



COMMONWEALTH OF KENTUCKY  
OFFICE OF THE ATTORNEY GENERAL

RUSSELL COLEMAN  
ATTORNEY GENERAL

1024 CAPITAL CENTER DRIVE  
SUITE 200  
FRANKFORT, KY 40601  
(502) 696-5300

24-ORD-252

November 26, 2024

In re: Uriah M. Pasha/Lee Adjustment Center

**Summary:** The Lee Adjustment Center (the “Center”) violated the Open Records Act (“the Act”) when it failed to cite the specific exception authorizing it to withhold public records. However, the Center did not violate the Act when it could not provide records that it does not possess.

*Open Records Decision*

Inmate Uriah M. Pasha (“Appellant”) submitted a request for “a complete menu of all food items for meals served along with the dietary facts including, but not limited to, serving size, full nutritional values, such as vitamins, minerals, protein, carbohydrates, fiber, and calories.” The Center denied the request because “no menus or recipes are to be given to inmates.” This appeal followed.

Under KRS 61.880(1), “[a]n agency response denying, in whole or in part, inspection of any record shall include a statement of the specific exception authorizing the withholding of the record and a brief explanation of how the exception applies to the record withheld.” Here, the Center denied the Appellant’s request but did not cite any exception authorizing the denial or explain how any specific exception applied to the records it withheld. Accordingly, the Center violated the Act when it failed to cite any “specific exception authorizing the withholding of the record[s].”

On appeal, the Center abandons its initial basis for denial. Instead, the Center now states it does not possess any of the records the Appellant requested.<sup>1</sup> A public

---

<sup>1</sup> The Center explains, on appeal, that the documents the Appellant seeks are in the possession of Aramark and the Department of Corrections Food Services Department and provides contact information for both entities. See KRS 61.872(4) (“If the person to whom the application is directed

agency “is responsible only for those records within its own custody or control.” *City of Fort Thomas v. Cincinnati Enquirer*, 406 S.W.3d 842, 856 (Ky. 2013) (citing *Kissinger v. Reporters Comm. for Freedom of the Press*, 445 U.S. 136 (1980)). Once a public agency states affirmatively that it does not have the requested records within its possession, custody, or control, the burden shifts to the requester to present a *prima facie* case that it does possess such records. *See Bowling v. Lexington–Fayette Urb. Cnty. Gov’t*, 172 S.W.3d 333, 341 (Ky. 2005). Here, the Appellant did not attempt to make such a *prima facie* case. Thus, the Center did not violate the Act when it could not provide records related to food services provided by a contractor.

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

#434

Distributed to:

Uriah M. Pasha #092028  
Kristy Hale  
Daniel Akers  
G. Edward Henry, II

---

does not have custody or control of the public record requested, that person shall notify the applicant and shall furnish the name and location of the official custodian of the agency's public records.”).