
BEFORE THE STATE RECORDS COMMITTEE OF THE
STATE OF UTAH

KARL DEE KAY,

DECISION AND ORDER

Petitioner,

vs.

UTAH DEPARTMENT OF
CORRECTIONS,

Case No. 06-12

Respondent.

By this appeal, Karl Dee Kay seeks access to records including: polygraph, "C" notes, treatment notes, and other private, protected, and controlled records. The State Records Committee, having reviewed the materials submitted by the parties, and having heard oral argument and testimony on December 14, 2006, now issues the following Decision and Order.

STATEMENT OF REASONS FOR DECISION

1. The Government Records Access and Management Act ("GRAMA") specifies that "all records are public unless otherwise expressly provided by statute." Utah Code Ann. § 63-2-201(2). Records that are not public are designated as either "private," "protected," or "controlled." See Utah Code Ann. §§ 63-2-302, -303 and -304. The Department denied Mr. Kay the records he seeks on the grounds that his appeal was not made in a timely manner.

2. The Committee is persuaded that the polygraph records sought by the Petitioner were properly classified as protected pursuant to Utah Code Ann § 63-2-304(9). The Committee is persuaded that the therapy “C” notes and records of Petitioner’s treatment at NUCCC were properly classified as controlled pursuant to Utah Code Ann. § 63-2-303(1) and (2). The Committee is persuaded that the remaining “C” Notes requested were properly classified as private pursuant to Utah Code Ann. § 63-2-302. The Committee is further persuaded that the private records were correctly classified by the department and pursuant to their internal procedures were correctly withheld. The Committee is persuaded that the Petitioner’s appeal was not made in a timely manner. The Committee is persuaded that the Petitioner’s original request was not legally sufficient to release the private records requested. The Committee is persuaded that the Petitioner would not be entitled to obtain the protected, controlled, or private records sought at this time.

3. The Utah Department of Corrections has therefore properly classified the records in question as “private”, “protected” and “controlled” under Utah Code Ann. §§ 63-2-302 and 303(9).

ORDER

THEREFORE, IT IS ORDERED THAT the appeal of Karl Dee Kay is denied. The Department’s determination regarding the classification of these records is affirmed. The Petitioner is encouraged to make a proper request per GRAMA to obtain the records classified as

private.

RIGHT TO APPEAL

Either party may appeal this Decision and Order to the District Court. The petition for review must be filed no later than thirty (30) days after the date of this order. The petition for judicial review must be a complaint. The complaint and the appeals process are governed by the Utah Rules of Civil Procedure and Utah Code Ann. § 63-2-404. The court is required to make its decision de novo. In order to protect its rights on appeal, a party may wish to seek advice from an attorney.¹

Entered this 21st day of December, 2006.

BY THE STATE RECORDS COMMITTEE


Patricia Smith-Mansfield, Chairperson
State Records Committee

¹This notice is required by Utah Code Ann. § 63-2-403(12)(d).

CERTIFICATE OF MAILING

I hereby certify that I mailed a true and correct copy of the foregoing Decision and Order, postage prepaid, this 20th day of December, 2006, to the following:

Karl Dee Kay, #22185
Utah State Prison, Uinta I
P.O. Box 250
Draper, Utah 84020

Edward Kingsford
Utah Department of Corrections
14717 South Minuteman Dr.
Draper, Utah 84020



Susan Mumford
Executive Secretary