



COMMONWEALTH OF KENTUCKY
OFFICE OF THE ATTORNEY GENERAL

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20-ORD-036

March 6, 2020

In re: Gary Cochran/Lawrence County E-911

Summary: Because inmate's appeal of his open records request was not initiated within 20 days of agency's denial, his appeal is time-barred pursuant to KRS 197.025(3).

Open Records Decision

This matter has been presented to the Attorney General in an open records appeal. This Office finds that inmate Gary Cochran's ("Appellant") appeal of Lawrence County E-911's ("E-911") disposition of his December 6, 2019, open records request is time-barred.

In his letter of appeal, Appellant alleged that E-911 had provided some but not all of the requested records relating to incident numbers 2016-00005692 and 2016-00005693, which occurred on May 24, 2016. He attached a copy of his request and the records he received in response, but did not indicate when E-911 had issued its response.

This Office previously received an unperfected appeal from Appellant dated January 13, 2020, making the same complaint regarding the December 6, 2019, request. Therefore, it is clear that E-911 responded to the request no later than January 13, 2020. Appellant's present appeal is dated February 4, 2020, which is more than 20 days after January 13, 2020.

KRS 197.025(3) provides:

KRS 61.880 to the contrary notwithstanding, all persons confined in a penal facility shall challenge any denial of an open record with the Attorney General by mailing or otherwise sending the appropriate documents to the Attorney General within twenty (20) days of the denial pursuant to the procedures set out in KRS 61.880(2) before an appeal can be filed in a Circuit Court.

The existence of a prior unperfected appeal does not toll the 20-day deadline for perfecting an appeal under KRS 197.025(3). 19-ORD-069. Because Appellant did not perfect his appeal within 20 days of the alleged partial denial of his request, the appeal is untimely. This Office therefore may not consider the appeal. 02-ORD-54.

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 should be notified of any action in circuit court, but should not be named as a party in that action or in any subsequent proceeding.

Daniel Cameron
Attorney General

/s/ James M. Herrick

James M. Herrick
Assistant Attorney General

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Distributed to:

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