

IN THE COURT OF CLAIMS OF OHIO

JOE B. SHANER

Requester

v.

PERRY COUNTY AGRICULTURE
SOCIETY

Respondent

Case No. 2026-00028PQ

Judge Lisa L. Sadler

DECISION AND ENTRY

{¶1} Requester Joe B. Shaner, a self-represented litigant, has filed written objections to a special master’s report and recommendation in this public-records case. Respondent, through counsel, opposes requester’s written objections. Requester’s objections shall be overruled for reasons discussed below.

I. Background and Procedural History

{¶2} Pursuant to R.C. 2743.75(D), on January 9, 2026, requester filed a complaint against respondent Perry County Agriculture Society, alleging he was denied access to public records in violation of R.C. 149.43(B) in response to a public-records request of October 29, 2025. The clerk appointed a special master who referred the case to mediation. After mediation failed to resolve all disputed issues between the parties, the case was returned to the special master’s docket, where the special master issued a briefing schedule for the presentation of evidence and argument.

{¶3} On May 20, 2026, in a combined filing, respondent answered requester’s complaint and respondent moved to dismiss the complaint. Requester opposed respondent’s motion to dismiss.

{¶4} On June 22, 2026, the special master issued a report and recommendation (R&R). In this report and recommendation, the special master has determined that respondent does not have a duty to retrieve records that are currently in the possession

of the Auditor of State and the special master has found that requester is not entitled to any further production of responsive records. (R&R, 3, 4.) Following a review by the special master of redacted records filed on the public docket, the special master has concluded that it is “apparent from the face of the records that redactions were applied to the material noted by the Agricultural Society (payor signature, signature block, and full account number). *Resp. Ev.*, p. 7-688.” (R&R, 4.) After applying *Ebersole v. City of Powell*, 2019-Ohio-3073, ¶ 35 (5th Dist.) (affirming *Ebersole v. City of Powell*, 2018-Ohio-5011 (Ct. of Cl.)), the special master recommends that the court find that the responsive records were appropriately redacted and requester is not entitled to relief on this claim. (R&R, 4-5.) Additionally, recognizing that respondent’s response to requester’s request of October 29, 2025, took about 46 business days to complete, produced over 680 pages of records with redactions throughout, and required consultation with legal counsel and coincided with an ongoing audit, the special master recommends that the court find that respondent responded to requester’s public-records request within a reasonable time. (R&R, 5.) The special master also recommends assessing costs against requester, as the special master did not find a violation of the Ohio Public Records Act. (R&R, 6.) In the conclusion of the report and recommendation, the special master recommends (1) entering judgment in respondent’s favor, and (2) ordering requester to bear the costs of this case. (R&R, 6.)

{¶5} On July 7, 2026, requester filed written objections to the report and recommendation, which, according to an accompanying certificate of service, requester served on respondent’s counsel by certified mail, return receipt requested. With the objections, requester did not provide tracking information about requester’s certified mailing. Because, without the tracking number for requester’s certified mailing, the court would be unable to determine when respondent received a copy of requester’s written objections and whether any response by respondent would be timely filed, on July 10, 2026, the court ordered requester to file, within five business days, a copy of either the certified mail receipt or the return receipt that was completed on delivery. *See generally* R.C. 2743.75(F)(2) (“[i]f either party timely objects, the other party may file with the clerk a response within seven business days after receiving the objection and send a copy of the response to the objecting party by certified mail, return receipt requested”). A review

of the docket shows that requester has failed to comply with the court's order of July 10, 2026.¹

{¶6} On July 15, 2026, respondent, through counsel, filed a written response to requester's written objections to the report and recommendation. According to an accompanying certificate of service, respondent's counsel certified that he "electronically filed" respondent's response using the court's electronic filing system and a notification of the filing would be mailed to requester.² In opposition, respondent generally contends that requester's objections are without merit and it asks the court to uphold the special master's report and recommendation.

