



FINAL DETERMINATION

DATE ISSUED AND MAILED: October 6, 2026

IN RE: *Bradley Vasoli v. Bucks County Dist. Attorney's Office*, OOR Dkt. AP 2026-4093

Upon review of the appeal filed with the Office of Open Records ("OOR") to the above-referenced docket number, as well as the parties' submissions, the appeal is **DENIED** because:

The records do not exist. On August 4, 2026, the Bucks County District Attorney's Office ("Office") submitted an affidavit, made under the penalty of perjury, from Timothy Lutes, Esq. ("Lutes Affidavit"), the Office's Open Records Officer, who attests that a search was conducted and that no responsive records exist in the Office's possession, custody or control. Lutes Affidavit, ¶¶ 1-4. More specifically, the Lutes Affidavit explains that Open Records Officer Lutes contacted the Office's staff about the Request to determine whether they possessed records responsive to the Request, and no such records were identified by or provided to Open Records Officer Lutes. *Id.* at ¶¶ 2-3. Based upon this evidence, and because the Requester has not submitted evidence to undermine the credibility of the Lutes Affidavit, the Office demonstrated that it conducted a good faith search for responsive records as required by 65 P.S. § 67.901, did not locate any, and, therefore, met its burden of proof that it does not possess the requested records. *Hodges v. Pa. Dep't of Health*, 29 A.3d 1190, 1192 (Pa. Commw. Ct. 2011); *Campbell v. Pa. Interscholastic Athletic Ass'n*, 268 A.3d 502 (Pa. Commw. Ct. 2021) (noting that an agency need only prove the nonexistence of records by a preponderance of the evidence, the lowest evidentiary standard, and is tantamount to a "more likely than not" inquiry); *see also Pa. Dep't of Health v. Mahon*, 283 A.3d 929, 936 (Pa. Commw. Ct. 2022) (concluding that, in the absence of countervailing evidence establishing that the agency acted in bad faith or that the requested records exist, averments of nonexistence should be accepted as true).

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 Bucks 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. 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/ Joshua T. Young

JOSHUA T. YOUNG, ESQ.
SENIOR DEPUTY CHIEF COUNSEL

Sent via OOR e-file portal to: Bradley Vasoli; Timothy Lutes, Esq., AORO