[Cite as *Coleman v. Franklin Cty. Dog Shelter*, 2026-Ohio-4300.]

IN THE COURT OF CLAIMS OF OHIO

JERON COLEMAN Requester v. FRANKLIN COUNTY DOG SHELTER Respondent	Case No. 2026-00498PQ Judge Lisa L. Sadler DECISION AND ENTRY

{¶1} Requester Jeron Coleman, a self-represent litigant, has filed written objections to a report and recommendation in this public-records case. Requester's objections are fully briefed. Because requester's objections are without merit, they shall be overruled.

I. Background and Procedural History

{¶2} On May 15, 2026, pursuant to R.C. 2743.75(D), requester filed a complaint against respondent Franklin County Dog Shelter, claiming that, in violation of R.C. 149.43(B), he was denied access to public records. 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 schedule for filing evidence and briefing.

{¶3} On August 5, 2026, pursuant to R.C. 149.43(C) and 2743.75(E)(2), respondent, through counsel, moved to dismiss requester's complaint, urging that requester failed to properly transmit his preliminary complaint in the manner required by R.C. 149.43(C). Requester opposed respondent's motion to dismiss. On August 20, 2026, respondent moved the special master to strike requester's response on grounds that the response was untimely and lacked proof of service.

{¶4} On September 8, 2026, the special master issued a report and recommendation (R&R) in which the special master determined that requester's complaint should be dismissed.[1] (R&R 2-3.) In support of this determination, the special master reasons:

> In this case, Requester filed [a] required affirmation with his complaint. *See Compl.*, p. 1. The Dog Shelter argues, however, that Requester did not serve a preliminary complaint in accordance with Civil Rule 4, et seq. *Resp. Motion to Dismiss, filed Aug. 5, 2026,* p. 4-5. The Dog Shelter introduces evidence to establish that Requester hand-delivered the preliminary complaint to the Dog Shelter. *Resp. Evidence, filed Jul. 27, 2026*, p. 35 ¶ 11 (Aff. Board Records Custodian); *id*., p. 44 ¶ 8 (Aff. Dog Shelter Records Custodian). Requester does not contest this evidence or argument. *Req. Reply, filed Aug. 18, 2026*, p. 10-11.
>
> Accordingly, Requester did not serve his preliminary complaint as required by R.C. 149.43(C)(1). "R.C. 149.43(C)(1) requires the preliminary complaint to be served pursuant to Civ.R. 4. Service under Civ.R. 4 may be achieved through the methods set forth in Civ.R. 4.1 et seq." *State ex rel. Claypool v. Cty. of Geauga*, 2025-Ohio-5863, ¶ 13 (11th Dist.). Hand-delivery by a party is not a service method contemplated by Civil Rule 4.1. *Id*. Requester therefore also did not "properly transmit[]" his preliminary complaint to Respondent and could not affirm as much. *Id.*, ¶ 16. This court has dismissed public-records complaints on these grounds. *See*, *e.g.*, *Souare v. Dept. of Dev. Disabilities,* 2026-Ohio-919, ¶ 10-13, adopted Ct. of Cl. 2025-00966PQ (Mar. 10, 2026).

(Footnote omitted.)[2] (R&R, 2-3.)

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[1] Besides determining that requester's complaint should be dismissed, the special master noted: "The Board provided responsive records [to requester] with redactions made to non-record information. *Id*. The redactions obscured the adopter information of … two dogs. *Id*., p. 5-8." (R&R, 1.)

[2] In the omitted footnote, the special master states:

> I note that the affidavit evidence provided by the Dog Shelter contains a blank space where the date of hand-delivery should appear. Requester does not dispute that the preliminary complaint was hand-delivered to the Dog Shelter. Because the method of

The special master recommends (1) granting respondent's motion to dismiss pursuant to R.C. 149.43, (2) denying all other motions as moot, and (3) ordering requester to bear the costs of this case. (R&R, 4.)

{¶5} Respondent has not filed written objections of its own within seven business days after receiving the report and recommendation, as permitted by R.C. 2743.75(F)(2). Respondent therefore presents no timely objections for the court's determination.

{¶6} On September 14, 2026, requester filed written objections to the report and recommendation, which are accompanied by (1) an audio recording, (2) requester's "Sworn Statement Regarding Audio Recording," and (3) proof of service of requester's objections by U.S. certified mail, return receipt requested. On September 18, 2026, respondent, through counsel, filed a written response to requester's objections, which is accompanied by proof of service by certified mail, return receipt requested.

{¶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

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delivery is the operative fact for this analysis, I find that this evidence establishes that the preliminary complaint was hand-delivered to the Dog Shelter on some date in April 2026.

(R&R, 3.)

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).

{¶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.)

Jones-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 his objections in a narrative format. Requester "objects to the Report and Recommendation's conclusion that dismissal is required under R.C. 149.43(C)(1) and (2)," but requester "does not dispute the historical fact that he personally hand-delivered the preliminary complaint to Respondent." Requester also "dispute[s] Respondent's legal argument and the Report's conclusion that his acknowledgment of hand delivery constituted a concession that dismissal was required." Requester states:

> Before delivering the preliminary complaint, Requester contacted the Court of Claims for procedural guidance. Requester was informed that the Court could not provide legal advice or select the best method of service, but hand delivery to the respondent was identified as an available method when Requester specifically described delivery of the complaint for the three-business-day cure period. Requester relied on that information in good faith.

