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25-ORD-390

December 8, 2025

In re: Daniel Woodie/Georgetown-Scott County Emergency Management Agency

Summary: The Georgetown-Scott County Emergency Management Agency (“the Agency”) subverted the intent of the Open Records Act (“the Act”) when it did not timely grant or deny all parts of the Appellant’s request. The Agency did not violate the Act when it provided all records in its possession and when its website complied with KRS 61.876(2).

Open Records Decision

On October 28, 2025, Daniel Woodie (“the Appellant”), submitted a request to the Agency for all records related to his previously submitted records request, and all communications between the Agency, three specific individuals, or a private law firm between January 1, 2024, and the date of the request. The Appellant also requested the personnel files of two Agency employees and records “of any other Open Records Requests which have or have not been fulfilled by the Agency” in the same period. In response, the Agency provided records related to the Appellant’s previous request for records, explained that they possess no records regarding the identified communications, and stated that the personnel files and records of other records requests would be provided to him. This appeal followed.

The Appellant alleges that he has not received all communications he identified in his request and that he did not receive all portions of the identified personnel files. The Appellant also complains that the Agency’s records custodian is not listed on its website.

Regarding the personnel files, the Agency states that it provided the Appellant with redacted copies of those records after this appeal was initiated. When a public agency receives a request to inspect records, that agency must decide within five business days “whether to comply with the request” and notify the requester “of its decision.” KRS 61.880(1). A public agency cannot simply ignore portions of a request. *See, e.g.*, 21-ORD-090. Here, the Agency neither granted nor denied the Appellant’s

request for the identified personnel files. Therefore, the Agency violated the Act insofar as it did not respond to the entirety of the Appellant's request.

On appeal, the Agency asserts that it possesses no additional records responsive to the Appellant's request. Once a public agency states affirmatively that a record does not exist, the burden shifts to the requester to make a *prima facie* case that the requested record does or should exist. *See Bowling v. Lexington-Fayette Urb. Cnty. Gov't*, 172 S.W.3d 333, 341 (Ky. 2005). If the requester makes a *prima facie* case that the records do or should exist, then the public agency "may also be called upon to prove that its search was adequate." *City of Fort Thomas v. Cincinnati Enquirer*, 406 S.W.3d 842, 848 n.3 (Ky. 2013) (citing *Bowling*, 172 S.W.3d at 341).

To make a *prima facie* case that additional communication records exist, the Appellant provides a May 2025 recording of his conversation with an Agency employee in which she states that she spoke to one of the individuals identified in his request. According to the Appellant, this is *prima facie* evidence that the Agency possesses additional communications that have not been disclosed. However, later in that same recording, the recorded individual also states that she possesses no *written* communications with the individual identified in the Appellant's request. Thus, although the Appellant may have made a *prima facie* case that an Agency employee had a verbal conversation with a particular individual, he has not made a *prima facie* case that the Agency created a written record of that communication or, if so, that the Agency currently possesses it. Thus, the Office cannot find that the Agency violated the Act when it did not produce records that do not exist in its possession.

The Appellant also claims the Agency violated the Act by failing to display information on its website relating to open records. Under KRS 61.876(2), a public agency is required to display certain information¹ "in a prominent location accessible to the public, *including on its Web site*" (emphasis added). In response, the Agency provides a link to the County website, which displays the required information and explains that the Scott County Fiscal Court Clerk is the custodian of its records. As such, the Agency has complied with KRS 61.876(2). Accordingly, its website does not violate 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

¹ That information includes a "copy of its rules and regulations pertaining to public records" and the "mailing address, e-mail address, and phone number of the official custodian of the records or his or her designee to which all requests for public records shall be made." KRS 61.876(2).

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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