

YORK COUNTY PROthonotary

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**IN THE COURT OF COMMON PLEAS OF YORK COUNTY, PENNSYLVANIA
CIVIL DIVISION**

DYLAN SEGELBAUM AND THE : **NO.: 2022-SU-000516**
YORK DAILY RECORD :
 :
v. :
 :
YORK COUNTY :

OPINION

This matter comes before the Court on the appeal of York County from the January 31, 2022 Final Determination of the Pennsylvania Office of Open Records. On November 12, 2021, Dylan Segelbaum and The York Daily Record (“Requesters”) submitted a Right to Know request directed to the County of York (“County”) seeking “A copy of the curriculum vitae (CV) for Joseph Garcia, the ‘Senior Team Leader’ of CSAU-1 LLC, a ‘corrections special operations’ organizations based in Greenville, South Carolina.” *See Pet. for Rev. at Ex. “C.”* On December 14, 2021, the County denied the request, stating that no responsive document(s) existed in the custody of the County. On December 22, 2021, Requesters filed an appeal to the Pennsylvania Office of Open Records (“OOR”). On January 20, 2022, OOR issued a Final Determination in which it held the County did not meet its burden to show the requested document did not exist because the County did not participate in the appeal process. *See Pet. for Rev. at Ex. “A.”*

Upon receipt of the OOR’s decision, the County contacted OOR which then vacated its decision and provided the County until January 25, 2022 to provide a response. The County did respond, indicating it did not possess a CV for Joseph Garcia,

put did possess a 128-page document which included 42 photographs, 41 letters of reference, and 42 copies of certificates (127 pages). The 128th page was a cover page titled "Verified CV of STL Garcia." After receiving the County's response, OOR issued a Final Determination dated January 31, 2022.

On March 2, 2022, the 30th day following OOR's Final Determination, the County filed its Petition for Review. After filing the appeal, and during a conference call among a representative from York County Prison, the county solicitor, and Joseph Garcia, it was discovered the County had been emailed a CV for Joseph Garcia, which had been password protected and was, at that time, no longer able to be opened. Mr. Garcia provide the County another copy of his CV. After agreement between the County and Mr. Garcia, a lightly redacted copy of Mr. Garcia's CV was provided to Requestors.

After several mutual requests for continuances, testimony was taken June 3, 2022 from Shawn Rohrbaugh and Joseph Garcia. Mr. Rohrbaugh is an employee of York County at the York County Prison. At the conclusion of the testimony, both the County and Requestors sought the opportunity to file memorandum of law. The County was given 30 days after the filing of the transcript of testimony to file its memorandum, followed by Requestors 30 days later. The parties have both filed their respective memoranda and this matter is now ripe for disposition.

While we sit as an appellate court in Right to Know appeals, our scope of review is *de novo*, and we are permitted to take additional evidence. Further, we sit as the "ultimate finder of fact." *Bowling v. Office of Open Records*, 621 Pa. 133, 173, 75 A.3d 453, 476 (2103).

Here, we dismiss this appeal as moot. Requestors sought Joseph Garcia's curriculum vitae, or CV, and it has been provided to them. Thus, we are not able to grant effective relief to the parties. Requestors, however, argue they are also entitled to the 128-page document because it is entitled "Verified CV of STL Garcia." We disagree.

The Right to Know Law contains several specific definitions to be used within the RTKL. Not surprisingly, among the definitions provided is not one for curriculum vitae. Thus, we are to use the common definition of the word. *See 1 Pa.C.S. § 1903.*

Curriculum vitae means "a short account of one's career and qualifications prepared typically by an applicant for a position." "Curriculum vitae." *Merriam-Webster.com Dictionary*, Merriam-Webster, <https://www.merriam-webster.com/dictionary/curriculum%20vitae>. Accessed 10 Aug. 2022. In the current context, we emphasize the requirement that a CV be "short."

The CV that was provided to Requesters is 8 pages in length, though none of those pages are filled in their entirety. It contained what one would expect from a CV: A summary of his work experience and education, his training credentials, and brief examples of notable work he has performed. In contrast, the 128-page document Requestors seek contains photographs, letters of reference, and training certificates. These are not the types of documents one would expect to see as part of a CV, and 128 pages is certainly not short.

Requestors suggest that because the 128-page document has a title of "Verified CV of STL Garcia," based on that alone we must order it be provided under this request. To do that would require we ignore the substance of the document sought and

look only at its title. If we were to do that, we would ignore the intent of the RTKL by allowing an agency to simply title its records in a way which would circumvent the RTKL. Certainly, Requestors would not advocate that an agency can alter the title of a document in complete disregard of its contents and, thus, successfully skirt the disclosure requirements of the RTKL.

In their respective briefs, the parties spent significant energy arguing as to the whether the 128-page document is subject to disclosure. We need not consider those arguments. Whatever the 128-page document is, it is not a CV. The original request here sought only "the curriculum vitae (CV) for Joseph Garcia." The 128-page document was not sought in the original request under review. Further, there has been no subsequent request for the 128-page document.

To be clear, we are *not* holding the 128-page document should not be disclosed. While this Court has a broad scope of review and our proceeding is *de novo*, we cannot consider the grant of a request that has not been made. Having determined the 128-page document is not a part of Joseph Garcia's CV, and the County having provided Joseph Garcia's CV to Requestors we cannot grant any further relief to Requestors. Thus, we dismiss the instant appeal as moot.

BY THE COURT:


MATTHEW D. MENGES, JUDGE