Pennsylvania
Office of Open Records

Pennsylvania Office of Open Records
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FINAL DETERMINATION

DATE ISSUED AND MAILED: November 6, 2026

IN RE: *Sergiy Melnyk v. Northampton County*, OOR Dkt. AP 2026-4795

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 November 6, 2026, the Northampton County ("County") submitted a statement, made under the penalty of perjury, from Tyree A. Blair, Sr., Esq. ("Blair Statement"), the County's Open Records Officer, who attests that a search was conducted and that no responsive records exist in the County's possession, custody or control. Blair Statement, ¶¶ 3-4, 7. The Blair Statement explains that the County does not possess police reports from the Bethlehem Township Police Department, which "is an autonomous local municipal police department."[1] *Id.* at ¶ 5. Based upon this evidence, and because the Requester has not submitted evidence to undermine the credibility of the Blair Statement, the County demonstrated that it conducted a good faith search for the responsive report as required by 65 P.S. § 67.901, did not locate the report, and, therefore, has proven that it does not possess the report. *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 County 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 Northampton 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: Sergyi Melnyk, Esq.; Tyree A. Blair, Sr., Esq., AORO

[1] Open Records Officer Blair further explains that even if the County did possess the police report, the report would constitute a criminal investigative record exempt from disclosure under 65 P.S. § 67.708(b)(16) and/or the Criminal History Record Information Act ("CHRIA"), *see* Blair Statement, ¶ 6 and, therefore, the OOR would lack jurisdiction over the appeal. *See* 65 P.S. § 67.503(d)(2).