



## COMMONWEALTH OF KENTUCKY OFFICE OF THE ATTORNEY GENERAL

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25-ORD-132

May 22, 2025

In re: Kurt Wallace/Bullitt County Attorney's Office

**Summary:** The Bullitt County Attorney's Office ("the Agency") violated the Open Records Act ("the Act") when it failed to cite the specific exception authorizing its redaction of responsive records. The Agency did not violate the Act when it provided what it believed to be responsive records or when it redacted personal information from public records.

### *Open Records Decision*

Kurt Wallace ("Appellant") submitted a request to the Agency for three categories of records. First, he requested "the redacted records used to select and approve an attorney currently employed by the" Agency, including each attorney's "License to Practice Law." Second, he requested a copy of all the agency's attorneys' "License from the Kentucky Bar Association." Third, he requested a copy of the Agency's attorneys' "state-issued identification." In response to the first and second parts of the request, the Agency explained that it is not in possession of its attorneys' certificates of admission to practice law,<sup>1</sup> but it did provide a blank copy of "the job application required of Assistant County Attorneys." Finally, in response to the third part of the request, the Agency provided redacted copies of its attorneys' driver's licenses. This appeal followed.

On appeal, the Appellant presents two issues. First, he claims "he requested a redacted copy of the employment application for each [agency attorney], not a blank form." Second, he alleges the Agency over-redacted its employees' driver's licenses.

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

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<sup>1</sup> The Office has previously upheld the Agency's similar response to the Appellant explaining that it does not possess its attorneys' "bar cards." See 25-ORD-063.

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). If an agency denies in whole or in part the inspection of any record, its response must include “a statement of the specific exception authorizing the withholding of the record and a brief explanation of how the exception applies to the record withheld.” *Id.*

A public agency does not violate the Act when it makes a reasonable construction of an ambiguous request and acts accordingly. *See, e.g.,* 22-ORD-240; 20-ORD-153. Here, the Agency explains that it “interpreted” the first part of the Appellant’s request as seeking the Agency’s “form job application.” The Appellant asserts that this record was not responsive to his request. Although the Appellant’s request did seek “redacted records,” having reviewed the entirety of the Appellant’s request, the Office concludes the Agency’s construction of it was reasonable. Thus, the Agency did not violate the Act by providing its form job application in response to the Appellant’s request.

Regarding the redaction of its attorneys’ driver’s licenses, the Agency stated only that it was providing “redacted copies” of the records. The Agency did not cite any specific exception authorizing it to withhold the requested records or to redact information from the requested records. Thus, the Agency violated the Act.

Turning to the propriety of the redactions made by the Agency, KRS 61.878(1)(a) exempts from disclosure “[p]ublic records containing information of a personal nature where the public disclosure thereof would constitute a clearly unwarranted invasion of personal privacy.” The Appellant provided copies of the redacted driver’s licenses. The redacted information includes the driver’s license number, home address, date of birth, and photograph of each attorney. Social Security numbers, home addresses, personal telephone numbers, dates of birth, and driver’s license numbers are types of personal information pertaining to private individuals that may categorically be redacted from records when they provide no insight into how the public agency performed its public duties. *See Ky. New Era, Inc. v. City of Hopkinsville*, 415 S.W.3d 76 (2013). Thus, the Agency did not violate the Act when it redacted this information.

Regarding the redacted photographs of the Agency’s attorneys, the Kentucky Supreme Court has established a balancing test where “the public’s right to expect its agencies properly to execute their functions” is measured against the “countervailing public interest in personal privacy” *Ky. Bd. of Exam’rs of Psychs. v. Courier-Journal & Louisville Times Co.*, 826 S.W.2d 324, 328 (Ky. 1992). Whether a

public agency has properly relied on KRS 61.878(1)(a) is “intrinsically situational.” *Id.* In reviewing an agency’s denial of an open records request based on the personal privacy exemption, the courts and this Office balance the public’s right to know what is happening within government against the personal privacy interest at stake in the record. *See Zink v. Commonwealth, Dep’t of Workers’ Claims*, 902 S.W.2d 825, 828 (Ky. App. 1994).

The Office has held that public employees have a privacy interest in their photographs. *See, e.g.*, 21-ORD-117; 20-ORD-005; 11-ORD-139; 08-ORD-014. And an ordinary photograph of an employee, which does not depict the employee engaging in any type of governmental activity, would shed little light on “what [the] government is doing.” *Zink*, 902 S.W.2d at 829. Here, the Appellant presents no countervailing public interest in disclosure of the Agency’s attorneys’ driver’s license photographs. Although he asserts that public employees have a “diminished expectation of privacy” related to their public duties, he fails to explain how their driver’s license photographs relate to their public duties. Rather, such photographs shed little light on the Agency’s execution of its functions. Accordingly, the Agency did not violate the Act when it redacted its employees’ photographs.

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](mailto:OAGAppeals@ky.gov).

**Russell Coleman**  
**Attorney General**

/s/ Matthew Ray  
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Distributed to:

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