

IN THE COURT OF CLAIMS OF OHIO

REBECCA MASH

Requester

v.

UNION COUNTY SHERIFF'S OFFICE

Respondent

Case No. 2025-00514PQ

Special Master Todd Marti

REPORT AND RECOMMENDATION

{¶1} This case is before me for a R.C. 2743.75(F) report and recommendation. I recommend that the court order respondent to: (1) to produce unredacted copies of the materials filed for in camera review within 30 days of the entry of a judgment adopting this report and recommendation, (2) file and serve an affirmation that it has done so within 40 days of the entry of a judgment adopting this report and recommendation; (4) reimburse requester for her filing fee and costs, and (5) pay the balance of the costs of this case.

I. Background.

{¶2} Patricia Adkins disappeared in late June or early July of 2021. The respondent Union County Sheriff's Office ("Sheriff") investigated the matter as a kidnapping, but the investigation proved fruitless. No criminal charges have ever been filed regarding her disappearance. *Respondent's Documentary Evidence*, filed August 20, 2025 ("*Respondent's Evidence*"), p. 11, ¶¶ 5-6,

{¶3} Requester Rebeccah Mash made a public records request for materials related to the Sheriff's investigation. The Sheriff provided initial incident reports, but denied access to the balance of the requested material on the grounds that they were investigatory work product within the meaning of R.C. 149.43(A)(2)(c). *Id.* at pp. 15, 17, 20.

{¶4} Ms. Mash filed this case to compel the production of the materials she sought. Mediation did not resolve the case, so a schedule was set for the Sheriff to file the

disputed materials for in camera review and both parties to file evidence and memoranda supporting their positions. That schedule has run its course, making this case ripe for decision. *Complaint*, filed May 23, 2025; *Order Terminating Mediation*, entered August 6, 2025.

II. Analysis.

A. Requester's claims are moot except as to the redacted materials.

{¶5} “In general, the provision of requested records to a [requester] in a public-records . . . case renders the . . . claim moot.” *State ex rel. Cincinnati Enquirer v. Dupuis*, 2002-Ohio-7041, ¶ 8. A public records case can be mooted by the respondent producing the responsive records during the course of the litigation. *State ex rel. Striker v. Smith*, 2011-Ohio-2878, ¶¶ 17-18, 22.

{¶6} Respondent filed and served materials responsive to Ms. Mash's request as part of its evidentiary submission, albeit subject to redactions. *Respondent's Notice of Filing Responsive Records in Compliance with Special Master's Scheduling Order Par. B(1)*, filed August 20, 2025. Ms. Mash's claims are therefore moot, except as to the redacted materials.

B. Respondent has not proven that the redactions are justified by R.C. 149.43(A)(2)(c).

{¶7} If a redaction is based on an exemption from public record status the public office must prove the propriety of applying the exemption. A public office asserting an exemption must “prove facts clearly establishing the applicability of the exemption.” *Welsh-Huggins v. Jefferson Cty. Prosecutor's Office*, 2020-Ohio-5371, ¶ 27 (internal punctuation omitted). See also, *Id.* at ¶¶ 35, 54. It “does not meet this burden if it has not proven that the requested records fall squarely within the exception,” and the courts “resolve any doubt in favor of disclosure.” *Id.* at ¶¶ 27, 63. See also, *Id.* at ¶¶ 50, 63. The public office must produce extrinsic evidence if the applicability of the exemption is “not obviously apparent and manifest just from the content of the record itself[.]” *Id.* at ¶ 35. See also *Id.* at ¶¶ 30, 50, 53. “Unsupported conclusory statements . . . are insufficient.” *Id.* at ¶ 35.

