



COMMONWEALTH OF KENTUCKY
OFFICE OF THE ATTORNEY GENERAL

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24-ORD-185

August 28, 2024

In re: Makeda Charles/Louisville Metro Department of Corrections

Summary: The Louisville Metro Department of Corrections (“the Department”) did not violate the Open Records Act (“the Act”) when it denied a request for records because the requester is not a resident of the Commonwealth.

Open Records Decision

Makeda Charles (“Appellant”) submitted a request to the Department for medical records related to her time as a patient at Central State Hospital.¹ In response, the Department denied the request under KRS 61.872(1) because the Appellant is not a resident of the Commonwealth. This appeal followed.

KRS 61.872(1) states, “All public records shall be open for inspection by any resident of the Commonwealth.” Thus, under KRS 61.872(2)(a), only a “resident of the Commonwealth shall have the right to inspect public records.” The Act provides seven ways in which a person may qualify as a “resident of the Commonwealth.” See KRS 61.870(10). The term includes an individual residing in the Commonwealth, a domestic business entity, a foreign business entity registered with the Secretary of State, a person “that is employed and works at a location or locations within the Commonwealth,” a person or business that owns real property in the Commonwealth, or any person “that has been authorized to act on behalf of” one of these individuals. KRS 61.870(10). A “resident of the Commonwealth” also includes a “newsgathering organization” as defined in KRS 189.635(8)(b)1.a.–e. *Id.* If the requester fails to provide a statement regarding his or her residency qualifications, then the agency’s

¹ Specifically, the Appellant seeks the notes of hospital staff on particular dates, a police report consulted by hospital staff, and any other medication records related to her in the possession of the Department.

records custodian may ask the requester to provide such a statement. KRS 61.872(2)(a).

Here, the Appellant has not provided a statement explaining how she qualifies as a resident of the Commonwealth. Moreover, the Office has previously found that the Appellant is not a resident of the Commonwealth. *See* 24-ORD-135. Accordingly, the Department did not violate the Act by denying the Appellant’s request because she is not a “resident of the Commonwealth” under the Act.²

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/ Zachary M. Zimmerer
Zachary M. Zimmerer
Assistant Attorney General

² The Department claims the Appellant has not perfected her appeal because the request she attached to her appeal was not the request she submitted to the Department. *See* KRS 61.880(2)(a). The Department has provided a copy of the request it received through its online portal. That request contains text identical to the request provided by the Appellant. Moreover, the request provided by the Department appears to include a PDF file with the same name as the PDF file contained in the request the Appellant provided to the Office. The Department claims the copy of the request the Appellant provided to the Office was submitted to the Department a week after her request and purported to be a “substitute version of a HIPAA release.” Ultimately, the Office is unable to resolve factual disputes between a requester and a public agency, including when the Appellant submitted what she claims to be her request. *See, e.g.,* 21-ORD-163. But because the Appellant does not have a right to demand access to public records as a “resident of the Commonwealth” under KRS 61.872(2)(a), it is not necessary for the Office to resolve the factual dispute.

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Distributed to:

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