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NYS - # 11-2389 / AD 7062 03250

EXHIBIT 1

AGENCIES:

- United States Parole Commission
- Federal Bureau of Investigation
- Immigration and Naturalization Service
- Internal Revenue Service
- United States Attorney
- Treasury Department
- Bureau of Prisons
- State Agency
- Other: _____

DIRECT RESPONSE TO:

Name: Anthony Joseph Donato
 Address: FCI Oakdale
 PO Box 5000
 Oakdale, La. 71463

Date of Request: July 18, 2011

TO:

US Department of Justice
 EOUSA/FOIA/PA Unit
 BIGN Building, Room 7300
 600 E St. NW
 Washington, DC 20530

IDENTIFICATION OF REQUESTOR:

Name: Anthony Joseph Donato
 Alias: None
 D.O.B. [REDACTED]
 Place of Birth: Bronx, NY
 FBI No. 481067EA7
 Soc. Sec. No. [REDACTED]

Other:

RE: Freedom of Information Act (5 U.S.C. 552), Privacy Act (5 U.S.C. 552a(d)(1))
 Request: Exemptions (5 U.S.C. 552(6)(C)(B)(7)), General (U.S.C. 552 A (J)
 (2)) or Specific (5 U.S.C. 552 a(K)(2)) not applicable to this request.

Dear Sir/Ms:

This letter will serve as my request pursuant to the provisions of the Freedom of Information Act (5 U.S.C. 552) and the Privacy act (5 U.S.C. 52a(d)(1)), and the applicable State Statutes governing Freedom of Information Requests if states agency request, for all disclosure and release of all records and/or data contained in the files of your agency, and specifically for amendment, deletion and/or expungment (5 U.S.C. 552a (d)(2)(a)) of records maintained by your agency. The records sought but no limited to, is the compiled file containing (1) arrest records, (2) investigation and/or investigatory reports, (3) reports or evidentiary and/or scientific information findings, (4) wants, warrants, and/or detainers, (5) final and closing investigation reports; and (6) any and/or all information, data, or reports not otherwise exempt by statute (5 U.S.C. 552(6)(c)(B)(7)), (5 U.S.C. 52a(j)(2),(k)(2), or law, Tarlton v. Saxbe, 498 F.2d. 1017, 162 U.S. App. D.C. 284 (1974), Sullivan v. Murphy, 478 F.2d. 938, 156 U.S. App. D.C. 28 (1973). Your agency is advised that the investigation reports in total are no longer accorded exempt status unless under the specific exemption noted, and only with reference to specific citation of authority. Paton v. La Prade, 524 F.2d. 862, 868-69 (1975).

It is further requested that your agency in response to the material requested specifically inform me if and to whom the file and/or any material therein contained has been released to any identifiable individual or agency, their name, title, purpose and need for such information, the date of such release, the specific material that was released, the person within your Agency who released such information, and the specific reference to authority, statute or regulation, governing such release (5 U.S.C. 52a (d)(1)). See La Prade, 524 F.2d. at 862; Saxbe, 507 F.2d. at 1166 and Linda R.S. v. Richard D., 410 U.S. 614, 35 L.Ed.2d 536, 93 S.Ct. 1146 (1973).

It is further requested that your agency provide me with a copy of specific regulations of your Department as provided by statute (5 U.S.C. 552), so that compliance with such regulations is adhered to except as otherwise provided by law (5 U.S.C. 701 et.seq.).

This request is made under the Freedom of Information Act (5 U.S.C. 552) and the Privacy act (5 U.S.C. 552a)(together with the "alternate means of access"), to permit access to records on file with your agency. If and for any reason it is determined that portions of the material and records sought is exempt by statute 5 U.S.C. (6)(c)(b)(7), 552a (j)(2), (k)(2) of by regulation (Menard v. Mitchell, 430 F.2d. 486 (1970), Nemetz v. Department of Treasury, 446 F. Supp. 102) I request specific citation to authority for such deletion. If it should be determined that any material be deemed CONFIDENTIAL due to identification of source, the permission is granted to Agency to delete source identification ONLY from the material for release. Paton v. La Prade, 524 F.2d 862 (1975); Chastain v. Kelly, 510 F.2d 1232. I further agree to pay any reasonable costs or file IN FORMA PAUPERIS if I am indigent, provided by statute of regulation of your agency, for search and copying of the material requested.

Pursuant to Title 5 U.S.C. (6)(A)(i), it is noted that your agency has ten (10) working days following receipt to this request to provide the information and material sought. Should any delay occur, it is requested that your Agency inform me of this delay as provided by Agency regulations and the date as to when your Agency will be able to act upon request.

Respectfully submitted,

Anthony J. Daniels

Signed under penalty of perjury on this the 20th day of July 2004.

Examples of specific requests:

1.) I am requesting all documents, emails, inter-office memos, including the Carlos Medina 7-page letter to BOP Counselor Gloria Black from the US Attorney's Offices in the Southern District of NY and the Eastern District of NY pertaining to the Dominick Cicale plot to frame Vincent Basciano and BOP officer Santomaggio with the help of Carlos Medina in a phony murder conspiracy in the WitSec Unit at MCC Manhattan on or about June, 2007.

2.) _____

3.) _____

4.) _____

5.) _____

6.) _____

EXHIBIT 2



United States Department of Justice

Executive Office for United States Attorneys

Freedom of Information and Privacy Staff

Suite 7300, Bicentennial Building
600 E Street, N.W.
Washington, DC 20530

(202) 252-6020
FAX (202) 252-6047

Request Number: 11-2390

Requester: Anthony J. Donato

27 DEC 2011

Dear Mr. Donato:

We are currently searching for documents responsive to your FOIA/PA request, and we have reached the two hours of search time provided to you at no charge. Department of Justice Regulations, specifically 28 CFR 16.11(i), provide that our office may collect an advance payment **before we continue processing your request** if we estimate fees will exceed \$250.00. We estimate that an additional fifty-five hours will be required to complete the search for the records you requested. Our normal fee for search time is \$28 per hour, thus resulting in a fee for search time of \$1,540.00. In addition, the Eastern District of New York has informed us that they have fifty-five unindexed boxes of documents from this multi-defendant case that are potentially responsive to your request. Normally a box contains between 2000 and 4000 pages of records. We do not know at this time, prior to a complete search, how many responsive pages would be found. Although not all of these pages are likely to be released to you, you should note that we charge \$0.10 per page for duplication of documents that are released to you after the first 100 pages, which are free.

Accordingly, an advance payment of \$1,540.00 in the form of a check or money order, payable to the Treasury of the United States, must be received by this office before we will continue processing your request. **Please indicate on the face of the check the above request number and mail it to the above address.**

If you wish to reduce your fees, you may reformulate your request by limiting the documents to a specific category or categories. Or, if you specify that you will only pay up to a certain amount, we will process your case up to that amount. Finally, keeping in mind that the first two hours were free, you may direct that we terminate your search.

Per 28 C.F.R. 16.11(i), your request is not considered received until we receive a response from you. Please respond within 30 days of the date of this letter, or this matter will be closed. If you wish, you may use the attached form to indicate your wishes. If you have any questions, please call Attorney Advisor Sean J. Vanek at 202-252-6027.

Sincerely,

A handwritten signature in black ink, appearing to read "S.B. Gerson".

Susan B. Gerson
Acting Assistant Director

Note: You may appeal this response by writing to the Office of Information Policy, United States Department of Justice, 1425 New York Avenue, Suite 11050, Washington D.C. 20530-0001. Your letter must be received by that office within 60 days of the date of this letter.

7008 1830 0004 6136 3288

EXHIBIT 3

Anthony Donato
Reg. No. 71455-053
FCI Oakdale
PO Box 5000
Oakdale, La. 71463

January 19, 2012

Attn: Attorney Advisor Sean J. Vanek
Executive Office for United States Attorneys
Suite 7300, Bicentennial Building
600 E Street, NW
Washington, DC 20530

Re: Request No. 11-2390

Dear Mr. Vanek:

I am requesting a waiver of fees pursuant to 28 CFR 16.11 (k)(i) and (k)(ii). Under 16.11 (k)(i), the requester must demonstrate that "disclosure of the requested information is in the public interest because it is likely to contribute significantly to public understanding of the operations or activities of the government." In my FOIA request, I requested, specifically, all information pertaining to the alleged "MCC Phony Murder Plot" where government cooperator, Dominick Cicale, tried to solicit another government cooperator, Carlos Medina, and possibly others in a contrived murder conspiracy in order to frame inmate, Vincent Basciano, and BOP Correction Officer Marco Santomaggio. The "public interest" requirement is met by the disclosure of these records which will increase the public's understanding of the government's operations or activities. The disclosure of these records will show the public how the government handles an investigation of one of its key informants when the informant is accused of either an actual murder conspiracy or perpetrating a fraud on the government after signing a cooperation agreement with the US Attorneys Office. It will show whether the government pursues the investigation with the same effort as it investigates other criminal matters and brings criminal charges when appropriate or whether the government will not investigate with the same effort and bring the appropriate charges when it concerns one of its key witnesses, which, if the allegations are proven true,

could jeopardize past and future cases in which the testimony of the government's key witness is proven to be unreliable. The release of these records would show the public if the government acts responsibly towards the law and is diligent in its investigations of any wrongdoing even when it pertains to one of its key informants.

Under 16.11 (k)(ii), the requester must demonstrate that the "disclosure of the information is not primarily in the commercial interest of the requester." "Commercial interest" is defined in 16.11 (b)(1) as "commercial use request means a request from or on behalf of a person who seeks information for a use or purpose that furthers his or her commercial, trade, or profit interests, which can include furthering those interests through litigation." I, as the requester, make no commercial interest claim in regards to this request.

In your letter dated December 27, 2011, you stated that the EDNY has fifty-five unindexed boxes of documents that are potentially responsive to my request. As a former partner in a construction company that was involved in multiple jobs at the same time, I know the importance of diligent record keeping. With all the qualified people working in the US Attorneys Office and the amount of cases it has to handle, I find it hard to believe that there is no indexing system used to keep track of the tremendous amount of paperwork involved to run the office efficiently. I conclude that the fees requested are excessive and demanded solely for the purpose of thwarting my attempt to receive the requested information.

I request that the fees should be waived according to the above mentioned reasons.

Sincerely,

A handwritten signature in cursive script, appearing to read "Anthony Donato", is written over a horizontal line.

Anthony Donato

EXHIBIT 4



United States Department of Justice

Executive Office for United States Attorneys

Freedom of Information and Privacy Staff

Suite 7300, Bicentennial Building
600 E Street, N.W.
Washington, DC 20530

(202) 252-6020
FAX (202) 252-6047

Request Number: 11-2390

Requester: Anthony J. Donato

Dear Mr. Donato:

FEB 22 2012

FEB 22 2012

In your January 19, 2012 letter you requested a fee waiver. Department of Justice regulations set forth the requirements for a waiver or reduction of fees. See 28 CFR 16.11(k) (2011). After carefully considering your request, I have determined that your request does not meet the requirements for a waiver of fees.

In order to qualify for a waiver or reduction of fees, your request must demonstrate that “disclosure of the information is in the public interest because it is likely to contribute significantly to public understanding of the operations and activities of the government and is not primarily in the commercial interest of the requester.” 5 U.S.C. § 552(a)(4)(A)(iii). In determining whether you have satisfied this statutory standard, the six factors set forth in 28 CFR 16.11(k) are to be considered. The first four of these factors concern the “public interest” requirement; the fifth and six factors concern whether your interest in the records is primarily commercial.

Failure to satisfy any one of the “public interest” requirements results in the denial of either a reduction of fees or a complete waiver of fees; it also dispenses with the need to consider whether your interest in the records is primarily commercial in nature. I have determined that you have not met factor three.