{¶8} The Sheriff asserts that the redactions are justified because they obscure information that is investigatory work product within the meaning of R.C. 149.43(A)(2)(c). Work product protections are intended to prevent interference with parties' trial preparations. *Hickman v. Taylor*, 329 U.S. 495, 511 (1947); *State ex rel. Steckman v. Jackson*, 70 Ohio St.3d 420, 434 (1994). Consistent with that purpose, Ohio precedent indicates that the work product provisions of R.C. 149.43(A)(2)(c) are not applicable when developments indicate that there will be no trial to prepare for. For example, they have held or observed that the protections do not apply if the defendant has died or the prosecutor has conclusively determined that there are no charges to pursue. *Bentkowski v. Trafis*, 2015-Ohio-5139, ¶ 27 (8th Dist.) (determination that no crime was committed),¹ *Perry v. Onunwor*, 2000 Ohio App. LEXIS 5893, *7 (8th Dist.) (suspect's death); *Hilliard City School Dist. v. Columbus Div. of Police*, 2017-Ohio-8052, ¶ 24, adopted 2017-Ohio-8052 (Ct. of Cl.). Courts construing the parallel provisions of the federal Freedom of Information Act hold that those provisions are not applicable if a trial is precluded by the statute of limitation on the underlying crime. *Leopold v. United States*, 2022 U.S. Dist. LEXIS 179826, * 27 (D.D.C Sep. 30, 2022); *Leopold v. FBI*, 2025 U.S. Dist. LEXIS 23582, * 30 (D.D.C. February 10, 2025). This court has likewise stated, albeit in dicta, that work product protections lapse with the controlling statute of limitations. *Hilliard City School Dist.*, 2017-Ohio-8052, ¶ 24.

{¶9} Undisputed evidence in this case establishes that there will be no trial to interfere with. The only crime ever investigated in connection with Ms. Adkins' 2001 disappearance was kidnapping. *Respondent's Evidence*, pp. 11 ¶ 5, 14. That crime is subject to a 20-year statute of limitation. R.C. 2901.13(A)(3)(a). More than 20 years have passed since 2001. Any kidnapping trial would therefore be time barred, eliminating the reason for R.C. 149.43(A)(2)(c)'s work product provisions.

{¶10} I recognize that it is conceivable that the circumstances of Ms. Adkins' disappearance might support murder charges and that such charges have no statute of

¹ Although the paragraph cited in the text construed the duration of the R.C. 149.43(A)(4) trial preparation record exception, the principles controlling that exception apply to R.C. 149.43(A)(2)(c) work product claims. *State ex rel. WLWT-TV5 v. Leis*, 77 Ohio St.3d 357, 360 (1997); *State ex rel. Caster v. City of Columbus*, 2016-Ohio-8394, ¶ 34.

limitation. However, the Sheriff has presented no evidence that such charges were or are being considered, as was its burden under *Welsh-Huggins*.

{¶11} I therefore recommend that the court order the Sheriff to produce unredacted copies of the materials submitted for in camera review.

C. Requester is entitled to recover his filing fee and costs; respondent should bear the balance of the costs.

{¶12} R.C. 2743.75(F)(3)(b) provides that the “aggrieved person shall be entitled to recover from the public office . . . the amount of the filing fee . . . and any other costs associated with the action[.]” Ms. Mash was aggrieved by the Sheriff redacting the materials at issue. I therefore recommend that she recover her filing fee and the costs she incurred in this case. I also recommend that the Sheriff bear the balance of the costs of this case.

III. Conclusion.

{¶13} In light of the foregoing, I recommend that the court order respondent :

- A. Produce unredacted copies of the materials filed for in camera review within 30 days of the entry of a judgment adopting this report and recommendation;
- B. File and serve an affirmation that it has done so within 40 days of the entry of a judgment adopting this report and recommendation;
- C. Reimburse requester for her filing fees and costs, and;
- D. Pay the balance of the costs of this case.

{¶14} *Pursuant to R.C. 2743.75(F)(2), either party may file a written objection with the clerk of the Court of Claims of Ohio within seven (7) business days after receiving this report and recommendation. Any objection shall be specific and state with particularity all grounds for the objection. A party shall not assign as error on appeal the court’s adoption of any factual findings or legal conclusions in this report and recommendation unless a timely objection was filed thereto. R.C. 2743.75(G)(1).*

TODD MARTI
Special Master

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Sent to S.C. Reporter 10/20/25