



COMMONWEALTH OF KENTUCKY  
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24-ORD-184

August 21, 2024

In re: William Burney/Kentucky State Police

**Summary:** The Office cannot find that the Kentucky State Police (“KSP”) violated the Open Records Act (“the Act”) because the Office is unable to resolve the factual dispute between the parties as to whether KSP received the request for records.

***Open Records Decision***

Inmate William Burney (“Appellant”) claims that on July 5, 2024, he submitted a request to KSP for “all the records in [its] possession concerning [his] criminal case.” The Appellant specified the scope of his request included “DNA, forensic lab reports/documents, police reports and interviews.” On July 24, 2024, having yet to receive a response from KSP, the Appellant initiated this appeal.<sup>1</sup>

Under KRS 61.880(1), upon receiving a request for records under the Act, a public agency “shall determine within five (5) [business] days . . . *after the receipt of any such request* whether to comply with the request and shall notify in writing the person making the request, within the five (5) day period, of its decision” (emphasis added). Here, the Appellant claims he submitted a request to KSP on July 5, 2024, and had not received a response by July 22, 2024. On appeal, KSP states that it did not respond to the Appellant’s July 5 request because it did not receive it. The Office has consistently found it is unable to resolve factual disputes between a requester and a public agency, such as whether an agency received a request to inspect records. *See, e.g.*, 23-ORD-092; 23-ORD-071; 23-ORD-005; 22-ORD-216; 22-ORD-148; 22-

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<sup>1</sup> The Appellant’s appeal request is dated July 22, 2024, but the postmark on his appeal is dated July 24, 2024.

ORD-125; 22-ORD-100; 22-ORD-051; 21-ORD-163. Similarly, the Office is unable to resolve this factual dispute or find that KSP violated the Act.<sup>2</sup>

A party aggrieved by this decision may appeal it by initiating an action in the appropriate circuit court under KRS 61.880(5) and KRS 61.882 within 30 days from the date of this decision. Under 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/ Matthew Ray  
Matthew Ray  
Assistant Attorney General

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Distributed to:

William Burney #143288  
Samantha A. Bevins  
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<sup>2</sup> KSP asserts that it previously provided the Appellant all requested records in response to a request it received from him on July 1, 2024. The Appellant did not provide a copy of that request as part of this appeal. Thus, KSP's response to the July 1 request has no bearing on the Office's decision in this appeal. See KRS 61.880(2)(a).