



COMMONWEALTH OF KENTUCKY
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23-ORD-139

June 20, 2023

In re: Eric Hermansen/Justice and Public Safety Cabinet

Summary: The Justice and Public Safety Cabinet (“the Cabinet”) did not violate the Open Records Act (“the Act”) when it denied a request for a record that does not contain a reference to the requesting inmate.

Open Records Decision

Inmate Eric Hermansen (“Appellant”) submitted to the Cabinet a request for the Department of Correction’s “Religion Reference Manual.” The Cabinet denied the request under KRS 61.878(1)(l) and KRS 197.025(2) because the requested record does not specifically reference the Appellant. This appeal followed.

On appeal, the Cabinet reiterates that the requested record does not specifically reference the Appellant. Under KRS 197.025(2), the Department of Corrections, a department within the Cabinet, “shall not be required to comply with a request for any record from any inmate confined in . . . any facility . . . unless the request is for a record which contains a specific reference to that individual.”¹ KRS 197.025(2) is incorporated into the Act through KRS 61.878(1)(l), which exempts from inspection public records “the disclosure of which is prohibited or restricted or otherwise made confidential by enactment of the General Assembly.” This Office has historically interpreted “specific reference” to require a record mention an inmate by name. *See, e.g.*, 22-ORD-119; 22-ORD-087; 17-ORD-119; 09-ORD-057; 03-ORD-150. Specifically, this Office has found a record does not contain a “specific reference” to the requesting inmate under KRS 197.025(2) simply because it

¹ Although KRS 197.025(2) states “the department,” *i.e.*, the Department of Corrections, shall not be required to comply with a request for a record that does not specifically reference the requesting inmate, the Office has previously interpreted the exemption to apply to the Cabinet as well. *See, e.g.*, 12-ORD-129.

is relevant to, pertains to, or personally affects him. *See, e.g.*, 22-ORD-087; 17-ORD-119; 17-ORD-073.

Here, the Cabinet states that “the Religion Reference Manual does not contain a specific reference to [the Appellant].” Thus, under KRS 197.025(2), the Cabinet was not required to provide the Appellant a copy of the manual and it did not violate the Act when it denied his request.

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
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s/ Zachary M. Zimmerer
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Distributed to:

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