

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLUMBIA**

BRIG. GEN. CHRISTOPHER S. SAGE,)
 [FILED UNDER SEAL],)
)
 Plaintiff,)
)
 vs.)
)
 U.S. DEPARTMENT OF DEFENSE,)
 1400 Defense Pentagon)
 Washington, DC 20301-1400,)
)
 Defendant.)
 _____)

Civil Action No.:

COMPLAINT

Plaintiff, Brig. Gen. Christopher S. Sage, brings this action against Defendant, U.S. Department of Defense, to compel compliance with the Freedom of Information Act, 5 U.S.C. § 552 (“FOIA”). As grounds therefor, Plaintiff alleges as follows:

JURISDICTION AND VENUE

1. The Court has jurisdiction over this action pursuant to 5 U.S.C. § 552(a)(4)(B) and 28 U.S.C. § 1331.
2. Venue is proper in this district pursuant to 28 U.S.C. § 1391(e).

PARTIES

3. Plaintiff Brig. Gen. Christopher S. Sage is an active-duty brigadier general in the U.S. Air Force. Plaintiff is currently stationed in Europe.
4. Defendant U.S. Department of Defense (“Defendant”) is an agency of the United States government headquartered at 1400 Defense Pentagon, Washington, DC 20301-1400. Defendant has possession, custody, and control of records to which Plaintiff seeks access.

STATEMENT OF FACTS

5. On nine occasions between September 2023 and April 2024, Plaintiff submitted FOIA requests to the U.S. Air Force, a component of Defendant, seeking access to public records. The U.S. Air Force has acknowledged receipt of each request.

6. More specifically, Plaintiff submitted the requests to the U.S. Air Force on the following dates, which the U.S. Air Force assigned the tracking numbers indicated:

	<u>Date</u>	<u>Tracking Number</u>
i.	July 5, 2023	2023-04839-F
ii.	July 5, 2023	2023-04841-F
iii.	July 5, 2023	2023-04842-F
iv.	August 11, 2023	2023-05586-F
v.	August 11, 2023	2023-05587-F
vi.	August 11, 2023	2023-05588-F
vii.	August 11, 2023	2023-05589-F
viii.	September 29, 2023	2023-06466-F

Each request was submitted via the U.S. Air Force's FOIA portal, and, accordingly, was received the same day it was sent.

7. As of the date of this Complaint, the U.S. Air Force has failed to: (i) determine whether to comply with the requests; (ii) notify Plaintiff of any such determination or the reasons therefor; (iii) advise Plaintiff of the right to appeal any adverse determination; or (iv) produce the requested records or otherwise demonstrate that the requested records are exempt from production.

COUNT I
(Violation of FOIA, 5 U.S.C. § 552)

8. Plaintiff realleges paragraphs 1 through 7 as if fully stated herein.

9. Defendant is in violation of FOIA.

10. Plaintiff is being irreparably harmed by Defendant's violation of FOIA, and Plaintiff will continue to be irreparably harmed unless Defendant is compelled to comply with the law.

11. Plaintiff has no adequate remedy at law.

12. To trigger FOIA's administrative exhaustion requirement, Defendant was required to make final determinations on Plaintiff's requests by May 16, 2024, at the latest. Because Defendant failed to make a final determination on Plaintiff's requests within the time limits set by FOIA, Plaintiff is deemed to have exhausted its administrative appeal remedies.

WHEREFORE, Plaintiff respectfully requests that the Court: (1) order Defendant to search for any and all records responsive to Plaintiff's FOIA requests and demonstrate that it employed search methods reasonably calculated to uncover all records responsive to the requests; (2) order Defendant to produce, by a date certain, any and all non-exempt records responsive to the requests and a *Vaughn* index of any responsive records withheld under claim of exemption; (3) enjoin Defendant from continuing to withhold any and all non-exempt records responsive to the requests; (4) grant Plaintiff an award of attorney's fees and other litigation costs reasonably incurred in this action pursuant to 5 U.S.C. § 552(a)(4)(E); and (5) grant Plaintiff such other relief as the Court deems just and proper.

Dated: July 31, 2024

Respectfully submitted,

/s/ Patrick O. Francescon
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