

EXHIBIT G

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Via Email

May 30, 2017

Ms. Danaeka Spear
Chief, Appeals Office
Department of Defense
Freedom of Information Division
1155 Defense Pentagon
Washington, D.C. 20301

Re: Freedom of Information Act Appeal
Reference No.: 17-AC-0025-A1
USCENTCOM Reference No.: 17-0048

Dear Ms. Spear,

On February 28, 2017, I submitted the above-referenced Freedom of Information Act ("FOIA") appeal via the Office of the Secretary of Defense and Joint Staff's Public Access Link system. Pursuant to 5 U.S.C. § 552(a)(6)(A)(ii), your office was required to "make a determination with respect to [this] appeal within twenty days ... after the receipt of such appeal." As of even date, your Office has been in receipt of this appeal for 87 days.

By letter dated March 3, 2017, you advised that "[d]ue to an extremely heavy FOIA workload, we are unable to complete your appeal within the statutory time requirement." As you know, delays resulting from predictable agency workloads of FOIA requests fail to qualify as "exceptional circumstances" warranting delay beyond the statutory 20-day response period. See 5 U.S.C. § 552(a)(4)(C)(ii). Accordingly, I have constructively exhausted the administrative remedies that the statute provides. See *Hamilton v. United States*, No. CIV 14-0050 (KBM/GBW), 2015 WL 12696083 at *3 (D.N.M. March 3, 2015) (agency failure to make a determination of plaintiff's appeal within the statutory 20-day period constituted a constructive exhaustion of administrative remedies); *Peck v. C.I.A.*, 787 F. Supp. 63, 65 (S.D.N.Y. 1992) (administrative remedies are constructively exhausted when an agency fails to comply with either the initial response or the appeal determination time limit provisions); *Spannaus v. U.S. Dept. of Justice*, 824 F. 2d 52, 58 (D.C. Cir. 1987) (same).

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This letter will therefore serve as notice to your Office that we will proceed to bring an action in the appropriate United States District Court to compel production of the requested documents unless we receive a full and complete production of same by June 12, 2017.

Please be guided accordingly.

Sincerely,

A handwritten signature in blue ink, appearing to read 'WF', with a long horizontal flourish extending to the right.

William Friedman

cc: Anthony J. Thomas