



COMMONWEALTH OF KENTUCKY
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21-ORD-121

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In re: Jeremy Henley/Kentucky State Penitentiary

Summary: The Kentucky State Penitentiary (the “Penitentiary”) did not violate the Open Records Act (“the Act”) when it provided records it deemed responsive to an open records request, when it denied a request for information, or when it was unable to produce records that did not exist in its possession.

Open Records Decision

Inmate Jeremy Henley (“Appellant”) submitted a request for copies of various records from the Penitentiary. The Penitentiary provided records responsive to all but the second part of the Appellant’s request, in which he requested the name of the financial institution involved in handling inmates’ accounts. The Penitentiary denied this portion of the request as a request for information, rather than a request to inspect records. The Appellant appealed, alleging that the Penitentiary failed to provide copies of all documents responsive to various parts of his request.

First, the Appellant claims that he was denied “receipts of all available funds” in his account. The Appellant did not originally request copies of “receipts of all available funds” in his account. Instead, the Appellant’s original request was for “all account transaction history,” and the Penitentiary provided in excess of 100 pages of records in response to this request. Because the Penitentiary provided all records it deemed responsive to Appellant’s original request, the Penitentiary did not violate the Act.

Second, the Appellant claims that he was not provided “each and every individualized monthly statement of monetary transaction” from 2015 to the date of the request. However, Appellant’s original request does not mention “monthly statements.” He simply requested “account transaction history,” which was provided to him. Therefore, the Penitentiary did not violate the Act in not providing Appellant with such monthly statements.

Third, the Appellant claims that the Penitentiary failed to provide a receipt for a \$30.00 deduction from his account, and that the Penitentiary failed to provide Appellant with a copy of the back of a United States Treasury check deposited into his account. On appeal, the Penitentiary acknowledges that it inadvertently omitted the receipt due to a “computer glitch.” It also acknowledged that it provided the Appellant with a copy of the front of the Treasury check, but not the back. Both records have now been provided to the Appellant, and therefore, his claims regarding these records are moot. 40 KAR 1:030 § 6.

Fourth, the Appellant claims that the Penitentiary was incorrect in denying his request for the name of the financial institution or bank administering his inmate account. But such a request is one seeking information, as opposed to identifiable public records, and this Office has consistently held that the Act does not require public agencies to produce records in response to requests for information. *See Dept. of Revenue v. Eifler*, 436 S.W.3d 530, 534 (Ky. App. 2013) (“The ORA does not dictate that public agencies must gather and supply information not regularly kept as part of its records.”); 21-ORD-108; 21-ORD-075; 20-ORD-098; 16-ORD-236; 05-ORD-230; OAG 76-375. Therefore, the Penitentiary did not violate the Act in refusing to provide Appellant with information on the financial institution holding his account.

Finally, the Appellant claims that the Penitentiary failed to provide a copy of the Penitentiary’s “deduction policy or intercept rule,” or various records that would allegedly show that he had been charged for legal research materials. However, such items were not requested by the Appellant in his original request. Therefore, the Penitentiary did not violate the Act when it did not provide such records to 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/Marc Manley
Marc Manley
Assistant Attorney General

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Distributed to:

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