

**OOOR RESPONSE TO PETITION FOR RECONSIDERATION**

DATE ISSUED AND MAILED: June 4, 2021

IN RE: *Ernest Thomas v. Lebanon County*, OOR Dkt. AP 2021-0797

Upon review of the petition for reconsideration filed with the Office of Open Records (“OOR”) to the above-referenced docket number, it is determined that the petition is **DENIED** because:

In this Final Determination, the OOR held that the County met its burden of proving that it does not possess responsive records, and that the record before the OOR did not support a finding of bad faith against the County. The Requester has filed a Petition for Reconsideration, challenging the OOR’s finding regarding bad faith.

Based upon the evidence submitted by the County, the Appeals Officer did not err in declining to make a finding of bad faith. Although the Requester argues that the Appeals Officer should have disregarded this evidence, sworn attestations are competent evidence, and the averments within “should be accepted as true.” *McGowan v. Pa. Dep’t of Env’tl. Prot.*, 103 A.3d 374, 382-83 (Pa. Commw. Ct. 2014). Accordingly, the Petition for Reconsideration is denied.

Issued by:

/s/ Kyle Applegate

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CHIEF COUNSEL

Sent to: Ernest Thomas (via first class mail only);  
Jamie Wolgemuth (via email only)