You have not demonstrated in any way that you have the both the intent and ability, as required by the third fee waiver factor, to disseminate the requested records. Your failure to meet this factor is itself a sufficient basis for denying your request for a fee waiver. See Larson v. CIA, 843 F.2d 1481, 1483 (D.C. Cir. 1988).

Please note that a denial of a request for a fee waiver is not meant to suggest that you cannot request records such as you requested, but rather that to the extent such records exist and are releaseable, you will be assessed fees.

As we outlined in our December 27, 2011 letter to you, we have reached the two hours of search time provided to you at no charge. Department of Justice Regulations, specifically 28 CFR 16.11(i), provide that our office may collect an advance payment **before we continue processing your request** if we estimate fees will exceed \$250.00. We estimate that an additional fifty-five hours will be required to complete the search for the records you requested. Our normal fee for search time is \$28 per hour, thus resulting in a fee for search time of \$1,540.00. In addition, the Eastern District of New York has informed us that they have fifty-five unindexed boxes of documents from this multi-defendant case that are potentially responsive to your request. Normally a box contains between 2000 and 4000 pages of

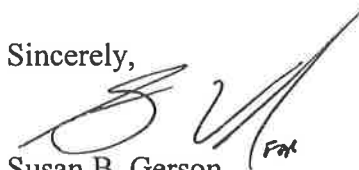
records. We do not know at this time, prior to a complete search, how many responsive pages would be found. Although not all of these pages are likely to be released to you, you should note that we charge \$0.10 per page for duplication of documents that are released to you after the first 100 pages, which are free.

Accordingly, an advance payment of \$1,540.00 in the form of a check or money order, payable to the Treasury of the United States, must be received by this office before we will continue processing your request. **Please indicate on the face of the check the above request number and mail it to the above address.**

If you wish to reduce your fees, you may reformulate your request by limiting the documents to a specific category or categories. Or, if you specify that you will only pay up to a certain amount, we will process your case up to that amount. Finally, keeping in mind that the first two hours were free, you may direct that we terminate your search.

Per 28 C.F.R. 16.11(i), your request is not considered received until we receive a response from you. Please respond within 30 days of the date of this letter, or this matter will be closed. If you wish, you may use the attached form to indicate your wishes. If you have any questions, please call Attorney Advisor Sean J. Vanek at 202-252-6027.

Sincerely,

A handwritten signature in black ink, appearing to be 'S B Gerson', with a small 'Fnt' mark at the end of the signature.

Susan B. Gerson
Acting Assistant Director

Note: You may appeal this response by writing to the Office of Information Policy, United States Department of Justice, 1425 New York Avenue, Suite 11050, Washington D.C. 20530-0001. Your letter must be received by that office within 60 days of the date of this letter.

EXHIBIT 5

Anthony Donato
Reg.No. 71455-053
FCI Oakdale
PO Box 5000
Oakdale, La. 71463

March 4, 2012

Attorney Advisor Sean J. Vanek
Executive Office for United States Attorneys
Suite 7300,BICN Building
600 E Street, NW
Washington, DC 20530

Re: Request No. 11-2390 - Waiver of Fees

Dear Mr. Vanek:

I am requesting that I be sent the first one hundred free pages that I am entitled to while I appeal your denial of my request for a fee waiver to the Office of Information Policy. There is no mention in 28 CFR 16 Subpart A that prevents me from receiving the one hundred free pages while pursuing an appeal.

Thank you for your assistance in this matter.

Sincerely,



Anthony Donato

Anthony Donato
Reg. No. 71455-053 K-2
FCI Sandstone
PO Box 1000
Sandstone, MN 55072

May 8, 2012

Attn: Katherine Pierson
Office of Information Policy
Suite 11050
1425 New York Avenue, NW
Washington, DC 20530

Re: Request No. 11-2390

Dear Ms. Pierson:

This appeal is in response for a waiver of fees pursuant to 28 CFR 16.11 (k) 1(i) and (ii). In a letter dated January 19, 2012 (attached), I requested a waiver of fees pursuant to the above mentioned regulations briefly describing how the fee waiver requirements were met. The EOUSA responded in a letter, dated February 22, 2012 (attached), having determined that I have not met factor three and stating "you have not demonstrated in any way that you have both the intent and ability, as required by the 3rd fee waiver factor, to disseminate the requested records. Your failure to meet this factor is itself a sufficient basis for denying your request for a fee waiver. See Larson v. CIA, 843 F.2d 1481, 1483 (DC Cir. 1988)."

In order to satisfy the 3rd fee waiver factor I must show my intent and ability to disseminate the requested records. In my attempt to satisfy this factor, I submit two letters to show my intent. One letter is addressed to Brad Heath of USA Today (attached) who wrote an expose' on prosecutorial misconduct, and the second letter is addressed to Mitchel Maddux of the NY Post, who covered a trial where this "MCC Plot" was part of the central testimony. I also submit to show my intent and ability the information from a website that I subscribe to called Access Legal Aide (attached), whose company publishes inmate information and letters on Facebook, Google, and their Blog. I will be posting all pertinent information I receive on Access Legal Aide's website.

I have clearly showed my intent and ability, in the form of the website, to disseminate the requested records. I have also shown my intent in the letters sent to Mr. Heath and Mr. Maddux and for the above mentioned reasons I have satisfied the 3rd fee waiver factor. I request that you approve the waiver of fees and release to me all the requested information.

Thank you for your assistance in this matter.

Sincerely,



Anthony Donato

EXHIBIT 7



U.S. Department of Justice
Office of Information Policy
Suite 11050
1425 New York Avenue, NW
Washington, DC 20530-0001

Telephone: (202) 514-3642

SEP 28 2012

Mr. Anthony Donato
Register No. 71455-053
Federal Correctional Institution
Post Office Box 1000
Sandstone, MN 55072

Re: Appeal No. AP-2012-02350
Request No. 11-2390
JGM:MTC

Dear Mr. Donato:

You appealed from the fee waiver determination made by the Executive Office for United States Attorneys (EOUSA) on your request for access to records concerning the Basciano case located in the United States Attorney's Office for the Eastern District of New York.

The statutory standard for evaluating fee waiver requests provides that fees shall be waived or reduced "if disclosure of the information is in the public interest because it is likely to contribute significantly to public understanding of the operations or activities of the government and is not primarily in the commercial interest of the requester." 5 U.S.C. § 552(a)(4)(A)(iii). In determining whether you have satisfied this statutory standard, I considered the six factors set out in the Department of Justice regulation that puts this statutory standard into effect. See 28 C.F.R. § 16.11(k) (2011) (copy enclosed). The first four of these factors concern the "public interest" requirement; the fifth and six factors concern whether your interest in the records is primarily commercial.

On the basis of all of the information available to me, I have concluded that your request for a waiver of fees was properly denied. Although the records you seek concern, in part, the operations or activities of EOUSA, and you do not appear to have an overriding commercial interest in the records, you have not satisfied factor three of the public interest requirement.

In your appeal letter you have attempted to demonstrate that you have both the intent and the ability to disseminate the requested records to the general public. The letters you sent to the media outlets, USA Today and the New York Post, are demonstrative of your intent, but without an indication from the recipients that they are interested in posting or publishing the records, you have not established your ability to disseminate. Further, both of the media outlets you mentioned are capable of submitting their own requests if they are interested in these records. Additionally, posting records on a personal social media website would not reach a sufficient number of interested members of the public to satisfy the dissemination requirement. Your failure to meet the dissemination requirement is a sufficient basis on which to deny a fee waiver request. See Larson v. CIA, 843 F.2d 1481, 1483 & n.5 (D.C. Cir. 1988).

- 2 -

Although you are not entitled to a waiver of fees, I am remanding your request to EOUSA for it to provide you with your statutory entitlements of two hours of search time and up to one hundred pages of duplication without cost to you. See 28 C.F.R. § 16.11(d)(3). EOUSA will release any non-exempt portions that are found within the first one hundred pages of releasable responsive records.

Please be advised that this Office's decision was made only after a full review of this matter. Your appeal was assigned to an attorney with this Office who thoroughly reviewed and analyzed your appeal, your underlying request, and the actions of EOUSA in response to your request.

If you are dissatisfied with my action on your appeal, the FOIA permits you to file a lawsuit in federal district court in accordance with 5 U.S.C. § 552(a)(4)(B).

Sincerely,

A handwritten signature in cursive script, appearing to read "Janice Galli McLeod".

Janice Galli McLeod
Associate Director

Enclosure

Anthony Donato
Reg. No. 71455-053 K-2
FCI Sandstone
PO Box 1000
Sandstone, MN 55072

January 12, 2013

Janice Galli McLeod
Office of Information Policy
Suite 11050
1425 New York Avenue, NW
Washington, DC 20530

Re: Appeal No. AP-2012-02350
Request No. 11-2390

Dear Ms. Galli McLeod:

The purpose of this letter is to inquire about the status of my statutory entitlement of the two hours of search time and up to one hundred pages of duplication requested in the above mentioned appeal.

In your September 28, 2012 denial of my appeal [attached], you stated that you remanded to the EOUSA my request for the purpose of providing me with this statutory entitlement. As of this date, I have not received any records or notice from their office. I would appreciate if you can look into this matter and have the EOUSA forward me the entitled records.

Thank you for your assistance in this important matter.

Sincerely,



Anthony Donato

EXHIBIT 9

Anthony Donato
Reg. No. 71455-053 K-2
FCI Sandstone
PO Box 1000
Sandstone, MN 55072

July 22, 2013

Susan B. Gerson
Acting Assistant Director, FOIA/Privacy Unit
Room 7300
600 E Street, NW
Washington, DC 20530

Re: Appeal No. 2012-02350
Request No. 11-2390

Dear Ms. Gerson:

The purpose of this letter is to inquire about the status of my statutory entitlements of two hours of search time and up to one hundred pages of duplication without cost to me pertaining to the above-mentioned request.

By letter dated September 28, 2012 (attached), the Office of Information Policy (OIP) remanded my request to your office for it to provide me with this entitlement. As of this date, I have not received any records from your office nor response of any kind.

In a letter dated June 6, 2013 (attached), in response to my letter requesting the status of my request, the OIP repeated that my request was remanded to your office in September 2012 and it suggested that I contact you directly.

I request that you forward these records promptly since my initial request was made in July 2011.

Thank you for your assistance in this important matter.

Sincerely,


Anthony Donato

AGENCIES:

- United States Parole Commission
- Federal Bureau of Investigation
- Immigration and Naturalization Service
- Internal Revenue Service
- United States Attorney
- Treasury Department
- Bureau of Prisons
- State Agency
- Other: _____

DIRECT RESPONSE TO:

Name: Anthony Joseph Donato
 Address: FCI Oakdale
 PO Box 5000
 Oakdale, La. 71463

Date of Request: May 31, 2011

TO:

Federal Bureau of Investigation)
 FOIA/PA Unit)
 950 Pennsylvania Ave. NW)
 Washington, DC 20530)

IDENTIFICATION OF REQUESTOR:

Name: Anthony Joseph Donato
 Alias:
 D.O.B. [REDACTED]
 Place of Birth: Bronx, NY
 FBI No. 481067EA7
 Soc. Sec. No [REDACTED]

Other:

RE: Freedom of Information Act (U.S.C. 552), Privacy Act (5 U.S.C. 552a(d)(1))
 Request: Exemptions (5U.S.C. 552(6)(C)(B)(7)), General (U.S.C. 552 A (J)
 (2)) or Specific (5 U.S.C. 552 a(K)(2)) not applicable to this request.

