



FINAL DETERMINATION

DATE ISSUED: October 1, 2026

IN RE: *Jonathan Kress v. Pennsylvania Department of Corrections*, OOR Dkt. AP 2026-3836

Upon review of the appeal filed with the Office of Open Records (“OOR”) to the above-referenced docket number, as well as the Pennsylvania Department of Correction’s (“Department”) submission,¹ it is determined that the appeal is **DISMISSED** because:

The appeal is premature. The appeal states that the Request was submitted on August 3, 2026, and deemed denied on August 10, 2026; however, the Department never received a copy of the Request. *See* Cuomo Attestation, ¶¶ 4-7. Because an appeal may only be filed from the denial or deemed denial of a request, and the Department 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 Department 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 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(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/ *Damian J. DeStefano*

DAMIAN J. DESTEFANO
APPEALS OFFICER

Sent to: Jonathan Kress, SCI-Greene, #JA5435 (via U.S. mail);
Harlee Cuomo, AORO; Kelsey Kennedy, Esq. (via OOR E-file appeal portal)

¹ On September 23, 2026, the Department submitted a position statement and an attestation made under the penalty of unsworn falsification to authorities from Harlee Cuomo (“Cuomo Attestation”), the Department’s Open Records Officer (“AORO”).

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