



COMMONWEALTH OF KENTUCKY  
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**21-ORD-261**

December 21, 2021

In re: Terry Burchett/Eastern Kentucky Correctional Complex

**Summary:** The Eastern Kentucky Correctional Complex (“the Complex”) did not violate the Open Records Act (“the Act”) when it denied on-site inspection of records during a public health emergency that has been recognized by the General Assembly.

***Open Records Decision***

On November 12, 2021, inmate Terry Burchett (“Appellant”) requested to inspect his medical records related to his hip surgery. The Complex denied the request on the grounds that “[a]n inmate cannot exercise the right of on-site inspection at public agencies other than the facility in which he is confined.” The Complex indicated that the Appellant could either request copies of the records or “wait until [he was] able to come over to medical too [sic] view [the] records at a later date.” This appeal followed.

The Appellant complains that he was denied on-site inspection of his medical records while inmates “with higher custody ratings” can inspect their medical records in the medical office. On appeal, the Complex explains that the Appellant is housed in the minimum security building, whereas the medical office is located in the medium security building on another part of the campus. Due to current Covid-19 prevention protocols, inmates in one building may only access the other building in cases of emergency or other necessity, and then only when escorted by a staff member. The Complex further states that “due to staff shortage because of Covid-19” no staff members are available to escort the Appellant to the medical office to inspect records.

During the 2021 Extraordinary Session, the General Assembly passed House Joint Resolution 1 (“HJR 1”). In pertinent part, HJR 1 “[e]xtend[s] 2020

RS SB 150, 2020 Ky. Acts ch. 73, until January 15, 2022, to the extent the provisions are not superseded by statute or administrative regulation.” HJR 1 § 2(1)(c). SB 150, originally passed during the 2020 Regular Session, suspended the public’s right to in-person inspection under the Act during the state of emergency. Those provisions remain in effect until January 15, 2022. Thus, under current Kentucky law, the Appellant does not presently have the right to inspect the Complex’s records in person. Accordingly, the Complex did not violate the Act when it denied the Appellant’s request for on-site inspection of his medical records.

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](mailto:OAGAppeals@ky.gov).

**Daniel Cameron**  
**Attorney General**

/s/ James M. Herrick

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