



COMMONWEALTH OF KENTUCKY  
OFFICE OF THE ATTORNEY GENERAL

DANIEL CAMERON  
ATTORNEY GENERAL

CAPITOL BUILDING, SUITE 118  
700 CAPITAL AVENUE  
FRANKFORT, KENTUCKY 40601  
(502) 696-5300  
FAX: (502) 564-2894

**20-ORD-157**

September 30, 2020

In re: Michael Mobley/Department of Corrections

**Summary:** The Department of Corrections, Division of Probation and Parole (“Division”), did not violate the Open Records Act (“the Act”) because it did not receive the request Appellant claimed he sent. Regardless, custody time credit records prepared by probation and parole officers are exempt from the Act under KRS 439.510.

***Open Records Decision***

On June 11, 2020, inmate Michael Mobley (“Appellant”) requested a copy of “all jail time credit from 5/10/2018 until 1/13/2020.” On the request form, Appellant identified “Fayette Co. Probation and Parole Authority” as the agency from which he sought records. However, there is no address on the request, and this Office is unable to determine where Appellant mailed the request. Appellant initiated this appeal after receiving no response. This Office issued a notice of appeal to the Department of Corrections (“Department”) for a response.

In response to the appeal, the Department states that none of its divisions received Appellant’s request, either at the central office in Frankfort or at the district office in Lexington. After a search, however, the Division located two responsive custody time credit records prepared by probation and parole officers. The Division asserts that those records are exempt from disclosure under KRS 439.510 and KRS 61.878(1)(l).

KRS 439.510 provides:

All information obtained in the discharge of official duty by any probation or parole officer shall be privileged and shall not be received as evidence in any court. Such information shall not be disclosed directly or indirectly to any person other than the court, board, cabinet, or others entitled under KRS 439.250 to 439.560 to receive such information, unless otherwise ordered by such court, board or cabinet.

KRS 439.510 is incorporated into the Act under KRS 61.878(1)(l). This Office has consistently found that requests to inspect probation and parole records are properly denied under KRS 439.510. *See, e.g.*, 17-ORD-022; 05-ORD-265; 01-ORD-120. Because the Division never received Appellant's request, the Division did not violate the Act. Moreover, the records sought are expressly exempted from the Act.

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

James M. Herrick  
Assistant Attorney General

#286

Distributed to:

Michael Mobley, #300294  
Amy V. Barker, Esq.  
Mr. Todd Gaunce