

U.S. DISTRICT COURT
DISTRICT OF VERMONT
FILED

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UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF VERMONT

CLERK
BY _____
DEPUTY CLERK *[Signature]*

JAMES E. PIETRANGELO, II)
1117 Williston Road P.O. Box 9231)
South Burlington, Vermont 05407)

Plaintiff,)

v.)

UNITED STATES ARMY)
Third United States Army)
1881 Hardee Avenue SW, Bldg 363)
Fort McPherson, Georgia 30330)

Defendant.)

JUDGE _____

Civil Action No. 2:06-cv-170

COMPLAINT FOR INJUNCTIVE RELIEF

1. This is an action under the Freedom of Information Act, 5 U.S.C. §552, for injunctive and other appropriate relief and seeking the disclosure and release of agency records improperly withheld from Plaintiff by Defendant.

Jurisdiction and Venue

2. This Court has both subject matter jurisdiction over this action and personal jurisdiction over the parties pursuant to 5 U.S.C. §552(a)(4)(B). This Court also has jurisdiction over this action pursuant to 28 U.S.C. §1331. Venue lies in this District under 5 U.S.C. §552(a)(4)(B).

3. Plaintiff is a natural person residing in South Burlington, Vermont.

4. Defendant United States Army is a military department within the Department of Defense and an agency within the meaning of 5 U.S.C. §552(f).

**Plaintiff's FOIA Request &
Defendant's Failure to Respond**

5. On or about December 29, 2003, Plaintiff hand-delivered a Freedom of Information Act ("FOIA") request to Defendant's Third Army FOIA office requesting "a copy of all CFLCC records (including paper, digital, and email) pertaining to Bronze Stars awarded during or for Operation IRAQI FREEDOM, including but not limited to all CFLCC C-1 records indicating Bronze Star awards by category such as rank or section; individual Bronze Star award nominations and citations; CFLCC-subordinate unit Bronze Stars; and records regarding CFLCC's Bronze Star policy."
6. To date, Defendant has not responded to Plaintiff in any manner and has not provided him the requested records or a determination, notwithstanding Defendant's requirement to do so within twenty (20) working days under FOIA.
7. Defendant has wrongfully failed to provide a response/determination and wrongfully withheld the requested records from Plaintiff.
8. Defendant's non-response/withholding was arbitrary and capricious and part of a practice/policy within Defendant of not complying with federal law, including FOIA.
9. Among other reasons, Defendant is withholding the requested records because they show that Defendant engaged in a practice/policy of awarding Bronze Stars arbitrarily, capriciously, unfairly, and dishonorably, and in violation of the Army's own regulations/policy regarding Bronze Stars, during Operation IRAQI FREEDOM. For example, on information and belief, among other things:
 - a. a senior staff officer (a Colonel) of Defendant directed a subordinate to nominate him for a Bronze Star and was awarded the Bronze Star by Defendant;
 - b. a soldier was awarded a Bronze Star by Defendant simply for retiring;
 - c. a lower enlisted (a Specialist) was awarded a Bronze Star by Defendant as a favor;
 - d. soldiers were prevented by Defendant from nominating certain other soldiers for the Bronze Star; and
 - e. certain soldiers were awarded Bronze Stars even though similarly-accomplished soldiers were denied Bronze Stars by Defendant based on rank, position, cronyism, or failure to maintain a uniform standard.
10. It is of substantial importance to the American People that they know how Defendant awards/awarded soldiers for their wartime service during Operation IRAQI FREEDOM, particularly when done so unjustly and dishonorably. The requested documents will provide that knowledge. Additionally, the disclosure of such documents may cause Defendant to award Bronze Stars to numerous deserving soldiers whom it previously arbitrarily, capriciously, unfairly, and dishonorably denied them.

11. Plaintiff has exhausted the applicable administrative remedies.

Requested Relief

WHEREFORE, Plaintiff prays that this Court:

- A. order Defendant to disclose the requested records in their entireties and make copies available to Plaintiff;
- B. provide for expeditious proceedings in this action;
- C. award Plaintiff his costs and reasonable attorney's fees incurred in this action; and
- D. grant such other relief as this Court may deem just and proper.

Respectfully submitted,

James E. Pietrangelo, II

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