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17  
18 **IN THE UNITED STATES DISTRICT COURT**  
19 **FOR THE SOUTHERN DISTRICT OF CALIFORNIA**

20 PRO PUBLICA, INC.,

21 Plaintiff,

22 v.

23 REAR ADMIRAL LIA REYNOLDS;  
CARLOS DEL TORO; CAROLINE D.  
24 KRASS; and LLOYD J. AUSTIN, III

25 Defendants.  
26  
27  
28

**Case No. 3:22-cv-1455-BTM-KS**

**SUPPLEMENTAL DECLARATION  
OF MEGAN ROSE IN SUPPORT OF  
OPPOSITION TO CROSS-MOTION  
FOR SUMMARY JUDGMENT**

Judge: Hon. Barry Ted Moskowitz  
Hearing: Feb. 21, 2025 at 11:00 a.m.

Complaint Filed: September 27, 2022

1 SUPPLEMENTAL DECLARATION OF MEGAN ROSE

2 I, Megan Rose, hereby declare as follows:

3 1. I am an investigative reporter for Pro Publica, Inc. (“ProPublica”). I  
4 submit this declaration in support of ProPublica’s Opposition to Defendants’ Motion  
5 for Summary Judgment. This declaration is based on my personal knowledge and, if  
6 called upon as a witness, I could and would competently testify hereto.

7 2. On December 11, 2024, I received a decision from the Department of the  
8 Navy’s Office of the Judge Advocate General (“OJAG”), denying my appeal from  
9 May 8, 2024, which challenged OJAG’s denial of my requests for court records and  
10 docket information from March 30, 2023, April 10, 2023, and May 2, 2023. *See* Dkt.  
11 90-1 at 1, 14, 29, 37, 89 (Rose Dec., Exs. 1, 3, 5a, 5b, 15). OJAG had issued a final  
12 denial of those requests via email on April 11, 2024. *See* Dkt. 90-1 at 84 (Rose Dec.,  
13 Ex. 14). Attached as **Exhibit A** is a true and correct copy of OJAG’s December 11,  
14 2024 decision. That decision concluded that I had not “shown that the public’s interest  
15 in the fair administration of justice would outweigh the privacy interests” in the  
16 requested court records and cited the Privacy Act, FOIA exemptions, the Department  
17 of Defense’s 2023 guidance regarding Article 140a, and JAG Instruction 5813.2A as  
18 the bases for denying my requests. *Id.* at 7-8.

19 3. On December 23, 2024, I received a decision from Deanna Daly at OJAG,  
20 notifying me that OJAG was generally denying my request from March 6, 2024,  
21 except that it had publicly posted some records to its website for seven cases I had  
22 previously requested. A true and correct copy of Ms. Daly’s decision is attached as  
23 **Exhibit B**. I had requested six of these case files more than a year earlier on July 13,  
24 2023. *See* Dkt. 90-1 at 62-63 (Rose Dec., Ex. 9) (requesting records for *United States*  
25 *v. Flores*, *United States v. Lemus*, *United States v. Neal*, *United States v. Steele*, *United*  
26 *States v. Weber*, and *United States v. Whiteman*). I had requested the remaining case  
27 more than nine months earlier on March 6, 2024. *See* Dkt. 90-1 at 74 (Rose Dec., Ex.  
28 12) (requesting records for *United States v. Montejo*). A review of the posted

1 “certified records of trial” indicates that all of these cases ended in conviction and their  
2 respective courts-martial had ended more than a year earlier in most cases. *See United*  
3 *States v. Flores*, [https://stjececmsdusgva001.blob.core.usgovcloudapi.net/public/](https://stjececmsdusgva001.blob.core.usgovcloudapi.net/public/documents/Flores_S..pdf)  
4 [documents/Flores\\_S..pdf](https://stjececmsdusgva001.blob.core.usgovcloudapi.net/public/documents/Flores_S..pdf) (court-martial ended July 29, 2023); *United States v.*  
5 *LemusTundidor*, [https://stjececmsdusgva001.blob.core.usgovcloudapi.net/public/](https://stjececmsdusgva001.blob.core.usgovcloudapi.net/public/documents/us_v_lemustundidor_daniel_usmc.pdf)  
6 [documents/us\\_v\\_lemustundidor\\_daniel\\_usmc.pdf](https://stjececmsdusgva001.blob.core.usgovcloudapi.net/public/documents/us_v_lemustundidor_daniel_usmc.pdf) (Feb. 9, 2021); *United States v.*  
7 *Montejo*, [https://stjececmsdusgva001.blob.core.usgovcloudapi.net/public/documents/](https://stjececmsdusgva001.blob.core.usgovcloudapi.net/public/documents/Montejo_C..pdf)  
8 [Montejo\\_C..pdf](https://stjececmsdusgva001.blob.core.usgovcloudapi.net/public/documents/Montejo_C..pdf) (Aug. 24, 2024); *United States v. Neal*, [https://stjececmsdusgva001.](https://stjececmsdusgva001.blob.core.usgovcloudapi.net/public/documents/Neal_P..pdf)  
9 [blob.core.usgovcloudapi.net/public/documents/Neal\\_P..pdf](https://stjececmsdusgva001.blob.core.usgovcloudapi.net/public/documents/Neal_P..pdf) (Jan. 16, 2024); *United*  
10 *States v. Steele*, [https://stjececmsdusgva001.blob.core.usgovcloudapi.net/public/](https://stjececmsdusgva001.blob.core.usgovcloudapi.net/public/documents/Steele_A..pdf)  
11 [documents/Steele\\_A..pdf](https://stjececmsdusgva001.blob.core.usgovcloudapi.net/public/documents/Steele_A..pdf) (Aug. 24, 2023); *United States v. Weber*, [https://](https://stjececmsdusgva001.blob.core.usgovcloudapi.net/public/documents/Weber_Jr._M..pdf)  
12 [stjececmsdusgva001.blob.core.usgovcloudapi.net/public/documents/Weber\\_Jr.\\_M..pdf](https://stjececmsdusgva001.blob.core.usgovcloudapi.net/public/documents/Weber_Jr._M..pdf)  
13 (July 20, 2023); *United States v. Whiteman*, [https://stjececmsdusgva001.blob.core.](https://stjececmsdusgva001.blob.core.usgovcloudapi.net/public/documents/Whiteman_B..pdf)  
14 [usgovcloudapi.net/public/documents/Whiteman\\_B..pdf](https://stjececmsdusgva001.blob.core.usgovcloudapi.net/public/documents/Whiteman_B..pdf) (March 15, 2023).

