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26-ORD-149

April 2, 2026

In re: James Harrison/Office of the Governor

Summary: The Office of the Governor (“the Agency”) did not violate the Open Records Act (“the Act”) when it did not respond to two requests it did not receive.

Open Records Decision

Inmate James Harrison (“Appellant”) submitted two requests to the Agency. The first sought regulations in existence between 1976 and 1983. The second request sought the “disposition” of a complaint previously submitted to the Agency. On February 25, 2026, claiming to have received no response to either request, 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.”

On appeal, the Agency explains that it did not receive either of the Appellant’s requests. Thus, a factual dispute exists between the parties as to whether the Agency received the Appellant’s request for records. The Office has previously found that it is unable to resolve factual disputes between a requester and a public agency, such as whether an agency received a request. *See, e.g.*, 24-ORD-184 (declining to resolve factual dispute as to whether an agency received a request). Accordingly, the Office cannot find the Agency violated the Act because the Office cannot resolve the factual dispute between the parties as to whether the Agency received the Appellant’s requests.

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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