Requester "asks the Court to sustain [requester's] objection, reject the recommendation of dismissal, and address the underlying public-records dispute on its merits." Requester states, "Alternatively, if the Court concludes that

Requester's method of delivery did not technically comply with Civ.R. 4 and that dismissal is therefore required, Requester respectfully asks that the dismissal be expressly without prejudice and based solely upon the procedural prerequisite contained in R.C. 149.43(C), rather than upon the merits of the underlying public records claims."

{¶13} In opposition, respondent contends that this court cannot consider requester's additional evidence (i.e., the audio file that was filed with requester's objections), that requester's objections should be overruled, that the special master's report and recommendation should be adopted, and that requester's complaint should be dismissed.

{¶14} After a careful, searching, and independent review, the court determines that requester's objections lack merit for several reasons.

{¶15} First, in the objections, requester "does not dispute the historical fact that he personally hand-delivered the preliminary complaint to Respondent." Requester thus has essentially conceded that the special master's determination about requester's failure to comply with R.C. 149.43(C)(1) is supported by the record, with the result that, based on Ohio law, *see State ex rel. Claypool v. Cty. of Geauga*, 2025-Ohio-5863, ¶ 13 (11th Dist.); *State ex rel. Ames v. Concord Twp. Bd. of Trs.*, 2026-Ohio-107, ¶ 36-37 (11th Dist.), there is a sufficient basis for the special master's determination that requester failed to comply with R.C. 149.43(C)(1).[3] *See generally State ex rel. Karmasu v. Tate*, 83 Ohio App.3d

[3] In *State ex rel. Claypool v. Cty. of Geauga*, 2025-Ohio-5863, ¶ 13 (11th Dist.), the Eleventh District Court of Appeals stated: "R.C. 149.43(C)(1) requires the preliminary complaint to be served pursuant to Civ.R. 4. Service under Civ.R. 4 may be achieved through the methods set forth in Civ.R. 4.1 et seq. Hand-delivery by a party to an action is not a permissible form of service under Civ.R. 4.1 et seq. *See* Civ.R. 4.1(D)(2) (listing qualifications of a civil process server and precluding a party from serving process)."

In *State ex rel. Ames v. Concord Twp. Bd. of Trs*., 2026-Ohio-107, ¶ 37 (11th Dist.), the Eleventh District Court of Appeals stated, "The pre-filing requirements of R.C. 149.43(C)(1) are mandatory." And in *State ex rel. Ames* at ¶ 36, the Eighth District Court of Appeals stated:

> Actual notice does not cure defective service where the statute expressly requires service pursuant to Civ.R. 4. The General Assembly did not condition the prefiling requirement on whether the public office subjectively received or reviewed the complaint. It required service "pursuant to Rule 4" — a phrase that carries a settled procedural meaning. The statute does not say the complaint must be "transmitted" or "sent" or "delivered." It says the complaint must be served "pursuant to Rule 4."

199, 205 (4th Dist.1992), citing *Coulverson v. Ohio Adult Parole Auth*., 1992 WL 97805 (4th Dist. May 11, 1992) (a trial court "is not required to consider any legal theory, or argument, beyond that which will adequately dispose of the case at hand")

{¶16} Second, a self-represented litigant is required to accept the results of his or her own making. *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. Requester is thus bound by any substantive or procedural error of his own making related to complying with requirements under R.C. 149.43 or with his prosecution of this case. *Accord Gill v. Grafton Corr. Inst*., 2005-Ohio-3097, ¶ 20 (10th Dist.) (pro se civil litigants are required to accept the results of their own mistakes and errors).

{¶17} Third, requester's attempt to supplement the record in this case with an exhibit that was not before the special master (i.e., an audio file containing a recorded conversation between requester and a staff member of this court), and requester's invitation to the court to sustain his objections based on this addition, is not supported by Ohio law because, as a reviewing court, this court may not add matter to the record that was not part of the record before the special master, and then decide requester's objections on the basis of the new matter. *See State v. Ishmail*, 54 Ohio St.2d 402, 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"); *see also Diebert v. Vill. of N. Baltimore Admin.*, 2026-Ohio-2334, ¶10 (Ct. of Cl.); *Diebert v. North Balt. Police Dept*., 2026-Ohio-2332, ¶ 9 (Ct. of Cl.); A*ckley v. Wash. Ct. House City Admin. Bldg*., 2025-Ohio-5886, ¶ 10-11 (Ct. of Cl.).

