



## COMMONWEALTH OF KENTUCKY OFFICE OF THE ATTORNEY GENERAL

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24-ORD-059

March 8, 2024

In re: Bradley McMahan/Eastern Kentucky Correctional Complex

**Summary:** The Office cannot find that the Eastern Kentucky Correctional Complex (the “Complex”) violated the Open Records Act (“the Act”) because the Office is unable to resolve the factual dispute between the parties.

### *Open Records Decision*

On January 22, 2024, inmate Bradley McMahan (“Appellant”) submitted a request for a copy of three “legal DVDs that have been labeled with yellow tabs” that are allegedly located in the Complex’s legal library. On February 12, 2024, having received no response from the Complex, the Appellant initiated this appeal.

Under KRS 61.880(1), upon receiving a request for records under the Act, a public agency “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.” Here, the Appellant submitted a records request to the Complex on January 22, 2024, and claims he did not receive a response from the Complex. On appeal, the Complex states it received the Appellant’s request on January 25, 2024, and issued its timely response the same day. As proof, the Complex attaches a copy of the Appellant’s request it received dated January 22 and its response dated January 25.<sup>1</sup>

The Office has previously found it is unable to resolve factual disputes between a requester and a public agency, such as whether a requester received the agency’s response to his or her request. *See, e.g.*, 23-ORD-220. Similarly, here, the Office cannot resolve the factual dispute between the parties as to whether the Appellant

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<sup>1</sup> The Complex denied the Appellant’s request in its January 25 response because it does not possess the records he requested.

received the Complex's response to his request or find that the Complex violated the Act.<sup>2</sup>

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.

**Russell Coleman**  
**Attorney General**

/s/ Matthew Ray  
Matthew Ray  
Assistant Attorney General

#057

Distributed to:

Bradley McMahan #313193  
Michelle Harrison  
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<sup>2</sup> The Complex also states it previously denied an identical request from the Appellant. As proof, the Complex submits a copy of a request dated December 3, 2023, in which the Appellant sought the same records. The Complex also provided a copy of its response, issued three days later, denying the request. The Complex asserts that the Appellant resubmitted the same request in order to extend time in which he has to appeal its denial. Under KRS 197.025(3), "all persons confined in a penal facility shall challenge any denial of an open record [request] with the Attorney General by mailing or otherwise sending the appropriate documents to the Attorney General within twenty (20) days of the denial." However, here, the Appellant claims he did not receive the Complex's response to his request dated January 22, 2024, and only challenges the Complex's alleged failure to respond to that request.