



pennsylvania

OFFICE OF OPEN RECORDS

FINAL DETERMINATION

IN THE MATTER OF

**JOSH MONIGHAN,
Requester**

v.

**FRANKLIN COUNTY,
Respondent**

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Docket No: AP 2016-1641

On August 24, 2016, Josh Monighan (“Requester”) submitted a request (“Request”) to Franklin County (“County”) pursuant to the Right-to-Know Law (“RTKL”), 65 P.S. §§ 67.101 *et seq.*, seeking a “certified copy of the public record that shows Richard A. Vaughn is in the [c]ustody of Franklin County” along with “[w]arrant, [c]ause, [m]edical [e]xpenditure and [b]ail.” On August 31, 2016, the County invoked a thirty-day extension to respond. *See* 65 P.S. § 67.902.

On September 9, 2016, the County granted the Request in part, providing a screen shot of the Inmate Search feature on the County Jail’s web page indicating that Mr. Vaughn was in custody as of that date. The County noted that medical information is protected by the Health Insurance Portability and Accountability Act and that the Affidavit of Probable Cause, bail information and warrant would be in the possession of the Clerk of Courts.

On September 29, 2016, the Requester filed an appeal with the Office of Open Records (“OOR”), arguing only that the screen shot provided by the County was neither certified, as requested, nor legible.¹ On October 6, 2016, the County provided the Requester with a legible print-out of the Inmate Search for Mr. Vaughn, along with an Inmate Commitment Summary Report. Accompanying the records was the sworn statement of Lionel Pierre, the Central Booking/Records Administrator for the Franklin County Jail, who attests under penalty of perjury that the records provided are authentic and accurate.

¹ Because the Requester does not challenge any other portion of the County’s response, those issues are waived. *See Dep’t of Corr. v. Office of Open Records*, 18 A.3d 429 (Pa. Commw. Ct. 2011).

Under the RTKL, an affidavit may serve as sufficient evidentiary support. *See Sherry v. Radnor Twp. Sch. Dist.*, 20 A.3d 515, 520-21 (Pa. Commw. Ct. 2011); *Moore v. Office of Open Records*, 992 A.2d 907, 909 (Pa. Commw. Ct. 2010). In the absence of any evidence that the County has acted in bad faith, “the averments in [the statement] should be accepted as true.” *McGowan v. Pa. Dep’t of Env’tl. Prot.*, 103 A.3d 374, 382-83 (Pa. Commw. Ct. 2014) (citing *Office of the Governor v. Scolforo*, 65 A.3d 1095, 1103 (Pa. Commw. Ct. 2013)). Because the County has provided a legible copy of the records, and has certified that the records are authentic and accurate, the appeal is dismissed as moot. *See Howell v. Montgomery County*, OOR Dkt. AP 2016-1231, 2016 PA O.O.R.D. LEXIS 1042 (stating that a statement made under the penalty of perjury is sufficient to certify a record).

For the foregoing reasons, the Requester’s appeal is **dismissed as moot**, and the County 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 or petition for review to the Franklin County Court of Common Pleas. 65 P.S. § 67.1302(a). All parties must be served with notice of the appeal. The OOR also shall be served notice and have an opportunity to respond according to court rules 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.² This Final Determination shall be placed on the website at: <http://openrecords.pa.gov>.

FINAL DETERMINATION ISSUED AND MAILED: October 28, 2016

/s/ Blake Eilers
Blake Eilers, Esq.
Appeals Officer

Sent to: Josh Monighan (via e-mail only);
Jean Byers (via e-mail only);
Hannah Herman-Snyder, Esq. (via e-mail only)

² *Padgett v. Pa. State Police*, 73 A.3d 644, 648 n.5 (Pa. Commw. Ct. 2013).