

COMPLAINT
EXHIBIT G

Neal J. Bingham, Attorney at Law

Law Offices of Jerry C. Effren

25 West Union Street

Ashland, MA 01721

Office (508) 881-4950

Cell Phone (617) 852-6003

Telecopier (508) 881-7563

E-Mail: nbingham@effren.net

THIS E-MAIL TRANSMISSION CONTAINS INFORMATION THAT IS CONFIDENTIAL AND PRIVILEGED AND IS INTENDED TO BE DISCLOSED SOLELY TO THE ADDRESSEE(S). IF YOU ARE NOT AN INTENDED RECEIPIENT, PLEASE BE AWARE THAT ANY DISCLOSURE, COPYING, DISTRIBUTION OR OTHER USE OF THIS E-MAIL MESSAGE AND/OR ITS ATTACHMENTS IS UNAUTHORIZED. IF YOU HAVE RECEIVED THIS E-MAIL TRANSMITTAL IN ERROR, PLEASE NOTIFY THE SENDER BY RETURN E-MAIL IMMEDIATELY AND DELETE THIS MESSAGE AND ITS ATTACHMENTS FROM YOUR COMPUTER SYSTEM.

From: Williams, Alyssa E LT USN NAVCIVLAWSUPPACT DC (USA) <alyssa.e.williams1@navy.mil>

Sent: Monday, March 1, 2021 11:40 AM

To: Neal Bingham <nbingham@effren.net>

Cc: Winston, Wendy A CIV USN (USA) <wendy.winston@navy.mil>; Degner-Lopez, Alyssa D LT USN NAVY JAG WASH DC (USA) <alyssa.degner-lopez1@navy.mil>

Subject: RE: Final adjudication response ICO Neal J. Bingham DON-NAVY-2021-001128

Good Afternoon Mr. Bingham,

I received your call while in a training this morning, which is going on today. I've cc'd to this email my colleague, LT Alyssa Degner Lopez, who may be able to assist you while I am out of pocket today.

Unfortunately, I did not receive an email from you after our call. However, I dug through our hard copy mail and was able to find this letter to our office in January, which details that you had not received a response to your prior FOIA request/appeal. I reached out to Military Sea Lift Command (MSC) regarding your inquiry. Their FOIA POC provided the attached two documents (dry dock certificate and the O11031 Response).

Looking at the dates of your request, your original request was submitted August 5, 2020. You did not receive records, and appealed to our office on November 9, 2020. While your appeal was pending with us, the command responded to you on November 17, 2020. We were not aware of the response and signed out our appeal to you on December 3, 2020. It looks like your initial FOIA request had been responded to at that time, however, and we aren't tracking any additional objections to exemptions or search.

Please let me know if this clears up your request or if you still have items outstanding from the command. They also informed me that they were aware of additional appeals you submitted to our OGC counterpart. I wouldn't have SA over those items, but I can let our OGC appeals POC know if you are pending response on other items.

V/r,

Alyssa Williams

LT, JAGC, USN

General Litigation (Code 14)

Office of the Judge Advocate General

Phone: (202) 685-5398

Email: alyssa.e.williams1@navy.mil

This email may contain privacy sensitive information which is "FOR OFFICIAL USE ONLY - PRIVACY SENSITIVE: Any misuse or unauthorized disclosure may result in both civil and criminal penalties."

CONFIDENTIALITY NOTICE: This email message and any attachments are intended only for the person or entity to which it is addressed, and may contain confidential or privileged material protected by the attorney-client relationship which are protected from disclosure under the Freedom of Information Act, 5 USC 552. Any unauthorized review, use, disclosure, or distribution is prohibited. If you are not the intended recipient, please contact the sender by reply email and destroy all copies of the original message. If you are the intended recipient, but do not wish to receive communications through this medium, please advise the sender immediately.

THAT ANY DISCLOSURE, COPYING, DISTRIBUTION OR OTHER USE OF THIS E-MAIL MESSAGE AND/OR ITS ATTACHMENTS IS UNAUTHORIZED. IF YOU HAVE RECEIVED THIS E-MAIL TRANSMITTAL IN ERROR, PLEASE NOTIFY THE SENDER BY RETURN E-MAIL IMMEDIATELY AND DELETE THIS MESSAGE AND ITS ATTACHMENTS FROM YOUR COMPUTER SYSTEM.

