

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEW MEXICO**

HELEN LAURA LÓPEZ,
Plaintiff,

vs.

**CAROLYN COLVIN, ACTING COMMISSIONER,
SOCIAL SECURITY ADMINISTRATION
AND
SOCIAL SECURITY ADMINISTRATION,
Defendants.**

**COMPLAINT FOR FREEDOM OF INFORMATION ACT
INJUNCTIVE RELIEF**

1. This is an action under the Freedom of Information Act, 5 U.S.C. § 552, for injunctive and other appropriate relief and seeking the disclosure and release of agency records improperly withheld from Plaintiff by Defendant Commissioner of Social Security Administration (“SSA”), the agency.

Jurisdiction and Venue

2. This Court has both subject matter jurisdiction over this action and personal jurisdiction over the parties pursuant to 5 U.S.C. § 552(a)(4)(B). This court also has jurisdiction over this action pursuant to 28 U.S.C. § 1331. Venue lies in this district under 5 U.S.C. § 552(a)(4)(B).

3. Plaintiff is an attorney and a resident of Santa Fe County in the State of New Mexico.

4. The Social Security Administration is an agency within the meaning

of 5 U.S.C. § 552(f).

5. Carolyn Colvin is the Acting Commissioner of the Social Security Administration.

6. Plaintiff is an attorney licensed to practice law in the State of New Mexico since May 1977; her practice is primarily limited to representing Social Security claimants whose disability has been denied; the majority of her cases have historically been assigned to the Albuquerque Office of Disability Adjudication and Review (ODAR); ODAR employs United States Administrative Law Judges to hear appeals.

7. Some time in 2013, the Defendant transferred all of Plaintiff's unassigned cases to the ODAR office in Tulsa, Oklahoma and transferred assigned cases to be heard via video by a judge in Fort Worth, Texas; such transfer was made with no notice to Plaintiff and with no reasons ever provided.

Plaintiff's FOIA Requests and Defendants' Failure to Respond

8. On November 1, 2013 Plaintiff sent an FOIA request to the Defendant's "Principal Public FOIA Liaison" a/k/a titled "Freedom of Information Officer," Dawn Wiggins ("FOIA Officer"), at Defendant's office in Baltimore, Maryland.

9. On November 8, 2008, the FOIA Officer mailed a reply acknowledging receipt and stating that if Plaintiff has not heard from them in 30 days, to call and leave a message.

10. On December 16, 2013, Plaintiff sent a letter to the FOIA Officer asking for an update.

11. On February 27, 2014, the FOIA Officer sent a similar form letter acknowledging receipt.

12. On March 10, 2014, Plaintiff wrote again to the FOIA advising her that her reply was not timely and was not a substantive reply.

13. On March 14, 2014, the FOIA Office sent the same form letter acknowledging receipt.

14. On March 26, 2014, the FOIA Officer sent a letter “in response to the March 10, 2014 letter” listing the documents requested in Plaintiff original FOIA request. She further wrote: The Social Security Administration does not provide administrative appeals for failure to meet statutory time limits. However, you may seek review in the district court of the United States.

15. On March 31, Plaintiff sent another letter to the FOIA officer attempting to again resolve this without litigation. There was no reply and this action was filed.

16. Plaintiff sent copies of the letters addressed to the FOIA office to Defendant Carolyn Colvin, to Debra Bice, Chief United States Administrative Law Judge and Joan Parks Sanders, the Regional Chief Administrative Law Judge (which region includes New Mexico and Oklahoma ODAR offices).

17. Copies of the above referenced correspondence are attached hereto as Exhibit 1.

Information Requested in All Formats

18. The following information was requested:

a. All documents, including letters, memos, notes, telephone messages, email, attachments, regarding the transfer of cases in which I am a representative,

from Albuquerque to Tulsa or any other location;

b. All documents regarding the reason for such transfer;

c. Copies of all complaints or inquiries made, if any, concerning this decision;

d. All documents gathered by the agency which identify all representatives appearing in cases before any ODAR office who are married to administrative law judges employed by the Social Security Administration within the past 5 years;

e. All documents gathered by the agency which identify administrative law judges employed by the Social Security Administration who are married to representatives appearing in cases before any ODAR office within the past 5 years;

f. All documents regarding policy for handling cases where an Administrative Law Judge and a representative are married.

Defendants' Failure to Timely Comply with Plaintiff's Request

19. To date, Defendants have not provided the records requested by plaintiff in its FOIA request, notwithstanding the FOIA's requirement of an agency response within twenty (20) working days.

20. Plaintiff has exhausted the applicable administrative remedies with respect to its FOIA request to Defendant.

21. Defendant has wrongfully withheld the requested records from plaintiff.

22. The SSA has wrongfully withheld the requested records from Plaintiff.

Requested Relief

WHEREFORE, plaintiff prays that this Court:

- A. Order Defendants to disclose forthwith the requested records in their entireties and make copies available to Plaintiff;
- B. Award attorney fees and costs as may be appropriate under the law.

Respectfully Submitted,

 /s/ Filed Electronically
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