{¶7} Requester's objections are before the court for a final order in accordance with R.C. 2743.75(F)(2). See R.C. 2743.75(F)(2) (providing that this 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

A. Legal standard

{¶8} 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

¹ Requester's failure to comply with this court's lawful order reasonably could be considered contemptuous. In *State ex rel. Corn v. Russo*, 90 Ohio St. 3d 551, 554 (2001), the Supreme Court of Ohio explained:

Contempt is defined in general terms as disobedience of a court order. " 'It is conduct which brings the administration of justice into disrespect, or which tends to embarrass, impede or obstruct a court in the performance of its functions.' " *Denovchek v. Trumbull Cty. Bd. of Commrs.* (1988), 36 Ohio St. 3d 14, 15, 520 N.E.2d 1362, 1363-1364, quoting *Windham Bank v. Tomaszczyk* (1971), 27 Ohio St. 2d 55, 56 Ohio Op. 2d 31, 271 N.E.2d 815, paragraph one of the syllabus.

Since a review of the record shows that respondent has filed a written response to requester's written objections, the court presumes that respondent received a copy of requester's written objections.

² Respondent's service of its response through the court's electronic filing system is not in accord with procedural requirements contained in R.C. 2743.75(F)(2), see R.C. 2743.75(F)(2) ("[i]f either party timely objects, the other party may file with the clerk a response within seven business days after receiving the objection and send a copy of the response to the objecting party by certified mail, return receipt requested") and is ineffective under the court's administrative rules. See Section X, Administrative Rules Regarding Electronic Filing ("[u]nless otherwise modified by approved stipulation or Court order, Ohio Rules of Civil Procedure, as well as Local Rules, Rules of Superintendence, and orders of the Court shall continue to apply to all documents electronically filed").

Assembly created an alternative means to resolve public-records disputes. *Welsh-Huggins v. Jefferson Cty. Prosecutor's Office*, 2020-Ohio-5371, ¶ 11. See R.C. 2743.75(A).

{¶9} R.C. 2743.75 “provides for ‘an expeditious and economical procedure that attempts to resolve disputes alleging a denial of access to public records’ in violation of R.C. 149.43(B).” *Kidd v. City of Wilmington*, 2026-Ohio-978, ¶ 14 (12th Dist.); *Law Office of Josh Brown, LLC v. Ohio Secy. of State*, 2025-Ohio-2130, ¶ 9 (10th Dist.). See R.C. 2743.75(A). To accomplish this goal, R.C. 2743.75 “lays out a streamlined litigation procedure.” *Kidd* at ¶ 14; *Law Office of Josh Brown, LLC* at ¶ 9.

{¶10} 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 also *Cross v. Ledford*, 161 Ohio St. 469 (1954), paragraph three of the syllabus (holding that “[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’”).

{¶11} 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.

B. Discussion

{¶12} Under R.C. 2743.75(F)(2) a party's objections to a special master's report and recommendation are required to be "specific and state with particularity all grounds for the objection." See R.C. 2743.75(F)(2). Requester presents eight (8) objections for the court's consideration:

Objection No. 1 - The Report does not fully address evidence that production was conditioned on signing a receipt.

Objection No. 2 - The Report errs by accepting a 46-business-day delay without fully applying the all-facts-and-circumstances standard.

Objection No. 3 - The Report does not fully address that redactions are denials and that Respondent bears the burden to justify each redaction with legal authority.

Objection No. 4 - The signatures on Agricultural Society checks document official authorization of public expenditures.

Objection No. 5 - The Report does not fully address evidence that responsive contracts existed but were not produced.

Objection No. 6 - The Donnie Gibson electrical-work contract was responsive to the request for all contracts and was not produced.

Objection No. 7 - The Report does not fully address records held by the Auditor of State or records unavailable during audit.

Objection No. 8 - The Report incorrectly treats the matter as moot despite unresolved redactions, missing contracts, and missing records.

{¶13} For ease of analysis, the court shall address some of requester's objections in a different order than presented and the court shall consider some objections together.

