)(1) and (2). In *State ex rel. Fraley v. Ohio Dept. of Rehab. & Corr.*, 2026-Ohio-1156 (10th Dist.), a panel of this court found that ODRC was not entitled to dismissal of the action, pursuant to R.C. 149.43(C)(1) and (2) and remanded the matter to the magistrate for further proceedings.

Findings of Fact:

{¶ 5} 1. Relator is an inmate at London Correctional Institution ("LCI") in London, Ohio.

{¶ 6} 2. ODRC is a governmental agency responsible for, among other things, operating the Ohio prison system.

{¶ 7} 3. According to relator's September 11, 2025, petition for writ of mandamus, on February 11, 2025, relator sent via "kite," which is a prison messaging system, a public-records request to two librarians at the LCI law library requesting copies of the cashier manual, captain's manual, lieutenant's manual, business manual, commissary manual, inspector's manual, and food service manual. ODRC responded that it did not have the captain's or lieutenant's manuals and refused to produce the other requested manuals.

{¶ 8} Furthermore, according to relator's petition, on February 22, 2025, relator sent to the commissary manager at LCI a public-records request seeking a list of maximum limits for each item sold in the commissary. ODRC responded that the list of items should be posted in the dorm.

{¶ 9} 4. In his petition, relator has requested that the court order ODRC to provide the requested public records; award statutory damages pursuant to R.C. 149.43(C)(2); and award court costs for ODRC's bad faith failure to comply with its statutory obligations. Although relator indicated in an affidavit filed with his petition that he followed the grievance procedures in Adm.Code 5120-9-30, relator did not indicate the date on which he received the decision regarding the grievance and did not attach any documents relating the grievance, including a copy of any written decision regarding the grievance from the grievance system.

{¶ 10} 5. On October 10, 2025, ODRC filed a motion to dismiss relator's petition.

{¶ 11} 6. On December 8, 2025, relator filed a response to ODRC's motion to dismiss.

{¶ 12} 7. On December 9, 2025, this magistrate granted ODRC's motion to dismiss based upon relator's noncompliance with R.C. 149.43(C)(1) and (2).

{¶ 13} 8. In *State ex rel. Fraley*, a panel of this court found that ODRC was not entitled to dismissal of the action, pursuant to R.C. 149.43(C)(1) and (2) and remanded the matter to the magistrate for further proceedings.

Conclusions of Law:

{¶ 14} The magistrate recommends that this court grant ODRC's motion to dismiss relator's petition for writ of mandamus on the remaining ground in the motion.

{¶ 15} Mandamus is an appropriate remedy to compel compliance with the Public Records Act. *State ex rel. Physicians Commt. for Responsible Medicine v. Bd. of Trustees of Ohio State Univ.*, 108 Ohio St.3d 288, 2006-Ohio-903, ¶ 6; *see also* R.C. 149.43(C)(1)(b). In order for this court to issue a writ of mandamus, a relator must ordinarily show a clear legal right to the relief sought, a clear legal duty on the part of the respondent to provide such relief, and the lack of an adequate remedy in the ordinary course of the law. *State ex rel. Pressley v. Indus. Comm.*, 11 Ohio St.2d 141 (1967).

{¶ 16} A court may dismiss a complaint pursuant to Civ.R. 12(B)(6) if, after all factual allegations in the complaint are presumed true and all reasonable inferences are made in relator's favor, it appears beyond doubt that relator could prove no set of facts entitling him or her to the requested extraordinary writ. *State ex rel. Turner v. Houk*, 2007-Ohio-814, ¶ 5.

{¶ 17} Pursuant to R.C. 149.43(B)(1), a public office is required to make copies of public records available to any person on request and within a reasonable period of time. Courts are to construe the Public Records Act liberally in favor of broad access and are to resolve doubts in favor of disclosure of the public records. *State ex rel. McCaffrey v. Mahoning Cty. Prosecutor's Office*, 2012-Ohio-4246, ¶ 16.

{¶ 18} In the present case, the magistrate granted ODRC's motion to dismiss based upon relator's failure to comply with the requirements in R.C. 149.43(C)(1) and (2). A panel of this court in *State ex rel. Fraley* found that ODRC was not entitled to dismissal on this ground and remanded the matter to the magistrate for further adjudication. In originally granting ODRC's motion to dismiss, the magistrate only addressed ODRC's argument regarding R.C. 149.43(C). The magistrate did not address the remaining ground alleged in ODRC's motion to dismiss that relator failed to comply with R.C. 2969.26(A).

{¶ 19} R.C. 2969.26(A) provides that, if an inmate files a civil action that relates to a matter that "is subject to the grievance system" for the institution in which the inmate is confined, then the inmate must file the following: "(1) [a]n affidavit stating that the grievance was filed and the date on which the inmate received the decision regarding the grievance," and "(2) [a] copy of any written decision regarding the grievance from the grievance system." The affidavit requirement does not apply to a mandamus action brought by an inmate in the Supreme Court of Ohio. *See* R.C. 2969.21(B)(2).

{¶ 20} In the present case, ODRC argues that relator has not complied with R.C. 2969.26(A) because, although he has filed an affidavit indicating he filed a grievance with his institution, the affidavit does not indicate the date on which the inmate received the decision regarding the grievance, and claimant has not filed a copy of any written decision regarding the grievance from the grievance system, citing *State ex rel. Ware v. Rhodes*, 2024-Ohio-1754 (10th Dist.) ("*Rhodes*"), and *State ex rel. Moore v. Ohio Dept. of Rehab. & Corr.*, 2012-Ohio-1070 (10th Dist.) ("*Moore*").

