

EXHIBIT 7

Seth Watkins

From: Seth Watkins
Sent: Monday, October 16, 2017 4:23 PM
To: 'ogcfoiarequests@va.gov'
Subject: FOIA and Privacy Act Request (expedited processing; fee waiver) re Filipino Veterans Equity Compensation
Attachments: Exhibit 1 to VA request.pdf; Authorizations to release information executed by Celestino Almeda.pdf

U.S. Department of Veterans Affairs
Office of General Counsel (OGC)

To whom it may concern:

This is a request under the Freedom of Information Act (FOIA), 5 U.S.C. § 552, and the Privacy Act, 5 U.S.C. § 552a, on behalf of a client, Mr. Celestino G. Almeda, who is a one hundred (100) year old WWII veteran. **Expedited processing is hereby requested.**

Copies of Form DOJ-361 "Certification of Identity" executed by Mr. Almeda on October 15, 2017 as well as a further Consent to Release Information executed by Mr. Almeda on July 5, 2017 are attached, authorizing the release of information related to Mr. Almeda to the undersigned attorney.

1. The following records are hereby requested under the **Privacy Act**, preferably sent to requester by email in electronic format (pdf):

all Records in the possession, custody, or control of the **Department of Veterans Affairs (VA)** that in any way relate to, concern, mention, describe, report, or discuss any review by or on behalf of the **White House Initiative on Asian Americans and Pacific Islanders (WHIAAPI)** and/or the **Filipino Veterans Equity Compensation Fund (FVEC or FVECF) Interagency Working Group (IWG)** of a claim by Celestino G. Almeda to the **Filipino Veterans Equity Compensation Fund (FVEC or FVECF)**.

On information and belief, in 2012, the names of certain individuals whose FVEC claims had been denied were brought to the attention of WHIAAPI. On information and belief, in early January 2013, WHIAAPI provided Celestino G. Almeda's name and certain supporting documentation to the National Archives and Records Administration (NARA) as part of a small sample and/or pilot project aimed at identifying flaws in the FVEC claims review process. On information and belief, NARA provided feedback to WHIAAPI concerning its review and negative determination (verification) concerning Celestino G. Almeda's service (as undertaken in connection with his FVEC claim), and that information was conveyed, described, reported, reviewed, and/or discussed with and/or by the FVEC IWG and/or Chris Lu, who was the Assistant to the President and Cabinet Secretary and also Co-Chair of WHIAAPI. VA participated on the FVEC IWG. Richard Hipolit (SES) and Jill Kupec (VBAVACO) participated on the FVEC IWG on behalf of VA. On information and belief,

WHIAAPI and the FVEC IWG considered issues with respect to the denial of FVEC claims during 2012-13.

2. The following records are hereby requested under **FOIA**, preferably sent to requester by email in electronic format (pdf):

all Records of **Richard Hipolit (SES)** or **Jill Kupec (VBAVACO)** in the possession, custody, or control of the **Department of Veterans Affairs** that in any way relate to, concern, mention, describe, report, or discuss:

(a) communications—including but not limited to substantive comments, concerns, and/or edits to drafts and/or approvals on agency letterhead (e.g., by VA)—with respect to the preparation of a blog post by the FVEC IWG that ultimately was placed online on or about July 9, 2013 at <http://www.whitehouse.gov/blog/2013/07/09/recognizing-extraordinary-contribution-filipino-veterans> (now available at <https://obamawhitehouse.archives.gov/blog/2013/07/09/recognizing-extraordinary-contribution-filipino-veterans>), as referenced for example in attached **Exhibit 1** (email chain from 06/13/2013-07/09/2013 re Filipino Vets Blog Post and Report (yellow highlighting added);

(b) any sampling or pilot group of denied FVEC claimants (including but not limited to Celestino G. Almeda), considered by WHIAAPI and/or the FVEC IWG (including but not limited to VA) during 2012-13;

(c) the meeting between VA Secretary Shinseki and WHIAAPI on or about May 10, 2013 concerning FVEC;

(d) the names of all individuals who participated on the FVEC IWG on behalf of VA; and

(e) communications from 2012-13 that in any way reference, refer to, or relate to the report **U.S. Army Recognition Program of Philippine Guerrillas**, dated *circa* 1949.