1. Objection No. 2 and Object No. 1 are unpersuasive.

By requester's second objection, requester maintains that the special master's erred by finding that respondent produced public records in a reasonable time because the special master purportedly failed to fully apply an "all-facts-and-circumstances" standard. Requester's second objection lacks merit because a plain reading of the report and recommendation discloses that the special master did consider underlying facts and circumstances. In the report and recommendation, the special master concluded that, in this instance, a 46-day delay was not unreasonable, given that, despite the need for consultation with legal counsel and an ongoing audit, respondent produced over 680 pages of records with redactions throughout. (R&R, 5.). A review of the report and recommendation plainly shows that the special master considered the practical and legal restrictions that respondent faced in responding to requester's public-records request. *See State ex rel. Shaughnessy v. City of Cleveland*, 2016-Ohio-8447, ¶ 12 (analysis of the timeliness to a public-records request is required to take into account the practical and legal restrictions that a public office faces).

{¶14} Requester asks the court to "consider the evidence showing that delay was caused by conditions and incomplete production rather than merely by volume, audit, or legal review." The court finds that, in this instance, there is no need to reweigh the evidence, as requester invites the court to do, given that, with respect to requesters' second objection, the report and recommendation contains no reversible error and the report and recommendation is based on the ordinary application of statutory and case law as they existed at the time of the filing of the complaint. *See* R.C. 2743.75(F)(1)

(requiring a special master to submit to this court 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 the complaint).

{¶15} Requester's second objection is unpersuasive and shall be overruled.

In the first objection, requester states:

Requester submitted audio/video evidence on a flash drive. Requester states that the recording reflects a board member or representative stating, in substance: "If you do not sign the receipt, you will never get the records." Requester further states that he refused to sign because he did not believe the Public Records Act required him to sign a receipt as a condition of obtaining records.

Requester does not argue that a public office can never ask for a voluntary acknowledgment of receipt. The objection is narrower: the Public Records Act does not authorize withholding records because a requester refuses to sign a receipt that is not required by statute.

...

Because the evidence tends to show that Respondent delayed or conditioned production based on a receipt requirement, the Court should not treat the delay as reasonable without addressing that evidence. The requested relief is that the Court review the flash drive evidence, reject the finding that the delay was reasonable to the extent it was based on an unauthorized condition, and determine whether Respondent violated R.C. 149.43(B)(1).

{¶16} To the extent that requester suggests that, in this court's review of requester's first objection, the court should review evidence that was not before the special master, such an invitation is not well taken. See *State v. Ishmail*, 54 Ohio St. 2d 402 (1978), paragraph one of the syllabus (holding that a reviewing court "cannot add matter to the record before it, which was not a part of the trial court's proceedings, and then decide the appeal on the basis of the new matter"). Even if, as requester maintains, respondent "delayed or conditioned production" based on a receipt requirement, other

evidence (i.e., the need for consultation with legal counsel, the need to redact documents, and an ongoing audit) belies requester's claim that the evidence "tends to show" that respondent delayed or conditioned production based on a receipt requirement.

{¶17} Upon review, requester's first objection is unpersuasive and shall be overruled.

2. Objection No. 3 and Objection No. 4 are not persuasive.

By the third objection, requester states:

Requester does not object to redaction of routing numbers, account numbers, or other banking information specifically protected by law. Requester objects to redactions that prevent public oversight without a specific legal basis, including signatures of officials who authorized checks and other redactions that conceal who approved or received payments.

The requested relief is that the Court require Respondent to identify the legal authority for each redaction category and order disclosure of all non-exempt information.

By the fourth objection, requester states: "Requester objects to the conclusion that signatures appearing on official Agricultural Society checks were properly redacted." In the fourth objection, requester asks the court to "reject the Report's conclusion on signature redactions and order disclosure of the signatures unless Respondent proves a specific statutory exemption authorizing their redaction."

{¶18} Requester's requests for a court order (1) requiring respondent to identify the legal authority for each redaction category, (2) requiring disclosure of all non-exempt information, and (3) rejecting the report and recommendation's conclusion regarding the signature redactions are not well taken. See *Ebersole v. City of Powell*, 2019-Ohio-3073, ¶ 35 (5th Dist.) (overruling assignment of error seeking, among other things, "payee signature block on checks").³ Notably, requester concedes in his objections that *Ebersole* is "unfavorable authority," stating:

³ As to requester's argument that signatures of persons who signed checks should not be redacted so as to allow for public oversight, a review of the Ohio Revised Code shows that provisions exist for the oversight of public expenditures by a county agricultural society. See R.C. 1711.05(B) (requiring a county

Requester acknowledges that Ebersole is unfavorable authority on signature-block and account-number redactions. However, Requester preserves the objection because the records here are Respondent's own official financial instruments, and the signatures identify the elected or authorized officials who approved Respondent's own expenditures.

