



COMMONWEALTH OF KENTUCKY
OFFICE OF THE ATTORNEY GENERAL

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23-ORD-331

December 14, 2023

In re: Ashton McHatton/Henderson Circuit Court Clerk

Summary: The Open Records Act (“the Act”) does not apply to records of the Henderson Circuit Court Clerk (“the Clerk”).

Open Records Decision

On September 1, 2023, Ashton McHatton (“Appellant”) submitted a request¹ to the Clerk for copies of records related to cases in the Henderson Circuit Court. Having not received the records by November 8, 2023, the Appellant initiated this appeal.

Although KRS 61.880(2) charges the Attorney General with the duty to resolve disputes regarding access to public records, the Act is not binding on the judicial branch. *Ex parte Farley*, 570 S.W.2d 617, 624 (Ky. 1978). Because the Act does not apply to court records, the Clerk, who is purportedly the custodian of the requested records, was not required to respond to the request. *See* 98-ORD-6. Accordingly, the Office dismisses the appeal.²

A party aggrieved by this decision may appeal it by initiating an action in the appropriate circuit court pursuant to KRS 61.880(5) and KRS 61.882 within 30 days from the date of this decision. Pursuant to KRS 61.880(3), the Attorney General shall

¹ The Appellant mentions three other requests for records from the Clerk. However, two of those three requests were made by telephone and a copy of the third was not submitted with the appeal. Under KRS 61.880(2)(a), a complaining party must “provide a copy of the written request” to invoke the jurisdiction of the Attorney General.

² The Office notes the Supreme Court of Kentucky has adopted its own policies and procedures for requesting copies of court records from the judicial branch. *See* <https://www.kycourts.gov/Pages/open-records-request.aspx#:~:text=The%20State%20Records%20Center%20stores,and%2For%20Social%20Security%20number.> (last accessed Dec. 14, 2023).

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/ James M. Herrick
James M. Herrick
Assistant Attorney General

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Distributed to:

Ashton N. McHatton
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