



COMMONWEALTH OF KENTUCKY
OFFICE OF THE ATTORNEY GENERAL

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21-ORD-005

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In re: William Aucott/Kentucky State Penitentiary

Summary: The Kentucky State Penitentiary (“Penitentiary”) 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 November 9, 2020, inmate William Aucott (“Appellant”) requested from the Penitentiary copies of certain photographs taken of him on June 27, 2020 after an altercation with another inmate. The Penitentiary allowed Appellant to view the photographs on November 10, 2020, but relied on KRS 197.025(1) and KRS 61.878(1)(l) to deny Appellant’s request for copies of the photographs as a security risk. The Penitentiary explained that photographs of an inmate pose a security risk because they can be used to create false identification and facilitate escape, theft, or the impersonation of others. Appellant filed this appeal, challenging the Penitentiary’s refusal to provide copies of the photographs.

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 Penitentiary has articulated a credible basis for its reliance on KRS 197.025(1), and this Office has previously upheld the denial of such requests on that basis. *See, e.g.,* 19-ORD-172; 16-ORD-267. Thus, the Penitentiary did not violate the Act by withholding the photographs, the release of which it had deemed a security risk.

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
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/s/Marc Manley
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Distributed to:

William Aucott #132419
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