



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-252

December 15, 2021

In re: Roy Sanders/Eastern Kentucky Correctional Complex

Summary: The Eastern Kentucky Correctional Complex (“the Complex”) did not violate the Open Records Act (“the Act”) when it denied an inmate’s request for a record that does not contain a specific reference to him. However, the Complex violated the Act when it failed to explain how an exception to the Act applied to a particular record.

Open Records Decision

On October 29, 2021, inmate Roy Sanders (“Appellant”) requested to inspect documents “relating to [his] conviction for escape as a violent offense and/or any documentation relating to the denial of [his] work-time credits due to allegedly having a violent escape conviction.” The Complex denied the request on the grounds that the Appellant was “requesting information” and was not requesting records that contained “a specific reference to [him].” In an attached memorandum, the Complex cited KRS 61.872(3)(b), but did not cite an exception to the Act under KRS 61.878(1). This appeal followed.

When a public agency denies inspection of public records, it must “include a statement of the specific exception authorizing the withholding of the record and a brief explanation of how the exception applies to the record withheld.” KRS 61.880(1). The agency must “provide particular and detailed information,” not merely a “limited and perfunctory response.” *Edmondson v. Alig*, 926 S.W.2d 856, 858 (Ky. 1996). “The agency’s explanation must be detailed enough to permit [a reviewing] court to assess its claim and the opposing party to challenge it.” *Kentucky New Era, Inc. v. City of Hopkinsville*, 415 S.W.3d 76, 81 (Ky. 2013). Here, the Complex apparently intended to rely upon KRS 197.025(2), which provides that no inmate is entitled to a record

unless it “contains a specific reference to” the requesting inmate. As an enactment of the General Assembly, KRS 197.025(2) is incorporated into the Act under KRS 61.878(1)(l). However, the Complex did not cite either of these provisions or explain how they applied to the specific record withheld. Thus, the Complex violated the Act.

On appeal, the Complex no longer claims that the Appellant’s request was a request for information. However, the Complex explains that the only record responsive to the Appellant’s request is KRS 197.047, which is not a record but a statute that prescribes the method for computation of sentence credit by the Department of Corrections.¹ Because that statute does not contain a specific reference to the Appellant, the Complex did not violate the Act when it denied the Appellant’s request under KRS 197.025(2).

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 within 30 days from the date of this decision. 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. The Attorney General will accept notice of the complaint e-mailed to OAGAppeals@ky.gov.

Daniel Cameron
Attorney General

/s/ James M. Herrick

James M. Herrick
Assistant Attorney General

#378

Distributed to:

Roy Sanders, #222211
Amy V. Barker, Esq.
Ms. Debbie Parker

¹ Under KRS 197.047(6)(c), “[t]he sentence credit provisions of this section shall not apply to a prisoner who is serving a [s]entence for escape or attempted escape[.]”