

IN THE COURT OF CLAIMS OF OHIO

SHERYCE DANIEL

Requester

v.

CUYAHOGA COUNTY DIVISION OF
CHILDREN AND FAMILY SERVICES

Respondent

Case No. 2025-00586PQ

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 (1) dismiss requester’s claims under R.C. 5253.17 for lack of jurisdiction, (2) dismiss requester’s claim under R.C. 149.43 on the merits, (4) deny requester’s pending motions, and (3) order requester to pay the costs of this case.

I. Background.

{¶2} Requester Sheryce Daniel was previously a foster child in the custody of respondent Cuyahoga County Division of Children and Family Services (“CFS”). After she became an adult, she requested copies of CFS’ records regarding her time in foster care. Those requests were made pursuant to R.C. 5101.131, R.C. 5153.17, and R.C. 149.43. CFS produced some records in response to those requests. *Complaint*, filed June 18, 2025.

{¶3} Ms. Daniels disputes the sufficiency of that response, and filed this case. She seeks production of additional records and a detailed explanation for any redactions. Mediation did not resolve the case, so a schedule was set for CFS to file responsive records for in camera review and for both parties to file evidence and memoranda supporting their positions. That schedule has run its course, making this case ripe for decision. *Id.*; *Order Terminating Mediation*, entered September 8, 2025.

II. Analysis.

A. The court lacks jurisdiction over requester's claims under R.C. 5153.17.

{¶4} R.C. 5153.17 required CFS to maintain records of its activities during Ms. Daniels time in foster care and generally requires it to keep those records confidential. It does however require CFS to allow Ms. Daniel to inspect those records, subject to certain restrictions. Ms. Daniel claims that CFS has failed to provide access to all responsive records, that R.C. 5153.17 entitles her to copies of those records, and that CFS has otherwise violated that statute. She asks the court to compel compliance with R.C. 5153.17.

{¶5} The court lacks jurisdiction to do so. Although 2743.75 does give the court jurisdiction over claims that a public office has violated R.C. 149.43(B), it does not give it jurisdiction over public records claims based on other statutes. This case is brought pursuant to R.C. 2743.75. Ms. Daniel's claims about CFS' compliance with R.C. 5153.17 are not based on R.C. 149.43(B), but instead seek to enforce R.C. 5153.17. They are consequently beyond the court's jurisdiction.¹

{¶6} I therefore recommend that the court GRANT the September 29, 2025, *Motion to Dismiss*, as to Ms. Daniel's claims under R.C. 5153.17. More specifically, I recommend that the court find that it lacks subject matter jurisdiction over them and dismiss them without prejudice pursuant to Civ. R. 12(B)(1).²

B. Requester's claim under R.C. 149.43(B) fails on the merits.

{¶7} Ms. Daniel's alternate basis for relief is R.C. 149.43. CFS' seeks dismissal of that claim pursuant to Civ. 12(B)(6), as well as judgment on the merits.

1. The court should deny respondent's Civ. R. 12(B)(6) motion and decide the case on the merits.

¹ Ms. Daniel's complaint and several of her submissions cite R.C. 5101.131 as an alternate basis for the relief she seeks. However, no such statute exists, and she has not made any specific arguments based on that supposed statute. In any event, any claims under that statute are beyond the court's jurisdiction to the extent that they are based on anything other than R.C. 149.43(B).

² Because this is a dismissal without prejudice, Ms. Daniels would be free to seek relief under R.C. 5153.17 in another court.

{¶8} CFS invokes Civ. R. 12(B)(6) in urging the court to dismiss this case, but that relief should be denied because CFS' motion relies on matters in addition to the complaint. *State ex rel. Hanson v. Guernsey Cty. Bd. of Commrs.*, 65 Ohio St.3d 545, 548 (1992).

{¶9} I therefore recommend that the court DENY the *Motion to Dismiss* to the extent that the motion is based on Civ. R. 12(B)(6).

2. Requester's R.C. 149.43(B) claim fails on the merits.

{¶10} Ms. Daniel also invokes R.C. 149.43(B) to compel production of the records she seeks. Although the court has jurisdiction over the claim, it fails on the merits.

{¶11} R.C. 149.43(B) only requires a public office to produce "public records." The office has no obligation to produce materials that are not public records. R.C. 149.43(A)(1)(v) takes records the release of which is prohibited by law out of the class of public records. Controlling precedent establishes that records within the scope of R.C. 5153.17 are exempted from the class of public records by R.C. 149.43(A)(1)(v). *State ex rel. Baker v. Treglia*, 2025-Ohio-2816, ¶ 24; *State ex rel. Edinger v. C.C.D.C.F.S.*, 2005-Ohio-5453, ¶ 7 (8th Dist.). Ms. Daniel's R.C. 149.43(B) claim therefore fails if the records she seeks are within the scope of R.C. 5153.17.

{¶12} They are. R.C. 5153.17 covers records related to "(1) Investigations of families, children, and foster homes" and "(2) The care, training, and treatment afforded to children." Ms. Daniel has not disputed that the records she seeks fall within those categories, and has sought affirmative relief under R.C. 5153.17. Further, a review of the responsive records filed for in camera review reveals that they do in fact pertain to those things. That is obvious and apparent from the records themselves. *Welsh-Huggins v. Jefferson Cty. Prosecutor's Office*, 2020-Ohio-5371, ¶ 35. CFS' consequently has no R.C. 149.43 obligation to produce them.

{¶13} I therefore recommend that the court enter judgment for respondent on Ms. Daniel's R.C. 149.43(B) Claim.

C. The court should deny requester's pending motions.

{¶14} Ms. Daniels has filed several motions. *Request for Full Foster Care Records*, filed September 17, 2025; *Motion to Compel Remote Access to Foster Care Records*,

filed September 19, 2025; *Legal Reply & Request for Relief*, filed September 19, 2025; *Request For Sanctions And Additional Relief*, filed October 1, 2025. None have proof of service as required by Civ. R. 5(B)(4) and consequently may not be bases for relief. Further, they are all based upon the premise that CFS' has violated R.C. 5153.17 and R.C. 149.43. The court lacks jurisdiction to address alleged violations of R.C. 5153.17 and CFS has not violated R.C. 149.43, as just discussed.

I therefore recommend that the court DENY requester's pending motions

D. Requester should bear the costs of this case.

{¶15} Costs should be assessed against Ms. Daniel's pursuant to R.C. 2743.09(F) and R.C. 2303.20 because he implicitly agreed to pay those costs by filing this case. *Helfrich v. Hall*, 2022-Ohio-1852, ¶ 25 (5th Dist.).

III. Conclusion.

In light of the foregoing, I recommend that the court:

- A. Dismiss requester's R.C. 5153.17 claims without prejudice for want of jurisdiction;
- B. Enter judgment for respondent on requester's R.C. 149.43(B) claim;
- C. Deny all of requester's pending motions; and
- D. Order requester to pay the costs of this case.

{¶16} *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