



COMMONWEALTH OF KENTUCKY
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21-ORD-209

November 2, 2021

In re: Glenn Odom/Kentucky State Reformatory

Summary: The Kentucky State Reformatory (the “Reformatory”) did not subvert the intent of the Open Records Act (“the Act”), within the meaning of KRS 61.880(4), when it did not charge a fee for postage in excess of its actual costs.

Open Records Decision

On September 6, 2021, inmate Glenn Odom (“Appellant”) requested a copy of his incoming legal mail logs from the Reformatory during October through December 2020.¹ The Reformatory assessed a cost of 60 cents for six pages and \$1.36 for postage. This appeal followed.

The Appellant claims that he was overcharged for postage. Under KRS 61.880(4), a person requesting records may appeal to the Attorney General if he believes “the intent of [the Act] is being subverted by an agency short of denial of inspection, including but not limited to the imposition of excessive fees.” The Act provides that a “public agency may prescribe a reasonable fee for making copies of nonexempt public records requested for use for noncommercial purposes which shall not exceed the actual cost of reproduction, including the costs of the media and any mechanical processing cost incurred by the public agency, but not including the cost of staff required.” KRS 61.874(3). “When copies are requested, the custodian may require . . . advance payment of the prescribed fee, including postage where appropriate.” KRS 61.874(1). Thus, a public agency may require payment of postage, provided it does not exceed the agency’s actual costs. *See, e.g.*, 16-ORD-024.

¹ The Appellant is currently in custody at a different facility, Kentucky State Penitentiary.

On appeal, the Reformatory has provided evidence that \$1.36 was the exact postage cost to send the Appellant six pages by first-class mail. The Appellant has offered no evidence to the contrary.² Accordingly, because the Reformatory did not charge the Appellant an excessive fee, it did not subvert the intent of 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 proceeding.

Daniel Cameron
Attorney General

/s/ James M. Herrick

James M. Herrick
Assistant Attorney General

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Distributed to:

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² Although the Appellant attaches a photocopy of an envelope metered with 53 cents postage, he does not allege that it is the envelope in which the Reformatory mailed the records in question.