Dear Sir/Ms:

This letter will serve as my request pursuant to the provisions of the Freedom of Information Act (5 U.S.C. 552) and the Privacy act (5 U.S.C. 52a(d)(1)), and the applicable State Statutes governing Freedom of Information Requests if states agency request, for all disclosure and release of all records and/or data contained in the files of your agency, and specifically for amendment, deletion and/or expungment (5 U.S.C. 552a (d)(2)(a)) of records maintained by your agency. The records sought but no limited to, is the compiled file containing (1) arrest records, (2) investigation and/or investigatory reports, (3) reports or evidentiary and/or scientific information findings, (4) wants, warrants, and/or detainers, (5) final and closing investigation reports; and (6) any and/or all information, data, or reports not otherwise exempt by statute (5 U.S.C. 552(6)(c)(B)(7)), (5 U.S.C. 52a(j)(2),(k)(2), or law, Tarlton v. Saxbe, 498 F.2d. 1017, 162 U.S. App. D.C. 284 (1974), Sullivan v. Murphy, 478 F.2d. 938, 156 U.S. App. D.C. 28 (1973). Your agency is advised that the investigation reports in total are no longer accorded exempt status unless under the specific exemption noted, and only with reference to specific citation of authority. Paton v. La Prade, 524 F.2d. 862, 868-69 (1975).

It is further requested that your agency in response to the material requested specifically inform me if and to whom the file and/or any material therein contained has been released to any identifiable individual or agency, their name, title, purpose and need for such information, the date of such release, the specific material that was released, the person within your Agency who released such information, and the specific reference to authority, statute or regulation, governing such release (5 U.S.C. 52a (d)(1)). See La Prade, 524 F.2d. at 862; Saxbe, 507 F.2d. at 1166 and Linda R.S. v. Richard D., 410 U.S. 614, 35 L.Ed.2d 536, 93 S.Ct. 1146 (1973).

It is further requested that your agency provide me with a copy of specific regulations of your Department as provided by statute (5 U.S.C. 552), so that compliance with such regulations is adhered to except as otherwise provided by law (5 U.S.C. 701 et.seq.).

This request is made under the Freedom of Information Act (5 U.S.C. 552) and the Privacy act (5 U.S.C. 552a)(together with the "alternate means of access"), to permit access to records on file with your agency. If and for any reason it is determined that portions of the material and records sought is exempt by statute 5 U.S.C. (6)(c)(b)(7), 552a (j)(2), (k)(2) of by regulation (Menard v. Mitchell, 430 F.2d. 486 (1970), Nemetz v. Department of Treasury, 446 F. Supp. 102) I request specific citation to authority for such deletion. If it should be determined that any material be deemed CONFIDENTIAL due to identification of source, the permission is granted to Agency to delete source identification ONLY from the material for release. Paton v. La Prade, 524 F.2d 862 (1975); Chastain v. Kelly, 510 F.2d 1232. I further agree to pay any reasonable costs or file IN FORMA PAUPERIS if I am indigent, provided by statute of regulation of your agency, for search and copying of the material requested.

Pursuant to Title 5 U.S.C. (6)(A)(i), it is noted that your agency has ten (10) working days following receipt to this request to provide the information and material sought. Should any delay occur, it is requested that your Agency inform me of this delay as provided by Agency regulations and the date as to when your Agency will be able to act upon request.

Respectfully submitted,

Anthony Joseph Denton

Signed under penalty of perjury on this the 15th day of June 2016.

Examples of specific requests:

1.) I am requesting all documents, e-mails, inter-office memos, including the Carlos Medina 7-page letter to BOP Counselor Gloria Black, concerning the Dominic Cicale plot to frame Vincent Basciano and BOP officer Santomaggio with the help of Carlos Medina in a phony murder conspiracy in the WitSec Unit at MCC Manhattan on or about June, 2007.

2.) _____

3.) _____

4.) _____

5.) _____

6.) _____

Anthony Donato
Reg. No. 71455-053
FCI Oakdale
PO Box 5000
Oakdale, La. 71463

September 12, 2011

Federal Bureau of Investigation
FOIA/PA Unit
950 Pennsylvania Avenue
Washington, DC 20530

Dear Sir/Madam:

On June 1, 2011 I mailed a FOIA request, dated May 31, 2011 and since then I have never received an acknowledgement notice assigning me a request number. I am submitting a copy of the request that I mailed and I am requesting a status report on my request. Pursuant to 5 USC 552 (6)(A)(i) you are well past your time frame to respond to my request.

Thank you for your assistance in this matter and I look forward to your response.

Sincerely,


Anthony Donato

FREEDOM OF INFORMATION ACT REQUEST

DATE: July 23, 2014

TO: FBI Field Office
200 McCarty Avenue
Albany, NY 12209

RE: F.O.I.A. Request per 5 U.S.C. 552 a

Dear F.O.I.A. Officer:

This is a specific request under the Freedom of Information Act, 5 U.S.C. 552a et seq.

I hereby request any and all records, documents, photographs, audio or video recordings or any other type of information that your agency has in its possession that is in any way connected to or related to, or even remotely in reference to the following: I am requesting all documents, including the Carlos Medina 7 page letter to BOP Counselor Gloria Black, emails, inter-office memos, and the (cont')

In the event that you believe that some or all of the requested information is exempt from release, kindly advise me which exemptions you are relying on. Also please provide a Vaughn index for all items withheld, as well as detailed justification for any exemptions claimed, either specifically or implied.

As required by law, I anticipate a reply within ten (10) working days.

If there is a cost for the copying of this information, kindly contact me for authorization.

Respectfully,

Anthony Donato
Signature

Bronx, NY [REDACTED]
Place of Birth & Birthdate

Anthony Donato
Printed Name

[REDACTED]
Social Security Number

DECLARATION

I, Anthony Donato, hereby declare that the foregoing is true and correct according to the best of my information, knowledge, and belief.

Dated this 23 day of July 2014.

Anthony Donato
Signature

Anthony Donato
Printed Name

FREEDOM OF INFORMATION ACT REQUEST

DATE: July 23, 2014

TO: FBI
26 Federal Plaza
New York, NY 10278

RE: F.O.I.A. Request per 5 U.S.C. 552 a

Dear F.O.I.A. Officer:

This is a specific request under the Freedom of Information Act, 5 U.S.C. 552a et seq.

I hereby request any and all records, documents, photographs, audio or video recordings or any other type of information that your agency has in its possession that is in any way connected to or related to, or even remotely in reference to the following: I am requesting all documents, including the Carlos Medina 7 page letter to BOP Counselor Gloria Black, emails, inter-office memos, and the (cont!)

In the event that you believe that some or all of the requested information is exempt from release, kindly advise me which exemptions you are relying on. Also please provide a Vaughn index for all items withheld, as well as detailed justification for any exemptions claimed, either specifically or implied.

As required by law, I anticipate a reply within ten (10) working days.

If there is a cost for the copying of this information, kindly contact me for authorization.

Respectfully,

Anthony Donato
Signature

Bronx, NY
Place of Birth & Birthdate

Anthony Donato
Printed Name

[Redacted]
Social Security Number

DECLARATION

I, Anthony Donato, hereby declare that the foregoing is true and correct according to the best of my information, knowledge, and belief.

Dated this 23 day of July, 2014.

Anthony Donato
Signature

Anthony Donato
Printed Name

results of the FBI's investigation relating to the Dominick Cicale plot to frame Vincent Basciano and BOP Officer Marco Santomaggio with the help of Carlos Medina in a phony murder conspiracy in the WitSec Unit at MCC Manhattan on or about June 2007.



Anthony Donato

EXHIBIT 13



Federal Bureau of Investigation
Washington, D.C. 20535

August 4, 2014

MR. ANTHONY DONATO
FEDERAL CORRECTIONAL INSTITUTION
33 1/2 PEMBROKE ROAD
DANBURY, CT 06811-3099

FOIPA Request No.: 1286073-000
Subject: JUNE 2007 MURDER
CONSPIRACY AT MCC MANHATTAN
INVOLVING GLORIA BLACK, CARLOS
MEDINA, DOMINICK CICALA, VINCENT
BASCIANO AND MARCO SANTOMAGGIO.

Dear Mr. Donato:

This acknowledges receipt of your Freedom of Information Act (FOIA) request to the FBI. The FOIPA number listed above has been assigned to your request.

You have requested records concerning one or more third party individuals. Because you have requested information about a third party and the FBI recognizes an important privacy interest in that information, to help us process your request we ask that you provide one of the following: (1) an authorization and consent from the individual(s) (*i.e.*, express authorization and consent of the third party); (2) proof of death (*i.e.*, proof that your subject is deceased); or (3) a justification that the public interest in disclosure outweighs personal privacy (*i.e.*, a clear demonstration that the public interest in disclosure outweighs personal privacy interests). In the absence of such information, the FBI can neither confirm nor deny the existence of any records responsive to your request, which, if they were to exist, would be exempt from disclosure pursuant to FOIA Exemptions (b)(6) and (b)(7)(C), 5 U.S.C. §§ 552 (b)(6) and (b)(7)(C).

Express authorization and consent. If you seek disclosure of any existing records on this basis, enclosed is a Certification of Identity form. You may make additional copies of this form if you are requesting information on more than one individual. The subject of your request should complete this form and then sign it. Alternatively, the subject may prepare a document containing the required descriptive data and have it notarized. The original certification of identity or notarized authorization with the descriptive information must contain a legible, original signature before FBI can conduct an accurate search of our records.

Proof of death. If you seek disclosure of any existing records on this basis, proof of death can be a copy of a death certificate, Social Security Death Index, obituary, or another recognized reference source. Death is presumed if the birth date of the subject is more than 100 years ago.

Public Interest Disclosure. If you seek disclosure of any existing records on this basis, you must demonstrate that the public interest in disclosure outweighs personal privacy interests. In this regard, you must show that the public interest sought is a significant one, and that the requested information is likely to advance that interest.

Fax your request to the Work Process Unit at (540) 868-4997, or mail to 170 Marcel Drive, Winchester, VA 22602. If we do not receive a response from you within 30 days from the date of this letter, your request will be closed. You must include the FOIPA request number with any communication regarding this matter.

For your information, Congress excluded three discrete categories of law enforcement and national security records from the requirements of the FOIA. See 5 U.S.C. § 552(c). As such, this response is limited to those records, if any exist, that are subject to the FOIA. This is a standard notification that is given to all our requesters and should not be taken as an indication that excluded records do, or do not, exist.

You may file an appeal by writing to the Director, Office of Information Policy (OIP), U.S. Department of Justice, 1425 New York Ave., NW, Suite 11050, Washington, D.C. 20530-0001, or you may submit an appeal through OIP's eFOIA portal at <http://www.justice.gov/oip/efoia-portal.html>. Your appeal must be received by OIP within sixty (60) days from the date of this letter in order to be considered timely. The envelope and the letter should be clearly marked "Freedom of Information Appeal." Please cite the FOIPA

Request Number in any correspondence to us for proper identification of your request. Enclosed for your information is a copy of the FBI Fact Sheet and a copy of the Explanation of Exemptions.

Sincerely,

A handwritten signature in black ink, appearing to read "D. Hardy", with a stylized flourish at the end.

David M. Hardy
Section Chief,
Record/Information
Dissemination Section
Records Management Division

Enclosure(s)

EXHIBIT 14

Anthony Donato
Reg. No. 71455-053
FCI Danbury
33½ Pembroke Road
Danbury, CN 06811

August 14, 2014

Federal Bureau of Investigation
170 Marcel Drive
Winchester, VA 22602

FOIA Request No. 1286073-000

Dear Mr. Hardy:

In your August 4, 2104 letter acknowledging my FOIA request, you stated that in order to process my request that I meet 1 of 3 criteria. My request is based on No. 3, "A justification that the public interest in disclosure outweighs personal privacy interests."

