

## FINAL DETERMINATION

DATE ISSUED AND MAILED: June 18, 2024

IN RE: *David Perretta v. Blair County District Attorney's Office*, OOR Dkt. AP 2024-1312

On May 13, 2024, David Perretta (“Requester”) submitted a request (“Request”) to the Blair County District Attorney’s Office (“Office”) pursuant to the Right-to-Know Law (“RTKL”), 65 P.S. §§ 67.101 *et seq.* The Office did not respond within five business days of receiving the Request, and the Request was, therefore, deemed denied on May 21, 2024. 65 P.S. § 67.901. On that same day, the Requester filed an appeal with the Office of Open Records (“OOR”).

Local agencies have the burden of proving that records are exempt from access. 65 P.S. § 67.708(a)(1). Here, the Office did not comply with the RTKL by timely responding to the Request, nor did the Office participate on appeal by submitting legal argument or evidence in support of withholding records.<sup>1</sup> Accordingly, the Office did not meet its burden of proof under the RTKL. 65 P.S. § 67.305.

For this reason, the appeal is **granted**, the Office is required to provide the requested records to the Requester within thirty days, or, in the alternative, a sworn affidavit or a statement made under the penalty of perjury demonstrating that the records do not exist. Within thirty days of the mailing date of this Final Determination, either party may appeal or petition for review with the Blair 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 65 P.S. § 67.1303, but 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> All documents or communications following the issuance of this Final Determination shall be sent to [oor-postfd@pa.gov](mailto:oor-postfd@pa.gov). This Final Determination shall be placed on the website at: <http://openrecords.pa.gov>.

Issued by:

*/s/ Erika Similo*

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ERIKA SIMILO  
APPEALS OFFICER

Sent via OOR portal to: David Perretta; Julia B. Wilt, Esq.

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<sup>1</sup> On June 3, 2024, having received no submissions from either party, the OOR extended the submission deadline until the close of business (5:00 pm EST) on June 5, 2024.

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