



COMMONWEALTH OF KENTUCKY
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23-ORD-193

August 1, 2023

In re: Glenn Odom/Kentucky State Penitentiary

Summary: The Office cannot find that the Kentucky State Penitentiary (the “Penitentiary”) violated the Open Records Act (“the Act”) because the Office is unable to resolve the factual dispute as to whether the Penitentiary received the request.

Open Records Decision

On June 16, 2023, inmate Glenn Odom (“Appellant”) submitted the first of three requests to the Penitentiary for records related to various grievances he filed. He submitted his second request on June 20, and his third request on June 21. On June 28, 2023, the Appellant initiated this appeal claiming that the Penitentiary was “refusing to allow” him access to “records pertaining to” him.¹

When 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). Here, the Appellant claims that he submitted three requests to the Penitentiary on June 16, 20, and 21 and that it was “refusing to allow” him access to records. On appeal, the Penitentiary claims it

¹ It is unclear whether the Appellant claims the Penitentiary has failed to respond to his requests, or if he claims his requests were denied. If the Penitentiary issued responses, the Appellant has not provided copies of them. On appeal, the Penitentiary contradicts itself, first by asserting the Office lacks jurisdiction because the Appellant failed to include any of its responses to his requests, and so his appeal is unperfected under KRS 61.880(2)(a). But in the next paragraph of its response on appeal, the Penitentiary also states that “upon further review” it “has not received an open record request from” the Appellant.

“has not received an open record request from” the Appellant. The Appellant replies with an attachment showing the Penitentiary’s response to one of his earlier requests he submitted on June 2, 2023. Despite his claims to the contrary, the Appellant provides no proof that the Penitentiary received his requests dated June 16, 20, or 21. Regardless, the Office cannot resolve conflicting factual narratives, such as whether an agency received a request, in an appeal under KRS 61.880(2)(a). *See, e.g.*, 21-ORD-163. Accordingly, the Office cannot find that the Penitentiary violated the Act because the Office is unable to resolve the factual dispute as to whether the Penitentiary received the request.

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.

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s/ Matthew Ray
Matthew Ray
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Distributed to:

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