IN THE COMMONWEALTH COURT OF PENNSYLVANIA

Carlos Ng, Jr.,	:	
Petitioner	:	
	:	
v.	:	
	:	
Department of State (Office of Open Records),	:	No. 1498 C.D. 2025
Respondent	:	Submitted: October 13, 2026

BEFORE: HONORABLE RENÉE COHN JUBELIRER, President Judge
HONORABLE CHRISTINE FIZZANO CANNON, Judge (P.)
HONORABLE BONNIE BRIGANCE LEADBETTER, Senior Judge

OPINION NOT REPORTED

MEMORANDUM OPINION
BY JUDGE FIZZANO CANNON FILED: November 18, 2026

Carlos Ng, Jr. (Petitioner), *pro se*, petitions for review of the October 21, 2025 Final Determination of the Office of Open Records (OOR), which held that the documents requested by Petitioner were not subject to disclosure pursuant to the noncriminal investigatory exemption under the Right-to-Know Law (RTKL).[1] Upon review, we find that Petitioner has waived all issues on appeal as a result of his failure to develop any arguments pursuant to Rule 2119(a) of the Pennsylvania Rules of Appellate Procedure, Pa.R.A.P. 2119(a). Therefore, we affirm the October 21, 2025 Final Determination of the OOR.

I. Background

After Petitioner's father died in a hospital, Petitioner filed a complaint with the Pennsylvania Department of State (Department) against four medical

[1] Act of February 14, 2008, P.L. 6, 65 P.S. §§ 67.101-67.3104.

licensees, whom the Department decided not to prosecute. Certified Record (C.R.) at 9 & 15.[2] On August 29, 2025, Petitioner submitted an RTKL request (Request) to the Department, seeking a "report of [his] father['s] investigation and the medical report from the forensic department['s] findings after reviewing [his] father's medical records." C.R. at 33. The Department partially granted the Request and provided Petitioner with a responsive closing letter regarding Petitioner's medical licensure complaint.[3] *Id.* at 15 & 33. However, the Department withheld responsive records relating to the Department's noncriminal investigation of the complaint pursuant to Section 708(b)(17) of the RTKL.[4] *Id*. at 13; *see also* 65 P.S. § 67.708(b)(17).

Petitioner appealed to the OOR on September 4, 2025, challenging the Department's denial and arguing that the forensic investigatory documents were necessary for Petitioner's administration of his father's estate. C.R. at 8-9. The OOR invited both parties to supplement the record and directed the Department to

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[2] Certified Record citations are to electronic pagination.

[3] The Department redacted personal addresses and email addresses from the closing letter pursuant to Section 708(b)(1)(ii) and 708(b)(6) of the RTKL, 65 P.S. § 67.708(b)(1)(ii) & (b)(6). Petitioner does not challenge these redactions on appeal. C.R. at 9.

[4] In relevant part, Section 708(b)(17) exempts:

> [a] record of an agency relating to a noncriminal investigation, including:
>
> (i) Complaints submitted to an agency.
>
> (ii) Investigative materials, notes, correspondence and reports.
>
> . . . .
>
> (iv) A record that includes information made confidential by law.
>
> . . . .
>
> (vi) A record that, if disclosed, would do any of the following:
>
> (A) Reveal the institution, progress or result of an agency investigation[.]

65 P.S. § 67.708(b)(17).

notify the OOR if any third parties had a direct interest in the appeal. *Id.* at 19. On September 16, 2025, the Department submitted a position statement and two sworn declarations authored by both Janelle Hawthorne, J.D., Agency OOR Officer (Hawthorne), and Shana Walter, Esquire, Deputy Chief Counsel of the Department's Prosecution Division (Walter). *Id.* at 27-34. Hawthorne and Walter each attested that the forensic medical report and related responsive records pertained to a noncriminal investigation and that licensure-related complaints and investigations undertaken by the Department are "confidential and privileged" by law. *Id.*; *see* 63 Pa.C.S. § 3109(a)(1) ("All records under [S]ection 708(b)(17) of the [RTKL], relating to a noncriminal investigation . . . concerning a licensure-related complaint filed with the Department [ ] shall be confidential and privileged."). Petitioner did not submit any additional information for consideration.

