



COMMONWEALTH OF KENTUCKY OFFICE OF THE ATTORNEY GENERAL

RUSSELL COLEMAN
ATTORNEY GENERAL

1024 CAPITAL CENTER DRIVE
SUITE 200
FRANKFORT, KY 40601
(502) 696-5300

24-ORD-194

September 11, 2024

In re: Uriah Pasha/Western Kentucky Correctional Complex

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

Open Records Decision

On June 19, 2024, Uriah Pasha (“Appellant”) submitted a request to the Complex for a “discharge summary” from a certain hospital. The Complex denied the request because the Appellant had not completely filled out his records request. This appeal followed.

Before addressing the merits of the appeal, the Office must assure itself that it has jurisdiction. 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 pursuant to the procedures set out in KRS 61.880(2) before an appeal can be filed in a Circuit Court.” Thus, KRS 197.025(3) requires those “confined in a penal facility” to exhaust their administrative remedies by initiating an appeal with the Office before proceeding with an action in circuit court, and they must exercise that administrative remedy “by mailing or otherwise sending the appropriate documents to the Attorney General within twenty (20) days of the denial.” *Id.* Because an inmate only perfects his or her appeal “by mailing . . . the appropriate documents,” the Office does not consider the date the inmate writes on his or her appeal. *See, e.g.*, 18-ORD-233 (dismissing an untimely appeal based on the postmark of the inmate’s correspondence). Rather, the Office prescreens an inmate’s appeal by reviewing the postmark on the envelope containing it and the date of the public agency’s denial to ensure the inmate mailed the documents within 20 days. *See, e.g.*, 23-ORD-347. Here, the Complex’s denial was dated June 21, 2024, and

the postmark of the Appellant's appeal was June 25, 2024.¹ Accordingly, the Office the Appellant perfected his appeal, within 20 days of the Complex's denial, by mailing "the appropriate documents" four days after the denial.²

On appeal, the Complex maintains that the Appellant did not submit a completed request to it. The Appellant asserts that the missing information was written on the back page of his request. The Office has regularly found that it is unable to resolve factual disputes between the parties about whether requested records should contain additional content. *See, e.g.*, 23-ORD-027; 22-ORD-010; 19-ORD-083; 03-ORD-061; OAG 89-81. Here, the Office cannot resolve the dispute between the parties about the content of the request when it was submitted to the Complex on June 19, 2024. Accordingly, the Office is unable to find that the Complex violated the Act when it denied the Appellant's 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.

Russell Coleman
Attorney General

/s/ Zachary M. Zimmerer
Zachary M. Zimmerer
Assistant Attorney General

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Distributed to:

Uriah M. Pasha #092028
Michelle Harrison
Renee Day
Ann Smith

¹ The envelope containing the appeal was also marked as being received by the Complex's mailroom on June 25, 2024.

² For reasons unknown to the Office, although the Appellant mailed his appeal on June 25, 2024, the appeal was not delivered to the Office until August 13, 2024. Upon receipt, the Office notified the parties of the appeal and that a decision would be rendered on or before September 11, 2024. *See* KRS 61.880(2)(a). The late delivery does not change the date on which the Appellant perfected his appeal.