



COMMONWEALTH OF KENTUCKY  
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**20-ORD-182**

November 19, 2020

In re: Jeffrey Carpenter/Department of Corrections and Kentucky State Penitentiary

*Summary:* Neither the Department of Corrections (“Department”) nor the Kentucky State Penitentiary (“Penitentiary”) violated the Open Records Act (“the Act”) by not providing records to an inmate who had insufficient funds to pay for copies.

*Open Records Decision*

On September 17, 2020, inmate Jeffrey Carpenter (“Appellant”) requested that the Department provide the “price [and] total page count of all records relating to” Appellant. In response, the Department advised Appellant that his request should be directed to the Offender Information Office at the Penitentiary. In a separate request to the Penitentiary on October 2, 2020, Appellant requested copies of certain letters and photographs from his JPay e-mail account. The Penitentiary denied that request pursuant to KRS 61.878(1)(p). This appeal followed.

On appeal, the Department contends that Appellant’s first request fails to “precisely identif[y]” the requested records, as required by KRS 61.872(3)(b), and is unreasonably burdensome under KRS 61.872(6). The Department further observes that Appellant has only two cents in his inmate account, which is insufficient to pay the copying costs for even one page of records. With regard to Appellant’s request to the Penitentiary, the Department likewise points out that

Appellant cannot pay for the requested copies because of this insufficiency of funds.

The Act provides that “[w]hen copies are requested, the custodian may require . . . advance payment of the prescribed fee[.]” KRS 61.874(1). Furthermore, Kentucky courts have held that correctional facilities may charge inmates reasonable copying costs in providing copies of records under the Act. *See Friend v. Rees*, 696 S.W.2d 325, 326 (Ky. App. 1985). Because Appellant had insufficient funds to pay for the requested copies, the Department and the Penitentiary did not violate the Act by failing to fulfill the requests.<sup>1</sup>

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 proceeding.

Daniel Cameron  
Attorney General

/s/ James M. Herrick

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Assistant Attorney General

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Distributed to:

Jeffrey Carpenter, #095017

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<sup>1</sup> Accordingly, it is not necessary to decide whether Appellant’s request to the Department failed to precisely describe the records under KRS 61.872(3)(b) or posed an unreasonable burden under KRS 61.872(6).