



COMMONWEALTH OF KENTUCKY  
OFFICE OF THE ATTORNEY GENERAL

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**22-ORD-193**

September 29, 2022

In re: Darryl Barnes/Roederer Correctional Complex

**Summary:** This Office cannot find that the Roederer Correctional Complex (the “Complex”) violated the Open Records Act (“the Act”) when it failed to respond to a request under the Act that it claims it never received.

***Open Records Decision***

Inmate Darryl Barnes (“Appellant”) claims that on May 6, 2022, he submitted a request to the Complex for a copy of a “theft report and grievance [he] filed” after his property went missing. On July 22, 2022, having received no response from the Complex, the Appellant initiated this appeal.

On appeal, the Complex claims that it “never received” the Appellant’s May 6, 2022 request. The Complex further argues that the Appellant failed to initiate his appeal within the twenty days required by KRS 197.025(3) and is therefore time-barred.

Under KRS 197.025(7), a correctional facility must respond to an inmate’s request to inspect public records within five business days of receipt of the request. Here, the Appellant claims that he submitted a request to inspect records to the Complex on May 6, 2022, but that the Complex did not respond to that request. The Complex explains that it did not respond to the Appellant’s May 6, 2022, request because it claims that it did not receive that request. This Office has consistently found that it is unable to resolve factual disputes between a requester and a public agency, such as whether an agency received a request. *See, e.g., 22-ORD-148, 22-*

ORD-125; 22-ORD-100; 22-ORD-051; 21-ORD-163. Consequently, this Office is unable to find that the Complex violated the Act when it failed to respond to a request that it claims it never received.<sup>1</sup>

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.

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

s/Marc Manley  
Marc Manley  
Assistant Attorney General

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Distributed to:

Darryl Barnes # 300524  
Amy V. Barker  
Sara M. Pittman  
Ann Smith

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<sup>1</sup> Although the Complex claims that the Appellant's appeal is time barred, the Appellant has properly perfected his appeal. Under KRS 197.025(3), "all persons confined in a penal facility shall challenge any denial of an open records request by mailing the Attorney General a copy of the appropriate documents within twenty (20) days of the denial." Neither the Appellant nor the Complex claims the Appellant's request was denied. Rather, the Complex claims to have never received the request and it therefore was unable to issue a denial. And if the Complex did not issue a denial, then the Appellant's twenty-day deadline never began.