



FINAL DETERMINATION

IN THE MATTER OF	:
	:
ISAAC EVANS,	:
Requester	:
	:
v.	: Docket No: AP 2024-0865
	:
PENNSYLVANIA DEPARTMENT OF	:
CORRECTIONS,	:
Respondent	:

FACTUAL BACKGROUND

On March 11, 2024, Isaac Evans (“Requester”), an inmate at SCI-Greene, submitted a request (“Request”) to the Pennsylvania Department of Corrections (“Department”) pursuant to the Right-to-Know Law (“RTKL”), 65 P.S. §§ 67.101 *et seq.*, seeking:

...[C]opies of both \$100.00 checks (front and back) issued on [January 16, 2024] and [February 22, 2024] [to PFCU.]

On March 13, 2024, following a thirty-day extension during which to respond, 65 P.S. § 67.902(b), the Department denied the Request, asserting that the front of the checks is exempt under the personal safety and the personal identification information exemptions. *See* 65 P.S. §§ 67.708(b)(1)(ii) and (b)(6). Additionally, the Department asserts that the back of the checks does not exist in its possession, custody or control.

On March 29, 2024, the Requester filed an appeal with the Office of Open Records (“OOR”), challenging the denial and stating grounds for disclosure. Specifically, the Requester claims that he is entitled to the responsive records because he authorized the checks and because the checks contain his personal information and banking transactions.¹ The OOR invited both parties to supplement the record and directed the Department to notify any third parties of their ability to participate in this appeal. 65 P.S. § 67.1101(c).

On April 10, 2024, the Department submitted a position statement, reiterating its grounds for denial. On April 12, 2024,² the Requester submitted a position statement, arguing that a Department official previously promised the documents would be provided to him and indicated that the responsive records would be necessary should there be a dispute with the transactions.³

LEGAL ANALYSIS

The Department is a Commonwealth agency subject to the RTKL. 65 P.S. § 67.301. Records in the possession of a Commonwealth agency are presumed to be public, unless exempt under the RTKL or other law or protected by a privilege, judicial order or decree. *See* 65 P.S. § 67.305. As an agency subject to the RTKL, the Department is required to demonstrate, “by a

¹ The Requester also included a request for an additional check in the appeal submission. The OOR has repeatedly held that a requester may not modify or expand a request on appeal. *See Pa. State Police v. Office of Open Records*, 995 A.2d 515, 516 (Pa. Commw. Ct. 2010); *Michak v. Dep’t of Pub. Welfare*, 56 A.3d 925 (Pa. Commw. Ct. 2012) (holding that “where a requestor requests a specific type of record ... the requestor may not, on appeal argue that an agency must instead disclose a different record in response to the request”). Additionally, under the RTKL, whether the document is accessible is based only on “whether a document is a public record, and if so, whether it falls within an exemption that allows that it not be disclosed. The status of the individual requesting the record and the reason for the request, good or bad, are irrelevant as to whether a document must be made accessible under Section 301(b) [of the RTKL].” *Hunsicker v. Pa. State Police*, 93 A.3d 911, 913 (Pa. Commw. Ct. 2014); *see also* 65 P.S. § 67.102; 65 P.S. § 67.305; *Cafoncelli v. Pa. State Police*, 2017 Pa. Commw. Unpub. LEXIS 405 (Pa. Commw. Ct. 2017) (citing *Hunsicker*).

² The Requester’s submission was received after the record closed; however, to develop the record, the submission was considered. *See* 65 P.S. § 67.1102(b)(3) (stating that “the appeals officer shall rule on procedural matters on the basis of justice, fairness, and the expeditious resolution of the dispute”).

³ The Requester’s submissions raise issues that are not within the jurisdiction of the OOR. Thus, these issues will not be addressed in this Final Determination.

preponderance of the evidence,” that records are exempt from public access. 65 P.S. § 67.708(a)(1). Preponderance of the evidence has been defined as “such proof as leads the factfinder ... to find that the existence of a contested fact is more probable than its nonexistence.” *Pa. State Troopers Ass’n v. Scolforo*, 18 A.3d 435, 439 (Pa. Commw. Ct. 2011) (quoting *Pa. Dep’t of Transp. v. Agric. Lands Condemnation Approval Bd.*, 5 A.3d 821, 827 (Pa. Commw. Ct. 2010)).

