

UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLUMBIA

Terry George Zimmerman,
Plaintiff,

v.

Case: 1:23-cv-02137
Assigned To : Unassigned
Assign. Date : 7/21/2023
Description: FOIA /Privacy Act (I-DECK)

Case No. . . .

COMPLAINT FOR INJUNCTIVE RELIEF

Executive Office for United States Attorneys,
United States Department of Homeland Security,

Defendants.

COMPLAINT FOR INJUNCTIVE RELIEF

Terry George Zimmerman, proceeding pro se, hereby alleges upon knowledge as to his own acts, and otherwise upon information and belief, the following:

NATURE OF THE ACTION

1. This is an action under the Freedom of Information Act ("FOIA"), 5 U.S.C. § 552 et seq., as amended, and the Privacy Act ("PA"), 5 U.S.C. § 552a, to order the production of agency records in the possession, custody, and control of the Executive Office for United States Attorneys (hereinafter "EOUSA") and the United States Department of Homeland Security (hereinafter "DHS").^{1/}

JURISDICTION AND VENUE

2. This court has jurisdiction over this action pursuant to 5 U.S.C. § 552(a)(4)(B)(FOIA) and 5 U.S.C. § 552(g)(1)(B)(PA).

3. Venue is in this district pursuant to 5 U.S.C. § 552(a)(4)(B)(FOIA) and 5 U.S.C. § 552(g)(1)(B)(PA).

^{1/} Zimmerman is aware that "Immigration and Customs Enforcement [ICE]" may ultimately be "the section of DHS relevant to this case." Ball v. USMS, 2021 U.S. Dist. LEXIS 200648 *3 (D.D.C. 2021). As such, until Defendants indicate, or this court orders otherwise, Zimmerman will refer to this Defendant solely as "DHS."

PARTIES

4. Zimmerman, a citizen of the United States and a federal prisoner, is currently confined at the Federal Correctional Complex (Low Custody), in Coleman, Florida, and is the requestor of the withheld records.

5. EOUSA is a component of the Department of Justice, an agency of the United States. See 28 C.F.R. § 0.1. EOUSA has possession, custody, and control of the records Zimmerman seeks.

6. DHS is an agency of the Executive Branch. See generally The United States Government Manual (2021) at 251-52. DHS has possession, custody, and control of the records Zimmerman seeks.

FACTUAL ALLEGATIONS

A. EOUSA

7. On January 5, 2023, Zimmerman sent, via Certified United States First Class Mail, a FOIA request to EOUSA, specifically requesting:

(1) criminal complaints, criminal information, and/or indictments; (2) arrest warrants; (3) other charging documents; (4) investigatory records, hand[]-written notes and final drafts; (5) reports of evidentiary findings and their conclusions; (6) "tickler" reports; (7) discovery productions; (8) interrogations; (9) database records from LIONS and other relevant databases; (10) drafts of plea agreements; (11) email communication between USAO MDFL and defense counsel; (12) email communication between USAO MDFL and HSI MDFL; (13) email communication between USAO MDFL and FDLE; and (14) any and all other information, data, reports, and transcripts of any kind not listed above and exempt by law.

8. On February 1, 2023, EOUSA responded to Zimmerman's request, alleging that his request "f[e]ll within 'unusual circumstances,'" and sua sponte "exten[ded] the time limit to respond to [y]our request beyond the ten additional days provided by the statute." See Exhibit "1" (February 1, 2023 letter from EOUSA). And while EOUSA placed Zimmerman's request in the complex track, see id., Zimmerman has yet to receive any responsive records, or a timeline as to the completion of his request.

