



COMMONWEALTH OF KENTUCKY
OFFICE OF THE ATTORNEY GENERAL

DANIEL CAMERON
ATTORNEY GENERAL

CAPITOL BUILDING, SUITE 118
700 CAPITAL AVENUE
FRANKFORT, KENTUCKY 40601
(502) 696-5300
FAX: (502) 564-2894

23-ORD-085

April 13, 2023

In re: Carlos Thurman/Green River Correctional Complex

Summary: The Green River Correctional Complex (“the Complex”) did not violate the Open Records Act (“the Act”) when it denied a request for JPay emails exchanged between private parties because such records are not public records.

Open Records Decision

On March 13, 2023, inmate Carlos Thurman (“Appellant”) requested copies of certain messages and attachments sent to the Appellant by two private individuals through the JPay email service. The Complex denied the Appellant’s request on the grounds that “[p]ersonal emails and photos are communications of a purely personal nature unrelated to any governmental function and a copy does not have to be provided.”¹ This appeal followed.

In 20-ORD-109, a courtesy copy of which is enclosed, this Office found that JPay emails exchanged between inmates and private parties generally are not “public records” under KRS 61.870(2). Here, as in 20-ORD-109, there is no indication in the record that the requested emails are “prepared, owned, used, in the possession of or retained by a public agency” within the meaning of KRS 61.870(2). Accordingly, the requested messages and attachments are not public records and the Complex did not violate the Act when it denied the request.²

¹ The Complex cited KRS 61.878(1)(p) in its response. However, the relevant exception under the Act is currently codified at KRS 61.878(1)(r).

² Because the Appellant did not request copies of public records, it is unnecessary to consider the Complex’s alternative argument that the records are exempt under KRS 61.878(1)(r) as “[c]ommunications of a purely personal nature unrelated to any governmental function.”

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 emailed to OAGAppeals@ky.gov.

Daniel Cameron
Attorney General

s/ James M. Herrick
James M. Herrick
Assistant Attorney General

#129

Distribution:

Carlos Thurman, #112192
Edward Baylous, Esq.
Ms. Lydia C. Kendrick
Ms. Ann Smith