



COMMONWEALTH OF KENTUCKY
OFFICE OF THE ATTORNEY GENERAL

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24-ORD-011

January 17, 2024

In re: Michael Conkright/Marshall Circuit Court Clerk

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

Open Records Decision

On December 4, 2023, Michael Conkright (“Appellant”) submitted a request to the Clerk for copies of video recordings from a criminal case. Having not received the records by December 22, 2023, the Appellant initiated this appeal.¹

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 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.

¹ Later that same day, the Clerk notified the Appellant the records were available.

² The Office notes that the Supreme Court of Kentucky has adopted its own policies and procedures for requesting copies of court records from the judicial branch. Information on requesting court records is posted on the Court of Justice website at <https://www.kycourts.gov/Pages/open-records-request.aspx> (last accessed Jan. 17, 2024).

Russell Coleman
Attorney General

/s/ James M. Herrick
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Assistant Attorney General

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Distributed to:

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