



COMMONWEALTH OF KENTUCKY
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20-ORD-145

September 2, 2020

In re: Leon Hibbard/Luther Luckett Correctional Complex

Summary: Luther Luckett Correctional Complex (“Complex”) did not violate the Open Records Act (“the Act”) by not providing an inmate copies of photographs that posed a security risk under KRS 197.025(1).

Open Records Decision

On July 21, 2020, inmate Leon Hibbard (“Appellant”) requested copies of certain e-mails and attached photographs sent to him between September 1, 2018, and May 21, 2020. The Complex initially denied the request under KRS 61.878(1)(p). However, after Appellant filed this appeal, the Complex agreed to provide him the e-mails, but withheld certain photographs under KRS 197.025(1) as a threat to institutional security. The Complex explained that photographs of an inmate pose a security risk because they can be used to create false identification and facilitate escape.

KRS 197.025(1) provides:

KRS 61.870 to 61.884 to the contrary notwithstanding, no person shall have access to any records if the disclosure is deemed by the commissioner of the department or his designee to constitute a threat to the security of the inmate, any other inmate, correctional staff, the institution, or any other person.

KRS 197.025(1) grants the commissioner of the Department of Corrections broad discretion to determine which records constitute a security threat to correctional institutions. The Complex has articulated a credible basis for its reliance on KRS 197.025(1), and this Office has previously upheld denials of copies of inmates' facial photographs on that basis. *See* 19-ORD-172; 16-ORD-267.

Accordingly, the Complex did not violate the Act by withholding the photographs it deemed a security risk. This appeal is moot as to the remaining records, as the Complex has made them available to Appellant. 40 KAR 1:030 § 6.

A party aggrieved by this decision may appeal it by initiating action in the appropriate circuit court pursuant to KRS 61.880(5) and KRS 61.882. 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.

Daniel Cameron
Attorney General

/s/ James M. Herrick

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Distributed to:

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