

IN THE COURT OF CLAIMS OF OHIO

PATRICK DEAN CUMMINS

Requester

v.

OHIO SECRETARY OF STATE

Respondent

Case No. 2026-00200PQ

Judge Lisa L. Sadler

DECISION AND ENTRY

{¶1} Requester Patrick Dean Cummins, a self-represented litigant, has filed written objections to a special master’s report and recommendation in this public-records case. Respondent Ohio Secretary of State, through counsel, has not filed written objections to the report and recommendation, but respondent has filed a written response in opposition to requester’s objections. Requester objections shall be overruled for reasons explained below.

I. Background and Procedural History

{¶2} On March 10, 2026, pursuant to R.C. 2743.75(D), requester filed a complaint against respondent, alleging that he was denied access to public records in violation of R.C. 149.43(B). Requester alleged that respondent improperly denied his request to inspect or copy “records regarding the electronic data transfer and registration interface between the Ohio Bureau of Motor Vehicles BMV and the Ohio Secretary of State[’s] Statewide Voter Registration Database SWVRD,” and requester alleged that respondent improperly denied his request to “access any and all source code utilized by Franklin county to transmit or process bmv voter registration requests.” (Attachment to complaint.)¹

¹ In the report and recommendation, the special master provides additional background details, stating:

The request went on to specify four categories of requested records:

{¶3} 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 a briefing schedule was issued by the special master.

{¶4} On June 23, 2026, respondent moved to be relieved of its "potential obligation to file certain withheld records under seal," because, according to respondent, "access to certain data (related to the Ohio Statewide Voter Registration Database) is heavily restricted, and even filing such information under seal could render the Database vulnerable to an attack." Requester opposed respondent's motion. Later—on July 7, 2026—respondent filed a written response to requester's complaint.

{¶5} On August 5, 2026, the special master issued a report and recommendation (R&R). The special master concluded that requester did not serve his preliminary complaint in the manner required by R.C. 149.43(C)(1). (R&R, 3.) The special master

1. Software/Source Code: Any and all source code, scripts, or database queries utilized to transmit, validate, or process voter registration data collected at BMV offices for inclusion in the Statewide Voter Registration Database. 2. Specifications, data dictionaries, API documentation, or interface control documents (ICDs) that describe the logic, fields, and validation rules used to process BMV voter registration data. 3. Vendor Contracts: A copy of the current contract, scope of work, or licensing agreement with the vendor responsible for maintaining the SWVRD, specifically regarding the "Automatic Voter Registration" or BMV data interface components. 4. User Manuals/Standard Operating Procedures: Any administrative manuals or internal guidance documents provided to IT staff or election officials describing how BMV interactions are processed, flagged, or rejected within the software system.

Id.

On January 29, 2026, Requester and Respondent spoke on the phone regarding the request. Resp. Ev., p. 5 ¶ 10-11. The Respondent informed Requester that it did not have many of the items he requested. *Id.* On February 4, 2026, Respondent emailed Requester this same information. *Id.*, p. 5 ¶ 11-14; see also *id.* at p. 21-23.

On February 9, 2026, Respondent sent additional information to Requester. Resp. Ev., p. 5 ¶ 15. Respondent provided a copy of a relevant memorandum of understanding between Respondent and the Ohio Bureau of Motor Vehicles. *Id.*, p. 28- 29. Respondent also notified Requester that the requested source code was either not maintained by the Respondent or was subject to public-records exceptions. *Id.*

On February 17, 2026, Respondent sent additional information regarding Requester's own voting registration history. Resp. Ev., p. 5 ¶ 15; see also Compl., p. 9-10. Respondent also confirmed that it would not provide source code, referring Requester to its prior responses. *Id.*

(R&R, 1-2.)

recommends (1) dismissal of requester's complaint pursuant to R.C. 149.43(C)(2) and 2743.75(D)(2), (2) denying all motions as moot, and (3) ordering requester to bear the costs of this case. (R&R, 4.)

