



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

22-ORD-087

May 4, 2022

In re: John Belden/Kentucky State Penitentiary

Summary: The Kentucky State Penitentiary (the “Penitentiary”) did not violate the Open Records Act (“the Act”) when it denied a request for records that did not make a specific reference to the requesting inmate.

Open Records Decision

Inmate John Belden (“Appellant”) submitted a request to the Penitentiary that contained nine subparts. In its response, the Penitentiary provided records responsive to some subparts and denied other subparts. Specific to this appeal is the Penitentiary’s denial of subpart one, in which the Appellant sought to inspect a specific employee’s “emailed and posted memorandum to all supervisors and staff [from] Jan-Feb 2022 on new methods to handle MAS status inmates and constant watch status inmates.” The Penitentiary denied this subpart of the request under KRS 197.025(2) because the records responsive to this subpart of the request do not contain a specific reference to the Appellant.¹ The Appellant then initiated this appeal, and challenges only the Penitentiary’s denial of subpart one of his request.

On appeal, the Penitentiary continues to assert that it is not required to provide any records responsive to subpart one of the request under KRS 197.025(2) because the responsive records do not contain a specific reference to

¹ Although the Appellant refers only to a specific memorandum, the Penitentiary explains that it found multiple records responsive to the request, including emails between employees that discuss the memorandum.

the Appellant. Under KRS 197.025(2), “the department shall not be required to comply with a request for any record from any inmate . . . unless the request is for a record which contains a specific reference to that individual.” KRS 197.025(2) is incorporated into the Act through KRS 61.878(1)(l), which exempts from inspection public records or information “the disclosure of which is prohibited or restricted or otherwise made confidential by enactment of the General Assembly.” This Office has historically interpreted KRS 197.025(2) to permit the denial of an inmate’s inspection of a record that does not specifically reference that inmate by name. *See, e.g.*, 17-ORD-119; 09-ORD-057; 03-ORD-150. This Office has found that a record does not make a specific reference to an inmate merely because the record is relevant to, pertains to, or personally affects the requesting inmate. *See, e.g.*, 17-ORD-119; 17-ORD-073.

Here, the Penitentiary claims that the “records do not mention [the Appellant] by name.” The Appellant does not disagree with this claim, or argue that the records reference him by name. Rather the Appellant argues that, although the records he requested did not reference him by name, the records are “directly related” to him because he “was on the MAS classification” at the time the records were created. Moreover, the Appellant argues that the records directly affect him because he “was in the category of inmates that memo was written for[,] and it applied directly to” him. Although the policy created by the memo and subsequently discussed in emails may generally affect the Appellant to some degree, it is undisputed that the requested records do not specifically mention the Appellant by name. Because the requested records did not contain a specific reference to the Appellant, the Penitentiary was not required to provide him copies under KRS 197.025(2). Thus, the Penitentiary did not violate the Act when it denied the Appellant’s request.

A party aggrieved by this decision may appeal it by initiating action in the appropriate circuit court under KRS 61.880(5) and KRS 61.882 within 30 days from the date of this decision. Under 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 emailed to OAGAppeals@ky.gov.

22-ORD-087

Page 3

Daniel Cameron
Attorney General

/s/Matthew Ray
Matthew Ray
Assistant Attorney General

#122

Distributed to:

John Belden, #248251
Peter J. Klear