

FINAL DETERMINATION

DATE ISSUED AND MAILED: September 17, 2026

IN RE: *Brian Kennedy v. City of Philadelphia Department of Records*, OOR Dkt. AP 2026-3639

Upon review of the appeal filed with the Office of Open Records (“OOR”) at the above-referenced docket number, as well as the submission of the City of Philadelphia Department of Records (“City”), it is determined that the appeal is **DISMISSED** because:

The appeal is premature. The appeal, which was mailed on August 26, 2026,¹ states that the Request was mailed on August 10, 2026, and had been deemed denied. However, the City did not receive the Request until September 1, 2026. *See* Smith Attestation. As the City had **not received the Request prior to receiving notice of the appeal**, the appeal must be dismissed as premature. 65 P.S. § 67.901. The Requester is not prohibited from filing another appeal with the OOR pursuant to the requirements of 65 P.S. § 67.1101(a)(1).²

For this reason, the City 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 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 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. This Final Determination shall be placed on the website at: <http://openrecords.pa.gov>.

Issued by:

/s/ Blake Eilers

BLAKE EILERS, ESQ.

SENIOR APPEALS OFFICER

Delivered to: Brian Kennedy, QP5476 (via regular mail)
Margot Smith, Esq.; Lynda Yerkov (via e-file portal)

¹ The Requester is an inmate at SCI-Greene.

² The Request sought private criminal complaints, and the City informed the Requester that such complaints are received and handled by the Philadelphia District Attorney’s Office; the City does not have access to these records.

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