

FILED

UNITED STATES DISTRICT COURT  
MIDDLE DISTRICT OF FLORIDA  
FT. MYERS DIVISION

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CLERK, U.S. DISTRICT COURT  
MIDDLE DISTRICT OF FLORIDA  
FT. MYERS, FLORIDA

**BRIAN TIMOTHY BRANTLEY**  
2190 Sunshine Blvd  
Naples, FL 34116

**Plaintiff,**

v.

Case No.: \_\_\_\_\_

**DRUG ENFORCEMENT ADMINISTRATION**  
8701 Morrisette Drive  
Springfield, VA 22152

2:15-CV-802 -FTM-JRCM

**Defendant.**

\_\_\_\_\_ /

**COMPLAINT FOR DECLARATORY AND INJUNCTIVE RELIEF**

Plaintiff, Brian Timothy Brantley (“Brantley”), for his Complaint for Declaratory and Injunctive Relief against Defendant, Drug Enforcement Administration (“DEA”), alleges as follows:

**Nature of Action**

1. This action arises under the Freedom of Information Act (“FOIA”), 5 U.S.C. Statute 552. Brantley seeks this Court to enjoin Defendant U.S. Drug Enforcement Administration from withholding documents and order the DEA to release the documents which the DEA has wrongfully withheld.

**Jurisdiction and Venue**

2. This court has subject matter jurisdiction over this action and personal jurisdiction over the parties pursuant to 5 U.S.C. Statute 552(a)(4)(B). Venue also lies in this district under 5 U.S.C. Statute 552(a)(4)(B).

**Parties**

3. Plaintiff Brantley is a United States citizen, who is a resident of Naples, Florida, and the requestor of the withheld documents. Brantley is the individual, who was convicted on September 20, 1999, in criminal case U.S.A. v. Brian Timothy Brantley, 2:99-71-CR-FtM-26D, which resulted from a indictment filed in the Middle District of Florida, Ft. Myers Division.

4. Defendant DEA is a department of the Executive Branch of the government of the United States. DEA is an “agency” within the meaning of 5 U.S.C. Statute 552(f).

**Facts**

5. On August 4, 1999, a four count Indictment filed in the Middle District of Florida, Ft. Myers Division, charge Brian Timothy Brantley with the following: count one from January 1998 through August 1999, Brantley conspire with known and unknown persons to possess with intent to distribute fifty (50) grams or more of cocaine base, in violation of 21 U.S.C. Statute 846. Count Two Brantley possess with intent to distribute cocaine base; count three Brantley possess with intent to distribute five (5) grams or more of cocaine base; and count four Brantley possess with intent to distribute five (5) grams or more of cocaine base, all in violation of 21 U.S.C. Statute 841(a)(1). A copy of the Indictment is attached marked Exhibit A on page 8-11.

6. On July 21, 1999, Brantley was arrested. The following day Brantley made his first appearance and made a request for appointed of a federal public defender, before a U.S. Magistrate Judge, who appointed Attorney Richard M. Creel.

7. On August 23, 1999, Brantley appeared, with a Court-appointed Stand-in Attorney Neal Pottz and plead not guilty and made a request for discovery, before a United States Magistrate Judge, who

granted Brantley's request and issued a pretrial discovery order and notice.

8. On September 8, 1999, Court-appointed Counsel Richard Creel appeared absent Brantley, at a Omnibus Hearing and advised that discovery was complete no request for discovery were required and made a request for a change of plea hearing, before the United States Magistrate Judge, who scheduled a change of plea hearing for September 20, 1999.

9. On September 20, 1999, Brantley appeared, with a Court-appointed attorney Richard M. Creel and plead guilty to Count One conspiracy, pursuant to a plea agreement, before the U.S. Magistrate Judge. A factual basis for the plea was established and the Magistrate Judge entered a Report and Recommendation. Count Two through Four were scheduled to be dismissed at sentencing.

10. During the trial, the Government presented before the Court a statement of facts that it alleged that it could prove if this matter had gone to trial. The Government stated that, "Defendant Brian Timothy Brantley was knowingly and intentional involved in the conspiracies to possess with intent to distribute cocaine base, crack cocaine with his source of supply and others. The conspiracy occurred during the frame of the charge Middle District of Florida and the Southern District of Florida. Defendant Brian Timothy Brantley possessed quantities of cocaine base, crack cocaine a Scheduled II controlled substance and contributed these in the Naples, Florida area. Brantley Timothy Brantley, also known as Dune, was involved as the subject in an undercover project. He distributed cocaine base, crack cocaine to a confidential informant, CI, on August 10, 1998, 2.9 grams net weight; August 11, 1998, 5.4 grams net weight; and on February 3, 1999, 12.9 grams net weight. The laboratory confirmed the identity of the substances as cocaine in its base form.

