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**23-ORD-165**

July 11, 2023

In re: Scott Roberts/Bullitt County Clerk's Office

**Summary:** The Bullitt County Clerk's Office (the "Clerk's Office") violated the Open Records Act ("the Act") when it failed to issue responses to requests within five business days of receiving those requests.

***Open Records Decision***

On May 30, 2023, Scott Roberts ("Appellant") submitted two requests to the Clerk's Office for an electronic copy of records related to the May 2023 primary election. The first request sought "the final signed or most recent unsigned contract and/or purchase agreement with the vendor for e-pollbooks used during" the May 2023 primary election. The second request similarly sought contracts, but related to "the vendor for video surveillance of election machines." On June 12, 2023, having received no response from the Clerk's Office, the Appellant initiated this appeal.

On June 14, 2023, after the appeal was initiated, the Clerk's Office responded to the Appellant and provided several hundred pages of two categories of electronic voting records to the Appellant. The Clerk's Office attempted to make available a third category of records to the Appellant, but the file was too large to send through email.<sup>1</sup>

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<sup>1</sup> The Appellant's two requests were for electronic copies of "the final signed or most recent unsigned contract and/or purchase agreement with the vendor for e-pollbooks used during your May 2023 primary" as well as those same records related to "the vendor for video surveillance of election machines." The records that the Clerk's Office provided appear to be copies of the electronic voter signature rosters, not a "purchase agreement" or "contract," as requested in the Appellant's initial requests. *But see* 23-ORD-152 (in which the Appellant requested copies of the electronic signature

Upon receiving a request to inspect records, a public agency must decide within five business days whether to grant the request, or deny the request and explain why. KRS 61.880(1). A public agency may also delay access to responsive records if such records are “in active use, storage, or not otherwise available.” KRS 61.872(5). A public agency that invokes KRS 61.872(5) to delay access to responsive records must also notify the requester of the earliest date on which the records will be available and provide a detailed explanation for the cause of the delay.

Here, the Clerk’s Office did not grant the request, deny it, or invoke KRS 61.872(5) to delay access to the responsive records. Moreover, the Clerk’s Office did not deny that it received the Appellant’s two requests or claim that it issued a timely response to those requests. Thus, the Clerk’s Office violated the Act when it did not issue timely responses to the Appellant’s requests.

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](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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rolls). But the Appellant does not allege the records he received are not those he requested, or that additional records exist but were not provided.