



FINAL DETERMINATION

IN THE MATTER OF

**STEPHEN PINER,
Requester**

v.

**BLAIR COUNTY,
Respondent**

:
:
:
:
:
:
:
:
:
:

Docket No: AP 2021-1307

On June 7, 2021, Stephen Piner (“Requester”), an inmate at SCI-Huntingdon, submitted a request (“Request”) to Blair County (“County”) pursuant to the Right-to-Know Law (“RTKL”), 65 P.S. §§ 67.101 *et seq.*, seeking a “[g]uilty [p]lea and [s]entencing [o]rder ... [a]s well as [t]ranscripts of those proceedings, in regards to [the Requester]’s conviction in May 30, 1984 for the charge of simple assault.” The County did not respond within five business days, and the Request was deemed denied. 65 P.S. § 67.901.

On June 28, 2021, the Requester filed an appeal with the Office of Open Records (“OOR”), stating grounds for disclosure.¹ More specifically, the Requester states that he seeks “May 30, 1984 transcripts for [his g]uilty [p]lea and [s]entencing order for the charge of simple assault.” The OOR invited both parties to supplement the record and directed the County to notify any third

¹ The appeal was received by the OOR on July 5, 2021; however, it was postmarked June 28, 2021. Therefore, pursuant to the “prisoner mailbox rule,” the appeal is considered timely filed. *See Jones v. Pa. Dep’t of Corr.*, 1213 C.D. 2018, 2019 Commw. Unpub. LEXIS 472 (Pa. Commw. Ct. 2019); *Commonwealth v. Jones*, 700 A.2d 423, 426 (Pa. 1997).

parties of their ability to participate in this appeal. 65 P.S. § 67.1101(c). Neither party submitted legal argument or evidence during the appeal.

A record created by the judicial system is a “judicial record” and, therefore, is not a record of the County. *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 expressly seeks a sentencing order and transcripts related to the Requester’s guilty plea and sentencing.² Because these records, to the extent they exist, would have been created by the judiciary, they are records of the judiciary; therefore, the OOR cannot order their disclosure under the RTKL. *See, e.g., Stover, supra; Rogers v. Pa. Dep’t of Corr.*, OOR Dkt. AP 2020-2620, 2021 PA O.O.R.D. LEXIS 75 (finding that a guilty plea colloquy/sentencing transcript is a judicial record over which the OOR lacks jurisdiction). However, the Requester is not prohibited from obtaining any 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 County 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 Blair 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

² Although the County did not make a submission in this case, an affidavit may be unnecessary when an exemption is clear from the face of the record. *Office of the Governor v. Davis*, 122 A.3d 1185, 1194 (Pa. Commw. Ct. 2015) (*en banc*); *see also Pa. Game Comm’n v. Fennell*, 149 A.3d 101 (Pa. Commw. Ct. 2016) (holding that the OOR must consider uncontradicted statements in the appeal materials when determining whether an exemption applies).

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.³ This Final Determination shall be placed on the website at: <http://openrecords.pa.gov>.

FINAL DETERMINATION ISSUED AND MAILED: 2 August 2021

/s/ Joshua T. Young

JOSHUA T. YOUNG
DEPUTY CHIEF COUNSEL

Sent to: Stephen Piner, LY-2575 (via U.S. Mail only);
Nicole Hemminger, AORO (via email only)

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