{¶6} On August 12, 2026, requester filed written objections to the report and recommendation. Accompanying requester's objections is a certification by requester that he served his objections on respondent's counsel by "certified mail, return receipt requested." That same day—on August 12, 2026, a magistrate of this court issued an order that directed requester to file, within five business days of the date of the entry (i.e., by August 19, 2026), "a copy of either the certified mail receipt or the return receipt that was completed on delivery."

{¶7} On August 20, 2026, requester filed information about his certified mailing, along with an explanation for not filing the requested information by August 19, 2026. That same day—August 20, 2026—respondent filed a written response to requester's objections, as permitted by 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"). In a certificate of service accompanying respondent's response, respondent's counsel certifies that a copy of respondent's response was served on requester "via certified mail (#7018 1830 0000 2707 2972) and e-mail."

{¶8} 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

{¶9} 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-*

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

{¶10} 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.

{¶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 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’”).

{¶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.

B. Discussion

{¶13} 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." Requester presents five (5) objections for the court's determination:

1. OBJECTION 1 — The R&R treats as conceded an issue that was never joined.
2. OBJECTION 2 — The purpose of R.C. 149.43(C)(1) was fully served, and no prejudice is claimed.
3. OBJECTION 3 — Any dismissal must be expressly without prejudice.
4. OBJECTION 4 — Costs should not be taxed against Requester.
5. OBJECTION 5 — The recommended denial of Requester's pending motions as moot.

Respondent opposes requester's objections and asks the court to overrule each objection and adopt the report and recommendation.

{¶14} For ease of analysis, the court shall jointly consider some objections.

1. Requester's first and second objections shall be overruled.

{¶15} By requester's first and second objection, requester essentially maintains that the report and recommendation should not be adopted because requester's satisfaction of service requirements in R.C. 149.43 was raised during the middle of proceedings before the special master, requester's actions satisfied the purpose of R.C. 149.43(C)(1), and respondent has not been prejudiced.

{¶16} Under Ohio law, a self-represented litigant is held to the same procedural standards as litigants who are represented by counsel. *See Richardson v. Indus. Comm. of Ohio*, 2009-Ohio-2548, ¶ 26 (2d Dist.). In *Richardson* at ¶ 26, the Second District Court of Appeals explained that

"a party proceeding pro se is held to the same procedural standards as other litigants that have retained counsel." *State ex rel. Fuller v. Mengel*,

100 Ohio St.3d 352, 2003 Ohio 6448, ¶ 10, 800 N.E.2d 25. Furthermore, pro se litigants are presumed to have knowledge of the law and of correct legal procedure, and are held to the same standard as other litigants. *Kilroy v. B.H. Lakeshore Co.* (1996), 111 Ohio App.3d 357, 676 N.E.2d 171.

Accord State ex rel. Neil v. French, 2018-Ohio-2692, ¶ 10. Under Ohio law, requester is thus bound by any substantive or procedural error of his own making related to requirements under R.C. 149.43.

{¶17} Requester's first and second objections shall be overruled.

2. Requester's third objection shall be overruled.

{¶18} By the third objection, requester essentially maintains that, if this case should be dismissed, then any dismissal should be without prejudice.

{¶19} In *Diebert v. North Balt. Police Dept.*, 2026-Ohio-2332, ¶ 1 (Ct. of Cl. 2026), a special master recommended dismissal of a public-records case pursuant to R.C. 2743.75(D)(2) without specifying whether the recommended dismissal should be with prejudice or without prejudice. In *Diebert* this court "[found] that the special master must have recommended that this case be dismissed without prejudice," *Diebert* at ¶ 14, "[found] that this dismissal is not based on the merits and therefore, must be without prejudice," *id.* at ¶ 14, overruled an objection concerning whether the dismissal should be with, or without, prejudice, *id.* at ¶ 16, and dismissed the claim in that case without prejudice. *Id.* at ¶ 16.