FOIA's central purpose is "to open agency action to the light of public scrutiny." See Dept. of Air Force v. Rose, 425 US 352, 372.

Here, I requested information and the results of the FBI investigation into the MCC murder conspiracy (Cicale plot) which clearly falls under FOIA's central purpose. Third-party privacy interests were nullified because the names of those involved in in the Cicale plot are public knowledge. Government informants, Dominick Cicale and Carlos Medina, both testified in open court about the plot (See US v. Basciano 05-CR-060), and it was reported in the media (See attached NY Post article May 7, 2011). The names of the BOP staff that submitted affidavits related to the Cicale plot were all made public in a district court opinion in 2008. See US v. Basciano, 2008 US Dist Lexis 23107 (EDNY). A. THE CICALÉ ALLEGATIONS. All involved were aware of either the FBI or BOP investigation into the Cicale plot.

Public interest disclosure outweighs any other privacy interests because the public has a right to know "what government

is up to" when the court orders the government to conduct an investigation into the Cicale plot and report its results in a timely fashion to the court and the defense and why the government failed to do so. See US v. Basciano, 2007 US Dist Lexis 93252 (EDNY). The public has an interest to know which of the government's informants perjured himself at trial, which either Cicale or Medina did, and why the government allowed this to take place without any ramifications to either informant.

The relevant public interest is how the FBI and DOJ carried out their respective statutory duties to investigate and prosecute criminal conduct, i.e. murder conspiracy and perjury. Disclosure of the Cicale plot documents would likely reveal much about the diligence of the FBI's investigation and the DOJ's exercise of its prosecutorial discretion: whether the government pulled its punches in prosecuting one of its key informants who violated his cooperation agreement and obligations under the witness security statute, 18 USC § 3521(d)(B). "Matters of substantive law enforcement policy...are properly the subject of public concern," whether or not the policy in question is lawful.' See ACLU v. United States DOJ, 655 F.3d 1, 14 (DC 2011)(quoting Reporters Committee, 489 US 766 n.18).

Based on the facts and case law above, the FBI must release all documents related to the Cicale plot. Any additional personal information in the documents can be cured by redaction which is allowed under Exemption 7(C).

Thank you for your assistance in this very important matter.

Sincerely yours,



Anthony Donato



Federal Bureau of Investigation
Washington, D.C. 20535

September 3, 2014

MR. ANTHONY DONATO
**71455-053
FCI DANBURY
33 1/2 PEMBROKE ROAD
DANBURY, CT 06811

FOIPA Request No.: 1286073-000
Subject: JUNE 2007 MURDER CONSPIRACY AT
MCC MANHATTAN INVOLVING GLORIA BLACK,
CARLOS MEDINA, DOMINICK COLE, VINCENT
BASCIANO AND MARCO SANTOMAGGIO

Dear Mr. Donato:

This is in response to your Freedom of Information Act (FOIA) request for information pertaining to the above subject. In the absence of proof of death or a privacy waiver, it is incumbent upon the requester to provide documentation regarding the public's interest in the subject before records can be processed pursuant to the FOIA. You have not sufficiently demonstrated that the public's interest in disclosure outweighs personal privacy interests of the subject. Therefore, your request is denied. In accordance with standard FBI practice and pursuant to FOIA exemptions (b)(6) and (b)(7)(C) [5 U.S.C. § 552 (b)(6)/ (b)(7)(C)], this response neither confirms nor denies the existence of records regarding your subject.

You may file an appeal by writing to the Director, Office of Information Policy (OIP), U.S. Department of Justice, 1425 New York Ave., NW, Suite 11050, Washington, D.C. 20530-0001, or you may submit an appeal through OIP's eFOIA portal at <http://www.justice.gov/oip/efoia-portal.html>. Your appeal must be received by OIP within sixty (60) days from the date of this letter in order to be considered timely. The envelope and the letter should be clearly marked "Freedom of Information Appeal." Please cite the FOIPA Request Number in any correspondence to us for proper identification of your request.

Sincerely,

A handwritten signature in black ink, appearing to read "D. Hardy", is written over the word "Sincerely,".

David M. Hardy
Section Chief
Record/Information
Dissemination Section
Records Management Division

Enclosure

Anthony Donato
Reg. No. 71455-053
FCI Danbury
33.5 Pembroke Road
Danbury, CN 06811

September 16, 2014

Office of Information Policy
US Department of Justice
1425 New York Avenue, NW
Suite 11050
Washington, DC 20530

Re: FOIA Request No. 1286073-000

Dear Director:

This appeal is for the denial of Donato's request by the FBI for all documents, including the Carlos Medina 7-page letter to BOP Counselor Gloria Black, emails, inter-office memos, and the results of the FBI's investigating relating to the Dominick Cicale plot to frame Vincent Basciano and BOP Officer Marco Santomaggio with the help of Carlos Medina in a phony murder conspiracy (Cicale plot) in the WitSec Unit at MCC Manhattan on or about June 2007.

In the FBI's September 3, 2014 letter, Section Chief Hardy states, "you have not sufficiently demonstrated that the public's interest in disclosure outweighs personal privacy interests of subject." Mr. Hardy also states a GLOMAR response in which the FBI refuses to either confirm or deny the existence of responsive documents on the basis that doing so would compromise privacy. A GLOMAR response is "permissible only when confirming or denying the existence of records would itself cause harm cognizable under an FOIA exemption." A GLOMAR response in this request is inappropriate because existence of the Cicale plot is public knowledge, as Donato will show below, and the FBI's acknowledgement that it had responsive records would not itself cause harm by confirming that fact.

Here, Donato requested documents and the result of the FBI's investigation into the Cicale plot which clearly falls under FOIA's central purpose which is "to open agency action to the light of public scrutiny." See DEPT. OF AIR FORCE V. ROSE, 425 US 352, 372.

Under the FAVISH test, the requestor must at a minimum "produce evidence that could warrant a belief by a reasonable person that the alleged government impropriety might have occurred." Donato puts forth the following evidence of the Cicale plot's existence. Government informants, Dominick Cicale and Carlos Medina, both testified in open court about the Cicale plot. See US v. BASCIANO, 05-CR-060. It was also reported by the media. See attached NY Post article May 7, 2011. The names of the BOP staff that submitted affidavits relating to the Cicale plot were all made public in a 2008 district court opinion. See UNITED STATES v. BASCIANO, 2008 US Dist Lexis 23107 (EDNY). Third-party privacy interests diminished by this evidence and because the names of those involved in the Cicale plot are public knowledge.

To assert a public interest Donato must show: 1) "that the public interest sought to be advanced is a significant one, an interest more specific than having the information for its own sake"; and 2) that "the information is likely to advance that interest." See FAVISH at 172.

Public interest disclosure outweighs any other privacy interests because the public has a right to know "what government is up to" when the court orders the government to conduct an investigation into the Cicale plot and report its results in a timely fashion to the court and the defense, and why the government failed to follow the court's directive. See UNITED STATES v. BASCIANO, 2007 US Dist Lexis 93253 (EDNY).

The public has an interest to know which of the government's informants perjured himself at trial, which either Cicale or Medina did, and why the government allowed this to take place without any ramifications to either informant.

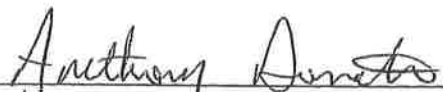
The relevant public interest is how the FBI and the DOJ

carried out their respective duties to investigate and prosecute criminal conduct, i.e. murder conspiracy and perjury. Disclosure of the Cicale plot documents would likely reveal much about the diligence of the FBI's investigation and the DOJ's exercise of its prosecutorial discretion: whether the government pulled its punches in prosecuting one of its key informants who violated his cooperation agreement and obligations under the witness security statute, 18 § USC 3521 (d)(B). "Matters of substantive law enforcement policy...are properly the subject of public concern," whether or not the policy in question is lawful. See *ACLU v. US DOJ*, 655 F.3d 1, 14 (DC 2011).

Based on the facts above and under the FAVISH test, Donato has shown evidence of the Cicale plot's existence and that a reasonable person could believe that the FBI is withholding the Cicale plot documents, and either did not complete their investigation or are withholding the investigation's results. Therefore, the FBI must release all documents related to the Cicale plot. Any additional personal information in the documents can be cured by redaction which is allowed under Exemption 7(C).

Thank you for your assistance in this very important matter.

Sincerely yours,



Anthony Donato



U.S. Department of Justice
Office of Information Policy
Suite 11050
1425 New York Avenue, NW
Washington, DC 20530-0001

Telephone: (202) 514-3642

Mr. Anthony Donato
Register No. 71455-053
Federal Correctional Institution
33 1/2 Pembroke Road
Danbury, CT 06811-3099

Re: Appeal No. AP-2014-04980
Request No. 1286073
CDT:DRC

VIA: U.S. Mail

Dear Mr. Donato:

You appealed from the action of the Federal Bureau of Investigation on your request for access to records concerning a June 2007 murder conspiracy at MCC Manhattan involving several named third parties.

After carefully considering your appeal, I am affirming the FBI's action on your request. The Freedom of Information Act provides for disclosure of many agency records. At the same time, Congress included in the FOIA nine exemptions from disclosure that provide protection for important interests such as personal privacy, privileged communications, and certain law enforcement activities. The FBI properly refused to confirm or deny the existence of records responsive to your request. Without consent, proof of death, official acknowledgment of an investigation, or an overriding public interest, confirming or denying the existence of such records, including law enforcement records, concerning an individual would constitute a clearly unwarranted invasion of personal privacy, and could reasonably be expected to constitute an unwarranted invasion of personal privacy. See 5 U.S.C. § 552(b)(6), (7)(C).

Please be advised that this Office's decision was made only after a full review of this matter. Your appeal was assigned to an attorney with this Office who thoroughly reviewed and analyzed your appeal, your underlying request, and the action of the FBI in response to your request.

If you are dissatisfied with my action on your appeal, the FOIA permits you to file a lawsuit in federal district court in accordance with 5 U.S.C. § 552(a)(4)(B).

For your information, the Office of Government Information Services (OGIS) offers mediation services to resolve disputes between FOIA requesters and Federal agencies as a non-exclusive alternative to litigation. Using OGIS services does not affect your right to pursue litigation. The contact information for OGIS is as follows: Office of Government Information Services, National Archives and Records Administration, Room 2510, 8601 Adelphi Road,

- 2 -

College Park, Maryland 20740-6001; e-mail at ogis@nara.gov; telephone at 202-741-5770; toll free at 1-877-684-6448; or facsimile at 202-741-5769.

Sincerely,

2/24/2015

X 

Christina D. Troiani, Attorney-Advisor for
Sean O'Neill, Chief, Administrative Appeals Staff
Signed by: CHRISTINA TROIANI

EXHIBIT 18

2011-08565
AP-2012-00565

AGENCIES:

- United States Parole Commission
- Federal Bureau of Investigation
- Immigration and Naturalization Service
- Internal Revenue Service
- United States Attorney
- Treasury Department
- Bureau of Prisons
- State Agency
- Other: _____

DIRECT RESPONSE TO:

Name: Anthony Joseph Donato
 Address: FCI Oakdale
 PO Box 5000
 Oakdale, La. 71463

Date of Request: May 31, 2011

TO:

Federal Bureau of Prisons
 Central Office
 FOIA/PA Request
 320 First St NW
 Washington, DC 20534

IDENTIFICATION OF REQUESTOR:

Name: Anthony Joseph Donato
 Alias:
 D.O.B. [REDACTED]
 Place of Birth: Bronx, NY
 FBI No. 481067EA7
 Soc. Sec. No. [REDACTED]

Other:

RE: Freedom of Information Act (U.S.C. 552), Privacy Act (5 U.S.C. 552a(d)(1))
 Request: Exemptions (5U.S.C. 552(6)(C)(B)(7)), General (U.S.C. 552 A (J)
 (2)) or Specific (5 U.S.C. 552 a(K)(2)) not applicable to this request.

