

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF NEW YORK

MONICA L. HEAVEY,

Plaintiff,

v.

U. S. DEPARTMENT OF JUSTICE,

Defendant.

Complaint

1. This is an action under the Freedom of Information Act (hereinafter “FOIA”), 5 USC §552, for injunctive and other appropriate relief and seeking the disclosure and release of agency records pertaining to Monica Lynn Heavey (hereinafter “Heavey”) that have been improperly withheld by U. S. Department of Justice (hereinafter “DOJ”) component Federal Bureau of Investigation (hereinafter “FBI”).

Jurisdiction and Venue

2. This Court has both subject matter jurisdiction over this action and personal jurisdiction over the parties pursuant to 5 USC §552 (a) (4) (B). This Court also has jurisdiction over this action pursuant to 28 USC §1331. Venue lies in the district under 5 USC §552 (a) (4) (B).

Parties

3. Plaintiff resides in the City of Buffalo. She made the request for records at issue here.

4. Defendant DOJ is a Department of the Executive Branch of the United States Government and includes component entity FBI. The DOJ is an agency within the meaning of 5 USC §552 (f) and has possession and control of the records at issue here.

Facts

5. By letter dated April 11, 2021, addressed to FBI, plaintiff requested copies of all records pertaining to Heavey.

6. By letter dated April 23, 2021, the FBI advised plaintiff that it was unable to identify records responsive to her FOIA request. See FOIPA Request No. 1494817-000.

7. By letter dated June 4, 2021, plaintiff, through counsel, filed an administrative appeal with the DOJ Office of Information Policy (hereinafter "OIP").

8. By letter dated June 17, 2021, OIP indicated that plaintiff's administrative appeal had been received on June 11, 2021 and been assigned number A-2021-02006.

9. By letter dated July 9, 2021, plaintiff's administrative appeal was denied.

10. Plaintiff has exhausted the applicable administrative remedies with respect to her FOIA request.

11. Plaintiff has a right of prompt access to the requested records under 5 USC §552 (a) (3) (A) and the FBI failed to conduct an adequate search for responsive records and has wrongfully withheld the sought-after information from plaintiff.

Requested Relief

Wherefore, plaintiff prays that this Court:

1. order defendant to conduct a search for any and all responsive records to plaintiff's request and demonstrate that it employed search methods reasonably likely to lead to the discovery of records responsive to the request;

2. order defendant to produce, by a date certain, any and all non-exempt records responsive to plaintiff's request and a Vaughn index of any responsive records withheld under claim of exemption;

3. enjoin defendant from continuing to withhold any and all non-exempt records responsive to plaintiff's request;

4. grant plaintiff an award of reasonable attorney fees and other litigation costs reasonably incurred in this action pursuant to 5 USC §552 (a) (4) (E) (i); and

5. grant plaintiff such other relief as the Court may deem just and proper.

Dated: August 10, 2021

Respectfully submitted,

s/michael kuzma
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