



FINAL DETERMINATION

DATE ISSUED AND MAILED: May 14, 2026

IN RE: *Brian Kennedy v. Delaware Cnty. Dist. Att’y Off.* - OOR Dkt. AP 2026-1472

Upon review of the appeal filed with the Office of Open Records (“OOR”) to the above-referenced docket number, as well as the Delaware County District Attorney’s Office (“Office”) submission, it is determined that the appeal is **DISMISSED** because:

The appeal is premature. The appeal states that the Request was filed on March 23, 2026, and deemed denied on March 30, 2026; however, the Office never received a copy of the Request. *See* Attestation of Non-Receipt, T. Geoff Paine, Esq., ¶¶1-3.¹ Because an appeal may only be filed from the denial or deemed denial of a request, and the Office **did not receive the Request prior to receiving the appeal**, the appeal must be dismissed as premature. 65 P.S. § 67.901. The Requester is not prohibited from filing the Request with the Office and, if necessary, filing an appeal with the OOR pursuant to the requirements of 65 P.S. § 67.1101(a)(1).

For this reason, the Office is not required to take any further action. Within thirty days of the mailing date of this Final Determination, either party may appeal or petition for review with the Delaware 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.² 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 website at: <http://openrecords.pa.gov>.

Issued by:

/s/ Kelly C. Isenberg

KELLY C. ISENBERG, ESQ.
DEPUTY CHIEF COUNSEL

Sent via OOR E-file Portal to: T. Geoff Paine, Esq.
Sent via USPS: Brian Kennedy, #Q95476

¹ The Paine Attestation also states that a search was conducted and no record of a prosecution in the Office and a search of the Uniform Judicial System Portal was conducted and there is no record of a case against the Requester in the timeframe stated in the Request. Paine Attestation, ¶¶4-5.

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

