



COMMONWEALTH OF KENTUCKY OFFICE OF THE ATTORNEY GENERAL

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26-ORD-222

May 19, 2026

In re: Daniel Woodie/Two Employees¹ of the Office of the Attorney General

Summary: The Office cannot find that two Employees (“the Employees”) of the Office of the Attorney General violated the Open Record Act (“the Act”) because the Office cannot find that they are “public agencies” subject to the Act.

Open Records Decision

On March 23, 2026, Daniel Woodie (“Appellant”) submitted two identical requests for records that sought nine categories of records.² The Appellant expressly states that the requests were not being submitted to the Office, but rather, were being submitted to two employees of the Office, asserting that both employees are “a Public Agency.” On March 30, 2026, the Office responded to both requests, on behalf of its employees, and granted them in part and denied them in part. In total, the Office identified 226 records it was withholding under KRS 61.878(1)(h)³ because they are records it possessed due to its role as “the special prosecutor in lieu of the Kenton County Commonwealth’s Office.” Two appeals⁴ challenging the Office’s response to both requests followed.⁵

¹ The Appellant submitted two requests to two employees of the Office, rather than to the Office itself. Because the Office has concluded that those two employees are not public agencies, the Office declines to publish their names in this decision.

² The requests are both related, in part, to a criminal prosecution in the Kenton Circuit Court.

³ The Office cited several other exemptions to support its denial. The Office need not address those separate grounds for denial here.

⁴ Because both appeals arose out of requests directed to the two Employees, and because their status as non-public agencies is the principal issue in both appeals, the Office has consolidated them. *See, e.g.*, 22-ORD-167.

⁵ The Appellant also complains that the Office was given an extension of time in which to submit its response to his appeals. He asserts that 40 KAR 1:030 § 2 does not allow for such an extension. However, that regulation contains no such restriction.

“Each *public agency*, upon any request for records made under [the Act], 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.” KRS 61.880(1) (emphasis added). Here, the Appellant claims the two Employees violated the Act because they allowed the Office to respond on their behalf and because 226 records were withheld. However, an entity is only subject to the Act if it is a “public agency,” as defined by KRS 61.870(1).

Included in the definition of Public Agency is “[e]very state or local government officer.” KRS 61.870(1)(a). The Appellant asserts that both Employees are state officers within the meaning of KRS 61.870(1)(a). He argues that those “who exercise the sovereign power of the Commonwealth . . . constitute ‘public agencies’ in themselves.” The Appellant is incorrect.

The Supreme Court of Kentucky has made clear that “regular employees and volunteers that serve an agency do not qualify as state [or local] officers.” *Ky. Dep’t of Fish & Wildlife Res. Comm’n v. Ky. Open Gov’t Coal.*, No. 2023-SC-0524, 2026 WL 1108344, at *4 (Ky. Apr. 23, 2026). Here, the Appellant seeks the records of two Employees but does no more than assert that they qualify as state officers. Simply asserting that an individual is a state officer does not establish that alleged fact to be true.

Here, the Appellant has made clear that his requests were not directed to the Office. Instead, they were directed to two Employees of the Office.⁶ But those Employees are not public agencies as defined in KRS 61.870(1)(a). Therefore, the Office cannot find any violation of the Act.⁷

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

⁶ In fact, the Appellant also asserts that the Employees violated the Act when they allowed a representative of the Office to respond on their behalf. Of course, a “response shall be issued by the official custodian or *under his or her authority*.” KRS 61.880(1) (emphasis added). As such, the response issued on behalf of the Employees could not have violated the Act.

⁷ Although the Office need not reach the merits of the Office’s ultimate denial of the Appellant’s requests, it notes that it has previously upheld denials made under KRS 61.878(1)(h) where the Office explains that it had acted as special prosecutor in a local criminal case. *See, e.g.*, 25-ORD-129; 20-ORD-171; 17-ORD-012.

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
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#335 and 336

Distributed to:

Daniel Woodie, Appellant

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