{¶19} Following *Ebersole*, and on the authority of *Ebersole*, requester's third and fourth objections shall be overruled.

3. Objections Nos. 5, 7, 6, and 8 are unpersuasive.

According to Exhibit D attached to requester's complaint, requester sought the following records from respondent:

... I am formally requesting copies of the following public records held by the Perry County. Agricultural Society:

1. Treasurer's reports, meeting minutes, and any audit records for the period October 31, 2022 through October 31, 2025 (36 months).
2. All contracts regarding or with Dan Kinsel, including any gate contracts, and all agreements related to the Perry County Gun Bash. Y City Gun Bash, and the Perry County Fair Board
3. All contracts or agreements between the Perry County Livestock Committee and the Perry County Fair Board.
4. Restroom cleaning or maintenance contracts in effect or executed during the same time period.

{¶20} By requester's fifth objection, requester "objects to the [Report and Recommendation] to the extent it accepts Respondent's assertion that certain requested records were unavailable because of the audit or were not maintained by Respondent." By requester's seventh objection, requester "objects to any conclusion that Respondent

agricultural society to file a financial report in accordance with R.C. 117.38); R.C. 117.10 (providing that the Ohio Auditor of State shall audit all public offices as provided in R.C. Chapter 117).

had no obligation regarding records simply because some records were with the Auditor of State for audit.”

{¶21} Under Ohio law, a public office does not have a clear legal duty to furnish records that are not in its possession or control. *State ex rel. Horton v. Kilbane*, 2022-Ohio-205, ¶ 11; *State ex rel. Clark v. Department of Rehabilitation & Corrections*, 2025-Ohio-2475, ¶ 16. It is requester’s burden, however, to prove by clear and convincing evidence that requested records exist and are public records maintained by a respondent, see *State ex rel. Cordell v. Paden*, 2019-Ohio-1216, ¶ 8, and to show an entitlement to relief by clear and convincing evidence, see *Viola v. Cuyahoga Cty. Prosecutor’s Office*, 2021-Ohio-4210, ¶ 16 (8th Dist.). See *Cross v. Ledford*, 161 Ohio St. 469 (1954), paragraph three of the syllabus (holding that “[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’”).

{¶22} After a careful review of requester’s fifth and seventh objections, the court finds that these objections are unpersuasive. Requester’s fifth and seventh objections shall be overruled.

{¶23} By requester’s sixth objection, requester maintains that the special master erred because the report and recommendation does not address a “Donnie Gibson electrical-work contract.” A plain reading of Exhibit D, however, shows that requester did not request a copy of a “Donnie Gibson electrical-work contract.” See *State ex rel. Morgan v. Strickland*, 2009-Ohio-1901, ¶ 14 (a person who wishes to inspect or copy records has a responsibility to identify with reasonable clarity the records at issue). Requester’s sixth objection is unpersuasive and shall be overruled.

{¶24} By requester's eighth objection, requester maintains that the remaining unresolved issues "include: (1) whether production was conditioned on signing a receipt; (2) whether the 46-business-day delay was reasonable under all pertinent circumstances; (3) whether check signatures and other information were properly redacted; (4) whether all requested contracts were produced; (5) whether the Donnie Gibson electrical-work contract exists and was improperly omitted; and (6) whether Respondent properly handled records allegedly with the Auditor of State."

For reasons discussed above with respect to objections one through seven, requester's eighth objection is unpersuasive and shall be overruled.

III. Conclusion

The court OVERRULES requester's eight objections for reasons set forth above and the court ADOPTS the special master's report and recommendation issued on June 22, 2026. In accordance with the special master's recommendations, the court enters judgment in respondent's favor and assesses court costs against requester. Respondent's motion to dismiss filed on May 20, 2026, is DENIED, as moot. The clerk shall serve upon all parties notice of this judgment and its date of entry upon the journal.

LISA L. SADLER
Judge