



FINAL DETERMINATION

DATE ISSUED AND MAILED: May 29, 2026

IN RE: *Harold Burton v. Montgomery County Office of District Attorney*, OOR Dkt. AP 2026-2087

Upon review of the appeal filed with the Office of Open Records (“OOR”) to the above-referenced docket number, it is determined that the appeal is **DISMISSED** because:

The appeal is premature. The Request was dated March 12, 2026 and presumably mailed that day. It is unclear when the Request was received by the Montgomery County Office of District Attorney (“Office”), but the Office had five (5) business days from the receipt of the Request to respond. 65 P.S. § 67.901. Even if the Office received the Request the very next day after its mailing,¹ the Office would have had until May 20, 2026 to respond. The appeal was dated and postmarked May 19, 2026; thus, the Requester did not allow sufficient time before filing the appeal. The Requester is not prohibited from filing a new appeal to the OOR of any denial or deemed denial stemming from the Request, 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, you may appeal or petition for review with the Montgomery 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. 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 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/ Kyle Applegate

Chief Counsel
Kyle Applegate, Esq.

Sent to: Requester, QP-0651 (via U.S. Mail); Agency Open Records Officer, Montgomery County Office of District Attorney (via e-file portal)

¹ This appears to be very unlikely, and this date is used only for illustration purposes.

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