It is believed that the most relevant time frame of requested Records is 2012-13.

It is believed that the email accounts of the following document custodians at VA likely contain relevant information:

- Richard Hipolit (SES) (Richard.Hipolit@va.gov) -- he was an individual who participated on the FVEC IWG on behalf of VA and is believed to have been Assistant General Counsel, Professional Staff Group II, Office of the General Counsel at the time;
- Jill Kupec (VBAVACO) (Jill.Kupec@va.gov) -- she was an individual who participated on the FVEC IWG on behalf of VA, and is believed to have been the Executive

Management Officer for the Office of Field Operations of the Veterans Benefits Administration at the time.

As used herein, the term “Records” *includes but is not limited to* emails, letters, transmittals, communications, memoranda, reports, presentations (e.g., PowerPoint), instructions (such as to or from agency staff, contractors, or other providers), summaries, and advice, including all attachments and exhibits thereto.

For reference, information about the **White House Initiative on Asian Americans and Pacific Islanders** can be found at <https://sites.ed.gov/aapi/staff/>. Information about the FVECF IWG can be found for example at <https://obamawhitehouse.archives.gov/blog/2013/07/09/recognizing-extraordinary-contribution-filipino-veterans>.

Expedited Processing is hereby requested. Mr. Celestino G. Almeda, is involved in legal proceedings concerning the Filipino Veterans Equity Compensation Fund (the subject matter of the IWG) in which he has an **urgent need for the requested Records**. The following are circumstances that demonstrate a compelling need for expedited processing as well as “widespread and exceptional interest in which possible questions exist about the government’s integrity which affect public confidence” pursuant to 38 C.F.R. § 1.556(d)(iii) & (iv):

(1) **Reasonable expectation of an imminent loss of a substantial due process right:** Requester, Mr. Almeda, is one hundred (100) years old and has been denied eligibility to receive a one-time payment from the Filipino Veterans Equity Compensation Fund (“FVECF”). His appeal, pending at the U.S. Court of Appeals for Veterans Claims (“CAVC”), will in part argue that the denial of the FVECF benefit to him violates the equal protection component of the due process clause of the Fifth Amendment. In particular, by failing to accept the official documents that Mr. Almeda submitted to VA to demonstrate entitlement to the FVEC benefit, some of which NARA found in the government’s records—particularly Almeda’s PA AGO Form 23 Affidavit—the VA is intentionally, and unconstitutionally, discriminating against an individual of Filipino national origin by disregarding his records issued by a service department. Failure to grant expedited processing poses a risk to Mr. Almeda’s ability to argue these points as part of his appeal that he has been denied due process under the Fifth Amendment to the Constitution.

(2) **Matter of widespread and exceptional media interest in which there exist possible questions that affect public confidence in the Government's integrity:** The dispute about how the government determines eligibility for the FVECF benefit has been widely covered by media including with respect to Mr. Almeda. See, e.g., Ben de Guzman, “Filipino WWII Veterans Immigration and Recognition: Connected Movements,” THE HUFFINGTON POST (May 13, 2016) (“The discrimination Filipino WWII veterans have faced as unrecognized U.S. veterans has lasted for more than seventy years . . .”; “inequity and struggles still exist as work continues to try and fix the eligibility process and ensure everyone who served [receives] benefits”), available at http://www.huffingtonpost.com/ben-de-guzman/filipino-wwii-veterans-im_b_9937400.html; Emil Guillermo, “99-Year-Old WWII Veteran Seeks Response Over Denied Benefits,” NBC NEWS (May 31, 2016) (describing “a Filipino World War II veteran who

