



COMMONWEALTH OF KENTUCKY OFFICE OF THE ATTORNEY GENERAL

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25-ORD-242

September 3, 2025

In re: Charles Stanfill/Kentucky State Penitentiary

Summary: The Kentucky State Penitentiary (“the Penitentiary”) did not violate the Open Records Act (“the Act”) when it did not provide a grievance it does not possess.

Open Records Decision

Inmate Charles Stanfill (“the Appellant”) submitted a request to the Penitentiary seeking “a copy of the grievance [he] filed” on July 16, 2025. In response, the Penitentiary denied the request under KRS 61.878(1)(i) and (j), explaining that the Penitentiary’s grievance coordinator had not yet responded to the Appellant’s grievance.

On appeal, the Penitentiary now states that it does not possess a copy of the Appellant’s July 16, 2025, grievance.¹ Once a public agency states affirmatively that a record does not exist, the burden shifts to the requester to make a *prima facie* case that the requested record does or should exist. *See Bowling v. Lexington–Fayette Urb. Cnty. Gov’t*, 172 S.W.3d 333, 341 (Ky. 2005). If the requester makes a *prima facie* case that the records do or should exist, then the public agency “may also be called upon to prove that its search was adequate.” *City of Fort Thomas v. Cincinnati Enquirer*, 406 S.W.3d 842, 848 n.3 (Ky. 2013) (citing *Bowling*, 172 S.W.3d at 341).

Here, the Appellant has not made a *prima facie* case that the Penitentiary possesses his July 16, 2025, grievance. Accordingly, the Penitentiary did not violate the Act when it did not provide it.

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

¹ Rather, the Penitentiary explains that it possesses a grievance submitted in April, which is, therefore, not responsive to the Appellant’s request.

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

#381

Distributed to:

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