



COMMONWEALTH OF KENTUCKY
OFFICE OF THE ATTORNEY GENERAL

DANIEL CAMERON
ATTORNEY GENERAL

CAPITOL BUILDING, SUITE 118
700 CAPITAL AVENUE
FRANKFORT, KENTUCKY 40601
(502) 696-5300
FAX: (502) 564-2894

23-ORD-277

October 19, 2023

In re: John D. Brentlinger/Simpson County Sheriff's Office

Summary: The Office cannot find that the Simpson County Sheriff's Office ("the Sheriff's Office") violated the Open Records Act ("the Act") when it did not respond to a request to inspect records it claims it did not receive.

Open Records Decision

Inmate John D. Brentlinger ("Appellant") claims he submitted a request to the Sheriff's Office on June 16, 2023, to obtain copies of records related to his criminal case.¹ He further claims he has received no response to his request. Accordingly, he initiated this appeal.

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." KRS 61.880(1). On appeal, the Sheriff's Office claims it never received the Appellant's request. Rather, the Sheriff's Office received a request dated June 14, 2023, from a Joel D. Brentlinger seeking the same records, to which it responded by providing copies of the requested records.² The Office has routinely found it is unable to resolve factual disputes between the

¹ Although the Appellant provides a copy of his certified mail receipt, the receipt shows only that the request was mailed on June 20, 2023, not on June 16, 2023, which was the date of the request. The Appellant did not provide the certified mail signature card that recipients must sign on delivery. Accordingly, there is no proof in the record that the Sheriff's Office received the Appellant's request.

² It appears Joel D. Brentlinger may be related to the Appellant. However, the request from Joel D. Brentlinger had a return address located in Tennessee, and the Appellant's return address is a correctional facility in Ohio.

parties to an appeal under KRS 61.880(2)(a), including disputes about whether the public agency received the request. *See, e.g.*, 23-ORD-071; 23-ORD-005; 22-ORD-216; 22-ORD-148; 22-ORD-125; 21-ORD-163. Accordingly, the Office cannot find that the Sherriff's Office violated the Act when it did not respond to a request it claims it did not receive.

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:

John D. Brentlinger # A 724798
Tracy Kent