
	:	IN THE COURT OF COMMON PLEAS
BOROUGH OF BATH,		
Petitioner,	:	NORTHAMPTON COUNTY,
	:	
v.	:	PENNSYLVANIA
	:	
MICHAEL LONG,	:	CIVIL DIVISION
Respondent.	:	
	:	
	:	NO. <u>No. C-48-CV-2023-10559</u>
	:	

ORDER

AND NOW, this ___ day of _____, 2024, upon consideration of Respondent Michael Long's Motion to Amend MOTION TO DISMISS BOROUGH'S DECEMBER 27, 2023, APPEAL AND MAY 21, 2024, PRAECIPE OF READINESS FOR PREMATURITY AND IMPROPER SERVICE, and any responses thereto, it is hereby ORDERED that the Motion to Amend is GRANTED.

Respondent is granted leave to file the Amended Motion to Dismiss attached as Exhibit A to the Motion to Amend.

BY THE COURT:

J.

Michael Long, Pro Se
220 Creek Road
Bath, Pa 18014
(610)507-3721
Michael.Long479@gmail.com

	:	IN THE COURT OF COMMON PLEAS
BOROUGH OF BATH,		
Petitioner,	:	NORTHAMPTON COUNTY,
	:	
v.	:	PENNSYLVANIA
	:	
MICHAEL LONG,	:	CIVIL DIVISION
Respondent.	:	
	:	NO. <u>No. C-48-CV-2023-10559</u>
	:	

MOTION TO AMEND MOTION TO DISMISS BOROUGH'S DECEMBER 27, 2023, APPEAL AND MAY 21, 2024, PRAECIPE OF READINESS FOR PREMATURITY AND IMPROPER SERVICE

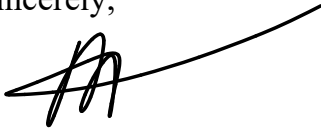
AND NOW, this 17th day of June 2024, comes the Respondent, Michael Long, pro se, and respectfully moves this Honorable Court to amend the previously filed motion to dismiss the appeal filed by the Borough of Bath, and in support thereof states as follows:

1. On June 9, 2024, Respondent filed a motion to dismiss the appeal filed by the Borough of Bath.
2. The original motion to dismiss contains inaccuracies in citations and references.
3. Respondent seeks to amend the motion to dismiss to correct these inaccuracies and provide accurate legal references.

4. The amended motion to dismiss is attached hereto as Exhibit A.

WHEREFORE, Respondent respectfully requests that this Honorable Court grant the motion to amend the previously filed motion to dismiss.

Sincerely,

A handwritten signature in black ink, appearing to be 'ML', with a long horizontal line extending to the right from the end of the signature.

Michael Long
Pro Se Respondent

220 Creek Road
Bath, PA 18014
(610) 507-3721

June 17, 2024

VERIFICATION

I, Michael Long, hereby verify that the statements made in the foregoing MOTION TO AMEND MOTION TO DISMISS BOROUGH'S DECEMBER 27, 2023, APPEAL AND MAY 21, 2024, PRAECIPE OF READINESS FOR PREMATURETY AND IMPROPER SERVICE are true and correct to the best of my knowledge, information, and belief. I understand that false statements herein are made subject to the penalties of 18 Pa. C.S. § 4904, relating to unsworn falsification to authorities.

A handwritten signature in black ink, appearing to be 'ML', is written over a horizontal line.

/s/ Michael Long
Michael Long
Pro Se Respondent

Date: June 17, 2024

CERTIFICATE OF SERVICE

I certify that on June 17, 2024, I served the foregoing Opposition upon counsel for
Petitioner by way of email:

J. Chadwick Schnee, Esq.

Schnee Legal Services, LLC

74 E. Main St. #648

Lititz, PA 17543

Via email: chadwick@schneelegal.com

A handwritten signature in black ink, appearing to be 'ML', is written over a horizontal line.

