



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

**21-ORD-022**

February 9, 2021

In re: Brian Queen/Bell County Forestry Camp

**Summary:** Bell County Forestry Camp (“Camp”) 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 30, 2020, inmate Brian Queen (“Appellant”) requested copies of all photographs in his JPay e-mail account. In a timely response, the Camp denied Appellant’s request under KRS 61.878(1)(p) and further stated that JPay, not the Camp, was the custodian of the records. This appeal followed.

On appeal, the Camp abandons its claim that JPay, not the Camp, was the custodian of the records.<sup>1</sup> It also abandoned its reliance on KRS 61.878(1)(p). Instead, the Camp relies on KRS 197.025(2). Under that statute, the Camp 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

---

<sup>1</sup> The Camp’s response that JPay is the custodian of these e-mails may have been inartfully worded, but the Camp was not wholly mistaken in making such claim. This Office has previously found that JPay, Inc., a private company, is the owner or possessor of e-mails between inmates and private individuals. Such e-mails are not public records unless they are actually used by the facility, or otherwise come within the facility’s possession. See 20-ORD-109.

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.

Here, the Camp asserts that only two of the photographs contain a specific “reference” to the Appellant. For that reason, the Camp argues that it properly denied access to the remaining photographs under KRS 197.025(2).<sup>2</sup> This Office agrees. The request was properly denied because the photographs do not specifically reference the Appellant. Accordingly, the Camp did not violate 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

#11

Distributed to:

Brian Queen, #268479  
Amy V. Barker, Esq.  
Mr. Paul Powers

---

<sup>2</sup> The Camp has agreed to provide the Appellant copies of the two photographs in which he appears upon payment of copying costs. Accordingly, this appeal is moot as to those two photographs.