



COMMONWEALTH OF KENTUCKY
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20-ORD-075

May 19, 2020

In re: Hanif Yazid/Kentucky State Police

Summary: Kentucky State Police (“KSP”) violated the Open Records Act (“the Act”) by failing to respond to an open records request within three business days. However, KSP did not violate the Act in denying the request as one for information.

Open Records Decision

Hanif Yazid (“Appellant”) submitted a letter to KSP dated March 23, 2020, “requesting the names and badge number [sic] of the two KSP officers who interviewed [him] at Grant County Detention Center on 5/29/19.” KSP denied Appellant’s request on April 15, 2020, stating that the Act “does not statutorily obligate an agency to honor a request for information as opposed to a request for a specifically described public record.” Appellant now appeals both KSP’s delayed response and its disposition of the request.

Upon receipt of an open records request, an agency must determine within three business days whether to comply with the request and send written notice of its decision to the requester. KRS 61.880(1). At all times, the agency carries the burden of proof in sustaining its action. KRS 61.880(2)(c). Here, the record demonstrates that Appellant’s request was dated March 23, 2020, and KSP did not issue a response until April 15, 2020, which is more than three business days later. The record does not reflect when KSP received the request, but KSP did not assert that it received the request on some later date or provide any defense to justify its

delayed response. Accordingly, KSP violated the Act by failing to respond within three business days. KRS 61.880(1).

What remains is whether KSP's substantive denial, though late, also violates the Act. The Act does not require public agencies to fulfill requests for information, but only requests for records. KRS 61.872; *Dept. of Revenue v. Eifler*, 436 S.W.3d 530, 534 (Ky. App. 2013) ("The ORA does not dictate that public agencies must gather and supply information not regularly kept as part of its records."). Here, the request was clearly one for information: the names and badge numbers of two officers. Accordingly, KSP did not violate the Act in this regard.

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 proceedings.

Daniel Cameron
Attorney General

/s/ James M. Herrick

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Distributed to:

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