

IN THE OHIO COURT OF APPEALS
FIFTH APPELLATE DISTRICT
MUSKINGUM COUNTY, OHIO

STATE EX REL. RANDALL W.
CONWAY,

Relator

-vs-

MUSKINGUM COUNTY ADULT
AND CHILD PROTECTIVE
SERVICES, et al.,

Respondents

Case No. CT2026-0057

Opinion & Judgment Entry

Judgment: Case Dismissed

Date of Judgment: August 25, 2026

BEFORE: Andrew J. King, Robert G. Montgomery, and David M. Gormley, Judges

APPEARANCES: Randall W. Conway, Cass City, Michigan, briefed the case on his own behalf as Relator; Ronald L. Welch (Muskingum County Prosecuting Attorney) and Mark A. Zanghi (Assistant Prosecuting Attorney), Zanesville, Ohio, for Respondents.

Gormley, J.

{¶1} In this mandamus case, relator Randall Conway asks us to compel the Adult and Child Protective Services agency in Muskingum County (“the Agency”) to provide to him some documents that address the Agency’s placement of a foster child in the Conway home. Conway has named as an additional respondent in the case an assistant prosecuting attorney in Muskingum County who provides legal representation to the Agency. Because we conclude that the two respondents are under no clear legal duty to provide the requested documents to Conway, we dismiss his complaint.

The Key Facts

{¶2} Conway sent a written public-records request to the Agency in July 2025, and in it he asked for various records concerning a particular foster child, including documents

addressing the child’s psychological, behavioral, medical, or developmental history. The assistant prosecuting attorney who has been named as a respondent in this case — Mark Zanghi — sent a prompt acknowledgment to Conway indicating that his request had been received, but the Agency never provided any documents to Conway.

{¶3} In the mandamus complaint that Conway filed here in June 2026, he alleges that the Agency and Zanghi are obligated under Ohio’s Public Records Act — R.C. 149.43 — to provide him copies of the documents he seeks. After the Agency and Zanghi filed motions asking us to dismiss Conway’s complaint, Conway filed a motion seeking summary judgment in his favor. Because we received affidavits from all three parties in the case, we notified the parties that we would treat the respondents’ motions to dismiss as summary-judgment motions, and we gave the parties additional time to respond to each other’s filings. All briefing on the various motions is now concluded.

The Key Legal Standards

{¶4} Under R.C. 149.43(B)(1), any “public records” must be made available for inspection and copying within a reasonable period of time. That statutory provision “is construed liberally in favor of broad access,” and any doubt is resolved in favor of the disclosure of public records. *State ex rel. Cincinnati Enquirer v. Hamilton Cty.*, 75 Ohio St.3d 374, 376 (1996), citing *State ex rel. Thomas v. Ohio State Univ.*, 71 Ohio St.3d 245, 246 (1994).

{¶5} According to R.C. 149.43(C)(1)(b), a mandamus action is the remedy for a person who alleges that he or she has been denied access to a public record. To prevail on a claim for mandamus relief in a public-records case, a party must establish a “clear legal right to the requested relief” as well as a “corresponding clear legal duty on the part of the respondents” to provide that relief. *State ex rel. Penland v. Ohio Dept. of Rehab. and Correction*,

2019-Ohio-4130, ¶ 9, citing *State ex rel. Am. Civ. Liberties Union of Ohio, Inc. v. Cuyahoga Cty. Bd. of Commrs.*, 2011-Ohio-625, ¶ 22.

{¶6} And because this case is now before us on dueling summary-judgment motions, we apply the usual Civil Rule 56 standard, granting judgment only if it appears from the pleadings and other evidence in the case that: (1) there is no genuine issue as to any material fact; (2) the moving party is entitled to judgment as a matter of law; and (3) reasonable minds can come to but one conclusion, with that conclusion being adverse to the party against whom the motion for summary judgment is made. *McCord v. Ron Laymon Trucking Co.*, 2005-Ohio 4399, ¶ 22 (5th Dist.); Civ.R. 56(C).

Zanghi Himself is Not Obligated to Provide the Requested Records

{¶7} According to R.C. 149.43(B)(1), any public-records request is properly directed only to a “public office or person responsible” for the requested records. And a “person responsible” for public records is one obligated by law to oversee them. *State ex rel. Cincinnati Post v. Schweikert*, 38 Ohio St.3d 170, 174 (1988), citing R.C. 149.43(B). See also *State ex rel. MADD v. Gosser*, 20 Ohio St.3d 30, paragraph two of the syllabus (1985) (when “statutes impose a duty on a particular official to oversee records, that official is the ‘person responsible’” for the records under R.C. 149.43(B)).

{¶8} All evidence filed in the case indicates that though Zanghi provides legal services and legal representation to the Agency, he is not the person tasked with providing any of the Agency’s public records to others. He does not oversee or maintain those records himself, he is not an Agency employee, and no statutory provision imposes on him a duty to keep or to provide copies of the records.

{¶9} Given Zanghi’s role as the Agency’s counsel rather than its record keeper, we readily conclude that he has no obligation to provide to Conway any of the Agency’s records. *See State ex rel. Keating v. Skeldon*, 2009-Ohio-2052, ¶ 17 (6th Dist.) (granting summary judgment in favor of an assistant prosecuting attorney in a public-records mandamus action that was brought against that attorney and the Lucas County dog warden to obtain records from the dog warden’s office).

{¶10} Zanghi’s summary-judgment motion is granted, and Conway’s cross-motion seeking summary judgment against Zanghi is denied.

