



COMMONWEALTH OF KENTUCKY
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23-ORD-270

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In re: Eric Lloyd Hermansen/Department of Corrections

Summary: The Department of Corrections (“the Department”) did not violate the Open Records Act (“the Act”) when it denied a request for a record that does not contain a specific reference to the requesting inmate.

Open Records Decision

In a written request dated August 21, 2023, and received by the Department on August 30, 2023, inmate Eric Lloyd Hermansen (“Appellant”) requested “a copy of the recent contract entered into between [Kentucky Centralized Inmate Commissary, Inc. (“KCIC”)] and Union Supply Direct and/or any of its subsidiaries to provide commissary canteen and property vendor orders to prisoners in the Kentucky penal system.” In a timely response, the Department denied the request because the contract “does not contain a specific reference to [the Appellant and] is exempt from disclosure to [him] under KRS 61.878(1)(l) and KRS 197.025(2).” This appeal followed.

Under KRS 197.025(2), which is incorporated into the Act by KRS 61.878(1)(l), “the department shall not be required to comply with a request for any record from any inmate confined in a jail or any facility . . . unless the request is for a record which contains a specific reference to that individual.” Here, the Appellant claims “KCIC is not the [Department, but] a separate and distinct state agency.” He therefore argues KRS 197.025(2) should not apply to his request because it was addressed to KCIC. However, the Appellant is incorrect. Under KRS 196.270, KCIC is “established and maintained within the Department of Corrections” and its directors are the commissioner of the Department, “the deputy commissioner of Adult Institutions, the executive director of the Division of Administrative Services, and the wardens of all state and private correctional institutions.” Because KCIC exists “within the

Department,” it is not “separate and distinct” from the Department as the Appellant argues. Thus, a request addressed to KCIC is a request to “the department” within the meaning of KRS 197.025(2). Accordingly, the Department did not violate the Act when it denied the Appellant’s request for a record that does not contain a specific reference to him.

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.

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s/ James M. Herrick
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Distributed to:

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