

UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF PENNSYLVANIA

MATTHEW R. KELLY,

Plaintiff

vs

C.A. No:

UNITED STATES OF AMERICA,
DEPARTMENT OF DEFENSE,

Defendant

COMPLAINT

I – Introduction, Parties and Jurisdiction

1. This is an action under the Privacy Act, 5 U.S.C. § 552a, and the Freedom of Information Act, 5 U.S.C. §552, to obtain records.
2. Plaintiff is Matthew R. Kelly, an individual residing in Uniontown, Pennsylvania.
3. Defendant is the United States Department of Defense. The Department of Defense includes the United States Navy as a component, and for purposes of this complaint, the references to actions by Defendant refer to actions by the Navy.
4. This court has jurisdiction of this matter under 28 U.S.C. §1331, relating to Federal question jurisdiction.

II – Factual Background

A – The June 27, 2014 FOI/P Request

5. On June 27, 2014, Plaintiff submitted a request for documents to the United States Naval Academy under the Freedom of Information and Privacy (FOI/P) acts. See Exhibit A.
6. On July 9, 2014, Defendant's representative made a partial response to the request. See Exhibit B.
7. On October 6, 2014, Defendant completed its response to the request and issued a final letter. See Exhibit C.
8. On December 1, 2014, Plaintiff filed a FOI/P appeal from the final letter challenging the redaction of authors and recipients from certain released documents, and also the adequacy of the search for documents. See Exhibit D.
9. On January 7, 2015, Defendant denied the appeal. See, Exhibit E.

B – The October 6, 2014 FOI/P Request

10. On October 6, 2014, Plaintiff submitted a FOI/P request to the Office of Legal Counsel at the Naval Academy. See Exhibit F.
11. Defendant never responded to this request.

C – The August 25, 2014 FOI/P Request

12. On August 25, 2014, Plaintiff submitted a FOI/P request to the Naval Personnel Command. See Exhibit G.
13. On October 15, 2014, Defendant responded to the request. See Exhibit H.
14. On November 21, 2014, Plaintiff filed an FOI/P appeal. See Exhibit I.
15. Defendant has not responded to the appeal.

III – Cause of Action

16. Plaintiff has a cause of action to enforce his FOI/P requests under 5 U.S.C. §552a(g)(1) and §552(a)(4)(B).
17. Defendant did not conduct an adequate search for documents, including electronic documents.
18. Defendant did not respond to the October 6, 2014 request.
19. Defendant improperly redacted non-exempt information from the documents it released.

IV – Relief Requested

WHEREFORE, Plaintiffs requests that this Honorable Court:

- (a) Order Defendant to conduct a reasonable search for documents and release non-exempt information in those documents;
- (b) Order Defendant to release the redacted information;
- (c) Award Plaintiff costs and attorneys fees.

Respectfully submitted
s/ Jason W. Manne
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Dated: March 23, 2015
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