



COMMONWEALTH OF KENTUCKY
OFFICE OF THE ATTORNEY GENERAL

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ATTORNEY GENERAL

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24-ORD-136

June 12, 2024

In re: Makeda Charles/Jefferson Circuit Court Clerk

Summary: The Open Records Act (“the Act”) does not apply to records of the Jefferson Circuit Court Clerk (“the Clerk”).

Open Records Decision

On May 7, 2024, Makeda Charles¹ (“Appellant”) submitted a request to the Clerk for copies of certain communications relating to a misdemeanor case in Jefferson District Court. Having not received a response by May 15, 2024, the Appellant initiated this appeal.²

Although KRS 61.880(2) charges the Attorney General with the duty to resolve disputes regarding access to public records, the Act is not binding on the judicial branch. *Ex parte Farley*, 570 S.W.2d 617, 624 (Ky. 1978). Because the Act does not apply to court records, the Clerk, who is purportedly the custodian of the requested records, was not required to respond to the request. *See* 98-ORD-6. Accordingly, the Office dismisses the appeal.³

¹ The Office takes notice of its decision in 24-ORD-135 involving another appeal initiated by the Appellant. Based on the record developed in that appeal, the Office found that the Louisville Regional Airport Authority did not violate the Act when it denied a request for records because the Appellant is not a resident of the Commonwealth. The Act only gives a “resident of the Commonwealth” the statutory right to demand access to public records. KRS 61.872(2)(a). It does not, however, prohibit nonresidents from obtaining public records. Rather, “[t]he official custodian *may* require the applicant to provide a statement in the written application of the manner in which the applicant is a resident of the Commonwealth under KRS 61.870(10)(a) to (f).” *Id.* (emphasis added). Here, the Clerk has not challenged the Appellant’s status as a “resident of the Commonwealth.” Thus, that issue is not properly before the Office and its decision in 24-ORD-135 is not dispositive here.

² In response to this appeal, the Clerk states that a courtesy copy of the case file was provided to the Appellant on or about May 1, 2024; any waiver of fees must be obtained by court order; no prepayment for records has been received from the Appellant; and many of the Appellant’s requests are for records that would not be in the Clerk’s possession if they exist.

³ The Office notes that the Supreme Court of Kentucky has adopted its own policies and procedures for requesting copies of court records from the judicial branch. Information on requesting court records

A party aggrieved by this decision may appeal it by initiating an action in the appropriate circuit court pursuant to KRS 61.880(5) and KRS 61.882 within 30 days from the date of this decision. 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. The Attorney General will accept notice of the complaint emailed to OAGAppeals@ky.gov.

Russell Coleman
Attorney General

/s/ James M. Herrick
James M. Herrick
Assistant Attorney General

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Distributed to:

Makeda Charles
David L. Nicholson, Clerk
Katie C. Comstock, Esq.

is posted on the Court of Justice website at <https://www.kycourts.gov/Pages/open-records-request.aspx>
(last accessed June 12, 2024).