



COMMONWEALTH OF KENTUCKY
OFFICE OF THE ATTORNEY GENERAL

DANIEL CAMERON
ATTORNEY GENERAL

CAPITOL BUILDING, SUITE 118
700 CAPITAL AVENUE
FRANKFORT, KENTUCKY 40601
(502) 696-5300
FAX: (502) 564-2894

23-ORD-046

March 1, 2023

In re: Chris Douglas Hawkins/Kentucky Department of Corrections

Summary: The Kentucky Department of Corrections (“the Department”) did not violate the Open Records Act (“the Act”) when it responded to a request to inspect records within five business days of receiving it.

Open Records Decision

On January 17, 2023, inmate Chris Douglas Hawkins (“Appellant”) submitted a request for records to the Department containing three subparts. On January 30, 2023, having received no response from the Department, the Appellant initiated this appeal.

On appeal, the Department claims it issued a timely response to the Appellant’s request and that the appeal is unperfected because the Appellant did not include a copy of its response. The Department states that it received the Appellant’s request on January 19, 2023 and issued its response on January 26, 2023. As proof, the Department submits copies of the Appellant’s request indicating it was received on January 19, 2023, its response dated January 26, 2023, and an inmate mail log containing the Appellant’s signature documenting he received “legal mail” from the Department on January 30, 2023.

Under KRS 61.880(1), upon receiving a request to inspect 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.” If the agency responds to a request and the requester disputes that response, he can

ask the Office to review the matter by submitting a copy of his original request and the agency's response. KRS 61.880(2)(a). Alternatively, if an agency does not respond within five business days, the requester can ask the Office to review that violation by submitting a copy of the original request. *Id.*

Here, the Appellant complied with KRS 61.880(2)(a) by submitting to this Office a copy of his request to the Department dated January 17, 2023, and stating he did not receive a response to that request.¹ Nevertheless, the Department provides proof on appeal that it mailed its response to the Appellant within five business days of receiving the request. Accordingly, the Department did not violate the Act when it issued a timely response to the Appellant's request.

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/ Matthew Ray
Matthew Ray
Assistant Attorney General

#050

Distributed to:

Chris Hawkins #103061
Amy V. Barker
Lydia C. Kendrick
Ann Smith

¹ It appears likely from this record that the Appellant submitted his appeal on January 30 before he received the Department's response that same day. To the extent the Appellant continues to claim he did not receive the response, the Office cannot resolve that factual dispute. *See, e.g.*, 23-ORD-036; 21-ORD-233.