



COMMONWEALTH OF KENTUCKY
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24-ORD-264

December 9, 2024

In re: Delbert Harper/Roederer Correctional Complex

Summary: The Office cannot find the Roederer Correctional Complex (“the Complex”) violated the Open Records Act (“the Act”) because the Office cannot resolve the factual dispute between the parties.

Open Records Decision

On September 16, 2024, Delbert Harper (“Appellant”) submitted a request to the Complex seeking a copy of the “arrival property sheet” from the date he arrived at the Complex. On November 1, 2024, the Appellant initiated this appeal, claiming he had yet to receive a response from the Complex.

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.” KRS 61.880(1).

On appeal, the Complex asserts it issued a timely response to the Appellant’s request. As proof, the Complex provides a copy of the Appellant’s request, stamped “received” on October 28, 2024, and its undated response, which it states was mailed on October 30, 2024. The Office has regularly found it is unable to resolve factual disputes between a requester and an agency, such as whether a requester received an agency’s response to his request. *See, e.g.*, 23-ORD-220; 21-ORD-233. Accordingly, here, the Office cannot resolve the factual dispute between the parties or find that the Complex violated the Act.

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

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Distributed to:

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