B. DHS

9. On January 5, 2023, Zimmerman sent, via Certified United States First Class Mail, a FOIA request to DHS, specifically requesting:

(1) investigatory records, hand-written notes and final drafts; (2) database records from SEACATS, TECS, and other relevant ICE/DHS databases; (3) reports of evidentiary findings and their conclusions; (4) "tickler" reports; (5) discovery records; (6) forensic reports from all thumb or flash-based memory; (7) forensic reports from any and all desktop computer, laptop computer, and/or smartphone; (8) operation plans; (9) all HSI-issued summonses, their attendant affidavits, and their responses; (10) all HSI-issued subpoenas, their attendant affidavits, and their responses; (11) any HSI-requested search warrants, their attendant affidavits, and their responses; (12) all email communication between HSI MDFL and USAO MDFL; (13) all email communication between HSI MDFL and FDLE; and (14) any and all other information, data, reports, and transcripts of any kind not listed above and exempt by law.

10. DHS has neither responded to Zimmerman's FOIA request, nor has provided responsive records.

COUNT I: VIOLATION OF FOIA/PA

11. This count realleges and incorporates by reference all of the preceding paragraphs.

12. Zimmerman has a statutory right to the records he seeks.

13. Defendants' non-responsiveness and withholding of the items sought amounts to a refusal to produce them.

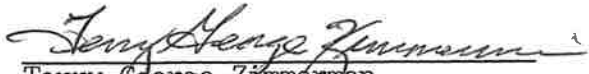
14. Defendants have violated FOIA/PA by improperly withholding records responsive to Zimmerman's FOIA/PA request.

RELIEF REQUESTED

Wherefore Zimmerman respectfully requests this court to:

- (a) Declare Defendants' failure to comply with FOIA/PA to be unlawful;
- (b) Enjoin Defendants from continuing to withhold records responsive to Zimmerman's FOIA/PA request, and otherwise order Defendants to produce the requested records without further delay;
- (c) Provide expeditious proceedings in this action; and
- (d) Grant any other such and further relief as this court sees fit and proper.

Respectfully submitted² by Terry George Zimmerman on this 16th day of July,
2023:


Terry George Zimmerman
Reg. No.: 06443-058
Federal Correctional Complex
Unit A-1 (Low Custody)
P.O. Box 1031
Coleman, FL 33521-1031

CERTIFICATE OF SERVICE

This complaint was delivered to the prison mailing authorities on the same day as signed, and placed inside a postage-prepaid, properly addressed envelope. The original complaint was delivered via United States Priority Mail to the United States District Court for the District of Columbia, Office of the Clerk at 333 Constitution Avenue, N.W., Washington, D.C., 20001; sent under Tracking Number 9114 9022 0085 2062 5475 93. Pursuant to Fed. R. Civ. P. 4(c)(1) et seq., Zimmerman has attached copies of this complaint, along with the appropriate summonses, in order that a United States Marshal can effectuate service on the Defendants.


Terry George Zimmerman

VERIFICATION

Under penalty of perjury pursuant to 28 U.S.C. § 1746, I hereby declare that the factual allegations and factual statements contained in this complaint are true and correct to the best of my knowledge.


Terry George Zimmerman

²/ Pursuant to Johnson v. Avery, 393 U.S. 483 (1969), I received assistance from a fellow inmate with the preparation and filing of this complaint and its attendant documents.

July 16, 2023

Terry George Zimmerman, #06443-055
Federal Correctional Complex
UNit A-1 (Low Custody)
P.O. Box 1031
Coleman, FL 33521-1031

United States District Court
Office of the Clerk
333 Constitution Avenue N.W.
Washington, D.C. 20001

Re: Filings for FOIA Civil Action

Dear Clerk,

Please find the following attachments to this letter to effectuate a civil action pursuant to FOIA, 5 U.S.C. § 552:

- * Civil Cover Sheet
- * Complaint for Injunctive Relief
- * Summonses for each Defendant (and copies of the Complaint for each Defendant)
- * AO 240 Application to Proceed In Forma Pauperis (Short Form)

Please coordinate with the USMS to promptly effectuate service of the attached Complaint and summonses to the Defendants.

Should you find any deficiencies with my filing, please inform me of such deficiencies, and I shall address them forthwith.

Thank you for your time and attention to this matter.

Regards,


Terry George Zimmerman