11. Plaintiff Brantley now seeks documents, pursuant to the Freedom of Information Act

(“FOIA”), which are in the possession of the U.S. Drug Enforcement Administration to support his actual innocence claim in a belated 2255 Statute motion and therefore states that the citizens of the United States deserves to know whether governmental action has resulted in the conviction of one who is innocent.

**Plaintiff’s Freedom of Information Act Request to Defendant**

12. By letter dated December 4, 2014, Brantley requested all statements made by him to coconspirators concerning himself on case number 2:99-71-CR-FtM-26D (“the FOIA Request”). A copy of this letter is attached as Exhibit B on page 13.

13. By letter dated January 30, 2015, the DEA acknowledged receipt of the Request and assigned tracking number 15-D0162-P. A copy of this letter is attached as Exhibit B on page 14-18.

14. By letter dated February 12, 2015, Brantley requested a copy of the following documents [documents containing the following information] as follows: (1) statement that I made during the drug transaction on August 10, 1998, in federal case number 2:99-71-CR-FtM-26D, (2) statements that I made during the drug transaction on August 11, 1998, in federal case number 2:99-71-CR-FtM-26D and (3) statements I made during the drug transaction on February 3, 1999, in federal case number 2:99-71-CR-FtM-26D. A copy of this letter is attached as Exhibit B on page 19-20.

**Defendant’s Denial of Plaintiff’s Freedom of Information Act**

15. By letter dated April 1, 2015, the DEA acknowledged receipt of the FOIA Request, assigned tracking number 15-D0162-P and informed Brantley of the subject: BRANTLEY, BRIAN TIMOTHY - DEA INVESTIGATIVE FILE NO. GU-98-0047. The DEA released a Report Of Investigation synopsis: dated February 3, 1999, which withheld all reasonable segregable information in the “Detail” section of Report Of Investigation. The Report Of Investigation, which withheld all reasonable segregable

information in the "Detail" section of Report Of Investigation, makes this document effectively no more than blank pages. A copy of this letter is attached as Exhibit B on page 21-25.

16. No Report Of Investigation documents were released on the dates August 10, 1998 and August 11, 1998.

**Plaintiff's Appeal Of Defendant's Denial of Freedom of Information Act Request**

17. On May 30, 2015, Brantley appealed the denial of the FOIA Request by DEA to the Director, Office of Information Policy, U.S. Department of Justice, on April 1, 2015, requesting that the Director, Office of Information Policy, U.S. Department of Justice, direct the DEA to disclose to him a Report Of Investigation dated February 3, 1999, which contains all reasonable segregable information in the "Detail" section of Report Of Investigation. A copy of this letter is attached as Exhibit B on page 12-25.

**The Director, Office of Information Policy, Denial of Plaintiff's Appeal of Defendant's Denial of Freedom of Information Act Request**

18. By letter dated July 6, 2015, the Director, Office of Information Policy, U.S. Department of Justice, denial Brantley's appeal stating that, "DEA responded to your request by letter dated April 1, 2015 (copy enclosed). Because DEA responded to your request, your appeal from DEA's failure to respond to your request is moot". A copy of this letter is attached as Exhibit C on page 26-30.

19. Plaintiff seeks an order from this honorable court ordering the DEA to disclose to him a Report Of Investigation dated February 3, 1999, which contains all reasonable segregable information in the "Detail" section of Report Of Investigation; a Report Of Investigation dated August 11, 1998, which contains all reasonable segregable information in the "Detail" section of Report Of Investigation;

**CERTIFICATE OF SERVICE**

I HEREBY CERTIFY that a true and correct copy of the foregoing has been furnished by U.S. Mail to the U.S. Drug Enforcement Administration, 8701 Morrissette Drive, Springfield, VA 22152; Attorney General of the United States, 950 Pennsylvania Ave, NW, Washington, DC 20530; and the Office of the United States Attorney, Middle District of Florida, 400 North Tampa Street, Suite 3200, Tampa, FL 33602.

I declare under the penalty of perjury that the foregoing is true and correct.

Respectfully submitted,

Brian Timothy Brantley

Brian Timothy Brantley  
2190 Sunshine Blvd  
Naples, FL 34116

and a Report Of Investigation dated August 10, 1998, which contains all reasonable segregable information in the "Detail" section of Report Of Investigation.

**Claim Under FOIA**

20. Brantley has a right of access to the requested information under 5 U.S.C. Statute 552(a)(3), and there is no legal basis for the DEA's denial of such access.

WHEREFORE, Plaintiff requests this Court:

- 1) Issue a declaration that Defendant DEA has wrongfully withheld and redacted documents;
- 2) Order Defendant to provide access to the requested documents;
- 3) Expedite this proceeding as provided for in 28 U.S.C. Statute 1657;
- 4) Award Plaintiff costs and reasonable attorneys fees in this action, as provided in 5 U.S.C. Statute 552(a)(4)(E); and
- 5) Grant such other and further relief as it may deem just and proper.

Dated December 22, 2015

Respectfully submitted,

Brian Timothy Brantley

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