



COMMONWEALTH OF KENTUCKY  
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**23-ORD-132**

June 13, 2023

In re: Uriah Pasha/Eastern Kentucky Correctional Complex

**Summary:** The Eastern Kentucky Correctional Complex (“Complex”) violated the Open Records Act (“the Act”) when it did not respond to a request to inspect records within five business days.

***Open Records Decision***

On April 11, 2023, Uriah Pasha (“Appellant”) submitted a request to the Complex for a copy of a list of the songs he had purchased from January 2016 to April 11, 2023, with a music media account, and showing how much each song cost. The Complex stamped the request as received on April 12, 2023, and responded to it on April 24, 2023, stating it “no longer ha[d] access to that system.” This appeal followed.

On appeal, the Appellant states only that he is appealing the Complex’s response “due to the fact [he] received it back May 9, 2023.” This Office interprets that statement as a request to review the timeliness of the Complex’s response. Upon receiving a request to inspect records, a public agency must decide within five business days whether to grant the request, or deny it and explain why. KRS 61.880(1). Or, if responsive records are “in active use, in storage or not otherwise available,” a public agency may delay access to them by stating the earliest date on which they will be available and a detailed explanation of the cause of the delay. KRS 61.872(5).

The Complex carries the burden of justifying its actions. KRS 61.880(2)(c). It explains on appeal that, after an initial search for responsive records was unfruitful, it forwarded the request to an employee of a third-party supplier the Complex contracts with to fulfill consumer orders from inmates. That third-party employee

signed the April 24 response sent to the Appellant, stating she “no longer ha[s] access to that system.” Although the Complex explains its search for records, it has not explained why it failed to issue its written response to the Appellant’s request within five business days of receiving it on April 12, 2023. Thus, the Complex violated the Act when it failed to respond to the Appellant’s request within five business days.<sup>1</sup>

A party aggrieved by this decision may appeal it by initiating an 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/ Zachary M. Zimmerer  
Zachary M. Zimmerer  
Assistant Attorney General

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Distributed to:

Uriah Pasha #092028  
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<sup>1</sup> To the extent the Appellant complains that a non-employee of the Complex issued its official response, the Act requires a public agency’s written response to “be issued by the official custodian *or under his or her authority*.” KRS 61.880(1) (emphasis added). Because the non-employee was acting under the records custodian’s authority, she was authorized to issue the Complex’s response. Whether the Complex or its third-party contractors have access to the music media system, however, is a factual question the Office cannot resolve *See, e.g.*, 23-ORD-050; 22-ORD-010; 19-ORD-083; 03-ORD-061; OAG 89-81. Consequently, this Office is unable to find the Complex violated the Act when it, through its third-party supplier, informed the Appellant it no longer had access to the music media system.