/s/ Michael Long
Michael Long

Date: June 17, 2024

Exhibit

A

BOROUGH OF BATH, Petitioner, v. MICHAEL LONG, Respondent.	: : : : :	IN THE COURT OF COMMON PLEAS NORTHAMPTON COUNTY, PENNSYLVANIA CIVIL DIVISION NO. <u>No. C-48-CV-2023-10559</u>
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ORDER

AND NOW, this ____ day of _____, 2024, upon consideration of the Amended Motion to Dismiss Premature Appeal and Request for Sanctions filed by Respondent Michael Long, it is hereby ORDERED and DECREED that:

1. The Borough of Bath's appeal filed on December 27, 2023, docketed as C-48-CV-2023-10559, is DISMISSED as premature, since the Office of Open Records' reconsideration process was still ongoing, and no final determination was available for appeal at the time the appeal was filed.
2. This Court LACKS JURISDICTION over the Borough of Bath's appeal due to the Borough's failure to file a timely appeal from the Office of Open Records' final determination upon reconsideration issued on January 12, 2024.
3. The Borough of Bath is SANCTIONED in the amount of \$_____ for its repeated procedural missteps that have caused unnecessary delays, expenses, and waste of judicial resources.
4. Such other and further relief as this Court deems just and proper is GRANTED.

BY THE COURT:

J.

Michael Long, Pro Se
220 Creek Road
Bath, Pa 18014
(610)507-3721
Michael.Long479@gmail.com

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BOROUGH OF BATH,		
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v.	:	PENNSYLVANIA
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MICHAEL LONG,	:	CIVIL DIVISION
Respondent.	:	
	:	
	:	NO. <u>No. C-48-CV-2023-10559</u>
	:	

**AMENDED MOTION TO DISMISS PREMATURE APPEAL AND REQUEST
FOR SANCTIONS**

AND NOW, this 17th day of June 2024, comes the Respondent, Michael Long, pro se, and respectfully moves this Honorable Court to dismiss the appeal filed by the Borough of Bath as premature, and in support thereof states as follows:

Procedural History

1. On November 3, 2023, the Office of Open Records (OOR) issued a final determination in Michael Long v. Bath Borough, OOR Dkt. AP 2023-1598.
2. On November 17, 2023, the Borough of Bath filed a request for reconsideration with the OOR.

3. On December 1, 2023, the OOR partially granted and partially denied the reconsideration request.
4. The Borough of Bath filed a second appeal on December 27, 2023, docketed as C-48-CV-2023-10559.
5. On January 12, 2024, the OOR issued a final determination upon reconsideration.
6. On June 9, 2024, Respondent filed a motion to dismiss the Borough's second appeal.

Argument

Partial Denial of Reconsideration is Not an Appealable Order

7. The Borough contends that the partial denial of reconsideration issued on December 1, 2023, constituted an appealable final order. However, pursuant to *Randall A. Bethke v. City of Philadelphia*, 282 A.3d 884 (Pa. Cmwlth. 2022), appeals filed during the pendency of reconsideration are premature and the court lacks jurisdiction to review such appeals.
8. Until the OOR issued its final determination upon reconsideration on January 12, 2024, there was no final appealable order available. The partial denial on December 1, 2023, did not conclude the reconsideration process or constitute a final determination by the OOR.

Premature Filing of Appeals

9. The second appeal filed by the Borough of Bath on December 27, 2023, is premature because it was filed before the issuance of the final determination upon reconsideration by the OOR on January 12, 2024. According to Section 1302(a) of the Right-to-Know Law, appeals must be filed within 30 days of the final determination. Since the final determination was not available at the time of the Borough's filing, the appeal is invalid (*Randall A. Bethke v. City of Philadelphia*, 282 A.3d 884 (Pa. Cmwlth. 2022)).
10. Section 1302(a) of the Right-to-Know Law provides that an appeal of an OOR decision relating to a request made to a local agency shall be filed with the court of common pleas within 30 days of the mailing date of the final determination or the date the request is deemed denied. 65 P.S. § 67.1302(a).
11. As established in *Roger Buehl v. Pennsylvania Department of Corrections*, 198 C.D. 2015, 125 A.3d 882 (Pa. Cmwlth. 2015), the appeal period begins on the date of the final actionable decision. Thus, the Borough's appeal should have been filed within 30 days of the final determination upon reconsideration issued on January 12, 2024.
12. In *Ralph Duquette v. Office of Open Records, et al.*, 84 M.D. 2022, 278 A.3d 1186 (Pa. Cmwlth. 2023), the court emphasized the necessity of exhausting statutory remedies and adhering strictly to procedural timelines. The premature filing of appeals undermines the legal process and should not be entertained.

