



COMMONWEALTH OF KENTUCKY  
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**20-ORD-150**

September 16, 2020

In re: Scott Thomas/Cabinet for Health and Family Services

*Summary:* Cabinet for Health and Family Services ("Cabinet") violated the Open Records Act ("the Act") by failing to make final disposition of an open records request within three business days. Under KRS 620.050(11), "[i]dentifying information concerning the individual initiating [a] report" of dependency, neglect, or abuse may not be disclosed except under certain specific circumstances, none of which apply here, and the Cabinet did not violate the Act in making these redactions to records produced.

*Open Records Decision*

On February 14, 2020, Scott Thomas ("Appellant") requested that the Cabinet provide a copy of the records relating to him on file with the Department for Community Based Services for the preceding two years. Having received no response by August 17, 2020, Appellant initiated this appeal.

KRS 61.880(1) requires a public agency to make a disposition of an open records request within three business days.<sup>1</sup> An agency may take longer than three days to produce requested records if the records are "in active use, in storage, or not otherwise available," and if it gives "a detailed explanation of the cause . . . for

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<sup>1</sup> In response to the current coronavirus pandemic, the General Assembly has extended the time for public agencies to respond to ten days. See 2020 Ky. Acts ch. 73 ("SB 150"). SB 150 became law on March 30, 2020. Appellant's request was submitted prior to the enactment of SB 150, and thus the agency was required to respond within three business days.

further delay and the place, time, and earliest date on which the public record[s] will be available for inspection.” KRS 61.872(5). Here, however, the Cabinet issued no written response for over six months. Thus, the Cabinet violated the Act.

Subsequently, the Cabinet provided the requested copies to Appellant, with identifying information for reporting individuals redacted. Under KRS 620.050(11), “[i]dentifying information concerning the individual initiating [a] report” of dependency, neglect, or abuse may not be disclosed except under certain specific circumstances, none of which apply here. Therefore, the Cabinet did not violate the Act by making these redactions.

A party aggrieved by this decision may appeal it by initiating action in the appropriate circuit court pursuant to KRS 61.880(5) and KRS 61.882. Pursuant to 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.

Daniel Cameron  
Attorney General

/s/ James M. Herrick

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Distributed to:

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