



COMMONWEALTH OF KENTUCKY  
OFFICE OF THE ATTORNEY GENERAL

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**22-ORD-055**

April 6, 2022

In re: Chris Hawkins/Kentucky State Penitentiary

**Summary:** The Kentucky State Penitentiary (“the Penitentiary”) did not subvert the Open Records Act (“the Act”), within the meaning of KRS 61.880(4), when it was not apparent that the Penitentiary charged more than 10 cents per page for copies of public records.

***Open Records Decision***

On February 15, 2022, inmate Chris Hawkins (“Appellant”) requested a copy of a check dated November 9, 2021, and all nutrition monitoring watch logs from February 10 through 14, 2022. The Penitentiary provided the requested records.<sup>1</sup> This appeal followed.

Under KRS 61.880(4), “[i]f a person feels the intent of [the Act] is being subverted by an agency short of denial of inspection, including but not limited to the imposition of excessive fees, . . . the person may complain in writing to the Attorney General.” Here, the Appellant claims that the Penitentiary improperly charged \$1.90 for 10 pages of records. The Penitentiary, however, states that it provided the Appellant 19 pages of records at 10 cents per page.

Under the Act, a “public agency may prescribe a reasonable fee for making copies of nonexempt public records requested for use for noncommercial purposes.” KRS 61.874(3). The Kentucky Court of Appeals has held that ten cents per page is a reasonable copying charge under the Act.

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<sup>1</sup> The Appellant also made a request for EOR reports for February 10 through 14, 2022, which the Penitentiary denied on the grounds that they do not exist. On appeal, the Appellant does not challenge this denial.

*Friend v. Rees*, 696 S.W.2d 325, 326 (Ky. App. 1985). Here, the only issue is whether the Penitentiary provided the Appellant 10 or 19 pages of records. This Office is unable to resolve factual disputes between a requester and a public agency. *See, e.g.*, 21-ORD-163. Therefore, this Office cannot find that the Penitentiary subverted the intent of the Act within the meaning of KRS 61.880(4).<sup>2</sup>

A party aggrieved by this decision may appeal it by initiating action in the appropriate circuit court pursuant to KRS 61.880(5) and KRS 61.882 within 30 days from the date of this decision. Pursuant to KRS 61.880(3), the Attorney General shall be notified of any action in circuit court, but shall not be named as a party in that action or in any subsequent proceedings. The Attorney General will accept notice of the complaint e-mailed to OAGAppeals@ky.gov.

**Daniel Cameron**  
**Attorney General**

/s/ James M. Herrick

James M. Herrick  
Assistant Attorney General

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Distributed to:

Chris Hawkins, #103061

Peter J. Klear, Esq.

Ms. Courtney Martin

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<sup>2</sup> The Appellant asks this Office to order the Penitentiary to refund both the alleged excess fee and the postage costs the Appellant spent on this appeal. However, this Office has no authority under the Act to compel the Penitentiary to reimburse the Appellant. *See* 21-ORD-152 n.1; 21-ORD-155 n.1.