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September 14, 2021

Martin Allen Johnson
SID #5410056
777 Stanton Blvd
Ontario, OR 97914

Re: Petition for Public Records Disclosure Order
Oregon Department of Corrections
DOJ File No.: 291200-GA0130-21

Dear Mr. Johnson:

This letter is the Attorney General's response to your petition for disclosure under the Oregon Public Records Law, ORS 192.311 to 192.478. Your petition asks the Attorney General to order the Oregon Department of Corrections (DOC) to disclose certain information about three federal lawsuits. For the following reasons, we respectfully dismiss your petition.

The Public Records Law confers the right to inspect public records in Oregon, unless such records are exempt under ORS 192.338, 192.345, or 192.355. ORS 192.314(1). Any person denied the right to inspect or to receive a copy of a public record of a state agency may petition the Attorney General to review the record and determine if it may be withheld. ORS 192.411(1). The agency carries the burden to sustain its actions. ORS 192.411(1).

According to your petition, you requested that DOC disclose the case names, case citations and final orders for cases meeting the following descriptions:

1. Balfour on conditions of confinement;
2. 7th Day Adventist for Kosher meals; and,
3. To require gender reassignment surgery or hormone replacement therapy.

Your request indicated that each of these cases was brought against DOC in the U.S. District Court for the District of Oregon under 42 USC §1983, and that DOC lost each case. You also asked DOC whether it maintains a list of habeas corpus cases that resulted in orders directing DOC to award jail time credit. DOC responded to your request by indicating that it was not the custodian of any responsive records. Your appeal followed.

In response to your petition, we contacted Michelle Dodson, DOC Records Officer. She explained that DOC is not aware of any cases that match the descriptions in your request. She also indicated that DOC does not maintain a list of habeas cases that resulted in jail time credit. Our own research also failed to locate any cases matching your descriptions,[1] and we have no reason to second-guess Ms. Dodson's claim that DOC does not maintain a list of habeas cases. We must therefore dismiss your petition as we cannot order DOC to disclose records that do not exist.

Sincerely,

FREDERICK M. BOSS
Deputy Attorney General

FMB:pjn/
c via e-mail only: Michelle Dodson (DOC)

[1] We did locate one habeas case dealing with a request by a 7th Day Adventist Adult in Custody (AIC) for a Kosher diet. *See McLenithan v. Williams*, Case Number 3:09-cv-0085-AC. However, that case did not result in an adverse court order against DOC. Similarly, we located two cases involving AIC requests for hormone therapy, but neither resulted in a court order against DOC. *See, e.g., McMain v. Peters*, Case Number 2:13-cv-01632-AA (2018); *Stevens v. Williams*, Case Number CV-05-1790-ST (2008).