

IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF COLUMBIA

MARK JEFFERSON RIGSBY	)	
Apt. 2, 3/F	)	
12 Deligiorgi	)	
Athens 10437, Greece	)	
	)	
Plaintiff,	)	
	)	Case No: 23-cv-3209
v.	)	
	)	
DEPARTMENT OF STATE	)	
2201 C St NW	)	
Washington, DC 20520	)	
	)	
Defendant.	)	
	)	

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**COMPLAINT**

**I. INTRODUCTION**

1. Plaintiff Mark Jefferson Rigsby (“Plaintiff”) brings this action seeking declaratory and injunctive relief to redress violations of the Freedom of Information Act (“FOIA”), 5 U.S.C. § 552 *et. seq.*, by Defendant United States Department of State (“DOS”) in failing to provide Plaintiff with all non-exempt records responsive to his April 8, 2023, FOIA request to this federal agency, seeking a copy of the after-action report on the US withdrawal from Afghanistan which was submitted to Congress on or about April 6, 2023.

## II. JURISDICTION

2. This Court has jurisdiction over this action pursuant to 5 U.S.C. § 552(a)(4)(B) (FOIA citizen suit provision) and 28 U.S.C. § 1331 (federal question).

## III. VENUE

3. Venue in this Court is proper pursuant to 5 U.S.C. § 552(a)(4)(B).

## IV. PARTIES

4. Plaintiff, Mark Jefferson Rigsby, is an United States citizen who resides in Athens, Greece.

5. Defendant United States Department of State is a federal agency of the United States, and as such, is an agency subject to the FOIA, pursuant to 5 U.S.C. § 552(f).

## V. LEGAL FRAMEWORK OF FOIA

6. FOIA requires, *inter alia*, that all federal agencies must promptly provide copies of all non-exempt agency records to those persons who make a request for records that reasonably describes the nature of the records sought, and which conform with agency regulations and procedures in requesting such records. 5 U.S.C. § 552(a)(3)(A).

7. FOIA requires federal agencies to make a final determination on all FOIA requests that it receives within twenty days (excepting Saturdays, Sundays, and legal public holidays) after the receipt of such request, unless the agency expressly provides notice to the requester of “unusual circumstances” meriting additional time for responding to a FOIA request. 5 U.S.C. § 552(a)(6)(A)(I).

8. FOIA also requires federal agencies to make a final determination on FOIA administrative appeals that it receives within twenty days (excepting Saturdays, Sundays, and legal public holidays) after the receipt of such appeal, unless the agency expressly provides notice to the requester of “unusual circumstances” meriting additional time for responding to a FOIA request. 5 U.S.C. § 552(a)(6)(A)(ii).

9. FOIA expressly provides that a person shall be deemed to have constructively exhausted their administrative remedies if the agency fails to comply with the applicable time limitations provided by 5 U.S.C. § 552(a)(6)(A)(I) - (ii). *See* 5 U.S.C. § 552(a)(6)C).

10. FOIA provides that any person who has not been provided the records requested pursuant to FOIA, after exhausting their administrative remedies, may seek legal redress from the Federal District Court to enjoin the agency from withholding agency records and to order the production of any agency records improperly withheld from the complainant.

11. Under FOIA, the federal agency has the burden to sustain its actions. 5 U.S.C. § 552(a)(4)(B).

12. Pursuant to FOIA, this Court may assess attorney fees and litigation costs against the United States if the Plaintiff prevails in this action. 5 U.S.C. § 552(a)(4)(E).

## **VI. FACTUAL ALLEGATIONS**

13. On or about April 8, 2023, Mark Jefferson Rigsby (Plaintiff) sent a FOIA request to the United States Department of State (DOS), seeking a copy of the after-action

report on the US withdrawal from Afghanistan which was submitted to Congress on or about April 6, 2023.

14. On or about April 17, 2023, Plaintiff received an email from Defendant confirming receipt of Plaintiff's April 8, 2023, FOIA request, and assigning it F-2023-07174.

15. On or about May 6, 2023, Plaintiff sent an email to the Agency, inquiring as to the status of his April 8, 2023, FOIA request.

16. On or about May 15, 2023, Plaintiff sent a follow up email to his May 6, 2023, email requesting an estimated date of completion of his April 8, 2023, FOIA request.

17. On or about May 22, 2023, the agency sent an email to Plaintiff indicating that his request was being processed, and that the estimated completion date is October 31, 2025.

18. As of the date of the filing of this action, Plaintiff has not received a final decision, nor any of the records which he requested in response to his April 8, 2023, FOIA request to the Department of State referenced above.

## **VII. CLAIMS FOR RELIEF**

19. Plaintiff realleges, as if fully set forth herein, paragraphs 1-18 previously set forth above.

20. Defendant DOS has violated FOIA by failing to provide Plaintiff with a final

decision to Plaintiff's April 8, 2023, FOIA request.

21. Defendant DOS has violated FOIA by failing to provide Plaintiff with all non-exempt responsive records for its April 8, 2023, FOIA request.

22. By failing to provide Plaintiff with all non-exempt responsive record to his April 8, 2023, FOIA request as described in paragraph 13 above, Defendant DOS has denied Plaintiff's right to this information as provided by the Freedom of Information Act.

23. Defendant DOS has violated FOIA by failing to perform an adequate search reasonably calculated to locate all responsive records to Plaintiff's April 8, 2023, FOIA request.

24. By failing to perform an adequate search reasonably calculated to locate all responsive records to Plaintiff's April 8, 2023, FOIA request, Defendant DOS has denied Plaintiff's right to this information as provided by law under the Freedom of Information Act.

25. Unless enjoined by this Court, Defendant DOS will continue to violate Plaintiff's legal rights to be provided with copies of the records which it has requested in his FOIA request described in paragraph 13 above.

26. Plaintiff is directly and adversely affected and aggrieved by Defendant DOS's failure to provide responsive records to his April 8, 2023 FOIA request described above.

27. Plaintiff has been required to expend costs and to obtain the services of a law

firm, consisting of attorneys, law clerks, and legal assistants, to prosecute this action.

28. Plaintiff is entitled to reasonable costs of litigation, including attorney fees pursuant to FOIA 5 U.S.C. § 552(a)(4)(E).

### **REQUEST FOR RELIEF**

WHEREFORE, Plaintiff respectfully requests that this Court enter Judgment for Plaintiff, providing the following relief:

1. Declare Defendant DOS has violated FOIA by failing to provide Plaintiff with a final response to his April 8, 2023, FOIA request.

2. Declare Defendant DOS has violated FOIA by failing to provide Plaintiff with all non-exempt records responsive to his April 8, 2023, FOIA request.

3. Declare Defendant DOS has violated FOIA by failing to complete an adequate search for records responsive to Plaintiff's April 8, 2023, FOIA request.

4. Direct by injunction that Defendant DOS perform an adequate search for records responsive to its April 8, 2023, FOIA request and provide Plaintiff with all non-exempt responsive records to Plaintiff's April 8, 2023, FOIA request.

5. Grant Plaintiff's costs of litigation, including reasonable attorney fees, as provided by FOIA, 5 U.S.C. § 552(a)(4)(E); and,

6. Provide such other relief as the Court deems just and proper.

DATED: This 26<sup>th</sup> day of October, 2023.

Respectfully submitted,

/s/ Lance D. Quaranto

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**Attorney for Plaintiff**