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25-ORD-239

August 29, 2025

In re: Michael Padgett/Kentucky State Penitentiary

Summary: The Kentucky State Penitentiary (“the Penitentiary”) did not violate the Open Records Act (“the Act”), when it partially denied the Appellant’s request for records that are exempt from disclosure under federal law.

Open Records Decision

Inmate Michael Padgett (“Appellant”) submitted a request to the Penitentiary for a copy of “the incident report filed by all officers involved in” an October 29, 2024, “incident” at the Eastern Kentucky Correctional Complex (“the Complex”) and a copy of “pictures of bruises, scratches, and abrasions” taken by the Complex’s security officers. The Appellant also requested a copy of the “IRT” of the same incident.¹ In a timely response, the Penitentiary denied the Appellant’s request because “[r]ecords pertaining to PREA complaints and investigations are confidential and exempt from disclosure pursuant to KRS 61.878(1)(k), 28 CFR 115.61(b), 501 KAR 6:020, & CPP 14.7(II)(J).” This appeal followed.

Under 28 C.F.R. § 115.61(b), a federal regulation incorporated into the Act by KRS 61.878(1)(k), “[a]part from reporting to designated supervisors or officials, staff shall not reveal any information related to a sexual abuse report to anyone other than

¹ The Appellant also requested copies of three other categories of records: (1) “Protective Custody hearing records” from September 2024, including any denials; (2) “PC Appeal on 9/9/2024” and the denial issued on September 15, 2024; and (3) “all letters [written] to” a specific person during September and October 2024. The Penitentiary granted the request for the first category and provided responsive records. The Penitentiary denied the requests for the second and third categories because the Penitentiary does not possess any responsive records. The Penitentiary also provided the contact information for the Complex, which the Penitentiary believes possesses the requested records. The Appellant did not challenge the Penitentiary’s response to any of these requested categories of records and they are not in issue in this appeal.

to the extent necessary, as specified in agency policy, to make treatment, investigation, and other security and management decisions.” Under 28 C.F.R. § 115.73, the complaining inmate has the right to be informed “as to whether the allegation has been determined to be substantiated, unsubstantiated, or unfounded.”

Here, because the Appellant claims he is the complainant in the investigation related to the requested records, 28 C.F.R. § 115.61(b) gives him the right to be informed as to the determination of the investigation.² However, 28 C.F.R. § 115.61(b) does not give the complaining inmate a “right to obtain copies of records relating to the allegation.” 23-ORD-252; 18-ORD-206. Accordingly, the Penitentiary did not violate the Act when it partially denied the Appellant’s request for records that are exempt from disclosure under 28 C.F.R. § 115.61(b).

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

#370

Distributed to:

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² On appeal, the Penitentiary states it informed the Appellant of the determination of the investigation into the allegations.