is still seeking recognition and equity pay”), available at <http://www.nbcnews.com/news/asian-america/99-year-old-wwii-veteran-seeks-response-over-denied-benefits-n582126>; Beth Garbitelli, “Some Filipino Vets Still Awaiting Recognition,” PBS (July 31, 2012), available at <http://www.pbs.org/newshour/rundown/some-filipino-vets-still-awaiting-recognition/>; Emil Guillermo, “Filipino WWII veterans fight never-ending battle for equity,” INQUIRER.NET (Nov. 12, 2015). In fact, the government’s narrow interpretation of eligibility for compensation from the FVECF was the subject of *two* 2014 hearings in Congress. See Filipino Veterans Equity Compensation Fund: Examining the Department of Defense and Interagency Process for Verifying Eligibility, Hearing Before the Subcommittee on Oversight and Investigations of the Committee on Armed Services, House of Representatives (June 24, 2014), available at <https://www.gpo.gov/fdsys/pkg/CHRG-113hrg89507/pdf/CHRG-113hrg89507.pdf>; Filipino Veterans Equity Compensation Fund: Inquiry into the Adequacy of Process in Verifying Eligibility, Hearing Before the Subcommittee on Disability Assistance and Memorial Affairs of the Committee on Veterans’ Affairs, House of Representatives (Nov. 20, 2014), available at <https://www.gpo.gov/fdsys/pkg/CHRG-113hrg96136/pdf/CHRG-113hrg96136.pdf>. It also was the focus of the Interagency Working Group (IWG) (referenced in the above FOIA request) convened by the White House from 2012-13 because “many Filipino veterans . . . believe[d] their claims were improperly denied.” See <https://obamawhitehouse.archives.gov/blog/2012/10/17/honoring-filipino-world-war-ii-veterans-their-service> (Oct. 17, 2012); <https://obamawhitehouse.archives.gov/blog/2013/07/09/recognizing-extraordinary-contribution-filipino-veterans> (July 9, 2013); <https://sites.ed.gov/aapi/filipino-world-war-ii-veterans/>. The government’s negative FVEC eligibility determinations clearly have raised possible questions about the government’s integrity which effect public confidence, particularly with respect to discrimination against Filipinos, which affects public confidence in the administration of benefits.

Requester hereby requests a **waiver of fees** to the fullest extent permitted by law. The subject of this request specifically concerns identifiable operations or activities of the government (WHIAAPI, the FVEC IWG, and denials of the FVEC benefit). The disclosable portions of the requested information will be meaningfully informative in relation to that subject matter as they directly concern it. Furthermore, disclosure of the requested information likely will contribute to public understanding of government operations, i.e., the understanding of the public at large, because requester may rely on that information in making legal arguments in public briefs filed at CAVC and requester commits to share the disclosed information with one or more entities that represent other interested Filipino veterans including but not limited to the advocacy organization the American Coalition for Filipino Veterans (“ACFV”). In addition, disclosure of the requested information will significantly contribute to public understanding of government operations or activities, because there is little publicly available information about the work of WHIAAPI and the FVEC IWG with respect to denials of the FVEC benefit, yet there have been many thousands of denials. Finally, the information sought by the request is not primarily in Requester’s commercial interest.

The above statements are certified to be true and correct to the best of the undersigned’s knowledge and belief, including with respect to the truth of the circumstances alleged and/or other evidence of the requester’s compelling need.

We hereby consent to pay all costs incurred for search, duplication and review of materials up to \$250.00. If additional costs will be required, please contact me for my approval.

If you have any questions about this request, please contact me immediately by the means listed below.

Thank you for your assistance with this matter.

Sincerely,

/s/

Seth A. Watkins

Seth A. Watkins, Ph.D.

WATKINS LAW & ADVOCACY, PLLC

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EXHIBIT 1

RE: Final Review (Noon Tomorrow) - Filipino Vets Blog Post and Report

Date : July 9, 2013, 6:07:57 pm EDT

Size : 17.4 KB

Folder : Scott Levins:Archive\[Gmail]\All Mail

From : Norris, Abigail <Abigail_P_Norris@omb.eop.gov>

To : (b)(6) per Army COL USARMY (US)' <(b)(6) per Army @mail.mil>,'Kupec, Jill, VBAVACO' <Jill.Kupec@va.gov>,'Hipolit, Richard (SES)' <Richard.Hipolit@va.gov> (b)(6) per Army COL USARMY HQDA ASA-MRA (US)' (b)(6) per Army @mail.mil>,'(b)(6) per Army CIV (US)' <(b)(6) per Army @mail.mil>,'Scott Levins' <scott.levins@nara.gov>,'jay.bosanko@nara.gov' <jay.bosanko@nara.gov>,'kevin.pratt@nara.gov' <kevin.pratt@nara.gov>,'Cloud, Rosye B. <Rosye_B_Cloud@nss.eop.gov>..

