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21-ORD-008

January 22, 2021

In re: Daniel Keene/Roederer Correctional Complex

Summary: Roederer Correctional Complex (“Complex”) did not violate the Open Records Act (“the Act”) when it denied an inmate’s request for records that did not contain a specific reference to him.

Open Records Decision

On December 8, 2020, inmate Daniel Keene (“Appellant”) requested copies of 57 photographs attached to e-mails sent to him by private individuals through the JPay communication system. In a timely response, the Complex denied Appellant’s request under KRS 61.878(1)(p). This appeal followed.

On appeal, the Complex states that it “mistakenly used an incorrect response due to a communication failure.” Rather than relying on KRS 61.878(1)(p), the Complex asserts that the photographs do not contain a specific reference to the Appellant. For that reason, the Complex argues that it properly denied access to the photographs under KRS 197.025(2).

Under KRS 197.025(2), the Center is not “required to comply with a request for any record from any inmate . . . unless the request is for a record which contains a specific reference to that individual.” The Attorney General has consistently recognized that KRS 197.025(2) expressly authorizes correctional facilities to deny an inmate’s request if the records do not contain a specific reference to that inmate.

See, e.g., 20-ORD-130; 10-ORD-216; 08-ORD-008.¹ Accordingly, the Complex did not violate the Act. The request was properly denied because the photographs do not specifically reference the Appellant.

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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¹ Although the Complex has not raised the issue, this Office has previously found that JPay e-mails between inmates and private individuals are not public records unless such e-mails are actually used by the facility. *See* 20-ORD-109.