



COMMONWEALTH OF KENTUCKY
OFFICE OF THE ATTORNEY GENERAL

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24-ORD-171

July 30, 2024

In re: Eugene Wade/Kentucky State Penitentiary

Summary: The Office cannot find that the Kentucky State Penitentiary (the “Penitentiary”) violated the Open Records Act (“the Act”) because the Office cannot resolve the factual dispute between the parties as to whether the requester received the agency’s response to his request.

Open Records Decision

On June 12, 2024, inmate Eugene Wade (“Appellant”) submitted a request for records to the Penitentiary.¹ On June 23, 2024, claiming he had yet to receive a response from the Penitentiary, the Appellant initiated this appeal.

A public agency has five business days from the receipt of a request for public records made under the Act to fulfill the request or deny it and explain why. KRS 61.880(1). Here, the Appellant submitted his request to the Penitentiary on June 12, 2024, and claims he did not receive a response to it. On appeal, the Penitentiary states it received the Appellant’s request on June 14, 2024, and issued a timely response granting that request on June 18, 2024.² The Office has previously found that it is unable to resolve factual disputes between a requester and a public agency, such as whether a requester received an agency’s response to his request. *See, e.g.*, 23-ORD-220; 21-ORD-233. Similarly, here, the Office cannot resolve the factual dispute between the parties or find that the Penitentiary violated the Act.

¹ The request the Appellant provided to the Office is dated June 10, 2024.

² The Penitentiary’s response states it has provided the Appellant with a “copy of the only existing, responsive records in” its possession. On appeal, the Appellant has not disputed the Penitentiary’s claim that it has provided all responsive records that exist within its possession.

A party aggrieved by this decision may appeal it by initiating an 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.

Russell Coleman
Attorney General

/s/ Matthew Ray
Matthew Ray
Assistant Attorney General

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Distributed to:

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