Personal identification information is exempt from disclosure under the RTKL. *See* 65 P.S. § 67.708(b)(6). Personal identification information includes a record containing all or part of a person’s personal information. 65 P.S. § 67.708(b)(6)(i)(A). This includes personal financial information. Section 102 of the RTKL defines “personal financial information” as “[a]n individual’s personal credit, charge or debit card information; bank account information; bank, credit or financial statements; account or PIN numbers and other information relating to an individual’s personal finances.” 65 P.S. § 67.102. The OOR has held, and the Commonwealth Court has affirmed, that “inmate account records ... showing money in an inmate’s account, along with deposits and withdrawals made to and from that account ... [are] the functional equivalent of bank statements,” constituting personal financial information within the meaning of the RTKL. *Boyd v. Dep’t of Corr.*, 2013 Pa. Commw. Unpub. LEXIS 275, *5 (Pa. Commw. Ct. 2013).⁴

The Department asserts that the responsive records were the Requester’s personal checks from his own personal financial account, which is also clear from the face of the Request.⁵ Based on the nature of the records, the Department argues that the responsive records are exempt from access by the Requester because the records contain personal identification information.

⁴ An unpublished opinion of the Commonwealth Court may be cited for its persuasive value. 210 Pa. Code § 69.414.

⁵ The instant Request expressly seeks copies of checks authorized by the Requester. *See Pa. Game Comm’n v. Fennell*, 149 A.3d 101 (Pa. Commw. Ct. 2016) (holding that the OOR must consider uncontradicted statements in the appeal filing when construing exemptions); *see also Office of the Governor v. Davis*, 122 A.3d 1185, 1192 (Pa. Commw. Ct. 2015) (*en banc*) (holding that an affidavit may be unnecessary when an exemption is clear from the face of the record).

The authorized checks are exempt from access because they contain personal financial information. While financial records of an agency are ordinarily subject to access under the RTKL, *see* 65 P.S. § 67.708(c), an agency's financial records cover "dealing with" disbursements of public money and services acquisitions by the agency. *Commonwealth, Dep't of Pub. Welfare v. Eiseman*, 125 A.3d 19 (Pa. 2015). However, in this instance, it is clear from the Request that the checks were authorized by the Requester for the Requester's own financial activities. Under the Commonwealth Court's holding in *Boyd*, the checks are personal to the Requester and contain information about how the Requester spends his money. Thus, the responsive records, i.e., the authorized checks, are exempt from access because they contain personal financial information. *See Dupree v. Dep't of Corr.*, OOR Dkt. AP 2022-2542, 2022 PA O.O.R.D. LEXIS 2693.⁶

CONCLUSION

For the foregoing reasons, the appeal is **denied**, and the Department is not required to take any further action. This Final Determination is binding on all parties. Within thirty days of the mailing date of this Final Determination, any party may appeal to the Commonwealth Court. 65 P.S. § 67.1301(a). All parties must be served with notice of the appeal. The OOR also shall be served notice and have an opportunity to respond as per Section 1303 of the RTKL; however, as the quasi-judicial tribunal adjudicating this matter, the OOR is not a proper party to any appeal and should not be named as a party.⁷ 65 P.S. § 67.1303. All documents or communications following the issuance of this Final Determination shall be sent to oor-postfd@pa.gov. This Final Determination shall be placed on the OOR website at: <http://openrecords.pa.gov>.

⁶ Because the Department has demonstrated that the requested records are exempt pursuant to Section 708(b)(6) of the RTKL, the OOR need not reach the Department's alternative grounds for denying access. *See Jamison v. Norristown Bor. Police Dept.*, OOR Dkt. AP 2011-1233, 2011 PA O.O.R.D. LEXIS 927.

⁷ *Padgett v. Pa. State Police*, 73 A.3d 644, 648 n.5 (Pa. Commw. Ct. 2013).

FINAL DETERMINATION ISSUED AND MAILED: April 16, 2024

/s/ Bandy L. Jarosz

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