ZL Id : C2UJURJIYBXQ00ROKVDIR5HHXWLK05B3A

Type : OtherArchive IMArchive

File Plan : Permanent Records

Item Id : 20085108

Good evening, the blog post is now online: <http://www.whitehouse.gov/blog/2013/07/09/recognizing-extraordinary-contribution-filipino-veterans>

From: Norris, Abigail

Sent: Wednesday, July 03, 2013 3:34 PM

To: (b)(6) per Army COL USARMY (US); 'Kupec, Jill, VBAVACO'; 'Hipolit, Richard (SES)'; (b)(6) per Army USARMY HQDA ASA-MRA (US); (b)(6) per Army CIV (US); 'Scott Levins'; 'jay.bosanko@nara.gov'; 'kevin.pratt@nara.gov'; Cloud, Rosye B.; O'Connell, Anne; Quinlan, John P.; 'Soundar, Jude (Jude.Soundar@ed.gov)'; 'Olaya, Phillip (Phillip.Olaya@ed.gov)'; Kosiak, Steve; Hornung, Daniel; Goldstein, Jeff; Stofko, Gary R.; Baskey, Alistair C (BaskeyAC@state.gov); Petras, Nichole CIV OSD POLICY (Nichole.Petras@osd.mil); 'Arulanantham, David P'; 'jude.soundar@ssa.gov'

Subject: RE: Final Review (Noon Tomorrow) - Filipino Vets Blog Post and Report

Hello again all,

Many thanks for your review and edits. Attached are tracked and clean versions of the updated final blog that will go through White House coordination with the goal of being published on Monday. Please keep the blog close-hold until it is published online. Thanks again for all of your work!

Abby

Reyes -- NARA 0150

From: Norris, Abigail

Sent: Tuesday, July 02, 2013 4:10 PM

To: (b)(6) per Army COL USARMY (US); 'Kupec, Jill, VBAVACO'; 'Hipolit, Richard (SES)'; (b)(6) per Army COL USARMY HQDA ASA-MRA (US); (b)(6) per Army CIV (US); 'Scott Levins'; 'jay.bosanko@nara.gov'; 'kevin.pratt@nara.gov'; Cloud, Rosye B.; O'Connell, Anne; Quinlan, John P.; Lilac, Kristina; Soundar, Jude (Jude.Soundar@ed.gov); Olaya, Phillip (Phillip.Olaya@ed.gov); Kosiak, Steve; Hornung, Daniel; Goldstein, Jeff; Stofko, Gary R.; Baskey, Alistair C (BaskeyAC@state.gov); Petras, Nichole CIV OSD POLICY (Nichole.Petras@osd.mil); 'Arulanantham, David P'; 'jude.soundar@ssa.gov'

Subject: Final Review (Noon Tomorrow) - Filipino Vets Blog Post and Report

Hello all,

Attached is a final draft of the Filipino Veterans blog post/report that includes agency and Executive Office of the President edits. Please let us know if you have any major concerns or factual edits by noon tomorrow, July 3. We apologize for the short deadline; the goal is to have the blog online by Monday, July 8.

If possible, please provide the necessary hyperlinks by tomorrow afternoon as well (noted in the document comments). Thank you!

Abby

From: Norris, Abigail

Sent: Thursday, June 13, 2013 1:21 PM

To: (b)(6) per Army COL USARMY (US); Kupec, Jill, VBAVACO; Hipolit, Richard (SES); (b)(6) per Army COL USARMY HQDA ASA-MRA (US); (b)(6) per Army CIV (US); Scott Levins; 'jay.bosanko@nara.gov'; 'kevin.pratt@nara.gov'; Cloud, Rosye B.; O'Connell, Anne; Quinlan, John P.; Lilac, Kristina; Soundar, Jude (Jude.Soundar@ed.gov); Olaya, Phillip (Phillip.Olaya@ed.gov); Kosiak, Steve; Hornung, Daniel; Goldstein, Jeff; Stofko, Gary R.

