



COMMONWEALTH OF KENTUCKY  
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**20-ORD-027**

February 26, 2020

In re: James Harrison/Lyon County Coroner's Office

*Summary:* The Lyon County Coroner's Office ("Coroner's Office") did not violate the Open Records Act ("Act") in failing to respond to an open records request mailed to an incorrect address. The Coroner's Office met its burden of proof regarding the nonexistence of responsive records.

***Open Records Decision***

On December 27, 2019, Rev. James Harrison ("Appellant") mailed an open records request to the address of a former Lyon County Coroner, seeking a copy of an autopsy report. Having received no response, Appellant initiated this appeal.

On February 5, 2020, Lyon County Attorney Lee F. Wilson ("County Attorney") responded to the appeal on behalf of the Coroner's Office. The County Attorney stated that a local funeral home received the request, and the Coroner's Office did not receive it until January 6, 2020. The Coroner's Office responded on the same date, stating that it searched for a responsive record and discovered that the West Kentucky Medical Examiner had not yet completed the autopsy. The Coroner's Office mailed a written response to Appellant explaining the nonexistence of the responsive report, but the postal service returned the letter as "undeliverable." The Coroner's Office attached the written response and the postal return receipts to its response on appeal.

The Coroner's Office did not issue an untimely written response because Appellant mailed his request to an incorrect address. The record shows that Appellant did not deliver his request to the public agency's custodian of records, as required by KRS 61.872(2). There is no violation of the Act when a public agency fails to respond to an incorrectly addressed records request because a public agency cannot respond to a request it did not receive.

Regardless, the record shows that, after Appellant's request was received at the proper address, the Coroner's Office engaged in "a good faith effort to conduct a search using methods which [could] reasonably be expected to produce the record(s) requested[.]" 05-ORD-109, p. 3. It found no responsive records and so stated. The Coroner's Office thus met its duty under the Act and this Office, therefore, finds no violation.

A party aggrieved by this decision may appeal it by initiating action in the appropriate circuit court pursuant to KRS 61.880(5) and KRS 61.882. Pursuant to 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 proceeding.

Daniel J. Cameron  
Attorney General

/s/ John Marcus Jones

J. Marcus Jones  
Assistant Attorney General

#036

Distributed to:

Rev. James Harrison #095435

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Lee F. Wilson, Esq.