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June 13, 2016

Shua Tilahun
SID #15493938
Oregon State Penitentiary
2605 State Street
Salem, OR 97310

Re: Petition for Public Records Disclosure Order
Oregon Department of Corrections
DOJ File No. 291011-GA0082-16

Dear Mr. Tilahun:

This letter is the Attorney General's order on your petition for public records disclosure under the Oregon Public Records Law, ORS 192.410 to 192.505, which we received on June 6, 2016. Your petition asks the Attorney General to order Jeff Premo and the Oregon Department of Corrections (ODOC) to allow you to inspect, or to provide you with copies of, the following records:

1. Transcribed Recording of Case #1501 OSP 0141 OSP 26
2. Memo supplied to the hearings officer by Ann Griffin

We respectfully deny your petition because ODOC has not denied your public records request; rather, your inmate trust account lacks funds sufficient to cover ODOC's cost to provide these records to you.

The Oregon Public Records Law confers a right to access any public record of a public body in Oregon, subject to certain exemptions and limitations. *See* ORS 192.420(1). Any person denied the right to inspect or to receive a copy of any public record of a state agency may petition the Attorney General to review the public record to determine if it may be withheld. ORS 192.450(1). The Attorney General may order a state agency to disclose records only when the agency has denied a request for records. *See id.*

Public bodies are permitted to establish and recover fees reasonably calculated to reimburse them for their actual cost in making public records available, including the time spent by agency staff in locating and reviewing the requested records in order to redact exempt material. *See* ORS 192.440(4)(a). ODOC has established a presumptive fee schedule by rule. OAR 291-037-0020(3).

We have conferred with Marica Ventura in the Office of the Inspector General regarding your public records request. Ms. Ventura explained that on July 17, 2015, the Hearings Administrator forwarded to her your kite requesting "records from case #1501 O.S.P. 0141-OSP26." However, you did not have any funds in your inmate trust account to pay for the requested records. As a result, Ms. Ventura advised you to resubmit your request when you have sufficient funds to pay for the requested copies.[1] At our request, Ms. Ventura checked the current balance in your inmate trust account and has advised us that you still have no funds available to pay for the requested records.

ODOC has not denied your records request by requiring that you have sufficient funds to pay for the request. Because the Attorney General can consider a petition only when an agency has denied a records request, *see* ORS 192.450(1), we respectfully deny your petition as premature.

Sincerely,

Frederick M. Boss
Deputy Attorney General

FMB:nog/DM7447844
c via email only: Elizabeth Craig, ODOC
Jeff Premo, ODOC
Colette Peters, ODOC

[1] Although Ms. Ventura has been unable to locate a copy of her response to you, she has found e-mails that lead her to believe that she did respond to your kite on July 17, 2015.