

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLUMBIA

DELORES ANN ROLLINS)	
18015 Sheldon Pines)	
Spring, TX 77379)	
)	
Plaintiff,)	
)	Civil Action No. 13-1450
v.)	
)	
UNITED STATES DEPARTMENT OF STATE)	
2201 C Street NW)	
Washington, DC 20520)	
)	
Defendant.)	
)	

COMPLAINT FOR DECLARATORY AND INJUNCTIVE RELIEF (FOIA)

I. INTRODUCTION

1. Plaintiff Delores Ann Rollins (“Plaintiff”) hereby brings this action seeking declaratory and injunctive relief to redress violations of the Freedom of Information Act (“FOIA”), 5 U.S.C. § 552 *et. seq.*, by Defendant United States Department of State (hereinafter “Department of State” or “Defendant”) in failing to provide Plaintiff with records responsive to her October 19, 2012 FOIA request, seeking records pertaining to the death of her son Michael Jordan Rollins in Tainan City, Taiwan, on September 17, 2009.

II. JURISDICTION

2. This Court has jurisdiction over this action pursuant to 5 U.S.C. § 552(a)(4)(B) (FOIA citizen suit provision) and 28 U.S.C. § 1331 (federal question).

III. VENUE

3. Venue in this Court is proper pursuant to 5 U.S.C. § 552(a)(4)(B).

IV. PARTIES

4. Plaintiff Delores Ann Rollins is an individual who resides in Spring, Texas, which is located in Harris County, Texas.

5. Defendant United States Department of State is a federal agency of the United States, and as such, is subject to FOIA pursuant to 5 U.S.C. § 552(f).

V. LEGAL FRAMEWORK OF FOIA

6. FOIA requires, *inter alia*, that all federal agencies must promptly provide copies of all non-exempt agency records to those persons who make a request for records that reasonably describes the nature of the records sought, and which conform with agency regulations and procedures in requesting such records. 5 U.S.C. § 552(a)(3)(A).

7. FOIA requires federal agencies to make a final determination on all FOIA requests that it receives within twenty days (excepting Saturdays, Sundays, and legal public holidays) after the receipt of such request, unless the agency expressly provides notice to the requester of “unusual circumstances” meriting additional time for

responding to a FOIA request. 5 U.S.C. § 552(a)(6)(A)(I).

8. FOIA also requires federal agencies to make a final determination on FOIA administrative appeals that it receives within twenty days (excepting Saturdays, Sundays, and legal public holidays) after the receipt of such appeal, unless the agency expressly provides notice to the requester of “unusual circumstances” meriting additional time for responding to a FOIA request. 5 U.S.C. § 552(a)(6)(A)(ii).

9. FOIA expressly provides that a person shall be deemed to have constructively exhausted their administrative remedies if the agency fails to comply with the applicable time limitations provided by 5 U.S.C. § 552(a)(6)(A)(I) - (ii). *See* 5 U.S.C. § 552(a)(6)(C).

10. FOIA provides that any person who has not been provided the records requested pursuant to FOIA, after exhausting their administrative remedies, may seek legal redress from the Federal District Court to enjoin the agency from withholding agency records and to order the production of any agency records improperly withheld from the complainant, and provides jurisdiction for the federal court to review whether an agency has properly denied a request for a fee waiver. *See* 5 U.S.C. § 552(a)(4)(B).

11. FOIA also provides that an agency cannot charge a FOIA requester for any search fees in responding to a FOIA request if the agency has failed to meet its statutory time frame for timely issuing a final response to the subject FOIA request. *See* 5 U.S.C. § 552(a)(4)(A)(viii).

12. Under FOIA, the federal agency has the burden to sustain its actions. 5 U.S.C. § 552(a)(4)(B).

13. Pursuant to FOIA, this Court may assess attorney fees and litigation costs against the United States if the Plaintiff prevails in this action. 5 U.S.C. § 552(a)(4)(E).

VI. FACTUAL ALLEGATIONS FOR PLAINTIFF'S FOIA REQUEST CLAIM

14. On or about October 19, 2012, Plaintiff, by and through her attorney, Daniel J. Stotter of Stotter and Associates LLC, sent a FOIA request to the Department of State's Office of Information Programs and Services in Washington, D.C., seeking records pertaining to the death of Plaintiff's son Michael Jordan Rollins on September 17, 2009, in Tainan City, Taiwan.

15. On or about November 5, 2012, the Department of State's Office of Information Programs sent a correspondence to Plaintiff's attorney, acknowledging the agency's receipt of Plaintiff's October 19, 2012 FOIA request, and indicating that this FOIA request had been assigned as Case Control Number F-2012-39134.

16. To date, the Department of State has failed to provide Plaintiff with any responsive records, and has failed to otherwise issue a final decision to Plaintiff's October 19, 2012 FOIA request.

17. Plaintiff has exhausted her administrative remedies, as required by FOIA, prior to seeking judicial review in this matter.

VII. CLAIM FOR RELIEF

18. Plaintiff realleges, as if fully set forth herein, paragraphs 1 - 17 as previously set forth above.

19. Defendant has violated FOIA by failing to provide Plaintiff with all non-exempt responsive records from the State Department for her October 19, 2012 FOIA request, and by failing to timely issue a decision for this FOIA request.

20. By failing to provide Plaintiff with responsive records to her FOIA request of October 19, 2012, Defendant has denied Plaintiff's right to this information, as provided by law under the Freedom of Information Act. In addition, the Department of State has also failed to complete a search for responsive records to this FOIA request in a manner reasonably calculated to locate all responsive records for Plaintiff's FOIA request of October 19, 2012

21. Unless enjoined by this Court, Defendant Department of State will continue to violate Plaintiff's legal rights to be provided with copies of all non-exempt responsive records that she has requested in her FOIA request of October 19, 2012 described above.

22. Plaintiff is directly and adversely affected and aggrieved by Defendant's failure to provide all responsive records to her October 19, 2009 FOIA request.

23. Plaintiff has been required to expend costs and to obtain the services of a law firm, consisting of attorneys, law clerks, and legal assistants, to prosecute this action.

24. Plaintiff is entitled to reasonable costs of litigation, including attorney fees pursuant to FOIA 5 U.S.C. § 552(a)(4)(E).

REQUEST FOR RELIEF

WHEREFORE, Plaintiff respectfully requests that this Court enter Judgment for Plaintiff, providing the following relief:

1. Declare Defendant Department of State has violated FOIA by failing to provide Plaintiff with all non-exempt records responsive to her October 19, 2012 FOIA request;
2. Direct by injunction that Defendant Department of State provide Plaintiff with all non-exempt responsive records to Plaintiff's October 19, 2012 FOIA request.
3. Grant Plaintiff's costs of litigation, including reasonable attorney fees, as provided by FOIA, 5 U.S.C. § 552(a)(4)(E); and,
4. Provide such other relief as the Court deems just and proper.

DATED this 23rd day of September, 2013.

Respectfully submitted,

/s/ Daniel J. Stotter

Daniel J. Stotter (WI0015)
STOTTER & ASSOCIATES LLC
408 SW Monroe Ave., Ste. M210E
Corvallis, Oregon 97333
(541) 738-2601
dstotter@qwestoffice.net

Attorney for Plaintiff