The Requested Records Are Confidential and So Are Not Public Records

{¶11} Conway’s mandamus complaint — like his earlier public-records request — asks the Agency to provide to him certain records concerning a child’s psychological, behavioral, medical, and developmental history, along with documents addressing any of the child’s diagnoses, educational assessments, or behavioral interventions. Conway also seeks the Agency’s internal records or correspondence showing whether a formal disclosure packet was created and distributed for the child’s adoptive placement, as well as any forms signed by Conway and his wife acknowledging receipt of those disclosures.

{¶12} Under R.C. 5153.17(A), a public children’s services agency is tasked with keeping written records of the following: “(1) [i]nvestigations of families, children, and foster homes; (2) [t]he care, training, and treatment afforded to children; (3) [s]uch other records as are required by the department of children and youth.” Those kinds of records are, according to R.C. 5153.17(B), to remain “confidential,” aside from inspections of them by “[t]he agency, the director of children and youth, and the director of the county department of job and family services, and by other persons upon the written permission of the executive director.”

{¶13} Excluded from the definition of “public record” in Ohio is any record “the release of which is prohibited by state or federal law.” R.C. 149.43(A)(1)(v).

{¶14} The Supreme Court has repeatedly turned aside public-records requests for the kind of confidential records that are at issue in this case. *See, e.g., State ex rel. Martin v. Tuscarawas Cty. Job & Family Servs.*, 2020-Ohio-3507, ¶ 26 (explaining that an “unsubstantiated allegation” that access to certain children’s-services records would “improve the[] emotional well-being” of the requesting parties was not sufficient to overcome the statute’s confidentiality requirement, “let alone sufficient to show” that the agency in question “had a clear legal duty” to release the records); *State ex rel. Clough v. Franklin Cty. Children Servs.*, 2015-Ohio-3425, ¶ 26 (explaining that while “good cause” might justify the granting of a request for confidential children’s-services records, no good cause existed where the child in question faced no specific danger, no due-process rights were in jeopardy, and no compelling reason for departing from the statute’s confidentiality requirement had been offered); *State ex rel. Renfro v. Cuyahoga Cty. Dept. of Human Servs.*, 54 Ohio St.3d 25, 29 (1990) (denying a records request and explaining that “keeping foster care records confidential . . . is [the agency’s] primary responsibility under the statute”).

{¶15} And just last year, the Ohio Court of Claims likewise rejected a records request directed to a county children’s-services agency by a former foster child who sought records from her own case file. *See Daniel v. Cuyahoga Cty. Div. of Children & Family Servs.*, 2025-Ohio-5266, ¶ 27 (Ct. of Cl.) (describing the records as confidential and not public records).

{¶16} We reach the same result here. The records sought by Conway focus on the Agency’s investigation of Conway’s family and the care and treatment that the child received

from the Agency and others. Any records documenting that information fall within the scope of R.C. 5153.17(B)'s confidentiality provision.

{¶17} The executive director of the Agency has filed an affidavit in the case, and she indicates in that affidavit that the children's-services records sought by Conway are "confidential" and therefore not subject to public release. In response, Conway has offered no evidence that might support any good-cause argument for the Agency or this court to allow him to inspect or receive copies of the confidential records he seeks.

{¶18} Because the records in question are designated as confidential by R.C. 5153.17(B), they are not public records under Ohio's Public Records Act. *See State ex rel. Miami Student v. Miami Univ.*, 79 Ohio St.3d 168, 170 (1997) (noting that R.C. 149.43 "provides for full access to all public records upon request unless the requested records fall within one of the specific exceptions listed in the Act" and one such exception is records "the release of which is prohibited by state or federal law") (quotations omitted).

{¶19} The Agency has no clear legal duty to release the records, and we therefore grant the Agency's summary-judgment motion. Conway's cross-motion seeking summary judgment against the Agency is denied.

Conway Is Not Entitled to Statutory Damages or Court Costs

{¶20} Conway also contends that he is entitled to statutory damages and court costs because the Agency failed to promptly produce the requested information. Statutory damages can be awarded in a public-records mandamus action if the court determines that the public office failed to comply with an obligation under R.C. 149.43(B). *See* R.C. 149.43(C)(3); *State ex rel. Castellon v. Cuyahoga Cty. Prosecutor's Office*, 2025-Ohio-2787, ¶ 18 (noting that the public-

records requester bears the burden to prove “by clear and convincing evidence” that he or she is entitled to statutory damages).

{¶21} Nothing in the record before us demonstrates that the Agency has any obligation under R.C. 149.43(B) to provide the requested confidential records to Conway, so we deny his request under R.C. 149.43(C)(3) for statutory damages. We likewise deny his request for court costs under R.C. 149.43(C)(4)(a)(i). *See State ex rel. Rosnick v. Geauga Cty. Sheriff's Office*, 2026-Ohio-1127, ¶ 22 (denying a request for statutory damages, attorney fees, and court costs in a mandamus action when the public office did not breach any obligation under the Public Records Act).

{¶22} In sum, we grant the summary-judgment motions filed by Zanghi and the Agency, and we deny Conway’s similar motions seeking judgment in his favor. Today’s judgment in the respondents’ favor means that the case is dismissed.

{¶23} Any costs must be paid by relator Conway. The clerk of courts should serve a copy of this judgment on all parties in accordance with Civil Rule 58(B).

By: Gormley, J.;

King, P.J. and

Montgomery, J. concur.