



**FINAL DETERMINATION**

<b>IN THE MATTER OF</b>	:	
	:	
<b>JAMES ANDREW GRAY,</b>	:	
<b>Requester</b>	:	
	:	
<b>v.</b>	:	<b>Docket No: AP 2020-2654</b>
	:	
<b>CITY OF PHILADELPHIA LAW</b>	:	
<b>DEPARTMENT,</b>	:	
<b>Respondent</b>	:	

On November 16, 2020, James Andrew Gray (“Requester”), an inmate at SCI-Mahanoy, mailed a request (“Request”) to the City of Philadelphia Law Department (“City”) pursuant to the Right-to-Know Law (“RTKL”), 65 P.S. §§ 67.101 *et seq.*, seeking a court of common pleas opinion. On December 15, 2020, after receiving no response, the Requester filed an appeal with the Office of Open Records (“OOR”),<sup>1</sup> arguing that the Request was deemed denied. 65 P.S. § 67.901. The OOR invited both parties to supplement the record and directed the City to notify any third parties of their ability to participate in this appeal.<sup>2</sup> 65 P.S. § 67.1101(c).

On January 4, 2021, the City made a submission arguing that the Request seeks a record of the First Judicial District, “an agency separate and distinct from the City of Philadelphia.” In support of this argument, the City attached previous submissions made to the OOR, including the affidavit of Jill Freeman, Esq., Deputy City Solicitor and Right to Know Officer.

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<sup>1</sup> The appeal was postmarked December 9, 2020.

<sup>2</sup> The appeal did not include a copy of the Request, and the OOR directed the Requester to provide a copy on December 15, 2020. On December 29, 2020, the OOR received a copy of the Request from the Requester, thus curing the deficiency.

A record created by the judicial system is a “judicial record” and, therefore, is not a record of the City. *See* 65 P.S. § 67.102 (defining “record”). In *Philadelphia Dist. Attorney’s Office v. Stover*, the Commonwealth Court found that “a sentencing order is a record ‘of’ the judiciary and, as such, ... is not disclosable under the RTKL.” 176 A.3d 1024, 1028 (Pa. Commw. Ct. 2017). Further, the Court found that “[t]he fact that [another agency] may possess[] – or readily obtain – a copy of the sentencing order in no way transforms the record of a judicial agency into a record of [that other agency].” *Id.* at 1029. Here, the Request seeks a copy of a court opinion. Because this record was created by the judiciary, it is a record of the judiciary; therefore, the OOR cannot order its disclosure under the RTKL. Pursuant to *Stover*, it is irrelevant if the City possesses or may easily obtain a copy of the record. However, the Requester is not prohibited from obtaining case records from the issuing court pursuant to the Unified Judicial System’s Public Access Policy.

For the foregoing reasons, the appeal is **denied**, and the City is not required to take any further action. This Final Determination is binding on all parties. Within thirty days of the mailing date of this Final Determination, any party may appeal or petition for review to 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 Section 1303 of the RTKL. 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.<sup>3</sup> This Final Determination shall be placed on the website at: <http://openrecords.pa.gov>.

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

**FINAL DETERMINATION ISSUED AND MAILED: January 22, 2021**

/s/ Kyle Applegate

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APPEALS OFFICER  
KYLE APPELEGATE, ESQ.

Sent to: James Andrew Gray, #AS1466 (via U.S. Mail only);  
Feige Grundman, Esq. (via email only)