



NEW JERSEY GOVERNMENT RECORDS COUNCIL
Administrative Complaint Disposition – Unripe Cause of Action

Brian Killion
Complainant

GRC Complaint No. 2015-275

v.

New Jersey Department of Corrections
Custodial Agency

Custodian of Record: John Falvey
Request Received by Custodian: August 12, 2015
GRC Complaint Received: August 27, 2015

Complaint Disposition: On August 4, 2015, the Complainant sent an OPRA request to the Custodian. None of the requested records are immediate access records. The Custodian certified he received the request on August 12, 2015. On August 21, 2015, the seventh (7th) business day following receipt of the request, the Custodian requested an additional ten (10) business days in order to locate the records. On August 24, 2015, the next business day following the Custodian’s request for a ten (10) day extension, the Complainant verified his Complaint, stating he had received no response.¹ Therefore, because the Complainant verified his Complaint before the statutory time period for the Custodian to respond **as extended** had not yet expired, the Complaint is materially defective and must be dismissed. *See* Scheeler v. NJ Dep’t of Educ., GRC Complaint No. 2014-423 (September 2015).

Applicable OPRA Provision: “[A] custodian of a government record shall grant access to a government record or deny a request for access to a government record as soon as possible, but not later than seven business days after receiving the request . . .” N.J.S.A. 47:1A-5(i).

“A person who is denied access to a government record by the custodian of a record . . . may institute a proceeding to challenge the custodian’s decision by filing . . . a complaint with the Government Records Council . . .” N.J.S.A. 47:1A-6.

This is the final administrative determination in this matter. Any further review should be pursued in the Appellate Division of the Superior Court of New Jersey within forty-five (45) days. Information about the appeals process can be obtained from the Appellate Division Clerk’s Office, Hughes Justice Complex, 25 W. Market St. PO Box 006, Trenton, NJ 08625-0006.

Effective Date of Disposition: May 24, 2016

¹ The Complainant argued that he did not receive the Custodian’s August 21, 2015 letter until August 27, 2015; however, the Custodian certified and provided proof he mailed his letter on August 21, 2015.



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