{¶18} Fourth, even if requester's additional evidence were able to be considered by the court, requester's estoppel argument is not well supported under Ohio law. *See*

Ohio State Bd. of Pharm. v. Frantz, 51 Ohio St. 3d 143, 145-146, (1990) ("[i]t is well-settled that, as a general rule, the principle of estoppel does not apply against a state or its agencies in the exercise of a governmental function"); *Hortman v. City of Miamisburg*, 2006-Ohio-4251, ¶ 25 (holding that the doctrines of equitable estoppel and promissory estoppel "are inapplicable against a political subdivision when the political subdivision is engaged in a governmental function"). *See generally Marden Rehab. Servs. v. East Liverpool Convalescent Ctr., Inc.*, 2011-Ohio-6638, ¶ 21 (7th Dist.) (discussing requirements for a prima facie case for equitable estoppel).[4]

{¶19} With respect to public-records cases in this forum, this court's role is that of an impartial, neutral arbiter. *See State ex rel. Citizens Not Politicians v. Ohio Ballot Bd.*, 2024-Ohio-4547, ¶101 (Donnelly, J., joined by Stewart, J., concurring in part and dissenting in part), ("Chief Justice John Roberts of the United States Supreme Court famously distilled the notion of impartiality down to the role of an umpire in America's favorite pastime—baseball—whose job it is 'to call balls and strikes.' *Chief Justice Roberts Statement - Nomination Process, Hearing before the Senate Judiciary Committee, 109th Congress* (Sept. 12, 2005), https://www.uscourts.gov/educational-resources/educational-activities/chief-justice-roberts-statement-nomination-process (accessed Sept. 16, 2024) [https://perma.cc/6WG6-VZQ7]"); *see also State v. West*, 2020-Ohio-3434, ¶ 27 (10th Dist.) (Nelson, J., concurring in part and dissenting in part) ("I take the teachings of our Supreme Court to mean that in Ohio, as in the United States generally, a judge is to be a neutral arbiter, calling balls and strikes. Under our state's system of separated powers, a judge at trial is not to take on the role of an assistant prosecutor, or even of a Procurator General"). As noted by the Supreme Court of Ohio: "Because justice in our State and nation is achieved through the adversarial process, a court must maintain 'the role of neutral arbiter of matters the parties present.'" *State ex*

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[4] In *Marden Rehabilitation Services* at ¶ 21, the Seventh District Court of Appeals stated: "A prima facie case for equitable estoppel requires a party to prove: (1) that the adverse party made a factual misrepresentation; (2) that it is misleading; (3) that it induced actual reliance which is reasonable and in good faith; and (4) that the reliance caused detriment to the relying party." Notably, this court is not a party to the dispute between requester and respondent Franklin County Dog Shelter.

rel. Cincinnati Enquirer v. Bloom, 2024-Ohio-5029, ¶ 101, quoting *Greenlaw v. United States*, 554 U.S. 237, 243, (2008).

{¶20} Despite requester's understandable desire for "guidance" from court staff in this case, court staff are required to maintain a neutral posture.[5] Notably, the Tenth District Court of Appeals instructed more than thirty years ago:

> While one has the right to represent himself or herself and one may proceed into litigation as a pro se litigant, the pro se litigant is to be treated the same as one trained in the law as far as the requirement to follow procedural law and the adherence to court rules. If the courts treat pro se litigants differently, the court begins to depart from its duty of impartiality and prejudices the handling of the case as it relates to other litigants represented by counsel.

Justice v. Lutheran Social Services, 1993 Ohio App. LEXIS 2029, *6, 1993 WL 112497 (10th Dist.1993); *see U.S. Bank Natl. Assn. v. Lapierre*, 2010-Ohio-4125, ¶ 11 (10th Dist.) (following *Justice*); *Ben. Ohio, Inc. v. Kennedy*, 2005-Ohio-5159, ¶ 12 (10th Dist.) (following *Justice*).

{¶21} Fifth, despite the special master's failure to recommend whether, in this instance, dismissal should be with, or without, prejudice, the court takes notice that in *Diebert v. North Balt. Police Dept.*, 2026-Ohio-2332, ¶ 1 (Ct. of Cl.), 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

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[5] Even though, as discussed above, requester is not permitted to supplement his objections with evidence that was not before the special master, the court has nonetheless reviewed requester's additional evidence (i.e., an audio file containing a phone conversation between requester and a member of the court's staff). Based on the court's review of requester's additional evidence, during the phone conversation, the court's staff member did, at requester's request, discuss the issue of hand-delivery of the complaint; however, the court's staff member repeatedly noted that she could not advise requester, and the court's staff member directed requester to resources available on the court's website.

¶ 16, and dismissed the claim in that case without prejudice. *Id.* at ¶ 16. 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 is to be without prejudice.[6]

{¶22} Accordingly, for reasons set forth above, the court holds that requester's written objections to the special master's report and recommendation in this public-records case should be overruled. The court further holds that the special master's report and recommendation should be adopted.

III. Conclusion

{¶23} Requester's objections are OVERRULED and the special master's report and recommendation issued on September 14, 2026, is ADOPTED. In accordance with the special master's recommendations, the court DISMISSES without prejudice requester's complaint, the court DENIES all pending motions as moot, and the court ASSESSES court costs 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

Filed September 22, 2026
Sent to S.C. Reporter 10/30/26

[6] 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 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").