

IN THE SUPREME COURT OF OHIO

STATE, EX REL.,	:	
STEPHANIE Y. CLOUGH,	:	CASE NO. 2014-1122
et al.,	:	
	:	
Relator,	:	
	:	
vs.	:	Original Action
	:	In Mandamus
FRANKLIN COUNTY CHILDREN	:	
SERVICES, et al.,	:	
	:	
Respondents.	:	

**MEMORANDUM IN RESPONSE OF RESPONDENTS FRANKLIN
COUNTY CHILDREN SERVICES, EXECUTIVE DIRECTOR
CHARLES SPINNING, AND ANNE O’LEARY TO RELATOR’S MOTION FOR
RECONSIDERATION**

Now come Respondents Franklin County Children Services (“FCCS”), Executive Director Charles M. Spinning, and Anne O’Leary, Chief Legal Counsel for FCCS, and hereby respectfully request this Court to deny Relator’s Motion for Reconsideration.

Respectfully submitted,

**RON O’BRIEN
PROSECUTING ATTORNEY
FRANKLIN COUNTY, OHIO**

s/Nick A. Soulas, Jr.
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Counsel for Respondents

MEMORANDUM IN SUPPORT

Relator's motion for reconsideration should be denied as it attempts to contravene the clear dictates of S.Ct.Prac.R. 18.02(B), which provides that a "motion for reconsideration shall not constitute a reargument of the case..." The purpose of a motion for reconsideration is to "correct decisions which, upon reflection, are deemed to have been made in error." *Buckeye Community Hope Found. v. Cuyahoga Falls* (1998), 82 Ohio St.3d 539, 541, 697 N.E.2d 181, quoting *State ex rel. Huebner v. W. Jefferson Village Council* (1995), 75 Ohio St.3d 381, 383, 662 N.E.2d 339. Therefore, Relator must present some basis upon which the Court may find that the original decision is erroneous.

In her motion for reconsideration, Relator merely rehashes the same arguments made in her original brief, all of which were addressed by the Court in its decision. She provides no new legal arguments to support her claim that the investigatory records possessed by Respondent Franklin County Children Services are not exempt from disclosure under Ohio's Public Records Act; nor does she provide any support for her contention that the agency's policies can create a duty that can be enforced by mandamus.

In short, Relator merely disagrees with the Court's decision, but can offer no new support for her position. Relator has presented nothing that should persuade the Court to grant the motion reconsideration, particularly given the original conclusions made:

- That the Franklin County Children Services records sought by Relator are records of an investigation of a report of possible child abuse;

- That records of investigations of possible child abuse are confidential pursuant to R.C. § 2151.421(H)(1), and are exempt from disclosure under R.C. § 149.43(A)(1)(v); and

- That compliance with any policy adopted by the Franklin County Children Services Board cannot be compelled by mandamus as only the General Assembly can create such a duty.

Therefore, in light of the foregoing, Respondents respectfully request this Court to deny Relator's motion for reconsideration.

Respectfully submitted,

RON O'BRIEN
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FRANKLIN COUNTY, OHIO

s/Nick A. Soulas, Jr.

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Counsel for Respondents

CERTIFICATE OF SERVICE

I hereby certify that the foregoing “Memorandum in Response of Respondents Franklin County Children Services, Executive Director Charles M. Spinning, and Anne O’Leary to Relator’s Motion for Reconsideration,” was served by First Class U.S. Mail, postage prepaid, to Stephanie Y. Clough, 8060 Wright Road, Broadview Heights, Ohio 44147, Relator *pro se*, on this 11th day of September, 2015.

s/Nick A. Soulas, Jr.

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First Assistant Prosecuting Attorney

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