



COMMONWEALTH OF KENTUCKY
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23-ORD-240

September 12, 2023

In re: James Harrison/Lee County Sheriff's Office

Summary: The Lee County Sheriff's Office (the "Sheriff's Office") violated the Open Records Act ("the Act") when it failed to issue a timely response to a request to inspect records.

Open Records Decision

On July 27, 2023, inmate James Harrison ("Appellant") submitted a request to the Sheriff's Office for records related to an incident that he claims resulted in the seizure of his property in 2017. On August 11, 2023, having received no response from the Sheriff'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 he submitted a request to the Sheriff's Office on July 27, 2023, but it did not respond to his request. On appeal, the Sheriff's Office provides a copy of its response to a different request the Appellant submitted on August 13, 2023, which is not the subject of this appeal. The Sheriff's Office carries the burden of proof in sustaining its action, KRS 61.880(2)(c), but it puts forth no evidence it timely responded to the Appellant's request. Accordingly, the Sheriff's Office violated the Act when it failed to respond to the Appellant's request.

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
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s/ Matthew Ray
Matthew Ray
Assistant Attorney General

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Distributed to:

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