{¶20} Here, as in *Diebert*, the special master's recommendation for dismissal does not specify whether the recommended dismissal should be with prejudice or without prejudice. Following *Diebert* at ¶ 14, the court concludes that, in this instance, the special master must have recommended a dismissal without prejudice and that a dismissal of requester's complaint should be without prejudice.²

² In *Souare v. Ohio Dept. of Developmental Disabilities*, 2026-Ohio-1318, ¶ 18 (Ct. of Cl.), this court dismissed a public-records case without prejudice for a requester's failure to comply with R.C. 149.43(C)(1). In *Souare* at ¶ 18, this court stated:

Given requester's failure to comply with a procedural requirement of R.C. 149.43(C)(1), and in accordance with R.C. 149.43(C)(2), the court concludes that dismissal of this action without prejudice is appropriate. *Compare Fletcher v. Univ. Hosps. of Cleveland*, 120 Ohio St. 3d 167, 897 N.E.2d 147, 2008-Ohio-5379, paragraph two of the syllabus ("[a] dismissal of a complaint for failure to file the affidavit required by Civ.R. 10(D)(2) is an adjudication otherwise than on the merits. The dismissal, therefore, is

{¶21} Requester's third objection shall be overruled.

3. Requester's fourth objection shall be overruled.

{¶22} By requester's fourth objection, requester maintains that court costs should not be taxed to him. Requester's fourth objection is not persuasive.

{¶23} In *Strattman v. Studt*, 20 Ohio St.2d 95, 103 (1969), the Ohio Supreme Court 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, requester became liable for payment of court costs by implied contract. The special master's recommendation regarding the assessment of court costs is firmly based on the ordinary application of statutory law and case law as they existed at the time of the filing of Requester's Complaint. 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).

{¶24} Requester's fourth objection shall be overruled.

4. Requester's fifth objection shall be overruled.

{¶25} By the fifth objection, requester challenges the special master's recommendation to deny outstanding motions due to mootness.

{¶26} Moot issues have no practical significance; rather moot issues present hypothetical or academic questions. See *Tassone v. Tassone*, 2021-Ohio-4063, ¶ 19 (10th Dist.); *City of Grove City v. Clark*, 2002-Ohio-4549, ¶ 11 (10th Dist.). Since a dismissal of requester's action is appropriate, any outstanding motions have no practical significance and are therefore moot. Motions that are moot do not require adjudication by the court. See *Miner v. Witt*, 82 Ohio St. 237 (1910), syllabus ("[i]t is not the duty of the court to answer moot questions"); *Fortner v. Thomas*, 22 Ohio St. 2d 13, 14 (1970)

without prejudice"). See *State ex rel. Mason v. Supervisor of Edn., Warren Corr. Inst.*, 2025-Ohio-4803, ¶ 11 ("[a] dismissal of a case that is not on the merits must be without prejudice"); *Thomas v. Freeman*, 79 Ohio St.3d 221, 225, 1997- Ohio 395, 680 N.E.2d 997 (1997), fn. 2 ("[a] dismissal with prejudice is treated as an adjudication on the merits. *Tower City Properties v. Cuyahoga Cty. Bd. of Revision* (1990), 49 Ohio St. 3d 67, 69, 551 N.E.2d 122, 124").

("[i]t has become settled judicial responsibility for courts to refrain from giving opinions on abstract propositions and to avoid the imposition by judgment of premature declarations or advice upon potential controversies").

{¶27} Requester's fifth objection shall be overruled.

III. Conclusion

{¶28} For reasons set forth above, requester's first, second, third, fourth, and fifth objections are OVERRULED. The special master's report and recommendation issued on August 5, 2026, is ADOPTED. Requester's complaint is DISMISSED without prejudice, all outstanding motions are DENIED, as moot, and court costs are assessed to requester. The clerk shall serve upon all parties notice of this judgment and its date of entry upon the journal.

LISA L. SADLER
Judge