On October 21, 2025, the OOR denied Petitioner's appeal, finding that the challenged responsive records were exempt under Section 708(b)(17) of the RTKL, 65 P.S. § 67.708(b)(17). C.R. at 44. Petitioner thereafter filed a timely appeal with this Court.

II. Issues

Before this Court,[5] Petitioner makes several brief assertions regarding the merits of the instant matter in his statement of questions involved and statement of the case, which we reproduce verbatim as follows:

> 1. The Petitioner is just asking for forensic report of my father's records.
> 2. I think there is a possible criminal investigation.

[5] This Court's standard of review under the RTKL is *de novo*, and we may adopt the agency's findings or substitute them with our own. *Bowling v. Off. of Open Recs.*, 75 A.3d 453, 474 (Pa. 2013). Our scope of review is plenary, and we may expand the record through additional hearings or remand. *Id.* at 476.

> 3. If the records was review there's no way they don't see what a certified doctor saw in those records.
> . . . .
> My father's stay on a hospital went wrong after a biopsy I was seeking informations on his issues everywhere , I complaint to the Department of Health , all offices in the Department [ ]. To have a closed and get answer of my father stay in the hospital I open the investigation with the Bureau of Enforcement and Investigation and Prosecuting Division of the Department [ ]. And they send the report to the general counsel, which is keeping the thruth hiding.
> . . . .
> My position on appeal is the same , I need to know what are does finding , I have my ideas.

Petitioner's Br. at 5-6 (verbatim) (headings omitted). These assertions standing alone are insufficient to allow meaningful appellate review, and Petitioner fails to raise or develop any issues in an argument section of his brief. The Department argues that Petitioner waived all issues on appeal by failing to provide any substantive arguments sufficient to permit meaningful appellate review. Department's Br. at 13. Petitioner maintains that he did not waive all issues on appeal because his arguments never changed. Petitioner's Reply Br. at 6.

III. Discussion

Under Rule 2111(a)(8) of the Pennsylvania Rules of Appellate Procedure, an appellate brief must have a separate and distinct argument section. Pa.R.A.P. 2111(a)(8). This argument section "shall be divided into as many parts as there are questions to be argued; and shall have at the head of each part . . . the particular point treated therein, ***followed by such discussion and citation of authorities as are deemed pertinent***." Pa.R.A.P. 2119(a). Where an appellant fails to provide any discussion of a claim with citation to relevant legal authority or fails to develop an issue in "any other meaningful fashion capable of review, that claim is waived." *Commonwealth v. Johnson*, 985 A.2d 915, 924 (Pa. 2009) (holding that

an appellant's single sentence "arguments" failed to provide sufficient discussion and reasoned development of his claims); *see also City of Phila. v. Berman*, 863 A.2d 156, 161 n.11 (Pa. Cmwlth. 2004) (noting that arguments raised in the statement of questions involved section must be developed in the argument portion of a brief to avoid waiver). While courts may liberally construe materials filed by a *pro se* litigant, *pro se* litigants are subject to the same rules of procedure as represented litigants and "a court cannot be expected to become a litigant's counsel or find more in a written *pro se* submission than is fairly conveyed in the [brief]." *Marietta v. Fayette Cnty., Pa.* (Pa. Cmwlth., No. 338 C.D. 2024, filed Dec. 31, 2025) (quoting *Commonwealth v. Blakeney*, 108 A.3d 739, 766 (Pa. 2014)).[6]

Here, Petitioner briefly reiterates his desire to receive his father's forensic medical report and baldly asserts that the Department is "hiding" the truth regarding the circumstances of his father's hospitalization. Petitioner's Br. at 6. However, Petitioner fails to include an argument section in his brief. Instead, Petitioner merely attaches to his brief an alleged doctor's analysis of Petitioner's father's "disastrous medical care" that does not otherwise appear in the record. *Id.* at 9. This Court cannot consider material attached to a brief, as such material is not part of the record before us. *See* Pa.R.A.P. 1921 (providing that the record on appeal consists of "[t]he original papers and exhibits filed in the lower court, paper copies of legal papers filed with the prothonotary by means of electronic filing, the transcript of proceedings, if any, and a certified copy of the docket entries . . ."); *Dep't of Pub. Welfare v. Gant*, 142 A.3d 964, 992 (Pa. Cmwlth. 2016) (explaining that this Court may consider "only those facts that have been duly certified in the record on appeal" and that, "[f]or purposes of appellate review, that which is not part

