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26-ORD-468

October 16, 2026

In re: Amber McClellan/Owsley County Judge/Executive's Office

Summary: The Owsley County Judge Executive's Office ("the Judge/Executive") violated the Open Records Act ("the Act") when it failed to issue a written response within five business days, as required by KRS 61.880(1), and did not properly invoke KRS 61.872(5). The Judge/Executive subverted the intent of the Act, within the meaning of KRS 61.880(4), by delay past the five-day period in KRS 61.880(1).

Open Records Decision

On September 10, 2026, Amber McClellan ("the Appellant") submitted two requests to the Judge/Executive for records.[1] On September 17, 2026, having received no response from the Judge/Executive, the Appellant initiated this appeal.[2]

Under KRS 61.880(1), a public agency must determine within five business days whether to grant a request for public records or deny it and notify the requester, in writing, of its decision. A public agency is permitted to extend the period for production of the records under KRS 61.872(5) but only if the records are "in active use, in storage or not otherwise available," and the agency provides "a detailed

[1] The Appellant's two requests were: (1) a request sent at 3:12 p.m. to the Judge/Executive, the treasurer, the clerk, the county attorney, and the sheriff, which sought financial records concerning a green-wing macaw in the custody or control of Owsley County or the sheriff's office. It sought the invoices, payments, donations, contracts, ledgers, and related correspondence; and (2) a request sent at 11:27 p.m. to the Judge/Executive and copied to the treasurer and the clerk. It sought records from January 1, 2026, concerning the county's animal-control program and sheltering arrangements under KRS Chapter 258, including any animal-control officer, shelter contract, fiscal court records, ordinances, and budget records.

[2] On September 16, 2026, the Appellant asked the sheriff and the county attorney for the status of her macaw-related request. She did not send that inquiry to the Judge/Executive.

explanation of the cause . . . for further delay and the place, time, and earliest date on which the public record[s] will be available for inspection."

Under KRS 61.880(4), "If a person feels the intent of [the Act] is being subverted by an agency short of denial of inspection, including but not limited to . . . delay past the five (5) day period described in" KRS 61.880(1) or "excessive extensions of time," the person may complain in writing to" the Office, "and the complaint shall be subject to the same adjudicatory process as if the record had been denied." Here, the Judge/Executive does not dispute that it failed to respond within five business days, and it does not claim that it adequately invoked KRS 61.872(5) to delay its response. Accordingly, the Judge/Executive violated the Act and subverted the intent of the Act, within the meaning of KRS 61.880(4), by delay past the five-day period in KRS 61.880(1).[3] *See* 26-ORD-232; 22-ORD-134.

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

#837

Distributed to:

Amber McClellan
Zeke Little
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Henley McIntosh

[3] On appeal, the Judge/Executive states it has no written contract with an animal shelter, but it describes the arrangement it has with the Estill County Animal Shelter and attaches an invoice.