

**UNITED STATES DISTRICT COURT  
WESTERN DISTRICT OF MICHIGAN  
SOUTHERN DISTRICT**

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JENNY THERESA ROMAN and  
BENITO ROMAN LUGO,

Case No.

Plaintiffs,

Hon.

vs.

**ORIGINAL COMPLAINT**

UNITED STATES DEPARTMENT OF STATE,

Defendants.

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NOW COMES Plaintiffs, by and through their attorneys, and in their Complaint against the Defendants, allege as follows:

**INTRODUCTION**

1. This is an action brought on behalf of Plaintiffs against the Defendants for violation of their rights under the Freedom of Information Act (“hereinafter FOIA”). Plaintiffs claim, as more fully outlined below, that the Defendants have arbitrarily and unlawfully withheld information to which the Plaintiffs are entitled in violation of the FOIA.

**JURISDICTION AND VENUE**

2. This Court has Jurisdiction and Venue under 5 U.S.C. §552(b)(4)(B), 28 U.S.C. §1331 and 28 U.S.C. §1391(e)(1).

**PARTIES**

3. Plaintiff Jenny Theresa Roman is a citizen of the United States and has resided in the Western District of Michigan at all relevant times.
4. Plaintiff Benito Roman Lugo is a citizen of the country of Mexico.
5. Defendant Department of State ( hereinafter “DOS”) is an executive agency within the meaning of 5 U.S.C. (f)(1).

**FACTUAL ALLEGATIONS**

6. On August 22, 2013 the Consular Information Unit of the U.S. Consulate General Ciudad Juarez, Mexico responded to an inquiry from the Plaintiffs’ counsel as to the reasoning behind the denial of Mr. Roman Lugo’s visa application. (Exhibit 1)
7. In that response, it was stated that there was reason to believe that Mr. Roman Lugo was a member of a known criminal organization and that for this reason, it was determined that that he was permanently ineligible for a visa.
8. On September 19, 2013 the Plaintiffs each sent a formal request under the FOIA to the DOS requesting “any and all records pertaining to [Mr. Lugo’s] application for an immigrant visa to the United States....” (Exhibit 2)
9. Additionally, the requests also sought information related to:
  - a. All facts that are referenced in the email by the Consular Information Unit that contributed to the denial of Mr. Roman Lugo’s visa;
  - b. The name of the criminal entity to which it is suspected Mr. Roman Lugo belongs;
  - c. Any and all notes or written information issued in the process of obtaining supervisory review of the decision.
10. Plaintiffs provided all necessary information for the DOS to conduct a search and to locate the information requested including all identifying information for each as well as a Certification of Identity.
11. On September 24, 2013 the DOS sent a response to the Plaintiffs merely assigning a Case Control Number to their request and confirming the potential for payment of costs of processing their request.

12. Since September 2013, there has been communication from the DOS or any other agency that may related to the FOIA requests made by either party.
13. Plaintiffs have a vital legal interest in the information being unlawfully withheld by the DOS that has affected and will continue to affect the Plaintiff Jenny Roman's right to successfully petition for her husband Plaintiff Roman Lugo to obtain a visa to enter and live in the United States with her and their children.
14. Defendant's failure to comply with its obligations under the FOIA have caused the Plaintiffs to suffer from not being able to timely review the information requested to determine how best to proceed with clarifying any misunderstanding or misinformation upon which a denial of Mr. Roman Lugo's immigrant visa was based, and have caused significant hardship for the parties minor children.

**COUNT I - Violation of the Freedom of Information Act**

15. Plaintiffs hereby reallege and incorporate all preceding paragraphs as if fully stated herein.
16. Under 5 U.S.C. §552(a)(3) Defendant had an obligation to search for any and all records that are responsive to the request made by the Plaintiffs.
17. Defendant was required under 5 U.S.C. §552(a)(6)(A) to respond to the Plaintiff's requests within 20 days with no more than a 10 day extension as prescribed under 5 U.S.C. §552(a)(6)(B).
18. The time limits set forth under the FOIA have come and gone by more than 659 days.
19. Defendant has failed to abide by its obligations under the FOIA by not providing the requested information or, in the alternative, making a determination as to the request as permitted under the FOIA and the governing Code of Federal Regulations.
20. By failing to timely comply with its obligations under the FOIA, the Defendant has constructively denied the Plaintiffs' lawful requests for information.
21. Such failure deems the Plaintiffs to have fully complied with any requirement to exhaust administrative remedies under 5 U.S.C. §552(a)(6)(C)(i).

Wherefore, the Plaintiffs requests this honorable Court to:

- A. Make a finding that the Defendant has violated the FOIA and its governing regulations;

- B. Issue an injunction requiring the Defendant immediately and without further delay respond to the Plaintiff's FOIA requests;
- C. Award Costs and reasonable attorney fees to the Plaintiffs as required under 5 U.S.C. §552(a)(4)(E) ;
- D. Award any other relief deemed by this Court to be necessary and proper.

Respectfully submitted,

/s/ Robert Anthony Alvarez  
Robert Anthony Alvarez (P66954)