Dear Sir/Ms:

This letter will serve as my request pursuant to the provisions of the Freedom of Information Act (5 U.S.C. 552) and the Privacy act (5 U.S.C. 52a(d)(1)), and the applicable State Statutes governing Freedom of Information Requests if states agency request, for all disclosure and release of all records and/or data contained in the files of your agency, and specifically for amendment, deletion and/or expungment (5 U.S.C. 552a (d)(2)(a)) of records maintained by your agency. The records sought but no limited to, is the compiled file containing (1) arrest records, (2) investigation and/or investigatory reports, (3) reports or evidentiary and/or scientific information findings, (4) wants, warrants, and/or detainers, (5) final and closing investigation reports; and (6) any and/or all information, data, or reports not otherwise exempt by statute (5 U.S.C. 552(6)(c)(B)(7)), (5 U.S.C. 52a(j)(2),(k)(2), or law, Tarlton v. Saxbe, 498 F.2d. 1017, 162 U.S. App. D.C. 284 (1974), Sullivan v. Murphy, 478 F.2d. 938, 156 U.S. App. D.C. 28 (1973). Your agency is advised that the investigation reports in total are no longer accorded exempt status unless under the specific exemption noted, and only with reference to specific citation of authority. Paton v. La Prade, 524 F.2d. 862, 868-69 (1975).

It is further requested that your agency in response to the material requested specifically inform me if and to whom the file and/or any material therein contained has been released to any identifiable individual or agency, their name, title, purpose and need for such information, the date of such release, the specific material that was released, the person within your Agency who released such information, and the specific reference to authority, statute or regulation, governing such release (5 U.S.C. 52a (d)(1)). See La Prade, 524 F.2d. at 862, Saxbe, 507 F.2d. at 1166 and Linda R.S. v. Richard D., 410 U.S. 614, 35 L.Ed.2d 536, 93 S.Ct. 1146 (1973).

It is further requested that your agency provide me with a copy of specific regulations of your Department as provided by statute (5 U.S.C. 552), so that compliance with such regulations is adhered to except as otherwise provided by law (5 U.S.C. 701 et.seq.).

This request is made under the Freedom of Information Act (5 U.S.C. 552) and the Privacy act (5 U.S.C. 552a)(together with the "alternate means of access"), to permit access to records on file with your agency. If and for any reason it is determined that portions of the material and records sought is exempt by statute 5 U.S.C. (6)(c)(b)(7), 552a (j)(2), (k)(2) of by regulation (Menard v. Mitchell, 430 F.2d. 486 (1970), Nemetz v. Department of Treasury, 446 F. Supp. 102) I request specific citation to authority for such deletion. If it should be determined that any material be deemed CONFIDENTIAL due to identification of source, the permission is granted to Agency to delete source identification ONLY from the material for release. Paton v. La Prade, 524 F.2d 862 (1975); Chastain v. Kelly, 510 F.2d 1232. I further agree to pay any reasonable costs or file IN FORMA PAUPERIS if I am indigent, provided by statute of regulation of your agency, for search and copying of the material requested.

Pursuant to Title 5 U.S.C. (6)(A)(i), it is noted that your agency has ten (10) working days following receipt to this request to provide the information and material sought. Should any delay occur, it is requested that your Agency inform me of this delay as provided by Agency regulations and the date as to when your Agency will be able to act upon request.

Respectfully submitted,

Anthony Joseph Amato

Signed under penalty of perjury on this the 1st day of June 2014.

Examples of specific requests:

1.) I am requesting all documents, e-mails, inter-office memos, including the Carlos Medina 7-page letter to BOP Counselor Gloria Black, concerning the Dominic Cicale plot to frame Vincent Basciano and BOP officer Santomaggio with the help of Carlos Medina in a phony murder conspiracy in the WitSec Unit at MCC Manhattan on or about June, 2007.

2.) A copy of my CIMS notification form pursuant to PS 5180.05-8(b) [Classification Procedures - Notification] and 28 CFR 524.73(b) [Classification Procedures - Notification].

3.) A list of the names and/or BOP reference numbers of all documents in my FOI Exempt file in order to allow me the right to challenge the placement of those documents in the FOI Exempt file.

4.) A list of the specific documents in my Central file, CIMS file and Exempt file that contains the phrase "remove from area of influence", "no area of influence" or "area of criminal influence". I am not requesting the contents of such documents only the BOP name and/or reference number of the documents.

5.) A copy of my Security Designation Data sheet.

6.) _____



U.S. Department of Justice

Federal Bureau of Prisons

Northeast Regional Office

*U.S. Custom House - 7th Floor
2nd & Chestnut Streets
Philadelphia, PA. 19106*

September 28, 2011

Anthony Donato, Register No. 71455-053
Federal Correctional Institution
P.O. Box 5000
Oakdale, LA 71463

RE: Freedom of Information Request No. 2011-08565

Dear Mr. Donato:

This is in response to your request for records that was received by this agency on June 12, 2011. You request a copy of all records regarding specific Bureau of Prisons staff and inmates other than yourself pertaining to an incident at the Metropolitan Correctional Center, New York. You request a copy of your Central Inmate Monitoring System (CIMS) notification, Security Designation Data Sheet, a list of names and/or Bureau of Prisons reference numbers of all documents in you FOI-Exempt Section of your Central File. You also request a list of specific documents in your Central, CIMS and FOI-Exempt file that "contains the phrase remove from area of influence, no area of influence or area of criminal influence."

Two hundred and twenty-five (225) pages of records were received in this office for release determination. Upon review, it has been determined 225 pages are being withheld in their entirety.

Two hundred and twenty-five (225) pages are being withheld in their entirety because they contain third-party information and information intended for staff use only. Release of this information would circumvent Bureau of Prisons policy, would tend to inhibit open and frank communication between Department of Justice employees, would or could constitute an unwarranted invasion of personal privacy, could reveal sources of information disclosed on reasonable expectation of confidentiality, would disclose techniques and procedures for law enforcement investigations or prosecutions, and could reasonably be expected to endanger the life or physical safety of any person. The statutory basis for these excisions and withholdings are 5 U.S.C. § 552 (b)(2), (b)(5), (b)(6), (b)(7)(C), (b)(7)(D), (b)(7)(E) and (b)(7)(F).

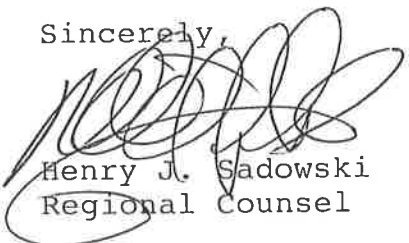
Anthony Donato, Reg. No. 71455-053
FOIA Request No. 2011-08565
Page Two

Your request for your CIMS notification, Security Designation Data sheet and FOI-Exemption Section was responded to by the South Central Regional Office in FOIA Request Number 2011-05892 and is currently under appeal with the Office of Information Policy in Appeal Number 2011-02793.

In response to your request for a list of names and numbers of documents located in your Central File or the FOI-Exempt Section of your Central File, the Freedom of Information Act was not designed to create a specific document to satisfy a request. The Freedom of Information Act was designed to provide documents that are maintained by an agency.

I trust this has been responsive to your request. However, if you are dissatisfied with this response, you may appeal to the Attorney General by filing a written appeal. Your appeal must be received by the Office of Information Policy within sixty days from the date of this letter in order to be considered timely. You may appeal to: Attorney General, Office of Information Policy, United States Department of Justice, 1425 New York Avenue, Suite 11050, Washington, D.C. 20530-0001. Both the envelope and the letter of appeal itself should be clearly marked: "Freedom of Information Act Appeal."

Sincerely,



Henry J. Sadowski
Regional Counsel

Anthony Donato
Reg. No. 71455-053
FCI Oakdale
PO Box 5000
Oakdale, La. 71463

October 31, 2011

Attorney General
Office of Information Policy
Department of Justice
1425 New York Avenue, Suite 11050
Washington, DC 20530

Re: FOIA Request No. 2011-08565

This appeal is for the denial of my request for all documents, e-mails, inter-office memos, including the Carlos Medina 7-page letter to BOP Counselor Gloria Black, concerning the Dominick Cicale plot to frame Vincent Basciano and BOP Officer Santomaglio with the help of Carlos Medina in a phony murder conspiracy in the WitSec Unit at MCG Manhattan on or about June 2007.

The BOP's response states "two hundred and twenty-five (225) pages of records were received in this office for release determination. Upon reveiw, it has been determined 225 pages are being withheld in their entirety." They also state that "two hundred and twenty-five (225) pages are being withheld in their entirety because they contain third-party information and information intended for staff use only. Release of this information would circumvent Bureau of Prisons policy, would tend to inhibit open and frank communication between Department of Justice employees, would or could constitute an unwarranted invasion of personal privacy, could reveal sources of information disclosed on reasonable expectation of confidentiality, would disclose techniques and procedures for law enforcement investigations or prosecutions, and could reasonably be expected to endanger the life or physical safety of any person. The statutory basis for these excisions and withholdings are 5 USC §552 (b)(2), (b)(5), (b)(6), (b)(7)(C), (b)(7)(D), (b)(7)(E), (b)(7)(F)."

In its response, the BOP only offered a rote incantation of the statutory standards without saying why it cannot redact sensitive material. The BOP has not provided any information to justify nondisclosure pursuant to Exemption 2. Exemption 2 applies primarily to two types of materials: internal agency matters so routine or trivial that they could not be "subject to ... a genuine and significant public interest", as well as internal matters of some public interest "where disclosure may risk circumvention" of statutes or agency regulations. Dept. of Air Force v. Rose, 425 US 352, 369-70, 48 L.Ed. 2d 11,96 S. Ct. 1592 (1976); NTEU v. US Customs Service, 255 US App DC 449, 802 F.2d 525, 528-30 (DC Cir. 1986); Crooker v. Bureau of Alcohol, Tobacco, and Firearms, 216 US App DC 232, 670 F.2d 1051, 1073-74 (DC Cir. 1981). It simply states that "release of this information would circumvent Bureau of Prisons policy" without elaborating on the nature of the particular documents withheld, or the nature of the interference with agency regulations that would occur if they were disclosed. The fact is that this request involves a potential murder conspiracy between two WitSec inmates and a BOP officer, and the BOP's handling of the investigation and the results of the investigation. This incident rises above routine or trivial matters that should be subject to a genuine and significant public interest, and it also rises above matters of some public interest where disclosure may risk circumvention of BOP policy in which Exemption 2 could be claimed.

Exemption 5 protects from disclosure "intra-agency or inter-agency memorandums or letters which would not be available by law to a party other than an agency in litigation with the agency." 5 USC §552 (b)(5). Exemption 5 has been interpreted to protect "deliberative process" materials from mandatory disclosure. Coastal States Gas Corp v. Dept. of Energy, 199 US App DC 272, 617 F.2d 854, 864 (DC Cir. 1980). In order to be protected by the deliberative process privilege, the record must be both "predecisional" -- that is, generated before the adoption of an agency policy -- and "deliberative" -- that is, reflective of the give-and-take of the consultative process. Senate of Puerto Rico v. US Dept. of State, 262 US App DC 166, 823 F.2d 574, 585 (DC Cir. 1987), (citing Coastal States Gas, 617 F.2d at 866). The exemption extends **only** to those portions of a document that are opinions or recommendations; **facts** cannot be withheld under Exemption 5. Coastal States Gas, 617 F.2d at 867. In invoking Exemption 5, the BOP states that it "would tend to inhibit open and frank communication between DOJ employees." It releases no information justifying the exemption and has not provided any information that the withheld documents are

"pre-decisional" and "deliberate" and it must release those portions of the documents that do not contain opinions or recommendations and that do not fall under another exemption.

