

EXHIBIT E

U.S. Department of Homeland Security
500 12th St. SW; STOP 5009
Washington, DC 20536-5009



U.S. Immigration
and Customs
Enforcement

February 20, 2020

Austin Evers
American Oversight
1030 15th Street, NW
Suite B255
Washington, DC 20005

RE: 2020-ICAP-00162, 2020-ICFO-08860

Dear Mr. Evers:

This is in response to your appeal dated November 25, 2019, received on January 21, 2020, appealing the adverse determination of your Freedom of Information Act (FOIA) request by the ICE FOIA Office. Your FOIA request dated November 19, 2019, sought:

1. All communications (including emails, email attachments, calendar invitations, text messages, letters, memoranda, or other communications) of the following ICE officials concerning Judge Joseph, Officer MacGregor, and/or the events alleged in the Indictment (see request for list of individuals and background info);
2. All records concerning any investigation by ICE of Judge Joseph, Officer MacGregor, and/or the events alleged in the Indictment, including but not limited to any notes, reports, and memoranda; and
3. All records of final guidance, directives, or instructions provided by ICE to Mr. Lelling or his staff concerning Judge Joseph, Officer MacGregor, and/or the events alleged in the Indictment.

By email, dated November 19, 2019, the ICE FOIA Office advised that “third-party authorization will be needed from both Wesley MacGregor and Shelley M. Richmond Joseph in order to process the request since the search would require us to search by their personally identifiable information. Please be advised that DHS regulations require, in the case of third-party information requests, a statement from the individual verifying his or her identity and certifying that individual's agreement that records concerning him or her may be accessed, analyzed and released to a third party. *See* 6 C.F.R. § 5.21(f). Because you have not provided this documentation with your request, we are unable to initiate a search for responsive records.” You appealed the need for third-party authorizations, stating, among other things, that the requested records are not governed by the Privacy Act because the requested communications are not “records” in a “system of records.”

After a review of the administrative record which led to the determination on your FOIA request, ICE has determined that search(s), or modifications to the existing search(s), could be made. We are

therefore remanding your appeal to the ICE FOIA Office for processing to the appropriate agency/office(s) to obtain any responsive documents, should they exist. The ICE FOIA Office will respond directly to you.

Should you have any questions regarding this appeal remand, please contact ICE at ice-foia@dhs.gov. In the subject line of the email please include the word "appeal," your appeal number, which is **2020-ICAP-00162**, and the FOIA case number, which is **2020-ICFO-08860**.

Sincerely,

/s/ *Ali Karzba*

for

Shiraz Panthaky
Chief
Government Information Law Division
ICE Office of the Principal Legal Advisor
U.S. Department of Homeland Security