

EXHIBIT B

UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLUMBIA

)	
KEVIN E. BYRNES,)	
)	
Plaintiff,)	
)	
v.)	Case No. 19-cv-0761 (APM)
)	
UNITED STATES DEPARTMENT OF JUSTICE,)	
)	
Defendant.)	
)	

DECLARATION OF GEVORG G. MARGARYAN

I, Gevorg G. Margaryan, hereby make the following Declaration under penalty of perjury pursuant to 27 U.S.C. § 1746.

1. I am currently a Program Analyst with the Freedom of Information/Privacy Act Unit (FOIA/PA Unit) of the United States Department of Justice (DOJ), Drug Enforcement Administration (DEA), located at DEA’s Headquarters in Arlington, Virginia. I have served in this capacity since August 2020. Prior to that, I was a Pathways Program intern with the FOIA/PA Unit.

2. As part of my duties, I oversee the processing of certain requests to DEA under the Freedom of Information Act (FOIA), 5 U.S.C. § 552, and the Privacy Act (PA), 5 U.S.C. § 552a (cited together as FOIA/PA). Due to my experience and the nature of my position, I am familiar with the policies and practices of DEA related to the searching, processing, and disclosure of DEA information pursuant to the FOIA/PA.

3. To prepare this declaration, I have read and am familiar with the Complaint in the above-styled action and the Court’s Memorandum Opinion and Order issued on September 29, 2023.

4. The statements I make in this declaration are true and correct to the best of my

knowledge, information, and belief and are based on my personal knowledge as well as information provided to me in the course of performing my official duties.

Information Requested by the Court in its September 29, 2023 Opinion and Order

5. I submit this declaration in response to the Court's September 29, 2023 Opinion and Order in which the Court ordered DEA to provide a supplemental declaration (1) clarifying whether the emails of former CC attorneys Pinkney and Miller were searched; (2) describing the process used to "visually scan" emails of former CC attorneys; (3) outlining the process used to search Mr. DiBella's files; and (4) assessing whether a *Glomar* response is appropriate in relation to any additional OPR investigation(s) of Darek Kitlinski.

6. On the first issue, DEA searched for the relevant subject matter files within its case management software and located Letitia Pinkney and Marie Miller's email communications, but did not conduct an automated search of their email accounts. DEA maintains its legal subject matter files within case management software that stores documents and emails associated with a particular subject, including internal and external emails. Because a particular subject matter file will contain all associated documents and emails within the file, the search within the relevant subject matter files would have located any of the relevant external emails sent or received by attorneys Pinkney and Miller.

7. On the second issue, requiring DEA to describe the process used to "visually scan" emails of former CC attorneys, DEA used the following search methodology:

- a. DEA used both automated review and manual review or "visual scan" to search the email of five former CC attorneys.
- b. DEA initially identified 282,527 total emails (document set) from these five attorneys through the use of automated review.
- c. The document set was further reduced by automated review to 80,239 emails by

isolating emails sent by (rather than to) these custodians.

- d. The document set was then reduced to 15,305 emails through a combination of a manual review by DEA to ascertain 22 external “to” domains (.com, .edu, .mil, etc.) and an automated review to search for these domains within the document set.
- e. Using automated review, DEA then restricted the date range to December 1, 2013 to June 28, 2018, resulting in 9,890 emails.
- f. An automated deduplication of the document set resulted in 7,688 emails.
- g. Application of the search terms “Kevin Byrnes” OR “Byrnes” to the document set resulted in a final document set consisting of 508 emails.

8. On the third issue, requiring DEA to outline the process used to search CC attorney Roberto DiBella’s files, Mr. DiBella conducted a manual search using both Sandra Stevens’ name, and a subject matter search for records related to impartiality, in two electronic locations. The first location that Mr. DiBella searched was DEA’s case management software. The second location Mr. DiBella searched was the DEA’s ethics subject matter files housed on a shared drive. Each of these locations houses DEA’s ethics advice records (including emails, notes, forms, and documents) created by Mr. DiBella and DEA’s other ethics attorneys.

9. On the last issue, requiring DEA to make a renewed assessment of whether a *Glomar* response is appropriate in relation to any additional OPR investigation(s) of Darek Kitlinski, to the extent that the Court finds DEA’s previous *Glomar* response to be inappropriate in response to Mr. Byrnes’ request for additional OPR investigative files on Mr. Kitlinski, DEA would be justified in issuing a categorical denial for these records under FOIA Exemptions 6 and 7(C). As described in the Fourth Supplemental Declaration of Angela Hertel, DEA’s records indicate that it has officially acknowledged the existence of one OPR investigation into Mr. Kitlinski and one into Mrs. Kitlinski. *See* Fourth Suppl. Decl. of Angela D. Hertel, ECF 50-2 ¶ 1.

DEA was unable to locate any information indicating that DEA ever publicly or officially acknowledged the existence of any other investigations into Darek or Lisa Kitlinski. Because the records responsive to the request would be categorically exempt from disclosure, DEA has no obligation to search for any responsive records and, therefore, did not conduct a granular segregability review, as no segregability would be possible.

I declare under penalty of perjury that the foregoing is true and correct to the best of my knowledge and belief.

November 24, 2023

DATE

**GEVORG
MARGARYAN**

Digitally signed by GEVORG
MARGARYAN
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GEVORG. G. MARGARYAN
Program Analyst

Freedom of Information and Privacy Act Unit
Drug Enforcement Administration