Exemption 6 permits the government to withhold all information about individuals in "personnel and medical files and similar files" where disclosure of such information "would constitute a clearly unwarranted invasion of personal privacy." 5 USC § 552(b)(6). However, if an interest in privacy exists, then it must be balanced against the public interest in disclosure, which, according to the Supreme Court, is limited to the "core purpose" for which the FOIA was enacted: "to shed light on an agency's performance of its statutory duties." Reporters Committee for Freedom of the Press, 489 US at 773. Here, in invoking Exemption 6, the BOP states that it "would or could constitute an unwarranted invasion of personal privacy," but releases no information explaining their position. The fact is that this concerns a potential murder conspiracy, which includes two federal witnesses and a BOP employee, and the BOP's investigation into this incident. The public's interest in the agency's handling of this incident and the outcome of its investigation clearly outweighs any privacy concerns.

Exemption 7 protects from disclosure "records or information compiled for law enforcement purposes, but only to the extent that the production of such records" would cause one of six enumerated harms. 5 USC § 552(b)(7). The BOP claims exemptions (7)(C), (7)(D), (7)(E), and (7)(F) to withhold all documents in their entirety. The requestor agrees that the documents were compiled for law enforcement purposes due to the fact that it pertains to a potential murder conspiracy investigation, but does not agree with the four enumerated harms claimed to withhold the documents in their entirety.

The BOP claims Exemption 7(C) which shields investigatory records compiled for law enforcement purposes to the extent that disclosure "could reasonably be expected to constitute an unwarranted invasion of personal privacy." 5 USC § 552(b)(7)(C). The protected privacy interests include freedom from "annoyance and harassment," "public exposure," "damaged reputations," and "personal embarrassment" that can result from disclosure of identifying information in connection with investigatory files. Lesar, 636 F.2d at 487-88. The only public interest relevant for purposes of Exemption 7(C) concerns the public's "right to be informed about what their government is up to."

US Dept. of Justice v. Reporters Committee for Freedom of the Press, 103 L. Ed. 2d 774 (1989), Davis v. US Dept. of Justice, 296 US App DC 405, 968 F.2d 1276, 1282 (DC Cir. 1992). This interest follows from FOIA's basic purpose, "to open agency action to the light of public scrutiny;" 489 US at 772 (quoting Dept. of Air Force v. Rose, 425 US at 372), and specifically to allow citizens to bring to light "secret agency law." Sears, Roebuck and Company, 427 US at 153. In this incident, at MCC Manhattan, all the main players have been made known. Carlos Medina and Dominick Cicale have testified about this incident in open court at the trial of Vincent Basciano (05-cr-060) and Officer Santomaggio's name was mentioned during that testimony. Also, the requestor is in possession of numerous affidavits of named BOP employees involved in this incident released to him from the US Attorneys Office of the Eastern District of NY as part of his case (05-cr-060). So, the BOP's claim of an unwarranted invasion of personal privacy falls short in light of what has already been released.

Exemption 7(D) allows the withholding of records if their disclosure "could reasonably be expected to disclose the identity of a confidential source ..." 5 USC § 552(b)(7)(D). In the BOP response, in invoking 7(D) it states that it "could reveal sources of information disclosed on reasonable expectation of confidentiality." When invoking Exemption 7(D), an agency must demonstrate, through the use of reasonably detailed affidavits, that the information was compiled for a law enforcement purpose, that an informant provided the information under either an express or implied promise of confidentiality and that disclosure could reasonably be expected to disclose the sources identity. Landano, 508 US at 171-72. An express assurance of confidentiality is shown by an agency's proffer of "probative evidence that the source did in fact receive an express grant of confidentiality." Campbell, 164 F.3d at 34 (quoting Davin V. Dept. of Justice, 60 F.3d 1043, 1061 (3d Cir. 1995)). By withholding the 225 pages in its entirety, the BOP has not complied with any of the conditions mentioned above to invoke 7(D).

Exemption 7(E) protects from disclosure law enforcement records "to the extent that the production of such law enforcement records or information... would disclose techniques and procedures for law enforcement investigations or prosecutions or would disclose guidelines for law enforcement investigations or prosecutions of such disclosure could reasonably be expected to risk circumvention of the law." 5 USC § 552(b)(7)(E). In invoking 7(E), the BOP's response states it "would disclose techniques and procedures for law enforcement investigations or prosecutions." Exemption 7(E) applies to information involving obscure or secret techniques. Jaffe v. CIA, 573 F. Supp. 377, 387 (DDC 1983).

It is well established that Exemption 7(E) does not extend to "routine techniques ... well known to the public." S. Rep. NO. 221, 98th Congress, 1st Session 25 (1983)(internal citation omitted). See Campbell v. US DOJ, 1996 US Dist. Lexis 14996. Here, the requestor does not seek "obscure or secret techniques" of law enforcement, but does seek the information related to the most basic of "routine techniques" which is the questioning of all the parties involved and the results of the investigation. By withholding all documents in their entirety, the BOP does not even attempt to make a showing as required by law, as it fails to show that the particular law enforcement techniques or procedures are not generally known to the public and to describe the general nature of the techniques.

Exemption 7(F) protects from mandatory disclosure information compiled for law enforcement purposes to the extent that disclosure "could reasonably be expected to endanger the life or physical safety of any individual." 5 USC § 552(b)(7)(F). In invoking 7(F), the BOP claims it "could reasonably be expected to endanger the life or physical safety of any person." The main players in this "MCC plot", Cicale and Medina, are long out of the closet government cooperators who have testified in numerous public trials in federal court, and, as mentioned above, have testified in open court about this incident. The BOP staff involved in this incident, from the WitSec Unit to the SIS, have had statements documented on affidavits which the requestor is in possession of. So the BOP's disclosure of identities claim falls short since their identities have already been made public. The BOP must establish a nexus between the specific material withheld and harm to any individual. The requestor does not seek any identifying information of any other individuals whose identity has surfaced during the BOP's investigation of this incident. By withholding all the documents in their entirety, the BOP has not provided any reason for concluding that disclosure of the documents could be expected to create a risk to the safety of others if identifying information were redacted from the documents.

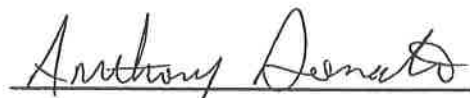
In my request for a list of specific documents in my central, CIMS and FOIA-exempt file that contains the phrase "remove from area of influence", "no area of influence", or "area of criminal influence", I requested only the BOP name and/or reference number of the documents. The BOP's response was "the FOIA was not designed to create a specific document to satisfy a request. The FOIA was designed to provide documents that are maintained by an agency." I amend my request as follows: any document, including any document from the US Attorneys Office to the BOP, which references "remove from area of influence", "no area

of influence", or "no area of criminal influence" in my central file, including the GIMS and FOIA exempt portions of the file.

In sum, the BOP cannot withhold documents merely by citing a rote incantation of statutory standards without saying why it cannot redact sensitive material. "An agency cannot justify withholding an entire document simply by showing that it contains some exempt material." Schiller v. NLRB, 296 US App DC 84, 964 F.2d 1205,1209 (DC Cir. 1990)(quoting Mead Data Central, Inc. v. Dept. of Air Force, 184 US App DC 350, 566F.2d 242,260 (DC Cir.)). In this case, the BOP has withheld all requested documents without showing that it contains any exempted material. I request that the BOP release to me all 225 pages or in the least provide me with a Vaughn index, which must adequately describe each withheld document, state which exemption claimed for each document, and explain the exemption's relevance.

Thank you for your assistance in this matter.

Sincerely,



Anthony Donato

EXHIBIT 21



U.S. Department of Justice
Office of Information Policy
Suite 11050
1425 New York Avenue, NW
Washington, DC 20530-0001

Telephone: (202) 514-3642

JUL 25 2012

Mr. Anthony Donato
Register No. 71455-053
Federal Correctional Institution
Post Office Box 5000
Oakdale, LA 71463

Re: Appeal No. AP-2012-00565
Request No. 2011-08565
KWC:RRK

Dear Mr. Donato:

You appealed from the action of the Federal Bureau of Prisons (BOP) on your request for access to records concerning an incident that occurred at the New York Metropolitan Correctional Center and certain records pertaining to yourself. I note that you have limited your appeal to the records concerning an incident at the New York Metropolitan Correctional Center and have attempted to amend the portion of your request for certain records concerning yourself.

The Freedom of Information Act provides for disclosure of many agency records. At the same time, Congress included in the FOIA nine exemptions from disclosure that provide protection for important interests such as personal privacy, privileged communications, and certain law enforcement activities. After carefully considering your appeal, I am affirming, on partly modified grounds, BOP's action on your request.

With regard to the portion of your appeal pertaining to an incident at the New York Metropolitan Correctional Center, BOP properly withheld this information in full because it is protected from disclosure under the FOIA pursuant to:

5 U.S.C. § 552(b)(5), which concerns certain inter- and intra-agency communications protected by the deliberative process privilege;

5 U.S.C. § 552(b)(6), which concerns material the release of which would constitute a clearly unwarranted invasion of the personal privacy of third parties;

5 U.S.C. § 552(b)(7)(C), which concerns records or information compiled for law enforcement purposes the release of which could reasonably be expected to constitute an unwarranted invasion of the personal privacy of third parties;

5 U.S.C. § 552(b)(7)(D), which concerns records or information compiled for law enforcement purposes the release of which could reasonably be expected to disclose the identities of confidential sources and information furnished by such sources;

- 2 -

5 U.S.C. § 552(b)(7)(E), which concerns records or information compiled for law enforcement purposes the release of which would disclose techniques and procedures for law enforcement investigations or prosecutions; and

5 U.S.C. § 552(b)(7)(F), which concerns records or information compiled for law enforcement purposes the release of which could reasonably be expected to endanger the life or personal safety of an individual.

With regard to the portion of your appeal records pertaining to yourself, I note that on appeal you seek to "amend" the subject of your request, and have now requested various additional records that you did not originally request. You may not on appeal expand the scope of your initial request, which was limited to records other than those described in your appeal. Accordingly, to the extent that you now seek "any document, including any document from the U.S. Attorney's Office to the BOP, which references 'remove from area of influence,' 'no area of influence,' or 'no area of criminal influence,'" I suggest that you submit a new FOIA request to BOP.

Finally I am denying your request that we itemize and justify each item of the information withheld. You are not entitled to such a listing at the administrative stage of processing FOIA requests and appeals. See Bangoura v. U.S. Dep't of the Army, 607 F. Supp. 2d 134, 143 n.8 (D.D.C. 2009).

If you are dissatisfied with my action on your appeal, the Freedom of Information Act permits you to file a lawsuit in federal district court in accordance with 5 U.S.C. § 552(a)(4)(B).

For your information, the Office of Government Information Services (OGIS) offers mediation services to resolve disputes between FOIA requesters and Federal agencies as a non-exclusive alternative to litigation. Using OGIS services does not affect your right to pursue litigation. The contact information for OGIS is as follows: Office of Government Information Services, National Archives and Records Administration, Room 2510, 8601 Adelphi Road, College Park, Maryland 20740-6001; e-mail at ogis@nara.gov; telephone at 301-837-1996; toll free at 1-877-684-6448; or facsimile at 301-837-0348.