Subject: Filipino Vets Blog Post and Report

Thanks COL (b)(6) per Army! Adding OMB, policy council, and WHIAAPI colleagues. Please forward to anyone I've missed.

Thanks to everyone for providing your respective agency Filipino Veterans blog post/report updates. Attached, please find a consolidated draft that incorporates a general overview of the current state and associated agency updates.

Please provide us with any substantive comments or edits on the attached no later than noon on Tuesday, June 18, 2013. Since OMB staff is furloughed on Monday, June 17th, we ask that you work with your respective colleagues in Army, VA, and NARA to resolve any outstanding issues by Tuesday.

Reyes -- NARA 0151

Also, as I believe we've discussed with everyone, we'd like to have each agency section signed out on agency letterhead. Please let us know your agency timeframe for getting this clearance.

Thank you again for all of your work on this issue,

Abby and Gary

Attachments

**AUTHORIZATIONS TO RELEASE INFORMATION
EXECUTED BY CELESTINO ALMEDA**

U.S Department of Justice

Certification of Identity



FORM APPROVED OMB NO. 1103-0016 EXPIRES 05/31/2020

Privacy Act Statement. In accordance with 28 CFR Section 16.41(d) personal data sufficient to identify the individuals submitting requests by mail under the Privacy Act of 1974, 5 U.S.C. Section 552a, is required. The purpose of this solicitation is to ensure that the records of individuals who are the subject of U.S. Department of Justice systems of records are not wrongfully disclosed by the Department. Requests will not be processed if this information is not furnished. False information on this form may subject the requester to criminal penalties under 18 U.S.C. Section 1001 and/or 5 U.S.C. Section 552a(i)(3).

Public reporting burden for this collection of information is estimated to average 0.50 hours per response, including the time for reviewing instructions, searching existing data sources, gathering and maintaining the data needed, and completing and reviewing the collection of information. Suggestions for reducing this burden may be submitted to the Office of Information and Regulatory Affairs, Office of Management and Budget, Public Use Reports Project (1103-0016), Washington, DC 20503.

Full Name of Requester ¹ CELESTINO GONZALEZ ALMEDA

Citizenship Status ² US Social Security Number ³ [REDACTED]

Current Address 111 PEMBROOKE VIEW LANE, GAITHERSBURG, MARYLAND 20877

Date of Birth [REDACTED] Place of Birth [REDACTED]

OPTIONAL: Authorization to Release Information to Another Person

This form is also to be completed by a requester who is authorizing information relating to himself or herself to be released to another person.

Further, pursuant to 5 U.S.C. Section 552a(b), I authorize the U.S. Department of Justice to release any and all information relating to me to:

Seth A. Watkins, Watkins Law & Advocacy, PLLC, 1455 Penn. Ave. NW, # 400, Washington, DC 20004

Print or Type Name

I declare under penalty of perjury under the laws of the United States of America that the foregoing is true and correct, and that I am the person named above, and I understand that any falsification of this statement is punishable under the provisions of 18 U.S.C. Section 1001 by a fine of not more than \$10,000 or by imprisonment of not more than five years or both, and that requesting or obtaining any record(s) under false pretenses is punishable under the provisions of 5 U.S.C. 552a(i)(3) by a fine of not more than \$5,000.

Signature ⁴ [Handwritten Signature] Date October 15, 2017

¹ Name of individual who is the subject of the record(s) sought.

² Individual submitting a request under the Privacy Act of 1974 must be either "a citizen of the United States or an alien lawfully admitted for permanent residence," pursuant to 5 U.S.C. Section 552a(a)(2). Requests will be processed as Freedom of Information Act requests pursuant to 5 U.S.C. Section 552, rather than Privacy Act requests, for individuals who are not United States citizens or aliens lawfully admitted for permanent residence.

³ Providing your social security number is voluntary. You are asked to provide your social security number only to facilitate the identification of records relating to you. Without your social security number, the Department may be unable to locate any or all records pertaining to you.

⁴ Signature of individual who is the subject of the record sought.

CONSENT TO RELEASE OF INFORMATION

I, Celestino G. Almeda, hereby give my consent to the National Personnel Records