[6] Under Rule 414(a) of the Commonwealth Court's Internal Operating Procedures, unreported decisions of the Commonwealth Court issued after January 14, 2008, may be cited for their persuasive value. 210 Pa. Code § 69.414(a).

of the certified record does not exist. Documents attached to a brief as an appendix or reproduced record may not be considered by an appellate court when they are not part of the certified record.") (quoting *B.K. v. Dep't of Pub. Welfare*, 36 A.3d 649, 657 (Pa. Cmwlth. 2012) (additional quotation marks omitted)).

Further, Petitioner does not cite to any legal authority or otherwise develop any issues for this Court to review beyond single-sentence accusations in his statement of questions involved and statement of the case. This Court has previously emphasized that it is "neither obliged, nor even particularly equipped, to develop an argument"[7] for a party, particularly where a party's brief "poses a litany of rhetorical and hypothetical questions, along with undeveloped arguments that invite this Court to rule in [his] favor out of sympathy[.]" *Skytop Meadow Cmty. Ass'n*, 177 A.3d at 384; *see also Browne v. Dep't of Transp.*, 843 A.2d 429, 435 (Pa. Cmwlth. 2004) (holding that mere summaries of issues are "insufficient to constitute the type of argument and discussion envisioned in a brief"); *Wert v. Dep't of Transp., Bureau of Driver Licensing*, 821 A.2d 182, 190 (Pa. Cmwlth. 2003) (holding that an argument presented in a conclusory fashion, without explanation, is waived). Because Petitioner failed to sufficiently develop any issues for this Court's appellate review, we are left guessing about the basis of Petitioner's averments. Accordingly, we are constrained to hold that he waived all issues for consideration on appeal.[8] *See Johnson*, 985 A.2d at 924; *Berman*, 863 A.2d at 161 n.11.

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[7] *Skytop Meadow Cmty. Ass'n v. Paige*, 177 A.3d 377, 384 (Pa. Cmwlth. 2017) (quoting *In re S.T.S., Jr.*, 76 A.3d 24, 42 (Pa. Super. 2013)).

[8] Even if Petitioner had not waived all issues for consideration on appeal, we would still affirm the Final Determination of the OOR on the merits. The RTKL expressly exempts the disclosure of records of an agency relating to a noncriminal investigation, including complaints submitted to an agency and investigative materials, notes, correspondence, and reports. 65 P.S. § 67.708(b)(17)(i)-(ii). Further, licensure-related complaints and investigations undertaken by the Department are also specifically "confidential and privileged" by law pursuant to Section

IV. Conclusion

Based on the foregoing discussion, the October 21, 2025 Final Determination of the OOR is affirmed.

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CHRISTINE FIZZANO CANNON, Judge

3109, 63 Pa.C.S. § 3109(a)(1) ("All records under [S]ection 708(b)(17) of the [RTKL], relating to a noncriminal investigation . . . concerning a licensure-related complaint filed with the Department [ ] shall be confidential and privileged."). Here, Petitioner expressly requests investigatory documents in connection with his medical malpractice complaint to support the allegations contained therein. C.R. at 33. However, the Hawthorne and Walter attestations each attest that the responsive forensic medical report and related records pertained to a licensure-related complaint and investigation. *Id.* at 27-34. Because "[t]estimonial affidavits found to be relevant and credible may provide sufficient evidence in support of a claimed exemption," the record supports the OOR's Final Determination that the responsive records were exempt pursuant to the noncriminal investigative exemption, 65 P.S. § 67.708(b)(17). *McGowan v. Pa. Dep't of Env't Prot.*, 103 A.3d 374, 381 (Pa. Cmwlth. 2014) (quoting *Heavens v. Dep't of Env't Prot.*, 65 A.3d 1069, 1073 (Pa. Cmwlth. 2013)).

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O R D E R

AND NOW, this 18th day of November, 2026, the October 21, 2025 Final Determination of the Office of Open Records is AFFIRMED.

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CHRISTINE FIZZANO CANNON, Judge