



COMMONWEALTH OF KENTUCKY
OFFICE OF THE ATTORNEY GENERAL

RUSSELL COLEMAN
ATTORNEY GENERAL

1024 CAPITAL CENTER DRIVE
SUITE 200
FRANKFORT, KY 40601
(502) 696-5300

25-ORD-253

September 12, 2025

In re: Donald Phillips/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”) because the Office cannot resolve the factual dispute between the parties.

Open Records Decision

On June 26, 2025, inmate Donald Phillips (“Appellant”) submitted a request to the Cabinet for a copy of all records requests he has submitted to the Cabinet since January 1, 2024. On July 25, 2025, claiming he had yet to receive a response from the Cabinet, the Appellant initiated this appeal.

Under KRS 61.880(1), 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.”

Here, the Appellant submitted his request to the Cabinet on June 26, 2025, and claims he had yet to receive a response to the request as of July 25, 2025. On appeal, the Cabinet asserts it did respond to the Appellant’s request. As proof, the Cabinet provides a copy of the letter it claims it sent the Appellant in response to his request.¹

¹ The response provided by the Cabinet states that it “will need the enclosed CHFS-305 form to be completed and returned to [it] with all identifying information provided” before the Cabinet “will be able to search for any responsive records [it] may possess.” That response is not reviewable in this appeal because the Appellant brought this appeal solely on the issue of an alleged failure to respond. *See, e.g.*, 23-ORD-135 n.3.

The Office has routinely found that it is unable to resolve factual disputes between a requester and a public agency, such as whether a requester received a response to his request. *See, e.g.*, 23-ORD-276. Similarly, here, the Office is unable to resolve the factual dispute between the Appellant and the Cabinet or find that the Cabinet violated the Act.

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/ Matthew Ray
Matthew Ray
Assistant Attorney General

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Distributed to:

Donald Phillips #149748
Peyton Sands
Evelyn L. Miller