



COMMONWEALTH OF KENTUCKY OFFICE OF THE ATTORNEY GENERAL

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25-ORD-161

June 20, 2025

In re: Jacob Thompson/University of Louisville

Summary: The University of Louisville (“the University”) did not violate the Open Records Act (“the Act”) when it did not provide records that do not exist.

Open Records Decision

Jacob Thompson (“the Appellant”) submitted a request to the University to inspect “the video of [a] notarized video statement” he had given to a University police sergeant on or about February 27, 2025. In a timely response, the University stated that the video was a body-worn camera recording, which the Appellant was entitled to view on University premises under KRS 61.168(5)(d) because he was “a person or entity that is directly involved in the incident contained in the body-worn camera recording.” The University provided an email address for the Appellant to contact the University police sergeant to make arrangements to view the video. In reply, the Appellant asserted he was not requesting body-worn camera footage, but “internal police station footage” from the security cameras in the conference room where the meeting occurred. The Appellant then met with the police sergeant, who explained he had used his body-worn camera to record the meeting, instead of the conference room’s security cameras, due to a “system-wide problem” with the security cameras on that day.¹ This appeal followed.

On appeal, the Appellant again seeks security camera footage and not the body-worn camera footage. The University reiterates that “there were no recordings from those cameras” and the body-worn camera recording is the only video recording that exists. Once a public agency states affirmatively that a record does not exist, the burden shifts to the requester to present a *prima facie* case that the record does exist. *See Bowling v. Lexington–Fayette Urb. Cnty. Gov’t*, 172 S.W.3d 333, 341 (Ky. 2005). A requester must provide some evidence to support a *prima facie* case that requested

¹ The Appellant documented this explanation in a short piece of video footage he submitted with his appeal.

records exist, such as the existence of a statute or regulation requiring the creation of the requested record, or other factual support for the existence of the records. *See, e.g., 21-ORD-177; 11-ORD-074.* A requester's bare assertion that certain records should exist is insufficient to establish a *prima facie* case that the records actually do exist. *See, e.g., 22-ORD-040.* Here, the Appellant alleges the security cameras were taken offline "intentionally," either by the University or by a private corporation.² However, he provides no evidence that recordings from those cameras actually exist. Because the Appellant has not established a *prima facie* case that the requested records exist, the Office cannot find that the University violated the Act.

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.

Russell Coleman
Attorney General

/s/ James M. Herrick
James M. Herrick
Assistant Attorney General

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Distributed to:

Mr. Jacob Ryan Thompson
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² The University, for its part, denies these allegations. However, the cause of the system outage is not germane to the issue of whether the University violated the Act.