

**UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF INDIANA  
SOUTHERN DIVISION**

MARVIN CHARLES GABRION  
Registration Number: 09184-055,

Docket No. 2:15-CV-24

Plaintiff,

Honorable

v

UNITED STATES DEPARTMENT OF  
JUSTICE AND UNITED STATES BUREAU  
OF PRISONS,

Defendants.

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**COMPLAINT FOR DECLARATORY JUDGMENT AND FOR  
PRELIMINARY AND PERMANENT INJUNCTIVE RELIEF**

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NOW COMES the Plaintiff, MARVIN CHARLES GABRION, through counsel, and, complaining against the Defendants, states as follows:

1. Plaintiff Marvin Gabrion is a prisoner at USP Terre Haute.
2. Plaintiff was convicted of murder and sentenced to death in March of 2002 in the United States District Court for the Western District of Michigan.
3. Upon information and belief, Plaintiff has been housed continuously at USP Terre Haute since March 17, 2002.
4. Defendant United States Department of Justice (“DOJ”) is an administrative agency of the United States as defined by 5 U.S.C. § 552, et seq.
5. Defendant United States Bureau of Prisons (“BOP”) is an administrative agency as defined by 5 U.S.C. § 552, et seq.

6. Jurisdiction is appropriate in this Court because neither Defendant has filed a response to Plaintiff's request dated December 31, 2012.

7. Venue is proper in this Court because Plaintiff resides at USP Terre Haute and some or all of the records and things requested are maintained at the same location. 5 U.S.C. §552(a)(4)(B).

8. Defendant was sentenced to death on March 16, 2002.

9. He was immediately transported to the Special Housing Unit at USP Terre Haute.

10. Upon information and belief, since that date, the BOP has maintained a variety of records relating to Plaintiff, including in part records relating to mental health care issues.

11. Defendant filed a Notice of Appeal on March 25, 2002 from his conviction and sentence to the United States Court of Appeals for the Sixth Circuit.

12. A number of attorneys were appointed to represent Plaintiff on direct appeal, including Margaret O'Donnell.

13. On December 31, 2012, Plaintiff filed with the BOP a request for records relating to information maintained during his custody at USP Terre Haute. (**Exhibit 1, pp. 3-4**)

14. Plaintiff further submitted a FORM DOJ-361, a Certification of Identity. (**Exhibit 1, p. 5**)

15. Plaintiff's request is attached to the Declaration of Margaret O'Donnell. (**Exhibit 1, pp. 1-2**)

16. Despite the passage of 24 months, neither Defendant has ever filed a written response to Plaintiff's request.

17. Ms. O'Donnell has repeatedly contacted BOP personnel in an effort to obtain compliance with Plaintiff's FOIA request. (**Exhibit 1, pp. 6-7**)

18. Neither Defendant has complied in any way with the request.

19. This Court has the authority to enjoin the Defendants from failing to comply with Title 5 of the United States Code. 5 U.S.C. §552(a)(4)(B).

20. This Court further has the authority to order Defendants to provide the items requested by Plaintiff. 5 U.S.C. §552(a)(4)(B).

21. This Court has the authority to award to Plaintiff reasonable attorney fees and costs in this action. 5 U.S.C. §552(a)(4)(E)(i).

**WHEREFORE**, Plaintiff moves this Court for an order enjoining Defendants from failing to immediately comply with the FOIA request that Plaintiff filed on December 31, 2012. Plaintiff further moves the Court to enter Judgment in favor of Plaintiff and against Defendants ordering Defendants to immediately produce the items requested in Plaintiff's December 31, 2012 FOIA request. Plaintiff requests the Court to award to Plaintiff reasonable attorney fees and costs relating to this action, and requests the Court to grant all other relief that the Court determines to be appropriate.

Date: January 23, 2015

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