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24-ORD-268

December 12, 2024

In re: Christopher Duncan/Kentucky Department of Corrections

Summary: The Kentucky Department of Corrections (the “Department”) did not violate the Open Records Act (“the Act”) when it denied a request for a record that does not specifically reference the requesting inmate or when it denied a request for information.

Open Records Decision

Inmate Christopher Duncan (“Appellant”) submitted a request to the Department of Corrections containing two subparts. First, he requested “a copy of the medical bill” from a specific hospital for “medical services regarding” another inmate. Second, he wanted “to know if the Kentucky Department of Treasury is the insurer of WellPath/CCS, according to the contract” with the Department. The Department denied the first subpart of Appellant’s request under KRS 61.878(1)(l) and KRS 197.025(2) because the record he requested “does not contain a specific reference to” him. The Department denied the second subpart of the Appellant’s request because it “asks for information rather than public records.” This appeal followed.

Regarding subpart one of the request, under KRS 197.025(2), which is incorporated into the Act by KRS 61.878(1)(l), the Department of Corrections, a department within the Justice and Public Safety Cabinet, “shall not be required to comply with a request for any record from any inmate confined in a jail or any facility . . . unless the request is for a record which contains a specific reference to that individual.” The Office has held that the phrase “specific reference to that individual” requires that the record refer to the requesting inmate by name. *See, e.g.*, 23-ORD-347; 17-ORD-073. Specifically, the Office has found a record does not contain a “specific reference” to a requesting inmate under KRS 197.025(2) simply because it is relevant to, pertains to, or personally affects him. *See, e.g.*, 22-ORD-087; 17-ORD-119; 17-ORD-073.

Here, in subpart one of his request, the Appellant requested a copy of another inmate's "medical bill" because he was "charged restitution" related to the "medical services" billed. The Department states that the requested medical bill does not contain a "specific reference" to the Appellant. Thus, the Department, under KRS 197.025(1), was not required to provide the Appellant a copy of the "medical bill" and did not violate the Act when it denied subpart one of the request.

Turning to subpart two of the request, the Act does not require public agencies to fulfill requests for information, but only requests for records. *See* KRS 61.872(2)(a) (a request to inspect records must include, among other things, a description of "the records to be inspected"); *see also Dep't of Revenue v. Eifler*, 436 S.W.3d 530, 534 (Ky. App. 2013) ("The [Act] does not dictate that public agencies must gather and supply information not regularly kept as part of [their] records."). Here, in subpart two of his request, the Appellant requested only "information" regarding "if the Kentucky Department of Treasury is the insurer of WellPath/CCS, according to the contract" with the Department. Thus, subpart two did not describe public records to be inspected. Accordingly, the Department did not violate the Act when it did not provide the requested information. *See, e.g.*, 24-ORD-195.

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
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/s/ Matthew Ray
Matthew Ray
Assistant Attorney General

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Distributed to:

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