



COMMONWEALTH OF KENTUCKY
OFFICE OF THE ATTORNEY GENERAL

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22-ORD-201

October 3, 2022

In re: Kurt Wallace/Jefferson County Judge/Executive

Summary: This Office cannot find that the Jefferson County Judge/Executive's Office ("the Judge/Executive's Office") violated the Open Records Act ("the Act") when it failed to respond to a request under the Act that it claims it never received.

Open Records Decision

Kurt Wallace ("Appellant") claims that on July 22, 2022, he submitted a request to the Judge/Executive's Office for five categories of records.¹ On September 2, 2022, having received no response from the Judge/Executive's Office, the Appellant initiated this appeal.

Under KRS 61.880(1), upon receiving a request for records under the Act, a public agency "shall determine within five (5) [business] days . . . after the receipt of any such request whether to comply with the request and shall notify in writing the person making the request, within the five (5) day period, of its decision." Here, the Appellant claims that he submitted a request for specific records to the Judge/Executive's Office on July 22, 2022, but that it did not respond to that request. On appeal, the Judge/Executive's Office explains it did not respond to the Appellant's request because it claims it did not receive the request.² This Office has consistently

¹ Specifically, he requested a copy of the Judge/Executive's oath of office, various bond records, the Judge/Executive's employment contract, various types of insurance policies, and any records of a petition for redress that existed between July 6 to July 22, 2022.

² The Appellant attempted to email his request to the Judge/Executive's Office using the email address listed on its website: "jeffersoncountyjudge3@gmail.com." This Office attempted to notify the Judge/Executive's Office of this appeal via the same email address. The Judge/Executive's Office states

found that it is unable to resolve factual disputes between a requester and a public agency, such as whether an agency received a request. *See, e.g.*, 22-ORD-148, 22-ORD-125; 22-ORD-100; 22-ORD-051; 21-ORD-163. Consequently, this Office is unable to find that the Judge/Executive's Office violated the Act when it failed to respond to a request that it claims it never received.³

A party aggrieved by this decision may appeal it by initiating 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.

Daniel Cameron
Attorney General

s/Marc Manley
Marc Manley
Assistant Attorney General

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Distributed to:

Kurt Wallace
Alice Lyon
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that, despite its website holding out to the public that this email is the correct email for the Judge/Executive, the Judge/Executive's Office received neither the Appellant's request nor this Office's initial notice of appeal that was sent to that email address.

³ Having now received the Appellant's request, the Judge/Executive's Office claims on appeal to have produced all records responsive to the Appellant's request.