{¶ 21} In *Moore*, an inmate requested records from the prison's renaissance program director, which the director denied. The inmate did not file a grievance but, instead, filed a mandamus action. This court found that the inmate's failure to comply with the mandatory provisions of R.C. 2969.26(A) was grounds for dismissal. We held that R.C. 2969.26(A) applied expressly to any "civil action" filed by an inmate concerning a matter that was subject to a grievance procedure, and the inmate's request for public records relating to the renaissance program at the prison related to an aspect of institutional life that directly and personally affected the inmate. Thus, because the inmate's original action in mandamus was a civil action, R.C. 2969.26(A) applied to the action.

{¶ 22} In *Rhodes*, this court relied upon the court's decision in *State ex rel. Ware v. Bratton*, 2021-Ohio-3157 (10th Dist.) ("*Bratton*"), which relied upon *Moore*. In *Bratton*, this court found that the affidavit requirements in R.C. 2969.26(A) apply to inmate mandamus actions seeking enforcement of a public records request, citing *Moore*. The court explained that Adm.Code 5120-9-31(A) provides that the grievance procedure addresses only inmate complaints related to aspects of institutional life that directly and personally affect the grievant. Thus, the court in *Bratton* found that the holding in *Moore* is narrow and does not apply to every inmate request for ODRC records. Pursuant to *Moore*, the public records request must relate to an institutional program for inmates, and the request must be directed to an ODRC employee at the correctional institution where the relator is housed as an inmate, rather than to staff members at the ODRC central office, who are not subject to the grievance process.

{¶ 23} Citing *Bratton* and *Moore*, this court found in *Rhodes* that the inmate's public-records request was not subject to the grievance system, because his request was for a journal entry from his criminal case and was directed to the Bureau of Sentence Computation ("bureau") and an employee of the bureau. Thus, the affidavit requirements

in R.C. 2969.26(A) did not apply to the inmate's mandamus action because his public-records request did not relate to an institutional program for inmates and was not directed to an ODRC employee at the correctional institution where the inmate was housed.

{¶ 24} In the present case, the magistrate agrees with ODRC that relator has not complied with the affidavit requirements in R.C. 2969.26(A). First, relator's February 11, 2025, records request was directed at two librarians at the LCI law library, and relator's February 22, 2025 records request, was directed at the commissary manager at LCI. Thus, consistent with *Moore*, relator's two public records requests were directed to ODRC employees at the correctional institution where relator was housed as an inmate, rather than to staff members at the ODRC central office.

{¶ 25} Second, the February 11, 2025, records request sought copies of the cashier manual, captain's manual, lieutenant's manual, business manual, commissary manual, inspector's manual, and food service manual; and relator's February 22, 2025, records request sought a list of maximum limits for each item sold in the commissary. Pursuant to Adm.Code 5120-9-31(A), these requested records relate to various aspects of institutional life that directly and personally affected relator, which include the application of policies, procedures, conditions of confinement, or the actions of institutional staff. Therefore, consistent with *Bratton* and *Moore*, relator in this case failed to comply with the requirements in R.C. 2969.26(A), which applied here because his records requests related to aspects of institutional life that directly and personally affected him, and the request was directed to ODRC employees at the correctional institution where relator is housed as an inmate. Relator's failure to comply with the requirements of R.C. 2969.26(A) is fatal to his petition, and it must be dismissed on this basis.

{¶ 26} The magistrate briefly notes that the Supreme Court of Ohio's decisions in *State ex rel. Brown v. Sackett*, 2025-Ohio-2080, and *State ex rel. Ayers v. Sackett*, 2025-Ohio-2115, address a similar issue as in the present case, but from the perspective of a failure-to-exhaust-administrative-remedies defense, and conclude that an inmate need not file an institutional grievance prior to filing a mandamus action. Some of the language used in those cases could be taken out of context to suggest that a public-records mandamus action is outside the scope of the affidavit requirements in R.C. 2969.26(A). However, in *Ayers*, after pointing out that the affidavit requirement in R.C. 2969.26(A) does not apply to a mandamus action brought by an inmate in the Supreme Court pursuant to R.C.

2969.21(B)(2), the court seemed to acknowledge that the affidavit requirements in R.C. 2969.26(A) still apply to public-records mandamus actions filed in the court of appeals. Furthermore, in *Ayers*, the respondent specifically cited our decisions in *Moore*, *Bratton*, and *Rhodes*, and although the Supreme Court found those cases did not further respondent's argument under the circumstances in that case, the court did not signal any disagreement with the decisions in *Moore*, *Bratton*, and *Rhodes* or question their continued applicability to public-records mandamus cases before us. Therefore, the magistrate finds that *Brown* and *Ayers* are distinguishable and do not affect the conclusion in this case that relator was required to comply with the affidavit requirements in R.C. 2969.26(A).

{¶ 27} Accordingly, it is the magistrate's recommendation that the court grant ODRC's motion to dismiss relator's petition for writ of mandamus.

/S/ MAGISTRATE
THOMAS W. SCHOLL III

NOTICE TO THE PARTIES

Civ.R. 53(D)(3)(a)(iii) provides that a party shall not assign as error on appeal the court's adoption of any factual finding or legal conclusion, whether or not specifically designated as a finding of fact or conclusion of law under Civ.R. 53(D)(3)(a)(ii), unless the party timely and specifically objects to that factual finding or legal conclusion as required by Civ.R. 53(D)(3)(b). A party may file written objections to the magistrate's decision within fourteen days of the filing of the decision.