Sincerely,

Janice Galli McLeod
Associate Director

By: 

Anne D. Work
Senior Counsel
Administrative Appeals Staff

BP-S148.055 INMATE REQUEST TO STAFF CDFRM

SEP 98

U.S. DEPARTMENT OF JUSTICE

FEDERAL BUREAU OF PRISONS

TO: (Name and Title of Staff Member) Mr. Gaede - Case Manager	DATE: February ²⁵ 2014
FROM: Anthony Donato	REGISTER NO.: 71455-053
WORK ASSIGNMENT: Comp-Even	UNIT: K-2

SUBJECT: (Briefly state your question or concern and the solution you are requesting. Continue on back, if necessary. Your failure to be specific may result in no action being taken. If necessary, you will be interviewed in order to successfully respond to your request.)

I am requesting the forms that details the BOP's assessment of the five factors of 28 USC § 3621(b) that the BOP must consider when making designation placement determinations. The following 3621(b) assessments are requested: (1) Ith 2009, MDC Brooklyn to FCI Estill; (2) Ith 2010; FCI Estill to FCI Oakdale; and (3) Ith 2012, FCI Oakdale to FCI Sandstone.

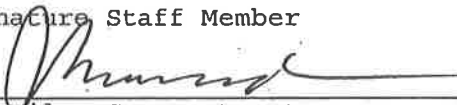
Thank you for your assistance in this matter.

(Do not write below this line)

DISPOSITION:

The unit team does not know of, or possess, any such form. The unit team prepares the transfer referral & submits it to the DSCC. The DSCC are the ones that make the decision on designating inmate to facilities.

Signature Staff Member



Date

2/15/14

Record Copy - File; Copy - Inmate
(This form may be replicated via WP)

This form replaces BP-148.070 dated Oct 86 and BP-S148.070 APR 94

Anthony Donato
Reg. No. 71455-053 K-2
FCI Sandstone
PO Box 1000
Sandstone, MN 55072

March 2, 2014

Operations Manager/Hotel Unit
Designation Center
Grand Prairie Office Complex
346 Marine Forces Drive
US Armed Forces Reserve Complex
Grand Prairie, TX 75051

Dear Operations Manager/Hotel Unit:

The purpose of this letter is to request copies of the FACTORS UNDER 18 USC 3621(b) WORKSHEETS¹ used to determine my following designations:

- 1) In 2009, MDC Brooklyn to FCI Estill;
- 2) In 2010, FCI Estill to FCI Oakdale;
- 3) In 2012, FCI Oakdale to FCI Sandstone.

I initially submitted a cop-out to Case Manager Gaede who informed me that the worksheets were assessed by the Designation Center. (See Attachment).

The reason for my request is to support the Section 2241 petition I have filed in the 8th District Court of Minnesota. My issue in the 2241 is the BOP's insertion of the baseless statement "remove i/m from area of influence" in the Security/Designation Data Sheet which is enabling the BOP to make arbitrary, capricious, and discriminatory determinations in past and future designations, thus preventing me from having the ability to transfer to the Northeast Region for the duration of my 300 month sentence.

Thank you for your assistance in this very important matter. I look forward to your response.

Sincerely,



Anthony Donato

Enc.

1- I have learned through the following cases that this is the worksheet used in determining all designations: Mitchell v. Lara, 2011 US DIST LEXIS 124351 (2d); Galloway v. FCI Fort Dix, 385 Fed. Appx. 59 (3rd Cir.); Jordan v. Ziegler, 2013 US DIST LEXIS 149586 (S.D. W.V. 4th); Simpson v. Ziegler, 2012 US DIST LEXIS 129775 (4th); Brewer v. Warden, 2013 US DIST LEXIS 64977 (4th); Richardson v. Nelson, 2012 US DIST LEXIS 66768 (4th); Loveless v. Zeigler, 2012 US DIST LEXIS 117921 (4th); Brown v. United States, 2010 US DIST LEXIS 110181 (4th).

FREEDOM OF INFORMATION ACT REQUEST

DATE: March 2, 2014

TO: Federal Bureau of Prisons
Central Office
320 First Street NW
Washington, DC 20534

RE: F.O.I.A. Request per 5 U.S.C. 552 a

Dear F.O.I.A. Officer:

This is a specific request under the Freedom of Information Act, 5 U.S.C. 552a et seq.

I hereby request any and all records, documents, photographs, audio or video recordings or any other type of information that your agency has in its possession that is in any way connected to or related to, or even remotely in reference to the following: copies of the FACTORS UNDER 18 USC § 3621(b) WORKSHEETS used to determine my following designations: 1) In 2009, MDC Brooklyn to FCI Estill; 2) In 2010, FCI Estill (cont')

In the event that you believe that some or all of the requested information is exempt from release, kindly advise me which exemptions you are relying on. Also please provide a Vaughn index for all items withheld, as well as detailed justification for any exemptions claimed, either specifically or implied.

As required by law, I anticipate a reply within ten (10) working days.

If there is a cost for the copying of this information, kindly contact me for authorization.

Respectfully,

Anthony Joseph Donato
Signature

Bronx, New York
Place of Birth & Birthdate

Anthony Joseph Donato
Printed Name

[REDACTED]
Social Security Number

DECLARATION

I, Anthony Joseph Donato, hereby declare that the foregoing is true and correct according to the best of my information, knowledge, and belief.

Dated this 2 day of March 20 14.

Anthony Joseph Donato
Signature

Anthony Joseph Donato
Printed Name

FREEDOM OF INFORMATION ACT REQUEST

to FCI Oakdale; 3) In 2012, FCI Oakdale to FCI Sandstone.


Anthony Joseph Donato



U.S. Department of Justice
Federal Bureau of Prisons

Freedom of Information/Privacy Act

Central Office

Anthony Donato
Reg. No 71455-053
Federal Correctional Institution
P.O. Box 1000
Sandstone, MN 55072

September 3, 2014

Request Number: 2014-05244

Dear Mr. Donato:

This is in response to the above referenced Freedom of Information Act (FOIA) request. Specifically, you seek copies of Factors under 18:3621(b) worksheets used to determine designations (1) 2009, BRO to EST, (2) 2010 EST to OAK, (3) 2012, OAK to SST.

Bureau of Prisons staff conducted a thorough search for the records you requested, using the terms and search parameters referenced in your request. However, no records could be located responsive to your request.

If you consider my response to be a denial of this request, pursuant to Title 28 Code of Federal Regulations, Section 16.9 or 16.45, you may appeal the adequacy of the search to the Office of Information Policy. This written appeal must be received by the Office of Information Policy (OIP) within 60 days from the date of this letter. Both the appeal letter and face of the envelope should be marked "Freedom of Information Act Appeal," and should be addressed to the Office of Information Policy, U.S. Department of Justice, 1425 New York Ave., Suite 11050, Washington, D.C. 20530-0001. To avoid delays, you should include a copy of this response letter with your appeal.

Sincerely,

A handwritten signature in cursive script that reads "Sandy Raymond".

Sandy Raymond, for
Wanda M. Hunt
Chief, FOIA/PA Section

EXHIBIT 26

Anthony Donato
Reg. No. 71455-053
FCI Danbury
33.5 Pembroke Road
Danbury, CN 06811

September 18, 2014

Office of Information Policy
US Department of Justice
1425 New York Avenue, Suite 11050
Washington, DC 20530

Re: FOIA Request No. 2014-05244

Dear Sir/Madam:

Donato is appealing the Bureau of Prisons (BOP) denial of his FOIA request seeking copies of the "Factors Under 18 §3621(b) Worksheet" (Worksheets) used to determine his designations from: 1) 2009 MDC Brooklyn to FCI Estill, 2) 2010 FCI Estill to FCI Oakdale, and 3) 2012 FCI Oakdale to FCI Sandstone. Donato has since been transferred from FCI Sandstone to FCI Danbury and requests that the worksheet used to determine this placement be added to this request. Donato claims the BOP's search for the Worksheets was inadequate.

3621(b) is the statutory provision governing BOP determinations of prisoner placement. The Worksheets that prison officials use to conduct the review of placement are entitled "Factors Under 18 § USC 3621(b) Worksheets". See Mitchell v. Lara, 2011 US Dist Lexis 124351 (SDNY). Reference to the Worksheets are also cited in the following cases: Galloway v. Warden of Fort Dix, 385 Fed. Appx. 59 (3rd 2010).
Jordan v. Zeigler, 2013 US Dist Lexis 149586 (SDWV).
Brewer v. Warden, 2013 US Dist Lexis 64977 (SDWV).
Simpson v. Zeigler, 2012 US Dist Lexis 129775 (SDWV).
Richardson v. Nelson, 2012 US Dist Lexis 66768(SDWV).
Loveless v. Zeigler, 2012 US Dist Lexis 117921(SDWV).
Brown v. United States, 2010 US Dist Lexis 110181 (SDWV).

In a February 25, 2014 request to FCI Sandstone Case Manager Gaede, Donato requested the forms used in assessing the 3621(b)


factors and was told by Mr. Gaede that those assessments were made by the Designation and Sentence Computation Center (DSCC) in Grand Prairie, TX. (Attached).

At the same time Donato filed this FOIA request, he sent a March 2, 2014 letter addressed to the Operations Manager/Hotel Manager at the DSCC requesting the same Worksheets (attached). To this date Donato has not received a response from the DSCC.

Based on the above facts which show the Worksheets do exist, the BOP did not adequately conduct a thorough search, by at least, contacting the DSCC to locate the Worksheets. Therefore, Donato requests that the OIP order the BOP to re-search their records to locate the Worksheets responsive to his request.

Thank you for your assistance in this very important matter.

Sincerely yours,



Anthony Donato



U.S. Department of Justice
Office of Information Policy
Suite 11050
1425 New York Avenue, NW
Washington, DC 20530-0001

Telephone: (202) 514-3642

Mr. Anthony Donato
Register No. 71455-053
Federal Correctional Institution
Route 37
Danbury, CT 06811

Re: Appeal No. AP-2014-05000
Request No. 2014-05244
CDT:ADF

VIA: U.S. Mail

Dear Mr. Donato:

You appealed from the action of the Federal Bureau of Prisons (BOP) on your request for access to factors under 18:3621(b) worksheets used to determine your designations from MDC Brooklyn to FCI Estill in 2009, from FCI Estill to FCI Oakdale in 2010, and from FCI Oakdale to FCI Sandstone in 2012.

After carefully considering your appeal, and as a result of discussions between BOP personnel and this Office, I am remanding your request in part to BOP for further review and processing of records located subsequent to your appeal. If BOP determines that records are releasable, it will send them to you directly, subject to any applicable fees. You may appeal any future adverse determination made by BOP. If you would like to inquire about the status of this remand, please contact BOP directly. I am otherwise affirming BOP's action on your request.

As to the portion of your appeal concerning the adequacy of BOP's search for responsive records subject to the Freedom of Information Act, I have determined that BOP has now conducted an adequate, reasonable search for such records.

Please be advised that this Office's decision was made only after a full review of this matter. Your appeal was assigned to an attorney with this Office who thoroughly reviewed and analyzed your appeal, your underlying request, and the action of BOP in response to your request.

If you are dissatisfied with my action on your appeal, the FOIA permits you to file a lawsuit in federal district court in accordance with 5 U.S.C. § 552(a)(4)(B).

For your information, the Office of Government Information Services (OGIS) offers mediation services to resolve disputes between FOIA requesters and Federal agencies as a non-exclusive alternative to litigation. Using OGIS services does not affect your right to pursue litigation. The contact information for OGIS is as follows: Office of Government Information

- 2 -

Services, National Archives and Records Administration, Room 2510, 8601 Adelphi Road, College Park, Maryland 20740-6001; e-mail at ogis@nara.gov; telephone at 202-741-5770; toll free at 1-877-684-6448; or facsimile at 202-741-5769.

