OAH 82-0305-38739

STATE OF MINNESOTA
OFFICE OF ADMINISTRATIVE HEARINGS

L.L.,

Complainant,

v.

ORDER DENYING PETITION FOR RECONSIDERATION

Stearns County Attorney's Office,

Respondent.

On October 12, 2022, L.L.[1] (Complainant) filed a Data Practices Complaint (Complaint) with the Office of Administrative Hearings. Complainant alleges that the Stearns County Attorney's Office (SCAO or Respondent) violated the Minnesota Government Data Practices Act (MGDPA or Act)[2] by "denying [her] access to data" of which she is subject. Respondent timely responded to the Complaint (Response) on November 7, 2022.

After reviewing the Complaint, supporting materials, and Respondent's Response, assigned Administrative Law Judge Barbara J. Case determined that the Complaint did not present sufficient facts to establish probable cause to believe that a violation of the MGDPA occurred. Accordingly, by Order dated December 9, 2022, Judge Case dismissed the Complaint.

On December 16, 2022, Complainant timely filed a petition for reconsideration of the Order of Dismissal (Petition) with the Chief Administrative Law Judge, pursuant to Minn. Stat. § 13.085, subd. 3(c).

Complainant appears on her own behalf and without legal counsel. Michelle A. Christy and Jessica E. Schwie, Kennedy & Graven, Chartered, appear on behalf of Respondent.

Based on the record herein, and for the reasons stated in the following Memorandum, the Chief Administrative Law Judge makes the following:

---

[1] In her Complaint, L.L. stated that she did not want to be publicly identified as a victim of sexual assault. *See* Complaint at 8. Therefore, pursuant to Minn. R. 1400.5500(M) (2021), the Chief Administrative Law Judge has substituted initials for Complainant's proper name in her order.

[2] Minn. Stat. §§ 13.01-.99 (2022).

ORDER

IT IS HEREBY ORDERED THAT:

Complainant's Petition for Reconsideration is **DENIED.**

Dated: December 30, 2022

JENNY STARR
Chief Administrative Law Judge

NOTICE

Pursuant to Minn. Stat. § 13.085, subd. 5(d), this order is the final decision in this case. A party aggrieved by this decision may seek judicial review as provided in Minn. Stat. §§ 14.63-.69 (2022).

MEMORANDUM

Procedural and Factual Background

Complainant filed her Complaint on October 12, 2022.[3] Complainant alleges Respondent violated the MGDPA by inappropriately denying her access to data of which she is subject.[4] Complainant submitted a data request to the SCAO on September 29, 2021.[5] Complainant lists the dates of violation as October 13, 2021, and "December 22, 2021 (BCA Report)."[6] Complainant suggests that Respondent violated the MGDPA by improperly accessing data about her held by the Bureau of Criminal Apprehension (BCA).[7]

[3] Complaint (Oct. 12, 2022).
[4] *Id*. at 3-4. Complainant also repeats allegations against the Stearns County Sheriff's Office that were previously litigated in her prior Data Practices Complaint. *See L.L. v. Stearns County Sheriff's Office*, No. 60-0305-37731, ORDER OF DISMISSAL (Minn. Office Admin. Hearings, Sept. 27, 2021). These allegations are not directed at Respondent and were not considered by the Judge. *See* Order of Dismissal at 10.
[5] Complaint at 4; Exhibit (Ex.) A at 2.
[6] Complaint at 3-4.
[7] *See id.* at 3, 6; *see also* Ex. H. The December 22, 2021, violation appears to refer to a response to a separate data request made to the BCA rather than Respondent.

