

IN THE COURT OF CLAIMS OF OHIO

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COURT OF CLAIMS
OF OHIO
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FRANCES MENTCH

Requester

v.

CLEVELAND HEIGHTS UNIVERSITY
HEIGHTS LIBRARY

Respondent

Case No. 2020-00301PQ

Judge Patrick M. McGrath

DECISION AND ENTRY

Requester Frances Mentch objects to a special master's report and recommendation (R&R) issued on August 28, 2020.

I. Background

On May 13, 2020, Frances Mentch, a self-represented litigant, brought a lawsuit against respondent Cleveland Heights - University Heights Library (Library) in which she alleged a denial of access to public records. The court, through the special master, referred the case to mediation. After mediation failed to successfully resolve all disputed issues between the parties, the Library moved to dismiss Mentch's complaint for failure to state a claim. On August 28, 2020, the special master issued a R&R wherein he recommended: "Upon consideration of the pleadings, attachments, and sealed record filed in this case, I recommend the court find that the redacted information was properly withheld from requester pursuant to R.C. 149.432(B). I recommend that costs be assessed to requester." (R&R, 6.)

On November 2, 2020, Mentch filed a document labeled "Response to Court's Report and Recommendation." Mentch served a copy of the document electronically, by operation of the court's electronic filing system, according to a proof of service accompanying Mentch's filing. On November 2, 2020, the Library filed a response in opposition to Mentch's filing. The Library served a copy of its filing by means of the

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2020 NOV -3 PM 1:10

Case No. 2020-00301PQ

-2-

DECISION & ENTRY

court's electronic filing system and certified U.S. mail, according to a proof of service accompanying the Library's filing.

II. Law and Analysis

R.C. 2743.75(F)(2) governs objections to a special master's R&R. Pursuant to R.C. 2743.75(F)(2), either party "may object to the report and recommendation within seven business days after receiving the report and recommendation by filing a written objection with the clerk and sending a copy to the other party by certified mail, return receipt requested. * * * If 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. The 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."

Mentch filed her response to the R&R about 45 business days after the R&R was issued. A review of the docket discloses that, before Mentch filed her response, unsuccessful attempts were made to serve Mentch with a copy of the special master's R&R. The court accepts Mentch's filing of November 2, 2020, and the court construes Mentch's filing to constitute written objections to the special master's R&R. Mentch, however, has failed to comply with R.C. 2743.75(F)(2)'s requirement to serve a copy of her written objections by certified mail, return receipt requested. Mentch's objections therefore are procedurally deficient under R.C. 2743.75(F)(2). However, the court will consider Mentch's objections in the interest of justice.

Pursuant to R.C. 2743.75(F)(2), any objection to a report and recommendation "shall be specific and state with particularity all grounds for the objection." Mentch maintains in her objections that the special master failed to address her "foundational point, that that this case is about public meeting rooms, and **public library meeting rooms are public forum.**" (Emphasis sic.) Whether public library meetings rooms are public forums, however, was not the issue before the special master. Rather, whether

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2020 NOV -3 PM 1:10
-3-

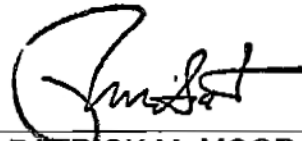
Case No. 2020-00301PQ

DECISION & ENTRY

the Library denied Mentch access to public records in violation of R.C. 149.43(B) was the issue that was before the special master. The court finds that Mentch's objections are unpersuasive.

III. Conclusion

The court OVERRULES Mentch's written objections of November 2, 2020. The court adopts the special master's R&R of August 28, 2020, including the special master's findings of fact and conclusions of law. Judgment is rendered in favor of the Library. Court costs are assessed against Mentch. The clerk shall serve upon all parties notice of this judgment and its date of entry upon the journal.



PATRICK M. MCGRATH
Judge

cc:

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