



**FINAL DETERMINATION**

IN THE MATTER OF	:	
	:	
JAMAL ALI,	:	
Requester	:	
	:	
v.	:	Docket No.: AP 2022-1712
	:	
CITY OF PHILADELPHIA	:	
DEPARTMENT OF PRISONS,	:	
Respondent	:	

The Office of Open Records (“OOR”) received the above-captioned appeal under the Right-to-Know Law (“RTKL”), 65 P.S. §§ 67.101 *et seq.* Upon review of the file, the appeal is **dismissed** for the following reason:

Jamal Ali (“Requester”), an inmate at SCI-Albion, purportedly mailed a RTKL request (“Request”) to the City of Philadelphia Department of Prisons (“Department”) on June 27, 2022, seeking a copy of his visitor logs for the dates of June 2009 to July 2012. Having received no response from the Department, the Requester filed an appeal with the OOR on July 22, 2022, alleging that the Request was deemed denied. *See* 65 P.S. § 67.901. The OOR invited both parties to supplement the record and directed the Department to notify any third parties of their ability to participate in the appeal. *See* 65 P.S. § 67.1101(c).

On August 3, 2022, the Department submitted an affidavit, made under the penalty of perjury, from Gregory Vrato, the Department's Chief of Staff and Open Records Officer, attesting that the Department did not receive the Request prior to the filing of this appeal. The Requester did not make a submission challenging the Department's assertion.

Under the RTKL, a statement made under the penalty of perjury 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). Because the Department's Open Records Officer did not receive the Request prior to the filing of this appeal, the appeal is **dismissed as premature**.<sup>1</sup> *See* 65 P.S. § 67.901 (stating that "[t]he time for response shall not exceed five business days from the date the written request is received by the open-records officer for an agency"); *see also Commonwealth v. Donahue*, 98 A.3d 1223 (Pa. 2014).

For the foregoing reason, 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 Philadelphia 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 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.<sup>2</sup> This Final Determination shall be placed on the website at: <http://openrecords.pa.gov>.

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<sup>1</sup> During the course of this appeal, the Department provided responsive records to the Requester with redactions only for personal identification information. *See* 65 P.S. § 67.708(b)(6)(i)(A). However, because this appeal is dismissed for procedural purposes, this Final Determination is not reaching the merits regarding the records provided or the redactions to those records.

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

**FINAL DETERMINATION ISSUED AND MAILED: August 18, 2022**

*/s/ Ryan W. Liggitt*

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RYAN W. LIGGITT, ESQ.  
APPEALS OFFICER

Sent to:       Jamal Ali (via US Mail only);  
                  Omar Rabady, Esq. (via email only)