



COMMONWEALTH OF KENTUCKY  
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**22-ORD-155**

July 26, 2022

In re: Chris Hawkins/Luther Lockett Correctional Complex

**Summary:** The Luther Lockett Correctional Complex (“the Complex”) did not violate the Open Records Act (“the Act”) when it could not provide a record that does not exist.

***Open Records Decision***

On June 21, 2022, inmate Chris Hawkins (“Appellant”) requested copies of a “transfer Authorization Form originating at [the Complex] during 2022”; case notes from the Complex and the Department of Corrections entered after the Appellant’s arrival at the Complex in 2022; and a conflict resolution form signed by the Appellant. In response, the Complex provided a copy of a transfer authorization form that did not meet the description given by the Appellant. The Complex also provided three pages of case notes, only one page of which was responsive to the request. The Complex denied the Appellant’s request for the conflict resolution form “due to security reasons.” This appeal followed.

The Appellant complains that the Complex failed to provide the correct transfer authorization form and charged him for records that were not responsive to his request. Additionally, the Appellant argues that the Complex’s denial of the conflict resolution form for “security reasons” was incorrect.

On appeal, the Complex has agreed to provide the conflict resolution form to the Appellant. Accordingly, the portion of this appeal relating to that record is moot. 40 KAR 1:030 § 6. With regard to a transfer authorization form originating at the Complex in 2022, the Complex asserts that no such document exists. Once a public agency states affirmatively that a record does not exist, the burden shifts to the requester to present a *prima facie* case that the requested record does exist. See *Bowling v. Lexington-Fayette Urb. Cnty. Gov.*, 172 S.W.3d 333, 341 (Ky. 2005). Here,

the Appellant has stated no factual basis to establish a *prima facie* case that the requested form exists. Thus, the Complex did not violate the Act.<sup>1</sup>

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

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Distributed to:

Chris Hawkins, #103061  
Amy V. Barker, Esq.  
Mr. Christopher Miller

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<sup>1</sup> This Office has no authority under the Act to compel the Complex to reimburse the Appellant for the costs of the nonresponsive records it provided. *See, e.g.,* 21-ORD-152 n.1; 21-ORD-155 n.1. However, the Complex indicates that it has done so. Accordingly, any dispute concerning fees is moot.