

IN THE COURT OF CLAIMS OF OHIO

ELMER COPP

Requester

v.

CITY OF BUCYRUS COUNCIL

Respondent

And

ELMER COPP

Requester

v.

CITY OF BUCYRUS

Respondent

Case No. 2025-00552PQ and
Case No. 2025-00684PQ

Judge Lisa L. Sadler

DECISION AND ENTRY

{¶1} In the consolidated public-records cases listed above, Requester, a self-represented litigant, has filed written objections to a Special Master’s Report and Recommendation. The Court overrules Requester’s objections and adopts the Report and Recommendation for reasons discussed below.

I. Background and Procedural History

{¶2} On June 5, 2025, in Ct. of Cl. No. 2025-00552PQ, Requester filed a Complaint against the City of Bucyrus Council, alleging a denial of access to public records. On July 23, 2025, in Ct. of Cl. No. 2025-00684PQ, Requester filed a public-records Complaint against the City of Bucyrus.

{¶3} The Clerk appointed a Special Master in Ct. of Cl. Nos 2025-00552PQ and 2025-00684PQ. The Special Master referred Ct. of Cl. No. 2025-00552PQ to mediation.

After mediation failed to successfully resolve all disputed issues in Ct. of Cl. No. 2025-00552PQ, the Special Master determined that it would be unlikely that mediation would resolve the dispute in Ct. of Cl. No. 2025-00684PQ and that mediation in Ct. of Cl. No. 2025-00684PQ should be bypassed. The Special Master consolidated Ct. of Cl. Nos. 2025-00552PQ and 2025-00684PQ and issued an order for the submission of evidence.

{¶4} On October 14, 2025, the Special Master issued a Report and Recommendation (R&R) in the consolidated cases. Regarding Ct. of Cl. No. 2025-00552PQ, the Special Master has noted:

Mr. Copp requested copies of texts sent by Council Person Scheffler-Slater during the April 1, 2025, Council meeting. The Council provided some texts and Council Person Scheffler-Slater later swore out an affidavit stating that no additional texts existed that dealt with her official actions, effectively asserting that she produced all existing public records because any other texts were not R.C. 149.011(G) records or R.C. 149.01(A)(1) public records. *Requester's Evidence 552*, pp. 4, 5, 25-26.

(R&R, 3.) As to Ct. of Cl. No. 2025-00684PQ, the Special Master stated:

Mr. Copp requested the evidence Mr. Gobrecht [law director for the City of Bucyrus] relied upon in asserting that Mr. Copp worked for a company that was suing the City. Mr. Gobrecht denied the request because the evidence he relied upon was Mr. Copp's Facebook page. That was effectively a denial that the materials sought were R.C. 149.011(G) records or R.C. 149.43(A)(1) public records because they were created and kept by a private person for private purposes. *Requester's Evidence 684*, pp. 7, 8, 23-24.

(R&R, 4.)

{¶5} After the Special Master reviewed the submitted evidence, the Special Master determined that Requester's claims fail for want of proof because Requester had not carried his burden of proof (R&R, 2-4) and that Requester should bear the costs of the consolidated cases (R&R, 4.) The Special Master recommends entering judgment for

Respondents in the consolidated cases and ordering Requester to pay the costs of the consolidated cases. (R&R, 4.)

{¶6} On October 21, 2025, Requester filed written objections to the Special Master's Report and Recommendation that were not accompanied by proof of completed service. The Court sua sponte granted leave to Requester to file proof of completed service of his written objections by October 31, 2025. The Court cautioned Requester that, if he failed to file proof of completed service of his filing of October 21, 2025, in the manner required by R.C. 2743.75(F)(2) on or before October 31, 2025, then Requester's filing of October 21, 2025, would not be considered by the Court.

{¶7} A review of the docket discloses that, on October 28, 2025, Requester filed copies of tracking information from the United States Postal Service in the consolidated cases. Requester's filing is not accompanied by an explanatory notice. Respondent has not filed a written response to Requester's filing of October 28, 2025. The Court construes Requester's filing of October 28, 2025, as Requester's attempt to demonstrate proof of completed service by United States certified mail of his filing of October 21, 2025,

{¶8} Respondents in Ct. of Cl. Nos. 2025-00552PQ and 2025-00684PQ have not filed timely responses to Requester's objections.¹ Neither have Respondents timely objected to the Special Master's Report and Recommendation.

{¶9} Pursuant to R.C. 2743.75(F)(2), Requester's objections in the consolidated cases are before the Court for a final order. See R.C. 2743.75(F)(2) ("[t]he court, within seven business days after the response to the objection is filed, shall issue a final order that adopts, modifies, or rejects the report and recommendation").

II. Law and Analysis

{¶10} The General Assembly, as the legislative branch of Ohio government, is the ultimate arbiter of policy considerations relevant to Ohio public-records laws. *Kish v. City of Akron*, 2006-Ohio-1244, ¶ 44. Through the enactment of R.C. 2743.75 the General Assembly created an alternative means to resolve public-records disputes. *Welsh-*

¹ A review of the docket shows that the Court forwarded a copy of Requester's objections to Respondents' counsel by certified mail on October 21, 2025. A review of the docket shows that the Court's mailing was delivered on October 23, 2025.

