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25-ORD-016

January 15, 2025

In re: Nathan Hampton/Department of Fish and Wildlife Resources

Summary: The Department of Fish and Wildlife Resources (“the Department”) did not violate the Open Records Act (“the Act”), when it did not grant a request seeking information without describing public records to be inspected.

Open Records Decision

Nathan Hampton (“Appellant”) submitted a request to the Department asking for “the identity of the man” who visited the Appellant’s home “to receive a complaint of perjury” regarding a Department employee in 2014 and 2015. The Appellant also requested “the identity” of the same Department employee’s “superiors from 2014 to 2016.” In response, the Department stated the Appellant had requested information, not records, but notwithstanding this deficiency, the Department provided the Appellant with the names of the Department employee’s superiors during the requested period. The Department also stated it could not identify the man who visited the Appellant’s home. This appeal followed.

On appeal, the Department maintains the Appellant requested information, not records. The Department is correct. The Appellant requested the identities of certain individuals. His request did not describe public records to be inspected, but rather, sought information. *See, e.g.*, 23-ORD-257 (denying a request for “the full names” of correctional officers on duty at a specific time); 22-ORD-054 (denying a request asking “who ordered” a letter to be written, how much the author was paid, and “why” the letter “was circulated”). The Act does not require public agencies to answer interrogatories or fulfill requests for information. Rather, it only requires public agencies to produce extant public records for inspection. *See* KRS 61.872(2)(a) (requiring a request to inspect records to include, inter alia, a description of “the records to be inspected”); *Dep’t of Revenue v. Eifler*, 436 S.W.3d 530, 534 (Ky. App.

2013) (“The [Act] does not dictate that public agencies must gather and supply information not regularly kept as part of its records.”). Accordingly, the Department did not violate the Act when it did not provide all information requested by the Appellant because he did not describe any public records to be inspected.

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.

Russell Coleman
Attorney General

/s/ Zachary M. Zimmerer
Zachary M. Zimmerer
Assistant Attorney General

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Distributed to:

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