[Cite as *Gundling v. Lake Cty. Sheriff's Office*, 2026-Ohio-4302.]

IN THE COURT OF CLAIMS OF OHIO

ELIZABETH GUNDLING Requester v. LAKE COUNTY SHERIFF'S OFFICE Respondent	Case No. 2026-00516PQ Special Master Sarah Pierce REPORT AND RECOMMENDATION

{¶1} This matter is before me for a report and recommendation. R.C. 2743.75(F). I recommend that the court (1) grant respondent's motion to dismiss pursuant to R.C. 149.43(C)(2), and (2) order requester to bear the costs of this case.

I. Background

A. The public-records request

{¶2} On April 6, 2026, Requester Elizabeth Gundling made a public-records request to Respondent Lake County Sheriff's Office. *Complaint, filed May 21, 2026*, p. 13. The request generally asked for "all records related to Lake County Sheriff's Office Case #2024000949 (Michael Gundling)[.]" *Id*. Requester followed with a list of twelve specific categories of records. *Id*.

{¶3} On April 14 through April 15, 2026, the Sheriff's Office provided responsive records. *See Compl*., p. 22-43; *see also Resp. Evidence, filed Aug. 13, 2026*, p.64-65, 69.

B. Procedural history

{¶4} This matter was referred to mediation. Mediation did not resolve the case, and a schedule was set for both parties to file evidence and memoranda supporting their positions. That schedule has run its course, making this case ripe for decision. *Order Terminating Mediation, entered Aug. 3, 2026*.

II. Analysis

A. Requester's complaint should be dismissed pursuant to R.C. 149.43(C).

{¶5} Effective April 9, 2025, the Public Records Act was amended to include new requirements for initiating a public-records action in court. *See* 2024 Sub.H.B. No. 265; R.C. 149.43(C)(1), (2). Before filing a public-records lawsuit, a person must first "serve pursuant to Rule 4 of the Ohio Rules of Civil Procedure a complaint, on a form prescribed by the clerk of the court of claims" on the public office. R.C. 149.43(C)(1). Next, the person must wait three business days before filing the complaint in court. R.C. 149.43(C)(1). Finally, the person is required to file with the court "a written affirmation" that confirms 1) the person "properly transmitted" the preliminary complaint to the public office, 2) the alleged public-records violation has not been resolved, and 3) the preliminary complaint was transmitted at least three business days before filing in court. R.C. 149.43(C)(2).

{¶6} In this case, Requester filed the required affirmation with her complaint. *See Compl.*, p. 1. The Sheriff's Office argues, however, that Requester did not serve a preliminary complaint in accordance with Civil Rule 4, et seq. *Resp. Motion to Dismiss, filed Aug. 24, 2026,* p. 4. The record reflects that Requester sent a copy of an email by certified mail to the Sheriff's Office. The email states that it "serves as formal notice pursuant to R.C. 149.43(C)(1) regarding public records requests[.]" *Resp. Evidence, filed Aug. 13, 2026*, p. 109-111. The certified mailing did not include any other documents. Requester does not contest this evidence or argument.

{¶7} Accordingly, Requester did not serve her 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.). There is no evidence that Requester sent a preliminary complaint "on a form prescribed by the clerk of the court of claims." R.C. 149.43(C)(1). Requester therefore also did not "properly transmit[]" his preliminary complaint to the Sheriff's Office and could not affirm as much. *State ex rel. Claypool v. Cty. of Geauga*, 2025-Ohio-5863, ¶ 16 (11th Dist.). 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).

{¶8} I therefore recommend that the court grant the Sheriff's Office motion to dismiss and dismiss Requester's complaint pursuant to R.C. 149.43(C)(2).

B. Costs.

{¶9} Revised Code 2743.75(F)(3)(b) provides that the court shall award a requester their filing fee and "any other costs associated with the action" if it finds a violation of the Public Records Act. I do not find a violation of the Public Records Act due to the threshold issue presented by R.C. 149.43(C). I therefore recommend that Requester bear the costs of this case.

III. Conclusion

{¶10} Based on the above considerations, I recommend that the court:

1) Grant respondent's motion to dismiss pursuant to R.C. 149.43(C);

2) Order requester to bear the costs of this case.

{¶11} *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).*

SARAH PIERCE
Special Master

Filed September 16, 2026
Sent to S.C. Reporter 10/30/26