Sincerely,

7/27/2015

X 

Sean R. O'Neill
Chief, Administrative Appeals Staff
Signed by: Sean O'Neill



**U.S. Department of Justice
Federal Bureau of Prisons**

*Central Office
320 First St., NW,
Washington, DC 20534*

August 3, 2015

Anthony Donato
Register No. 71455-053
FCI Danbury
Route 37
Danbury, CT 06811

BOP Administrative Appeal, Remand Number: 2015-06790
OIP Appeal Number: AP-2014-05000
BOP Initial FOIA Request Number: 2014-05244

Dear Mr. Donato:

This letter is in response to the Office of Information Policy's (OIP) decision to remand your initial Freedom of Information Act (FOIA) request referenced above. This case has been reopened and a subsequent search was conducted by this office for additional responsive records to your initial request.

In response to your initial request, staff conducted an additional search and located 2 pages of responsive records, which were forwarded to this office for a release determination. After careful review, we determined these 2 pages can be released with certain information redacted. Copies of releasable records are attached.

Pursuant to the Freedom of Information Act, 5 U.S.C. § 552, records were redacted or withheld in full from disclosure to you under the following exemptions: (b)(6), (b)(7)(C), and (b)(7)(F).

If you are not satisfied with my response to your request, you may administratively appeal by writing to the Director, Office of Information Policy, United States Department of Justice, Suite 11050, 1425 New York Avenue, NW, Washington, DC 20530-0001, or you may submit an appeal through OIP's eFOIA portal at <http://www.justice.gov/oip/efoia-portal.html>. Your appeal must be postmarked or transmitted electronically within sixty days from the date of this letter. If you submit your appeal by mail, both the letter and the envelope should be clearly marked "Freedom of Information Act Appeal."

If you have questions about this response, please feel free to contact this office.

Sincerely,

A handwritten signature in cursive script that reads "S. Raymond".

S. Raymond, for
Ronald Rodgers
Senior Counsel

EMS-409.051 REQUEST FOR TRANSFER/APPLICATION OF MANAGEMENT VARIABLE CDFRM
 SEP 2006

U.S. DEPARTMENT OF JUSTICE

FEDERAL BUREAU OF PRISONS

From: (Warden/Superintendent) M. L. Rivera	Facility FCI Estill, South Carolina	Date 3/2/10
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Inmate's Name DONATO, Anthony Joseph	Register No. 71455-053
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To: (Designations and Sentence Computation Center Administrator)
 DSCC Administrator

Transfer to: Any appropriate LOW (Code 308)
 Apply Management Variable(s) _____
 Update Management Variable Expiration Date. (New Date): _____

1. Inmate's Medical Status
 Donato is assigned to Care Level 1. He has no medical restrictions.

2. Institution Adjustment (Include a brief description of the inmate's adjustment during this period of incarceration with emphasis on recent adjustment.)
 Donato demonstrates good adjustment and is not viewed as a management problem at this facility. He is participating in the Inmate Financial Responsibility Program. He is active in education programs at this time.

3. Rationale for Referral. (For Mariel Cuban Detainees, include availability of community resources and status of INS review process in this section.)
 Donato is a 51-year old male serving a 300-month sentence with 3 years of supervised release for Racketeering Conspiracy/Illegal Gambling/Conspiracy to Commit Murder. He has a projected release date of August 29, 2026, and he currently has 199 months left to serve. He is scored as a LOW with IN custody. He plans to reside in the state of New York upon release. The unit team is recommending him for a lesser security transfer at this time. Donato has an adult son with Down Syndrome, and the son lives with Donato's wife in New York. Due to his son's special needs, the family is not able to travel the distance to visit since Donato has been housed at FCI Estill.

4a. Parole Hearing Scheduled: Yes No b. If yes, when _____

5. Note any past or present behavior and/or management/inmate concerns.
 Donato is in the Central Inmate Monitoring program for Special Supervision and Separation. He has (b)(7)(F) Additionally, the BP337, Designation Remarks, indicates Donato was removed from the area of influence (New York) as part of the rationale for placing him at FCI Estill.

6. BP337/BP338 Discrepancies.
 There are no discrepancies.

Staff have checked the following SENTRY Programs to ensure that they are correct and current:

- | | |
|----------------------|-----------------------------------|
| Inmate Profile | CIM Clearance and Separatee Data |
| Inmate Load Data | Custody Classification Form |
| Sentence Computation | Chronological Disciplinary Record |

Prepared by: (Case Manager)
 (b)(6),(b)(7)(C),(b)(7)(F)

Unit Manager Signature
 (b)(6),(b)(7)(C),(b)(7)(F)

If the transfer is approved, a Progress Report will be completed prior to transfer.
 *For Mariel Cuban Detainees - Staff have entered the CMA Assignment of "CRP RV DT" to indicate the need for a Cuban Review Panel Hearing four months from his/her Roll-Over Date.

(This form may be replicated via WP)

This form replaces EMS-409 of DEC 99

EMS-409.051 **REQUEST FOR TRANSFER/APPLICATION OF MANAGEMENT VARIABLE** CDFRM
 SEP 2006

U.S. DEPARTMENT OF JUSTICE

FEDERAL BUREAU OF PRISONS

From: (Warden/Superintendent) J. P. Young, Warden	Facility FCC Oakdale (FCI)	Date February 7, 2012
Inmate's Name Donato, Anthony	Register No. 71455-053	
To: (Designation and Sentence Computation Center Administrator) (b)(6),(b)(7)(C),(b)(7)(F) Chief Attn: (b)(6),(b)(7)(C),(b)(7)(F) Section Chief		
X Transfer to: <u>FCI Fort Dix, FCI Allenwood - (Code 313-Nearer Release)</u>		
Apply Management Variable(s) _____		
Update Management Variable Expiration Date. (New Date): _____		

1. Inmate's Medical Status

Inmate Donato is a Care Level 1 inmate with no medical restrictions and is cleared for Food Service work.

2. Institution Adjustment (Include a brief description of the inmate's adjustment during this period of incarceration with emphasis on recent adjustment.)

Inmate Donato's overall adjustment is considered good. He is currently participating in the Inmate Financial Responsibility Program, receives good work reports, and has completed 61 Education programs since his arrival. He has maintained clear conduct and a good rapport with staff and other inmates.

3. Rationale for Referral. (For Mariel Cuban Detainees, include availability of community resources and status of INS review process in this section.)

Inmate Donato arrived at FCI Oakdale on April 22, 2010, via lesser security transfer from FCI Estill. He was sentenced in the Eastern District of New York and has a projected release date of August 29, 2026, via Good Conduct Time release. Inmate Donato has been at this facility for over 18 months with clear conduct and meets the eligibility requirements for a nearer release transfer. The Unit Team requests he receive a transfer to FCI Fort Dix or FCI Allenwood to facilitate visits and family ties.

4a. Parole Hearing Scheduled: Yes <input checked="" type="checkbox"/> No <input type="checkbox"/>	b. If yes, when N/A
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5. Note any past or present behavior and/or management/inmate concerns.
 Inmate Donato has not presented any management concerns since his arrival.

6. BP337/BP338 Discrepancies.
 There are no discrepancies between the BP-337 and BP-338.

Staff have checked the following SENTRY Programs to ensure that they are correct and current:

Inmate Profile	CIM Clearance and Separatee Data
Inmate Load Data	Custody Classification Form
Sentence Computation	Chronological Disciplinary Record

(b)(6),(b)(7)(C),(b)(7)(F)	(b)(6),(b)(7)(C),(b)(7)(F) Unit Manager
----------------------------	---

If the transfer is approved, a Progress Report will be completed prior to transfer.
 *For Mariel Cuban Detainees - Staff have entered the CMA Assignment of ECRP RV DTI to indicate the need for a Cuban Review Panel Hearing four months from his/her Roll-Over Date.

EXHIBIT 29

Anthony Donato
Reg. No. 71455-053
FCI Danbury
33.5 Pembroke Road
Danbury, CT 06811

August 17, 2015

/
Director
Office of Information Policy
1425 New York Ave., Suite 11050
Washington, DC 20530

Re: FOIA Appeal
Request No. 2014-05244
Appeal No. AP-2014-05000

Dear Director:

In a July 27, 2015 letter, you remanded to the BOP for further review and processing of records located subsequent to my appeal which requested the Factors Under 18:3621(b) Worksheets used to determine my designations from MDC Brooklyn to FCI Estill in 2009, from FCI Estill to FCI Oakdale in 2010, and from FCI Oakdale to FCI Sandstone in 2012.

In a August 3, 2015 letter in response to your remand the BOP conducted an additional search and located and released 2 pages of what they claim are responsive records to my request (attached). The 2 pages released to me are the BOP's Form 409-Request for Transfer/Application of Management Variable pertaining to my transfers from FCI Estill and FCI Oakdale which I already have in my possession. (attached).

To recapitulate, my request is asking for specific documents titled "Factors Under 18:3621(b) Worksheet" which are specifically referenced in the following cases:

Mitchell v. Lara, 2011 US DIST LEXIS 124351 (SDNY).

Galloway v. Warden of Fort Dix, 385 Fed. Appx. 59 (3rd 2010).

Jordan v. Zeigler, 2013 US DIST LEXIS 149586 (SDWV).
Brewer v. Warden, 2013 US DIST LEXIS 64977 (SDWV).
Simpson v. Zeigler, 2012 US DIST LEXIS 129775 (SDWV).
Richardson v. Nelson, 2012 US DIST LEXIS 66768 (SDWV).
Loveless v. Zeigler, 2012 US DIST LEXIS 117921 (SDWV).
Brown v. United States, 2010 US DIST LEXIS 110181 (SDWV).
Woods v. Zeigler, 2015 US DIST LEXIS 48856 (SDWV).
Moorning v. Purdue, 2015 US DIST LEXIS 21739 (NDWV).

Based on the cases cited, it is beyond a doubt that the worksheets exist, so I cannot understand the BOP's difficulty in locating these worksheets that are commonly used. Please remand, again, that the BOP adequately re-search their records and release the worksheets pursuant to my request.

Thank you for your assistance in this very important matter.

Sincerely yours,



Anthony Donato

EXHIBIT 30



U.S. Department of Justice
Office of Information Policy
Suite 11050
1425 New York Avenue, NW
Washington, DC 20530-0001

Telephone: (202) 514-3642

Mr. Anthony Donato
Register No. 71455-053
Federal Correctional Institution
33 1/2 Pembroke Road
Danbury, CT 06811-3099

Re: Appeal No. AP-2015-05630
Request No. 2015-06790
CDT:JNW

VIA: U.S. Mail

Dear Mr. Donato:

You appealed from the action of the Federal Bureau of Prisons (BOP) on your remanded Freedom of Information Act request for access to factors under 18:3621(b) worksheets used to determine your designations from MDC Brooklyn to FCI Estill in 2009, from FCI Estill to FCI Oakdale in 2010, and from FCI Oakdale to FCI Sandstone in 2012. I note that your appeal concerns BOP's response dated August 3, 2015 and the adequacy of BOP's search for responsive records.

I note that upon receipt of your remanded request, BOP did not conduct an additional search for responsive records; rather, it processed two pages of responsive records located subsequent to your appeal in AP-2014-05000. Please be advised that this Office adjudicated the adequacy of BOP's search in response to your prior appeal by letter dated July 27, 2015 (copy enclosed). Accordingly, there is no action for this Office to consider on appeal and I am closing your appeal file in this Office.

Sincerely,

9/25/2015

X 

Christina D. Troiani, Attorney-Advisor for
Sean O'Neill, Chief, Administrative Appeals Staff
Signed by: ctroiani

Enclosure