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24-ORD-204

September 24, 2024

In re: Donald R. Phillips/Lee Adjustment Center

Summary: The Office cannot find that the Lee Adjustment Center (the “Center”) violated the Open Records Act (“the Act”) because the Office cannot resolve the factual dispute between the parties.

Open Records Decision

On August 8, 2024, inmate Donald R. Phillips (“Appellant”) submitted a request to the Center for a “copy of [the Center’s] rules and regulations for obtaining information pursuant to the [Act].” On August 18, 2024, the Appellant initiated this appeal claiming that he had yet to receive any response from the Center.

Under KRS 61.880(1), upon receiving a request for records under the Act, a public agency “shall determine within five (5) [business] days . . . after the receipt of any such request whether to comply with the request and shall notify in writing the person making the request, within the five (5) day period, of its decision.” Here, the Appellant submitted a request to the Center on August 8, 2024, and claims he had not received any response from the Center as of August 18. On appeal, the Center states it received the Appellant’s request on August 8, and issued a response to that request on August 13, 2024.¹ The Office has previously found 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.* Accordingly, the Office cannot find the Center violated the Act because the Office

¹ The Center claims that, in its August 13 response, it denied the Appellant’s request under KRS 197.025(2) because “his name would not be referenced in the records that he requested.” Further, the Center claims that, once it received notice of this appeal, it drafted a new response informing the Appellant that it “does not have facility specific policies and procedures” but it “follows KYDOC policies and procedures” and provided a copy of those policies and procedures.

cannot resolve the factual dispute between the parties as to whether the Appellant received the Center's response to his request.

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
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Distributed to:

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