



COMMONWEALTH OF KENTUCKY  
OFFICE OF THE ATTORNEY GENERAL

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24-ORD-082

March 20, 2024

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”) because the Office is unable to resolve the factual dispute between the parties about whether the Penitentiary received a request for records.

***Open Records Decision***

Inmate Glenn Odom (“Appellant”) claims that on February 12, 2024, he submitted a request to the Penitentiary for a copy of “grievance appeal” number 23-06-045-G. On February 22, 2024, claiming to have received no response from the Penitentiary to his request, the Appellant imitated 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 a request to the Penitentiary on February 12, 2024, and that it “is refusing to acknowledge” his request.<sup>1</sup>

On appeal, the Penitentiary explains it did not receive the Appellant’s request. Rather, the Penitentiary asserts that on February 15, 2024, it received a similar request for a copy of “grievance report” number 23-06-045-G and two other grievances. The Penitentiary further asserts it issued a timely response to that request on February 21, 2024. As proof, the Penitentiary provides a copy of the

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<sup>1</sup> The Appellant makes an allegation against the Penitentiary that is unrelated to the Act. The Office is unable to adjudicate such an allegation in the context of an appeal brought under KRS 61.880(2)(a) because the Office only has jurisdiction to determine whether the agency has complied with the Act. *See, e.g.*, 23-ORD-218.

request it received from the Appellant, which is stamped received on February 15, 2024, and its response to that request dated February 21, 2024.<sup>2</sup> To the extent the Appellant claims he never received the Penitentiary's response, this Office has found it cannot resolve factual disputes between the parties to an open records appeal, such as whether the requester actually received the agency's response. *See, e.g.*, 23-ORD-062; 22-ORD-024; 21-ORD-233; 21-ORD-163. Thus, the Office is unable to find that the Penitentiary violated the Act when it did not issue a response to a request that it never received.

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

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Distributed to:

Glenn Odom #219489  
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Ann Smith

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<sup>2</sup> The Penitentiary partially denied that request because the Appellant lacked the funds required for copies of those records. The Penitentiary also partially denied his request under KRS 61.878(1)(i) and (j) because one of the requested grievances "is still in a preliminary phase." Nevertheless, because the Appellant's other request is not the subject of this appeal, the Office lacks jurisdiction to determine whether the Penitentiary's partial denial complied with the Act.