



COMMONWEALTH OF KENTUCKY
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23-ORD-264

October 3, 2023

In re: Uriah Pasha/Eastern Kentucky Correctional Complex

Summary: The Eastern Kentucky Correctional Complex (“the Complex”) violated the Open Records Act (“the Act”) when it failed to notify the requester that records did not exist.

Open Records Decision

On August 29, 2023, inmate Uriah Pasha (“Appellant”) requested a “copy of the [d]etainers received from” Jefferson, Carroll, and Oldham Circuit Courts in his criminal cases. In response, the Complex sent the Appellant a copy of his Resident Record Card, which reflected active detainers from those three courts. This appeal followed.

The Appellant states the record he received was not the one he requested. He specifically asked for copies of detainers “received from” the courts. He asserts the courts have not placed detainers on him and claims the Complex is “refusing to admit[] the same.” After receiving the appeal, the Complex issued a supplemental response to the Appellant explaining that “the detainers have not fully been placed” and therefore “they don’t exist.”¹ The Complex stated it had initially provided the Appellant a copy of his Resident Record Card because the card showed there were “active detainers placed on ‘hold,’” even though “the actual detainers did not exist.” Therefore, the Complex “believed” the card was “responsive to [the] request.”

¹ Additionally, the Complex stated it asked the courts about the status of the holds and was advised the holds related to the Appellant’s cases before the Jefferson Circuit Court and the Oldham Circuit Court have “been removed due to the pending charges hav[ing] been dismissed.” However, the hold related to his case before the Carroll Circuit Court “is to stay active as the case is still open,” and “[o]nce the charges have been determined through the Court and if they wish to lodge a detainer on the charges,” the Complex “will be provided a copy of the detainer and [the Appellant] will also receive a copy of the detainer.”

When a public agency receives a request to inspect records, that agency must decide within five business days “whether to comply with the request” and notify the requester “of its decision.” KRS 61.880(1). An agency response denying inspection of public records must “include a statement of the specific exception authorizing the withholding of the record and a brief explanation of how the exception applies to the record withheld.” *Id.* Thus, if the requested records exist and an exception applies to deny inspection, the agency must cite the exception and explain how it applies. Conversely, if the records do not exist, then the agency must affirmatively state they do not exist. *See* 22-ORD-038 (citing *Bowling v. Lexington–Fayette Urb. Cnty. Gov’t*, 172 S.W.3d 333, 341 (Ky. 2005)). By failing to advise the Appellant that the requested detainers did not exist, the Complex violated the Act.²

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/ James M. Herrick
James M. Herrick
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Distributed to:

Uriah Pasha #092028
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Ms. Sara Pittman
Ms. Ann Smith

² The Appellant further argues the Complex should refund the fee he was charged for the record he received because it was not what he requested. However, the Office has no authority under the Act to compel the Complex to reimburse the Appellant. *See, e.g.*, 21-ORD-152 n.1; 21-ORD-155 n.1.