

FINAL DETERMINATION

DATE ISSUED AND MAILED: June 11, 2026

IN RE: *Brian Kennedy v. Pennsylvania Department of Human Services*, OOR Dkt. AP 2026-1473

Upon review of the appeal filed with the Office of Open Records (“OOR”) to the above-referenced docket number, as well as the submission provided by the Pennsylvania Department of Human Services (“Department”), it is determined that the appeal is **DISMISSED** because:

The appeal is premature. The Department’s appeal submission establishes that it received the Request on April 1, 2026, and, on April 8, 2026, issued a thirty-day extension notice pursuant to Section 902 of the RTKL.¹ 65 P.S. § 67.902(b). On April 7, 2026,² prior to the expiration of the extension period or receiving a final response to the Request from the Department, the Requester filed an appeal in this matter. Because the appeal was filed prior to the expiration of the extension period invoked by the Department, the appeal is premature. Nothing in this Final Determination prevents the Requester from filing a new appeal with the OOR within the appropriate timeframe set forth in Section 1101(a) of the RTKL. 65 P.S. § 67.1101(a)(1).

For this reason, the Department 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 Commonwealth Court. 65 P.S. § 67.1301/02(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.³ All documents or communications following the issuance of this Final Determination shall be sent to oor-postfd@pa.gov.

Issued by:

/s/ Erika Similo

ERIKA SIMILO
APPEALS OFFICER

Sent via mail to: Brian Kennedy, QP5476;

Sent via OOR portal to: Marisa L. Cohan, Esq.; Andrea Bankes

¹ See Attestation of Andrea Banks, ¶¶ 8-10.

² Although the appeal was received by the OOR on April 13, 2026, the Requester’s appeal was placed in the Pennsylvania Department of Correction’s mail system on April 7, 2026; thus, the appeal is considered filed on April 7, 2026. See *Commonwealth v. Jones*, 700 A.2d 423, 426 (Pa. 1997). Additionally, the Requester granted the OOR a thirty-day extension to issue a final determination. See 65 P.S. § 67.1101(b)(1).

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