

6. Defendant DOJ is a department of the Executive Branch of the United States Government. The DOJ is an agency within the meaning of 5 U.S.C. §552(f).

7. Defendant Merrick Garland is the Attorney General of the United States and heads the DOJ. The Defendant is responsible for the DOJ compliance with the Laws of the United States and regulations promulgated under such laws, including the laws and regulations at issue in this action:

Defendant DOJ's Emails, Text Messages, Written Correspondence or Other Electronically Stored Information ("ESI"), Time and Billing Records and Paid or UnPaid Requests for Time Away from Work, and Family Medical Leave Act Information, ("FMLA").

8. Plaintiff's requested records is to establish the earliest date in which DOJ employees became aware of an elective surgery of the original AUSA in the prosecution of Mr. Martin's case number 3:17-CR-00141-DJH, in the Western District of Kentucky, Louisville Division. Also, time spent on Mr. Martin's criminal case by the original AUSA in the same case.

9. Plaintiff's requested records does not violate the privacy of any DOJ employee under HIPPA or otherwise. The "elective surgery" was discussed at the pre-trial hearing; (See Doc. # 25, of 12-13/17 on PACER.COM). The government's "Motion to Continue Trial", at Doc. # 25, PageID# 179, which the Government states; "the government states that the original prosecutor on the case is out of the office for the next month recovering from surgery. The original prosecutor is not scheduled to return to the office until after the scheduled trial date." Plaintiff's Defense Counsel also stated at (Doc. # 28 of 12/15/17, PageID# 191, on PACER.COM), "The government's request to continue the jury trial because the assistant trial prosecutor initially assigned to this case is out of the office for two months following elective surgery." The knowledge of the "elective surgery" is now public knowledge as it is on the public web-site PACER.COM.

10. Mr. Martin requested the DOJ's records under FOIA beginning January 11, 2022 and again on February 11, 2022 (EXHIBIT A), then following up with an Expedited Processing request date April 28, 2022 (EXHIBIT B).

11. As of the date of this filing, Plaintiff has had "no response" from the Defendants.

Plaintiff's Entitlement to Expedited Processing

12. To date the Defendant's have not responded to Mr. Martin's request for expedited processing of his FOIA request.

13. Mr. Martin has exhausted the applicable administrative remedies because the Defendants' have not responded to his expedited FOIA request necessitating the action sub judice.

14. Mr. Martin is entitled to expedited processing of his FOIA request under the standards contained in Defendant DOJ's regulations.

15. Defendants have wrongfully withheld the requested records from Mr. Martin.

Claims for Relief

Claim One: Violation of the FOIA-Failure to Respond to Request for Expedited Processing.

16. Plaintiff, Mr. Martin repeats and realleges paragraph 1-15.

17. Defendants failure to timely respond to Plaintiff's request for expedited FOIA processing violates the FOIA, 5 U.S.C. §552(a)(6)(E)(ii), and Defendants DOJ's own regulations promulgated under the ACT 28 C.F.R. §16.5(d)(4).

Claim Two: Violation of APA-Failure to Respond to Request for Expedited Processing.

18. Plaintiff, Mr. Martin, repeats and realleges paragraphs 1-15.

19. Defendant DOJ's failure to timely respond to Plaintiff's request for expedited processing constitutes agency action which unlawfully withhold and unreasonably delayed request in violation of APA.

20. Defendant DOJ's failure to timely respond is arbitrary, capricious and

abuse of discretion, not in accordance with law and without observance of procedure required by the law, all in violation of APA.

Claim Three: Violation of the FOIA-Failure to Grant Request for Expedited Processing.

21. Plaintiff, Mr. Martin, repeats and realleges paragraphs 1-15.

22. Defendant DOJ's failure to grant Plaintiff's request for expedited processing violates the FOIA 5 U.S.C. §552(a)(6)(E)(i), and Defendant's own regulations promulgated under ACT 28 U.F.R. §16.5(d)(1).

Prayer

A. Order Defendants immediately to process requested records in their entireties.

B. Order Defendants, on completion of the expedited processing to disclose the requested records in their entireties and make copies available to Plaintiff.

C. Provide for expedited processing in this action.

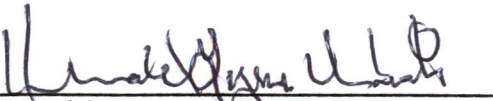
D. Award Plaintiff his costs and reasonable fees incurred in the action.

E. Grant Plaintiff all other relief which is just and proper.

VERIFICATION

The Plaintiff declares under penalty of perjury and under the laws of the United States of America the foregoing statements are true and correct.

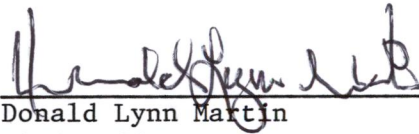
Executed on May 25, 2022 (date), in accordance with Title 28 U.S.C. §1746.


Donald Lynn Martin
Plaintiff

CERTIFICATE OF SERVICE

The Plaintiff certifies under penalty of perjury that the foregoing document(s) has been placed in the institution legal mail system of FCI Ashland on May 25, 2022 in a manner of service by way of prepaid mail of the United States Postal Service addressed to the office of the Clerk of the United States District Court for the District of Columbia to be disseminated to all parties whom have registered to receive legal notice of filings on the docket.

Executed on May 25, 2022 (date)



Donald Lynn Martin
Plaintiff