



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-318

December 5, 2023

In re: Glenn D. Odom/Cabinet for Health and Family Services

Summary: The Office cannot find that the Cabinet for Health and Family Services (“the Cabinet”) violated the Open Records Act (“the Act”) when it did not respond to a request because the Office cannot resolve the factual dispute between the parties as to whether the Cabinet received the request.

Open Records Decision

Inmate Glenn D. Odom (“Appellant”) claims that, on October 10, 2023, he submitted a request to the Cabinet for records related to his “competency evaluation” performed on a specific date. On October 30, 2023, having received no response from the Cabinet, the Appellant 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) (emphasis added). Here, the Appellant claims he submitted a request to the Cabinet on October 10, 2023, but the Cabinet did not respond to his request. On appeal, the Cabinet states it did not respond to the Appellant’s request because it did not receive it.¹ The

¹ The Cabinet claims it received a similar, but different, request from the Appellant on October 25, 2023. That request was dated October 11, 2023. The Cabinet provided the Office a copy of the October 11 request and its response. Here, the Appellant has alleged the Cabinet failed to respond to a request he submitted on October 10, 2023. He has not challenged the Cabinet’s response to the request he submitted on October 11, 2023. Accordingly, review of the Cabinet’s response to the Appellant’s October 11 request is not properly before the Office. See KRS 61.880(2)(a) (requiring a person who

Office has previously found that it is unable to resolve factual disputes, such as whether an agency received a request for records. *See, e.g.*, 23-ORD-303; 23-ORD-005; 22-ORD-216; 22-ORD-148; 22-ORD-125; 22-ORD-100; 22-ORD-051; 21-ORD-163. Similarly, here, the Office is unable to resolve the factual dispute between the parties or find that the Cabinet violated the Act when it did not respond to a request it claims not to have received.

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/ Matthew Ray
Matthew Ray
Assistant Attorney General

#498

Distributed to:

Glenn D. Odom #219489
Elyssa S. Morris
Peyton Sands

disputes an agency's denial of a request to provide both a copy of the request and the agency's response).