From: Neal Bingham
Sent: Monday, March 1, 2021 12:06 PM
To: Williams, Alyssa E LT USN NAVCIVLAWSUPPACT DC (USA) <alyssa.e.williams1@navy.mil>
Cc: Winston, Wendy A CIV USN (USA) <wendy.winston@navy.mil>; Degner-Lopez, Alyssa D LT USN NAVY JAG WASH DC (USA) <alyssa.degner-lopez1@navy.mil>
Subject: RE: Final adjudication response ICO Neal J. Bingham DON-NAVY-2021-001128

Lieutenant,

This does not clear up anything. MSC has failed to follow the order concerning the foia production. It produced one redacted document (which appears to be nothing more than a copy of the document I provided with my original foia request to assist MSC in identifying responsive documents). It was ordered to make to complete its search within 20 days and provide a rolling release ever 15 days. It didn't. MSC then continued in what appear to be its ordinary course of business by ignoring my demands for those documents responsive to my request – all of which were order to be produced by the Navy Department on December 3, 2020. It is now another 3 months with literally nothing.

Additionally, did you direct MSC to respond, contact me, anything as you told me you'd do during our telephone conversation? Based on your response your answer is no. Please advise.

Finally, the Second Appeal is the result of the frustration that caused by MSC and now your department resulting from unexplainable failures to comply with federal law. I note that the second appeal was delivered on January 6, 2021 with no response from your office – now nearly a month overdue. Please confirm that I'll have the responsive documents today or I will be left with no option by to appeal to the federal district court.

If you'd like to discuss, my number is below.

Adrienne Cormier

From: Williams, Alyssa E LT USN NAVCIVLAWSUPPACT DC (USA) <alyssa.e.williams1@navy.mil>
Sent: Monday, March 1, 2021 4:04 PM
To: Neal Bingham
Cc: Winston, Wendy A CIV USN (USA); Degner-Lopez, Alyssa D LT USN NAVY JAG WASH DC (USA)
Subject: RE: Final adjudication response ICO Neal J. Bingham DON-NAVY-2021-001128
Attachments: Bingham FOIA appeal response signed.pdf; foia bingham.pdf

Good Afternoon Mr. Bingham,

Thank you for taking my call today. Unfortunately, as noted on the telephone, I have not received any email from you regarding the appeals. It could be an error with the systems or firewalls, but nothing has come through.

As noted in our call, we have received two appeals from you regarding your initial FOIA request. The first appeal was received by our office on November 10, 2020, asserting that MSC had failed to respond to your command. During the pendency of your appeal, and unknown to us, MSC responded to your request on November 17, 2020. After discussions with their FOIA coordinator, they understood you may be satisfied with a record that met the first paragraph of your request, and supplied such a record. They state they have not received a response from you since their submission to you.

Our online system also shows that your appeal was also submitted to the Office of General Counsel, who responded to you on November 17, 2020. OGC mooted your appeal per the office having responded at that time. Our office, not recognizing either of these items took place, granted your appeal on December 3, 2020, instructing the office to respond to you within 20 days (and to provide records on a rolling basis, if they could not all be provided in 20 days). You then submitted a second appeal to our office in January (also attached) asserting the command failed to provide any records to you in response to our December 3, 2020 letter. Unfortunately, this appeal did not appear to be logged in our system, and remained pending. However, after receiving your call, we were able to determine the above timeline of events.

When reviewing your appeal, my understanding was that you are challenging the failure of MSC to respond to you at all, per your initial appeal of November 9, 2020, and referral to our December 3, 2020 adjudication regarding that issue. Based on your call today, I understand you are objecting that MSC has only provided you a copy of the record you had submitted to it yourself, that MSC has failed to provide a response to all of your requests. If you are arguing that additional records exist and MSC has failed to search for them, to attest to a withholding, or objections to redactions, this is not clear to me from your present appeal. You then asked that I make a phone call to MSC, to see if they would release to you the additional records you seek via the FOIA.

