

## **FINAL DETERMINATION**

DATE ISSUED AND MAILED: January 21, 2022

IN RE: *Jabree Evans v. Delaware County District Attorney's Office*, OOR Dkt. AP 2022-0047

Upon review of the appeal filed with the Office of Open Records ("OOR") to the above-referenced docket number, as well as the Delaware County District Attorney's Office's ("Office") January 19, 2022 submission, it is determined that the appeal is **DISMISSED** because:

**The appeal is premature.** The appeal states that the Request was filed on November 16, 2021 and deemed denied on December 16, 2021; however, the Office never received a copy of the Request. *See* Attestation of Jennifer A. Glackin, Esq., ¶ 3. Because an appeal may only be filed from the denial or deemed denial of a request, and the Office did not receive the Request prior to receiving the appeal, the appeal must be dismissed as premature.<sup>1</sup> 65 P.S. § 67.901. The Requester is not prohibited from filing the Request with the Office and, if necessary, filing an appeal with the OOR pursuant to the requirements of 65 P.S. § 67.1101(a)(1).

For this reason, the Office is not required to take any further action. Within thirty days of the mailing date of this Final Determination, you may appeal or petition for review with the Delaware 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. 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>2</sup>

Issued by:

*/s/ Kathleen A. Higgins*

---

Kathleen A. Higgins  
Deputy Chief Counsel

Sent to: Jabree Evans, MV8061 (via U.S. Mail);  
Jennifer A. Glackin, Esq. (via email only)

---

<sup>1</sup> Attorney Glackin attests that the Office does not maintain copies of the requested records, and that all marked trial exhibits, excluding physical evidence, are in the possession of the Delaware County Office of Judicial Support. *See* Attestation of Jennifer A. Glackin, ¶¶ 4-5.

<sup>2</sup> *Padgett v. Pa. State Police*, 73 A.3d 644, 648 n.5 (Pa. Commw. Ct. 2013).