



COMMONWEALTH OF KENTUCKY
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21-ORD-020

February 5, 2021

In re: Glen Davis/Scott County Sheriff's Office

Summary: The Scott County Sheriff's Office (the "Sheriff's Office") violated the Open Records Act (the "Act") by failing to timely respond to an inmate's request for records.

Open Records Decision

On November 23, 2020, inmate Glen Davis ("Appellant") requested from the Scott County Sheriff's Office records pertaining to the Sheriff's Office's search of his computer. On January 4, 2021, Appellant filed this appeal because he had received no response from the Sheriff's Office. On appeal, the Sheriff's Office claims that it had previously provided to the Appellant all the records it possessed in connection to the Sheriff's Office's investigation of the criminal matter.¹

Normally, a public agency must respond to an open records request within three business days. KRS 61.880(1). To address the novel coronavirus public health emergency, however, the General Assembly modified that requirement when it enacted Senate Bill 150 ("SB 150"), which became law on March 30, 2020, following the Governor's signature. SB 150 provides, notwithstanding the provisions of the Act, "a public agency shall respond to the request to inspect or receive copies of public records within 10 days of its receipt." SB 150 § 1(8)(a). Under KRS 446.030(1)(a), the computation of a statutory time period does not exclude

¹ In 21-ORD-002, the Appellant submitted a similar request to the Sheriff's Office. As noted in that decision, the Sheriff's Office claimed it had provided all responsive records to the Appellant and there was no basis for this Office to find otherwise.

weekends unless “the period of time prescribed or allowed is less than seven (7) days.” Accordingly, under SB 150, a public agency is required to dispose of a request to inspect records within ten calendar days.

Here, the Sheriff’s Office failed to respond to the Appellant’s request. The Sheriff’s Office’s previous compliance with the Appellant’s request does not nullify its duty under KRS 61.880(1) to issue a timely written response explaining why it would not comply with the Appellant’s new request. If there are no additional documents responsive to Appellant’s request, the Sheriff’s Office should have stated as much in a timely written response. *See, e.g.,* 09-ORD-145; 98-ORD-154. Because the Sheriff’s Office failed to respond to Appellant’s request, it violated the Act.²

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/Marc Manley
Marc Manley
Assistant Attorney General

#007

Glen A. Davis #300589
Jearl Porter

² The Sheriff’s Office claims that the Appellant has sent multiple requests seeking similar records. At some point, repeated requests for the same records could imply an intent to disrupt essential functions of the Sheriff’s Office. KRS 61.872(6). However, the Sheriff’s Office would be required to support such a claim with clear and convincing evidence.