Although I cannot promise any records will be provided to you, as a courtesy, I did telephone MSC regarding your request, and they noted they had not heard back from you regarding their prior November 17, 2020 letter. I explained that this may be due to confusion: you subsequently received our December 3, 2020 letter, and then submitted a January letter to our office, believing that further records were going to be provided. MSC is now reviewing whether or not the request can be reopened in FOIA online, since the record provided did not satisfy your request, and I am following up with them tomorrow. After hanging up with them, I also recalled your comment that you had submitted two status requests to their office. If you have been emailing their office as well, I do not know if the firewall or system is blocking emails to them as well.

I will give your office a call after I have heard from MSC tomorrow. You are also welcome to submit any further clarification of your objections to their November 17, 2020 response, its failure to address all of your requests, what

records you believe exist that have not been provided, objections to redactions, etc. Reviewing the one record that was provided, I estimate the substantive appeal issues will be under the cognizance of the Office of General Counsel for appeals. Although I'm happy to convey your appeal to the OGC office that handles such appeals, due to the seeming inability of this account to receive your emails – even when you are replying to mine – we will have to coordinate a fax or other delivery if you elect that option.

Very respectfully,

Alyssa Williams
LT, JAGC, USN
General Litigation (Code 14)
Office of the Judge Advocate General
Phone: (202) 685-5398
Email: alyssa.e.williams1@navy.mil

This email may contain privacy sensitive information which is "FOR OFFICIAL USE ONLY - PRIVACY SENSITIVE: Any misuse or unauthorized disclosure may result in both civil and criminal penalties."

CONFIDENTIALITY NOTICE: This email message and any attachments are intended only for the person or entity to which it is addressed, and may contain confidential or privileged material protected by the attorney-client relationship which are protected from disclosure under the Freedom of Information Act, 5 USC 552. Any unauthorized review, use, disclosure, or distribution is prohibited. If you are not the intended recipient, please contact the sender by reply email and destroy all copies of the original message. If you are the intended recipient, but do not wish to receive communications through this medium, please advise the sender immediately.

From: Williams, Alyssa E LT USN NAVCIVLAWSUPPACT DC (USA)
Sent: Monday, March 1, 2021 11:40 AM
To: nbingham@effren.net
Cc: Winston, Wendy A CIV USN (USA) <wendy.winston@navy.mil>; Degner-Lopez, Alyssa D LT USN NAVY JAG WASH DC (USA) <alyssa.degner-lopez1@navy.mil>
Subject: RE: Final adjudication response ICO Neal J. Bingham DON-NAVY-2021-001128

Good Afternoon Mr. Bingham,

I received your call while in a training this morning, which is going on today. I've cc'd to this email my colleague, LT Alyssa Degner Lopez, who may be able to assist you while I am out of pocket today.

Unfortunately, I did not receive an email from you after our call. However, I dug through our hard copy mail and was able to find this letter to our office in January, which details that you had not received a response to your prior FOIA request/appeal. I reached out to Military Sea Lift Command (MSC) regarding your inquiry. Their FOIA POC provided the attached two documents (dry dock certificate and the 011031 Response).

Looking at the dates of your request, your original request was submitted August 5, 2020. You did not receive records, and appealed to our office on November 9, 2020. While your appeal was pending with us, the command responded to you on November 17, 2020. We were not aware of the response and signed out our appeal to you on December 3, 2020. It looks like your initial FOIA request had been responded to at that time, however, and we aren't tracking any additional objections to exemptions or search.

Please let me know if this clears up your request or if you still have items outstanding from the command. They also informed me that they were aware of additional appeals you submitted to our OGC counterpart. I wouldn't have SA over those items, but I can let our OGC appeals POC know if you are pending response on other items.

V/r,

Alyssa Williams
LT, JAGC, USN
General Litigation (Code 14)
Office of the Judge Advocate General
Phone: (202) 685-5398
Email: alyssa.e.williams1@navy.mil

This email may contain privacy sensitive information which is "FOR OFFICIAL USE ONLY - PRIVACY SENSITIVE: Any misuse or unauthorized disclosure may result in both civil and criminal penalties."

CONFIDENTIALITY NOTICE: This email message and any attachments are intended only for the person or entity to which it is addressed, and may contain confidential or privileged material protected by the attorney-client relationship which are protected from disclosure under the Freedom of Information Act, 5 USC 552. Any unauthorized review, use, disclosure, or distribution is prohibited. If you are not the intended recipient, please contact the sender by reply email and destroy all copies of the original message. If you are the intended recipient, but do not wish to receive communications through this medium, please advise the sender immediately.