



COMMONWEALTH OF KENTUCKY  
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**23-ORD-186**

July 26, 2023

In re: Glenn Odom/Kentucky State Penitentiary

**Summary:** The Office is unable to find that the Kentucky State Penitentiary (the “Penitentiary”) violated the Open Records Act (“the Act”) when it did not respond to a request for records that it did not receive.

***Open Records Decision***

On June 2, 2023, inmate Glenn Odom (“Appellant”) submitted a request to the Penitentiary containing three subparts.<sup>1</sup> On June 16, 2023, having received no response from the Penitentiary, the Appellant initiated this appeal.

If an agency receives a request under the Act, it “shall determine within five (5) [business] days . . . *after the receipt* of any such request whether to comply with the request and shall notify in writing the person making the request, within the five (5) day period, of its decision.” KRS 61.880(1) (emphasis added). Here, the Appellant claims he submitted the request on June 2, 2023, but the Penitentiary never responded to it. However, on appeal, the Penitentiary explains that it did not respond to the Appellant’s request because it never received the request.<sup>2</sup> The Office has

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<sup>1</sup> Specifically, the Appellant requested: (1) “copies of the medical notes by [an employee] proving that she gave [the Appellant] five (5) stitches and a couple of days later she gave [him] four (4) stitches on or around Sep. 1, 2022”; (2) “copies of medical notes entered by [a specific] nurse” on the same dates; and (3) “photos of both incidents taken by” the nurse and officers.

<sup>2</sup> The Penitentiary asserts it received a completely different request from the Appellant dated June 2, 2023. As proof, the Penitentiary provides a copy of that request, which requested copies of reports for “both incidents where [the Appellant] had to receive stitches by [a specific nurse] for” two separate events he experienced on or about a specific date he listed. The Penitentiary further asserts it granted the Appellant’s request and provided both of the requested incident reports to the Appellant.

previously found it is unable to resolve factual disputes between parties, such as whether an agency received a request to inspect records. *See, e.g.*, 22-ORD-216; 22-ORD-148; 22-ORD-125; 22-ORD-100; 22-ORD-051; 21-ORD-163. Accordingly, the Office is unable to find that the Penitentiary violated the Act.

A party aggrieved by this decision may appeal it by initiating an action in the appropriate circuit court under KRS 61.880(5) and KRS 61.882 within 30 days from the date of this decision. Under 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](mailto:OAGAppeals@ky.gov).

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