



COMMONWEALTH OF KENTUCKY
OFFICE OF THE ATTORNEY GENERAL

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23-ORD-248

September 15, 2023

In re: Telemachus Harrison/Estill County Judge/Executive's Office

Summary: The Office cannot find that the Estill County Judge/Executive's Office ("the agency") violated the Open Records Act ("the Act") when it did not respond to a request it claims it did not receive.

Open Records Decision

Telemachus Harrison ("Appellant") claims that, on March 31, 2023, he submitted a request for records to the agency.¹ On August 13, 2023, having received no response, 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." The Office has previously found that it is unable to resolve factual disputes between a requester and a public agency, such as, whether a public agency received a request for records. *See, e.g.,* 23-ORD-071.

Here, the Appellant claims he submitted a request to the agency on March 31, 2023, but it did not respond to his request. However, the agency states it did not respond to the Appellant's request because it did not receive it.² As a result, the Office

¹ Specifically, the Appellant requested copies of the City of Irvine Police Department and the Estill County Sheriff's policies and procedures on search and seizure of homes, vehicles, or other property.

² The agency also states it is not the official custodian of the requested records. The agency has instead provided the Appellant the contact information for the City of Irvine Police Department and

cannot find the agency violated the Act because the Office cannot resolve the factual dispute between the parties and therefore, cannot find that the agency violated the Act.

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
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Distributed to:

Telemachus Harrison
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the Estill County Sheriff, and it directed him to submit his request to those agencies. *See* KRS 61.872(4).