The SCAO responded to Complainant's data request on October 13, 2021.[8] It determined that it possessed four investigative files and related reports pertaining to Complainant, but that those investigations were "still under consideration for criminal charges."[9] As a result, the SCAO provided Complainant the four investigative reports with some identifying information redacted.[10] These investigations remained active until November 2, 2022, when the SCAO declined to bring criminal charges against individuals or entities referenced in the investigative files.[11] Respondent explained its decision not to bring criminal charges in a letter to the Stearns County Sheriff's Office dated November 2, 2022 (Declination Letter).[12]

In light of these proceedings and following the change in designation of the investigative files, the SCAO supplemented its response to Complainant's data request on November 5, 2022.[13] Respondent submitted its Declination Letter as an exhibit to its Response filed November 7, 2022.[14]

On December 9, 2022, Judge Case issued an Order finding no probable cause to believe that Respondent violated the MGDPA as alleged and dismissing the Complaint.[15] On December 16, 2022, Complainant filed her Petition.[16]

Reconsideration Argument

In her Petition, Complainant does not identify any material error made by Judge Case in dismissing her Complaint that she contends warrants granting reconsideration and a remand for hearing.[17] Instead, Complainant raises new claims related to what she maintains are inaccuracies and omissions in Respondent's Declination Letter.[18] Complainant asserts that the alleged misrepresentations and omissions in Respondent's Declination Letter cast her in a false light.[19] Complainant argues that, by issuing the letter, Respondent failed to establish procedures to assure that all data on individuals is accurate, complete, and current in violation of violated Minn. Stat. § 13.05(a)(1) and Minn. R. 1205.1500 (2021).[20]

Complainant requests an in-camera review of data to independently assess the alleged omissions and misrepresentations made by Respondent in its Declination Letter.[21] Complainant further seeks "an order to compel compliance to establish

[8] Complaint at Ex. A.
[9] *Id.*
[10] *Id.*; *see also* Response at 2 (Nov. 4, 2022).
[11] Response at 2-3; Ex. IV.
[12] Response at 2-3; Ex. IV.
[13] Response at 3; Ex. V.
[14] Response, Ex. IV.
[15] Order of Dismissal (Dec. 9, 2022).
[16] Petition (Dec. 16, 2022).
[17] *Id.*; *See* Minn. Stat. § 13.085, subd. 3(c).
[18] Petition at 1; Response Ex. IV.
[19] Petition at 1.
[20] *Id.*
[21] *Id.* at 3.

procedures to assure that all data on individuals is accurate, complete, and current for the purposes for which it was collected."[22]

Analysis and Conclusion

Requests for reconsideration may only be granted if the Chief Administrative Law Judge determines that the assigned administrative law judge made a "clear material error" in dismissing a complaint for lack of probable cause.[23] If a reconsideration request is granted, the assigned administrative law judge must set the matter on for hearing as provided under section 13.085, subd. 4.[24]

After reviewing the Petition and the underlying record, the Chief Administrative Law Judge finds Complainant has failed to demonstrate or even allege that the Judge made a clear material error in dismissing her Complaint for lack of probable cause. Instead, Complainant's Petition raises new claims challenging the accuracy and completeness of data contained in Respondent's Declination Letter and alleging additional violations of Minn. Stat. § 13.05 and Minn. R. 1205.1500 by Respondent. These new allegations are not part of the underlying Complaint and were not considered below. As such, they cannot form the basis of a reconsideration request.[25] Complainant's request for in-camera review of data and for an order compelling Respondent to establish procedures to assure all data is accurate and complete is likewise beyond the scope of a reconsideration request and is denied.

Moreover, challenges to the accuracy and completeness of data are outside of the expedited data practices complaint process. Under Minn. Stat. § 13.085, only complaints alleging a violation of the MGDPA *"for which an order to compel compliance is requested"* may be filed with the Office of Administrative Hearings.[26] An action to compel compliance does not include procedures related to data accuracy and completeness challenges under section 13.04, subd. 4.[27]

The Order dismissing the Complaint alleging violations of the MGDPA by Respondent was well supported and Complainant has not shown it was the result of clear material error. The Petition for Reconsideration is, therefore, denied.

J. S.

---

[22] *Id*. at 4.
[23] Minn. Stat. § 13.085, subd. 3(c).
[24] *Id*.
[25] *See* Minn. General Rules of Practice, Rule 115.11 advisory comm. cmt. – 1997 amendment; *State v. Allwine*, 963 N.W.2d 178 (Minn. 2021); *Sullivan v. Spot Weld, Inc*., 560 N.W.2d 712, 715-16 (Minn. Ct. App. 1997) (Motions for reconsideration are not allowed to expand or supplement the record on appeal.).
[26] Minn. Stat. § 13.085, subd. 2(a) (emphasis added).
[27] *Id*.