15 4. On January 8, 2025, I filed an appeal challenging Ms. Daly’s decision  
16 from December 23, 2024. Attached as **Exhibit C** is a true and correct copy of the  
17 email I sent to OJAG on January 8, attaching my appeal and her December 23  
18 decision.

19 5. OJAG denied my appeal on January 13, 2025. A true and correct copy of  
20 that appeal is attached as **Exhibit D**.

21 6. On December 30, 2024, I received a decision from OJAG denying my  
22 appeal from July 3, 2024, which had challenged OJAG’s earlier denial of my March 6,  
23 2024 request for court records and docket information. *See* Dkt. 90-1 at 96 (Rose  
24 Dec., Ex. 16). A true and correct copy of OJAG’s decision is attached as **Exhibit E**.  
25 That decision stated that I had not “shown that the public’s interest in the fair  
26 administration of justice would outweigh the privacy interests” in the requested court  
27 records and cited the Privacy Act, FOIA exemptions, the Department of Defense’s  
28

1 2023 guidance regarding Article 140a, and JAG Instruction 5813.2A as the bases for  
2 denying my requests. *Id.* at 7.


3 7. In my experience, access and protocol varies by military base, which can  
4 make the time needed to acquire permission to attend a hearing on a base  
5 unpredictable. If the base is prompt in granting access, I need at least a week’s notice  
6 before an Article 32 hearing occurs in order to try to determine if the case is  
7 newsworthy, obtain permission from the base and travel to the base, which is typically  
8 far from my home in Washington, D.C. However, in some cases, it takes two weeks or  
9 more, depending on the base’s background vetting procedures and responsiveness. For  
10 example, in August 2022, when I was trying to attend a hearing in the arson case  
11 against Ryan Mays, a week elapsed before someone even responded to my request to  
12 start the process for applying for base access, despite multiple emails and phone calls. I  
13 only received a response after the defense counsel called on my behalf. Attached as  
14 **Exhibit F** is a true and correct copy of this written correspondence. In August 2018, I  
15 tried to attend the Surface Navy Association West Coast Symposium at the Naval Base  
16 San Diego and was told the base “requires a two week vetting process to ensure all  
17 personnel entering the installation are cleared through a back ground [*sic*]  
18 check.” Attached as **Exhibit G** is a true and correct copy of this correspondence.

19 8. Even if the Navy did provide sufficient notice of an Article 32 hearing,  
20 since the Navy provides almost no other information about the hearing—not even the  
21 full name of the accused or any of the factual allegations—I would likely not have  
22 sufficient information to assess whether the hearing warrants the significant amount of  
23 time and resources that traveling to a base would entail. In my experience, the Navy  
24 often does not publicly release the charge sheet until months after the case has  
25 concluded. *See* Dkt. 90 ¶ 18. Therefore, the only publicly available information about  
26 the hearing is often the limited information provided on the Navy-Marine Corps Trial  
27 Docket and Preliminary Hearing Schedule—such as the accused’s last name, first  
28 initial, rank, and charges. *See* <https://www.jag.navy.mil/military-justice/filings->

1 records/docket; <https://www.jag.navy.mil/military-justice/filings-records/preliminary->  
2 hearing-schedule.

3 Pursuant to 28 U.S.C. § 1746, I declare under penalty of perjury under the laws  
4 of the United States that the foregoing is true and correct.

5  
6 Executed this 21st day of January, 2025.

7  
8   
9 \_\_\_\_\_  
10 Megan Rose