



COMMONWEALTH OF KENTUCKY OFFICE OF THE ATTORNEY GENERAL

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24-ORD-263

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In re: Carl Adkins/Kentucky State Penitentiary

Summary: The Kentucky State Penitentiary (“the Penitentiary”) did not violate the Open Records Act (“the Act”) when it denied a request for JPay emails between private parties because such records are not “public records” under KRS 61.870(2).

Open Records Decision

Inmate Carl Adkins (“the Appellant”) submitted a request to the Penitentiary seeking “all copies of instant mail.” The Penitentiary denied the request because “inmate email involving friends, family, or JPay staff are not public records.” This appeal followed.

On appeal, the Penitentiary explains that “instant mail” is provided through JPay. In 20-ORD-109, the Office found JPay emails between inmates and private parties generally are not “public records” under KRS 61.870(2). Here, as in 20-ORD-109, the record does not indicate that the requested records are “prepared, owned, used, in the possession of or retained by a public agency” within the meaning of KRS 61.870(2). Accordingly, the requested emails are not public records, and the Penitentiary did not violate the Act when it denied the request.¹

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.

¹ The Appellant further complains that he has not been given a “tablet” for messaging purposes. That complaint is beyond the scope of this appeal. See KRS 61.880(2)(a) (authorizing the Office to issue “a written decision stating whether the agency violated provisions of KRS 61.870 to 61.884”).

Russell Coleman
Attorney General

/s/ Zachary M. Zimmerer
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