Huggins v. Jefferson Cty. Prosecutor's Office, 2020-Ohio-5371, ¶ 11. See R.C. 2743.75(A).

{¶11} Under Ohio law a requester “must establish entitlement to relief in an action filed in the Court of Claims under R.C. 2743.75 by clear and convincing evidence.” *Viola v. Cuyahoga Cty. Prosecutor's Office*, 2021-Ohio-4210, ¶ 16 (8th Dist.), citing *Hurt v. Liberty Twp.*, 2017-Ohio-7820, ¶ 27-30 (5th Dist.). See *Welsh-Huggins* at ¶ 32. It is a requester’s burden to prove, by clear and convincing evidence, that the requested records exist and are public records maintained by a respondent. See *State ex rel. Cordell v. Paden*, 2019-Ohio-1216, ¶ 8. See *Cross v. Ledford*, 161 Ohio St. 469 (1954), paragraph three of the syllabus (“[c]lear 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. Cincinnati Enquirer v. Deters*, 2016-Ohio-8195, ¶ 19, quoting *State ex rel. McCaffrey v. Mahoning Cty. Prosecutor's Office*, 2012-Ohio-4246, ¶ 16 (“[a]lthough the Public Records Act is accorded liberal construction in favor of access to public records, ‘the relator must still establish entitlement to the requested extraordinary relief by clear and convincing evidence’”).

{¶12} A public-records custodian has the burden to establish the applicability of an exception to disclosure of a public record. *State ex rel. Cincinnati Enquirer v. Jones-Kelley*, 2008-Ohio-1770, paragraph two of the syllabus. In *Jones-Kelley*, the Supreme Court of Ohio held:

Exceptions to disclosure under the Public Records Act, R.C. 149.43, are strictly construed against the public-records custodian, and the custodian has the burden to establish the applicability of an exception. A custodian does not meet this burden if it has not proven that the requested records fall squarely within the exception. (*State ex rel. Carr v. Akron*, 112 Ohio St.3d 351, 2006-Ohio-6714, 859 N.E.2d 948, ¶ 30, followed.)

Kelley at paragraph two of the syllabus.

{¶13} Under R.C. 2743.75(F)(2) a party's objections to the Special Master's Report and Recommendation are required to be "specific and state with particularity all grounds for the objection." On objections, Requester presents the following for the Court's consideration:

I. GROUNDS For OBJECTION

1. Incomplete Record Production

The Respondent failed to provide the requested **text messages and phone call logs from** April 1, 2025, between 7:00 p.m. and 10:30 p.m., as clearly specified in the original public records request. The screenshots produced were outside the requested date and timeframe and therefore non-responsive.

2. Inadequate Description of Record Search

The affidavit submitted by the Respondent does not identify the methods, devices, or timeframes used in its search. Under **R.C. 149.43(B)(3)**, a public office must conduct a *reasonable search* and describe its process with sufficient detail to permit meaningful review.

3. Overbroad Application of Exemptions

Respondent improperly relied on general assertions that messages were "personal" in nature without establishing that they were not connected to the council meeting or public business. See *State ex rel. Cincinnati Enquirer v. Ronan*, 124 Ohio St.3d 17 (2009).

4. Potential Appearance of Bias or Conflict

The Requester respectfully raises concern regarding a potential appearance of bias or conflict of interest between the Respondent and her legal representative and requests the Court to review the matter to ensure fairness and impartiality.

5. Improper Assessment of Costs

The recommendation requiring Mr. Copp to bear full costs of the proceeding is inequitable. Under **R.C. 2743.09(F)** and precedents such as *McDougald v. Ohio Dept. of Rehab. & Corr.*, 2023-Ohio-1177, and *Weaver*

v. Ohio Dept. of Nat. Resources, 2021-Ohio-2439, costs should not be imposed where the requester acted in good faith and where the public office's disclosure was incomplete.

II. RELIEF REQUESTED

The Requester respectfully requests that the Court:

1. **Reject or modify** the Report and Recommendation;
2. **Order** the Respondent to conduct a complete and verifiable search for all communications and call logs from **April 1, 2025, 7:00 p.m.-10:30 p.m.;** and
3. **Vacate** the cost assessment against the Requester.

(Emphasis sic.)

