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UNITED STATES DISTRICT COURT
FOR WESTERN DISTRICT OF WASHINGTON

JENNIFER FERRELL, individually,

Plaintiff,

vs.

UNITED STATES AIR FORCE
JOINT BASE LEWIS McCHORD
FREEDOM OF INFORMATION OFFICE
627 CS/SCOKR (FOIA)
100 COL JOE JACKSON BLVD,
SUITE B171
MCCHORD FIELD, WA 98438

Defendants.

CAUSE NO.

COMPLAINT FOR INJUNCTIVE
RELIEF

COMPLAINT FOR INJUNCTIVE RELIEF

1. This is an action under the Freedom of Information Act, 5 U.S.C. § 552, to order the production of agency records, concerning all records which relate to the investigation of a sexual harassment complaint filed by Plaintiff Ferrell, which Defendant United States has improperly withheld from Plaintiff.

JURISDICTION AND VENUE

2. This court has jurisdiction over this action pursuant to 5 U.S.C. § 552(a)(4)(B). Venue lies in this district under 5 U.S.C. § 552(a)(4)(B). Plaintiff Ferrell at all times material to this matter resided in Puyallup, Washington and the request was made of McChord Field, Washington, both within the Western District of Washington.

STATEMENT OF CLAIMS

3. Plaintiff Jennifer Ferrell, by and through her attorney, Jessica Holman Duthie, is the requester of the records which Defendant is now withholding. Plaintiff has requested this information for use in a legal claim and prompt release of the information is essential to meet the deadline of this claim.

4. Defendant United States Airforce, Joint Base Lewis-McChord Freedom of Information Office is an agency of the United States and has possession of the documents that Plaintiff seeks. A copy of the FOIA request is attached at Exhibit 1.

5. By letter dated April 18, 2016, Plaintiff’s counsel requested access to any and all complaints and investigation of the CDI Conducted by Captain Morris within the 627th LRS concerning sexual harassment on or about November 2, 2015. See Exhibit 1.

6. A phone call was placed to the McChord Field FOIA Office indicated on McChord’s Freedom of Information Act website at (253) 982-5169. A voice message indicating that an injunction will be filed was left on June 7, 2016. The McChord FOIA Office responded by letter stating they received the request on June 6, 2016, and would answer by July 5, 2016. See Exhibit 2, attached.

7. By letter dated June 7, 2016, Plaintiff requested, again, information on the claim, informing the McChord Field FOIA Office of its intent to seek injunctive relief if Plaintiff’s request continued to be ignored. A copy of this letter is attached as Exhibit 3.

7. A phone call was placed on June 8, 2016, to James Nance, MSgt USAG AMC 627 CS/SOCK in which he stated that he could not account for why the request got lost in the mail. Attorney Duthie explained that there were legal deadlines that her client had to meet and they have had the request for over 50 days and it needed to be expedited. Nance followed up the phone call with an email stating that “the process of review may not allow us to meet that need.” Attorney Duthie informed Nance that Plaintiff needed to seek injunction to protect her client’s interest and since there could be no guarantee of date to receive documents, the injunction was necessary. See Exhibit 4, attached.

8. Plaintiff has a right of access to the requested information under 5 U.S.C. § 552(a)(3), and there is no legal basis for defendant's withholding of such information.

9. Plaintiff shall be deemed to have exhausted her administrative remedies with respect to such request if the agency fails to comply with the applicable time limit provisions. 5 U.S.C. § 552(a)(6)(C)(i). Plaintiff has waited well over **50 days** to receive even an acknowledgement of Plaintiffs request. The 20 days that is allowed under the law to respond has passed and Plaintiff seeks the courts help in obtaining these necessary documents

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10. Plaintiff has no other means of requesting this information as her legal claim is in the administrative claim process and she has not yet had the right to file a formal lawsuit in which formal discovery can be made.

WHEREFORE, Plaintiff requests this Court:

- (1) Order defendant to provide access to the requested documents;
- (2) Expedite this proceeding as provided for in 28 U.S.C. § 1657;
- (3) Award plaintiff costs and reasonable attorney’s fees in this action, as provided in 5 U.S.C. § 552(a)(4)(E); and
- (4) Grant such other and further relief as may deem just and proper.

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

DATED this 10th day of June, 2016.



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