



COMMONWEALTH OF KENTUCKY
OFFICE OF THE ATTORNEY GENERAL

RUSSELL COLEMAN
ATTORNEY GENERAL

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

26-ORD-166

April 16, 2026

In re: Leah Barnes/Shelby County Judge/Executive

Summary: The Shelby County Judge/Executive (“the Judge/Executive”) violated the Open Records Act (“the Act”) when it did not grant or deny a request or properly invoke KRS 61.872(5) within five business days of receiving the request. On appeal, the Judge/Executive has not adequately invoked KRS 61.878(1)(a) to withhold the requested records.

Open Records Decision

On March 9, 2026, Leah Barnes (“Appellant”) submitted a request to the Judge/Executive for records related to the selection of a new “Shelby County EMS Deputy Chief.” On March 10, 2026, the Judge/Executive confirmed receipt of the request and notified the Appellant that it “will let [her] know when the documents are ready.” On March 18, 2026, having received no further response from the Judge/Executive, the Appellant initiated this appeal.

Upon receiving a request to inspect public records, a public agency must determine within five business days whether to grant the request or deny it. KRS 61.880(1). However, an agency may delay access to records beyond that time if such records are “in active use, storage, or not otherwise available.” KRS 61.872(5). A public agency that invokes KRS 61.872(5) must give “a detailed explanation of the cause [for] further delay” and notify the requester of the “earliest date on which the public record[s] will be available for inspection.” *Id.* Here, the Judge/Executive advised the Appellant that it “will let [her] know when the documents are ready.”¹ That response failed to give a sufficiently detailed explanation of the cause for delay or state the earliest date on which the records would be made available. Accordingly,

¹ The Judge/Executive also informed the Appellant that it would charge ten cents per page for the records, “whether records are sent electronically or through the mail, plus postage if mailing.”

the Judge/Executive violated the Act when it failed to properly invoke KRS 61.872(5) to delay its response.

On appeal, the Judge/Executive explains that the requested “records include a large amount of personal information that required redaction pursuant to KRS 61.878.” The Judge/Executive states that on March 20, 2026, “all records were available to be inspected” but that some records “consist of personal identifying information,” the public disclosure of which “would constitute a clearly unwarranted invasion of personal privacy” and may be withheld because they are “exempt from disclosure pursuant to KRS 61.878(1)(a).” 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.” In reviewing an agency’s denial of an open records request based on the personal privacy exemption, the courts and the Attorney General balance the public’s right to know what is happening in 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).

If an agency denies the inspection of any record in whole or in part, 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.” KRS 61.880(1). A public agency provides a sufficient description of the records it has withheld in a manner that allows the requester to assess the propriety of the agency’s claims, then the public agency will have discharged its duty under the Act. *See City of Fort Thomas v. Cincinnati Enquirer*, 406 S.W.3d 842, 848–49 (Ky. 2013).

Here, the Judge/Executive did not describe the privacy interest implicated by the records it withheld, or provide a brief explanation of how KRS 61.878(1)(a) authorized the withholding of the records. As a result, the Judge/Executive has not adequately invoked KRS 61.878(1)(a) to withhold the requested records.

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

#228

Distributed to:

Leah Barnes
Dan Ison
Jon Park
Lisa Meers
Tony Harover
Carrie McIntyr