



COMMONWEALTH OF KENTUCKY  
OFFICE OF THE ATTORNEY GENERAL

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**21-ORD-152**

August 20, 2021

In re: Christopher Hawkins/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.

***Open Records Decision***

Inmate Christopher Hawkins (the “Appellant”) submitted a request for copies of “all notes in [his] mental health records related to [a specific diagnosis] assessment dated 5/27/21 and after.” The Penitentiary provided records it deemed responsive. The Appellant appealed, alleging the Penitentiary provided unresponsive records (for which the Appellant was charged) and failed to provide all records responsive to the Appellant’s request.

In response to the Appellant’s request, the Penitentiary provided to the Appellant records totaling twenty-two pages, some of which the Appellant claims are unresponsive to his request. The records relate to two “Health Services Encounter[s],” and each encounter consists of eleven pages. The records include medical information about the Appellant, the notes of the treating medical professional, check lists that note various aspects of the Appellant’s demeanor during the encounter, and lists of the Appellant’s medications. It is clear from these records that the Penitentiary provided the complete documentation of two mental health assessments that occurred after May 27, 2021.

The Appellant claims that he sought only “notes” related to his diagnosis, and not records related to his prescription medications or other records contained within the “Health Service Encounter.” He therefore argues that these additional pages were unresponsive to his request. However, there is no basis to conclude that the Penitentiary intentionally provided unresponsive documents for some malicious reason, as the Appellant alleges. A reasonable person could conclude that all of the records contained within the Health Service Encounter contained important medical information on which the medical professional relied to provide a diagnosis and treatment to the Appellant. The Appellant sought mental health records related to his diagnosis, and that is what he received. Therefore, the Penitentiary did not violate the Act.<sup>1</sup>

The Appellant also claims that the Penitentiary failed to provide all records responsive to the Appellant’s request. On appeal, however, the Penitentiary explains that those records did not exist at the time of the Appellant’s request. Those records do exist now, and the Penitentiary has provided them to the Appellant. Therefore, the appellant’s claims related to these records are now moot. 40 KAR 1:030 § 6.

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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<sup>1</sup> The Appellant claims that the inclusion of unresponsive records resulted in him paying additional fees that he should not have been required to pay. Even if this Office were to agree with the Appellant that the Penitentiary provided unresponsive records, there is no authority under the Act for this Office to compel the Penitentiary to reimburse the Appellant.

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Distributed to:

Chris Hawkins #103061

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