



COMMONWEALTH OF KENTUCKY
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23-ORD-147

June 29, 2023

In re: Meg Jamison/Greenup County Clerk

Summary: The Greenup County Clerk (the “Clerk”) violated the Open Records Act (“the Act”) when he failed to respond to a request to inspect records within five business days.

Open Records Decision

On May 22, 2023, Meg Jamison (“Appellant”) emailed two requests to the Clerk to inspect various records relating to the May 2023 primary elections.¹ Having received no response by May 31, 2023, 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.”

After the appeal was initiated, the Appellant again sent a request to the Clerk on June 1, 2023, seeking the same records. The Clerk responded to that request, but has not explained why he failed to respond to the Appellant’s original requests submitted on May 22, 2023. Under KRS 61.880(2)(c), the public agency carries the burden of proof to sustain its actions. Because the Clerk has not provided any reason

¹ Specifically, the Appellant sought video surveillance tapes of the election machines from 6:00 p.m. on May 16, 2023, to 6:00 p.m. on May 17, 2023. The Appellant also sought, “in spreadsheet format (.csv or .xlsx) [the Clerk’s] complete voter sign-in rosters for every precinct, absentee, early, and election day voters from the May 2023 primary.”

for his failure to respond to the Appellant's original requests within five business days, the Clerk violated the Act.²

A party aggrieved by this decision may appeal it by initiating an 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:

Meg Jamison
Andrew Imel

² After the appeal was initiated on June 1, 2023, the Clerk issued a response stating he had received "your" emails on June 1, 2023. It is not clear if the Clerk is claiming to have received the requests for the first time when they were attached to the Office's notice of appeal, or if he is claiming the Appellant submitted renewed requests on June 1, 2023. As is clear from the attachments provided on appeal, the Appellant claims to have submitted her requests on May 22, 2023, and the Clerk has not addressed whether he received those requests. As such, the Clerk has not carried his burden that he complied with KRS 61.880(1) in issuing a timely response to the Appellant's May 22 requests.