{¶14} Requester's objections fail to persuade for several reasons. First, Requester's objections generally focus on perceived errors or omissions by Respondents in the consolidated cases and, for the most part, Requester's objections generally do not identify any perceived, or alleged, errors by the Special Master in his findings of fact or in his application of applicable law to the pertinent facts (e.g., a determination that Requester failed to carry his burden of proof). It is not this Court's role to make legal arguments on behalf of a requester. See *Greenlaw v. United States*, 554 U.S. 237, 243 (2008) ("[i]n our adversary system, in both civil and criminal cases, in the first instance and on appeal, we follow the principle of party presentation. That is, we rely on the parties to frame the issues for decision and assign to courts the role of neutral arbiter of matters the parties present"); *Harris v. Levy*, 2012-Ohio-21, ¶ 14 (10th Dist.). ("[a]lthough appellate courts afford pro se litigants considerable leniency, we are not required to root out legal arguments for them").

{¶15} Second, notwithstanding Requester's invitation to review potential bias by Respondents or a perceived conflict of interest between a Respondent and a legal representative, this Court generally lacks jurisdiction over political subdivisions, except to resolve or adjudicate complaints based on alleged violations of R.C. 149.43. See *Martin v. Accel Schools Ohio*, 2025-Ohio-3150, ¶ 16-18 (8th Dist.). In *Martin* at ¶ 17, the Eighth District Court of Appeals explained that:

“[t]he only defendant in original actions in the court of claims is the state.” R.C. 2743.02(E). It has been repeatedly found that the Court of Claims lacks subject-matter jurisdiction to hear cases where the defendant was not the state, as defined in R.C. 2743.01(A). See *Cotten v. Court of Common Pleas*, 2018-Ohio-3948 (10th Dist.) (Court of Claims properly dismissed complaint where the defendant was not the State of Ohio, but rather two political subdivisions); *Brown v. State*, 2023-Ohio-1725, ¶ 8 (10th Dist.) (finding that the Court of Claims properly dismissed a complaint against the Ashtabula Court of Commons Pleas, as a political subdivision, and noting that the court of appeals had repeatedly found that the Court of Claims’ jurisdiction did not extend to courts of common pleas); *Elkins v. Natl. Labor Relations Bd.*, 1981 Ohio App. LEXIS 10681, *3 (10th Dist. Nov. 19, 1981) (noting that the only defendant in the Court of Claims is the state, and the court had no jurisdiction over a federal agency); *Littleton v. Holmes Siding Contractor, Ltd.*, 2013-Ohio-5602, ¶ 9 (10th Dist.) (where, after trial court denied plaintiff’s motion to join the state as a party, the plaintiff tried to have the case removed to the Court of Claims, the Court of Claims properly refused to hear the case because it did not have jurisdiction to hear a case between private parties).

(Footnote omitted.)

{¶16} Requester’s petition asking the Court to review whether a political subdivision is biased or whether a conflict of interest exists between a political subdivision and a legal representative of a political subdivision is ineffective.

{¶17} Third, Requester’s challenge to the recommendation to assess costs against Requester is unpersuasive. More than fifty years ago, in *Strattman v. Studt*, 20 Ohio St.2d 95, 103 (1969), the Supreme Court of Ohio explained, “By being involved in court proceedings, any litigant, by implied contract, becomes liable for the payment of court costs if taxed as a part of the court’s judgment.” See *Studt* at paragraph six of the syllabus (holding that the “duty to pay court costs is a civil obligation arising from an implied

contract”). Here, in the consolidated cases, Requester sought relief in this forum. Consequently, Requester became liable for payment of court costs by implied contract.

{¶18} Fourth, based on the Court’s review, the Court finds no statutory provision in R.C. 149.43(B)(3) that requires a public office or custodian of public records to identify the methods, devices, or timeframes used in its search for public records. R.C. 149.43(B)(3) provides:

If a request is ultimately denied, in part or in whole, the public office or the person responsible for the requested public record shall provide the requester with an explanation, including legal authority, setting forth why the request was denied. If the initial request was provided in writing, the explanation also shall be provided to the requester in writing. The explanation shall not preclude the public office or the person responsible for the requested public record from relying upon additional reasons or legal authority in defending an action commenced under [R.C. 149.43(C)].

{¶19} Fifth, based on the Court’s review, the Special Master’s Report and Recommendation is based on the ordinary application of statutory law and case law as they existed at the time of the filing of Requester’s Complaint, as required by R.C. 2743.75(F)(1). See R.C. 2743.75(F)(1) (requiring a special master to submit a report and recommendation based on the ordinary application of statutory law and case law as they existed at the time of the filing of a complaint). Upon careful consideration, the Court agrees with the Special Master’s determinations contained in the Report and Recommendation.

III. Disposition

{¶20} For reasons set forth above, the Court OVERRULES Requester’s objections and ADOPTS the Special Master’s Report and Recommendation issued in Ct. of Cl. Nos. 2025-00552PQ and 2025-00684PQ. In accordance with the Special Master’s recommendation, judgment is rendered in favor of Respondents in Ct. of Cl. Nos. 2025-00552PQ and 2025-00684PQ. Court costs are assessed against Requester in Ct. of Cl. Nos. 2025-00552PQ and 2025-00684PQ. The Clerk shall serve upon all parties notice of this judgment and its date of entry upon the journal.

LISA L. SADLER
Judge

Filed November 7, 2025
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