

UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLUMBIA

AARON J. WHITMAN)	COMPLAINT FOR RELIEF
Plaintiff,)	FREEDOM OF INFORMATION ACT
)	
v.)	Case: 1:21-cv-03163
)	Assigned To : Unassigned
DEPARTMENT OF THE ARMY)	Assign. Date : 11/29/2021
Defendant.,)	Description: FOIA (I-DECK)

NATURE of the CASE

1. This is a suit brought under the Freedom of Information Act (5 U.S.C. § 552), to compel disclosure to Plaintiff the following:

a. All internal and external communications by U.S. Army Pacific Command, Staff Judge Advocate, in which Sergeant (SGT) Aaron J. Whitman is the subject.

b. Communications by Captain Sharon Cordello, U.S. Army Trial Defense Service in the case of *United States v. Whitman*, Army No. 20170550.

PARTIES

2. Plaintiff is a former Soldier of the U.S. Army.

3. CHRISTINE WORMUTH or her successor in office is the Secretary of the U.S. Army, having offices at 101 Army Pentagon, Washington, D.C. 20310-0101, is made a Defendant in her official capacity, and as such is ultimately responsible for the compliance by the Department of the Army the requirements of the Freedom of Information Act and the Army regulations issued pursuant to it. Service on the Defendant may be made under the provisions of Rule 4(i) of the Federal Rules of Civil Procedure.

4. Defendant, UNITED STATES of AMERICA is made a party to this action pursuant to 5 U.S.C. § 702.

JURISDICTION AND VENUE

5. This court has subject matter jurisdiction of this action under the Freedom of Information Act, under the Act itself, 5 U.S.C. § 552(a)(4)(B).

6. In addition, because the claim arises by virtue of the Act, it arises under the laws of the United States, and the court has subject matter jurisdiction pursuant to 28 U.S.C. § 1331.

7. Venue is proper in the United States District Court for the District of Columbia, pursuant to 5 U.S.C. § 552(a)(4)(B) because the District of Columbia is a judicial district in which Defendant has an official office.

CLAIM FOR RELIEF

8. On 29 May 2018 Plaintiff submitted a FOIA request to the U.S. Army Pacific Command, Staff Judge Advocate, 25th Infantry Division, Schofield Barracks, HI 96857 for all internal and external communications by U.S. Army Pacific Command, Staff Judge Advocate, in which Sergeant (SGT) Aaron J. Whitman is the subject. A true and correct copy of this request is attached to this complaint and incorporated by reference as Exhibit A.

9. On 26 August 2020, the Commander U.S. Indo-Pacific Command, Camp H.M. Smith, HI replied to the 29 May 2018 FOIA request. This office responded it received Plaintiff's FOIA request by mistake and forwarded the request to US Army Pacific. Plaintiff has not received any response from U.S. Army Pacific concerning his FOIA request. A true and correct copy of this response from 26 August 2020 is attached to this complaint and incorporated by reference as Exhibit B.

10. On 6 July 2020, after not receiving a response from U.S. Army Pacific, Plaintiff filed another FOIA request to the Staff Judge Advocate, FOIA Requester Service Center, Department of the Army, Commander, 25th Infantry Division, 580 Kolekole Ave., Suite 125 Schofield Barracks, HI 96857 for the same information originally requested on 29 May 2018. Plaintiff has not received any response from this FOIA request.

11. On 1 May 2020, Plaintiff filed a new FOIA request to the U.S. Army Trial Defense Service (USATDS), Pacific Rim Region, Hawaii Field Office, Fort Shafter, HI 96858 for records concerning himself generated by a USATDS attorney Captain Sharon Cordello who was Plaintiff's assigned trial defense attorney. Plaintiff has since lost this original request.

12. On 13 May 2021, the USATDS Pacific Rim Region, Hawaii Field Office, Fort Shafter, HI 96858 provided a response to Plaintiff's request (approximately dated 1 May 2020). This response indicated that Plaintiff's defense attorney files are exempt from disclosure under Exemption 5. A true and correct copy of this response from 13 May 2021 is attached to this complaint and incorporated by reference as Exhibit C.

13. On 22 May 2021, Plaintiff filed an appeal to the USATDS Pacific Rim Region, Hawaii Field Office, Fort Shafter, HI 96858. This appeal cited numerous authorities that Plaintiff's file generated by his defense attorney is not exempt from disclosure. A true and correct copy of this appeal, dated 22 May 2021 is attached to this complaint and incorporated by reference as Exhibit D.

14. On 22 May 2021, Plaintiff filed a FOIA request directly to U.S. Army Legal Services Agency, USATDS, Fort Belvoir, VA 22060 (the Headquarters of USATDS), for records communications by his assigned trial defense service attorney, Captain Sharon Cordello. A true and correct copy of this request dated 22 May 2021 is attached to this complaint and incorporated by reference as Exhibit E.

15. Plaintiff has not received any response whatsoever in three years from the U.S. Army Pacific Command, Staff Judge Advocate, 25th Infantry Division, Schofield Barracks, HI 96857 Plaintiff has exhausted administrative remedies to compel disclosure of such information.

16. Plaintiff has not received any response whatsoever from USATDS concerning Captain Sharon Cordello and her files concerning Plaintiff. Plaintiff has exhausted administrative remedies to compel disclosure of such information.

17. Plaintiff has been aggrieved and damaged by the action or inaction of the Defendant in acting or failing to act in their official capacity by refusing Plaintiff's written request for disclosure of information under the Freedom of Information Act. The Defendant's actions in denying Plaintiff the requested information is illegal in that the Freedom of Information Act requires the production of the information sought and to the extent that the Defendant has any discretion in releasing the information sought has abused its discretion in withholding the information from Plaintiff in this case.

18. The information sought by Plaintiff in his request is not exempt from disclosure under the Freedom of Information Act and is not exempt on the grounds cited by the Defendant because of the following:

19. The information sought by the Plaintiff cannot be compiled independently by the Plaintiff and, unless the court grants relief requested and compels disclosure, the Plaintiff has no remedy at law or otherwise.

20. Under the Freedom of Information Act, the Plaintiff is entitled to an injunctive order compelling the Defendants to disclose the information sought by Plaintiff's request.

21. Plaintiff further seeks judgment against Defendant for reasonable attorney's fees and its costs of litigation, which it has and will reasonably incur in this case.

PRAYER

Plaintiff, AARON J. WHITMAN, prays that this Court:

A. Order the Defendant to disclose the requested records in their entirety and make copies promptly available.

B. Award judgment against Defendant for Plaintiff's costs of litigation reasonably incurred by the Plaintiff in this case and;

C. Grant Plaintiff all other and further relief to which Plaintiff may be justly entitled.

Dated: 21 November 2021

By: 
AARON J. WHITMAN

Address: 1300 N. Warehouse Road, Fort Leavenworth, KS 66027