Jurisdiction and Timing

13. The trial court does not have jurisdiction over an appeal that is not based on a final, actionable decision. Since the OOR had not issued its new final determination at the time of the second appeal, the appeal is invalid. Under Pa.R.A.P. 341(b), a final order is one that disposes of all claims and all parties. The December 1, 2023, partial denial did not meet this criterion as it did not resolve all issues raised in the reconsideration request. The Borough's failure to file a timely appeal from the final determination upon reconsideration issued on January 12, 2024, deprives this court of jurisdiction over the matter. Statutory appeal periods are mandatory and jurisdictional, as affirmed in *Randall A. Bethke v. City of Philadelphia*, 282 A.3d 884 (Pa. Cmwlth. 2022).

14. Under Pa.R.A.P. 341(b), a final order is one that disposes of all claims and all parties. The December 1, 2023, partial denial did not meet this criterion as it did not resolve all issues raised in the reconsideration request.

15. The Borough's failure to file a timely appeal from the final determination upon reconsideration issued on January 12, 2024, deprives this court of jurisdiction over the matter. Statutory appeal periods are mandatory and jurisdictional, as affirmed in *Bethke v. City of Philadelphia*, 282 A.3d 884 (Pa. Cmwlth. 2022).

Request for Sanctions

16. The Borough of Bath's premature filing of the second appeal has caused unnecessary delays and legal expenses, warranting sanctions to prevent such procedural missteps in the future. The imposition of sanctions for such repeated

procedural errors would be consistent with the court's reasoning in *Randall A. Bethke v. City of Philadelphia*, which emphasized the need to deter litigants from flouting procedural rules and filing premature appeals.

17. The procedural errors and premature filings by the Borough have resulted in avoidable litigation and wasted judicial resources, justifying the imposition of sanctions.

Conclusion

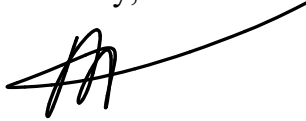
For the reasons stated above, Respondent respectfully requests that this Honorable Court dismiss the second appeal filed by the Borough of Bath as premature and impose appropriate sanctions to prevent future procedural missteps.

WHEREFORE, Respondent Michael Long respectfully requests that this Honorable Court:

1. Dismiss the Borough of Bath's appeal filed on December 27, 2023, as premature, since the OOR's reconsideration process was still ongoing and no final determination was available for appeal;
2. Find that this court lacks jurisdiction over the Borough's appeal due to the Borough's failure to file a timely appeal from the OOR's final determination upon reconsideration issued on January 12, 2024;

3. Impose appropriate sanctions on the Borough for its repeated procedural missteps that have caused unnecessary delays, expenses, and waste of judicial resources;
and
4. Grant such other and further relief as this Court deems just and proper.

Sincerely,

A handwritten signature in black ink, appearing to be 'ML', with a long horizontal stroke extending to the right.

Michael Long
Pro Se Respondent

220 Creek Road
Bath, PA 18014
(610) 507-3721

June 17, 2024

VERIFICATION

I, Michael Long, hereby verify that the statements made in the foregoing
AMENDED MOTION TO DISMISS PREMATURE APPEAL AND REQUEST FOR
SANCTIONS are true and correct to the best of my knowledge, information, and
belief. I understand that false statements herein are made subject to the penalties of
18 Pa. C.S. § 4904, relating to unsworn falsification to authorities.

A handwritten signature in black ink, consisting of a stylized 'M' followed by a long horizontal stroke that extends to the right and then curves upwards.

/s/ Michael Long
Michael Long
Pro Se Respondent

Date: June 17, 2024

CERTIFICATE OF SERVICE

I certify that on June 17, 2024, I served the foregoing Opposition upon counsel for
Petitioner by way of email:

J. Chadwick Schnee, Esq.

Schnee Legal Services, LLC

74 E. Main St. #648

Lititz, PA 17543

Via email: chadwick@schneelegal.com

A handwritten signature in black ink, appearing to be 'ML', is written above a horizontal line.

/s/ Michael Long
Michael Long

Date: June 17, 2024