



COMMONWEALTH OF KENTUCKY  
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**23-ORD-061**

March 16, 2023

In re: Donald R. Phillips/Office of the Secretary of State

**Summary:** The Office of the Secretary of State (“the agency”) did not violate the Open Records Act (“the Act”) when it responded to a request under the Act within five business days of receiving it.

***Open Records Decision***

On January 25, 2023, inmate Donald R. Phillips (“Appellant”) submitted a request for records to the agency for a copy of “[t]he most recent ARP filed pursuant to KRS 275.415(3) for . . . Keefe Commissary Network.” On February 13, 2023, having received no response from the agency, the Appellant initiated this appeal.

On appeal, the agency claims to have issued a timely response to the Appellant’s request. The agency states it received the Appellant’s request on February 8, 2023 and mailed its response on February 13, 2023. As proof, the agency submits a copy of its response dated February 13, 2023.<sup>1</sup>

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

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<sup>1</sup> A copy of the record the Appellant requested was attached to the agency’s timely response.

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 submitted to this Office a copy of his request dated January 25, 2023, and stated he did not receive a response within five business days. Accordingly, he submitted the appropriate documents in compliance with KRS 61.880(2)(a). However, on appeal, the agency provides proof that it mailed its response to the Appellant within five business days of receiving his request. As a result, the agency issued a timely response to the Appellant's request and did not violate the Act.

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](mailto:OAGAppeals@ky.gov).

**Daniel Cameron**  
**Attorney General**

s/ Matthew Ray  
Matthew Ray  
Assistant Attorney General

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Distributed to:

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