



Veteran Esquire Legal Solutions, PLLC
6303 Blue Heron Drive
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Veteran Esquire Legal Solutions

FREEDOM OF INFORMATION ACT REQUEST

VIA FACSIMILE & CERTIFIED MAIL (Return Receipt Requested)

FOIA/Privacy Act Officer
Department of Veterans Affairs
Claims Intake Center
P.O. Box 4444
Janesville, WI 53547-4444
FAX: 844-531-7818

November 16, 2017

RE: FREEDOM OF INFORMATION ACT REQUEST
Veteran: Mr. Arthur Carucci
VA Claim No: [REDACTED]

To Whom it May Concern:

This is a request for documents under the Freedom of Information Act (FOIA), 5 U.S.C. § 552, 5 U.S.C. § 552a, and 38 C.F.R. §1.577, on behalf of Mr. Arthur Carucci. This request is properly made via facsimile as it contains the signature of the requester.

IDENTIFICATION OF DOCUMENTS

I hereby request all documents contained in any VA claims folder for any of Veteran Mr. Arthur Carucci's VA claims, to include all documents in the right flap, left flap and center flap, AND, to include anything stored electronically, to include VBMS, Virtual VA, SHARE, or any electronic system where records about me or my claim are kept or stored.

Please include screenshots of all administrative pages from the Veteran's VBMS profile, including the "Veteran Profile" page, the "Rated Issues" page, and the "Notes" page.

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Exhibit B - 1

Please include screenshots of each page of the Veteran's VACOLS profile(s) for each pending and historical appeal this Veteran has ever filed.

FORM IN WHICH TO PRODUCE INFORMATION

The FOIA and the VA's own internal policies related to FOIA requests, require that the records be produced in the format sought by the requester, if the record is readily reproducible in that form or format. To that end, please deliver electronic records to the Requester, ensuring that both sides of any two-sided documents are produced in response to this request, and scanning documents so that they do not "bleed-through" from one side of the document to the other.

TIME FOR RESPONSE

Your agency has a duty to respond to this request within TWENTY (20) BUSINESS DAYS of the date of this request pursuant to 5 U.S.C. § 552 (a)(6)(A)(2)(i).

Although your Agency may request an extension of time to respond, it may only be granted for "unusual circumstances." "Predictable agency workload" is not typically considered "unusual circumstances," as stated in 5 U.S.C. § 552(a)(6)(C)(ii). Moreover, even to the extent that unusual circumstances could be demonstrated in this instance, the time limit for the extension is limited to "10 working days" pursuant to 38 C.F.R. § 1.553(d).

Please also be aware that your agency's failure to respond to this request within twenty business (20) days can result in the filing of an administrative appeal with the office of the Secretary of the Department of Veterans Affairs pursuant to 38 C.F.R. § 1.557 and 5 U.S.C. § 552(a)(6)(A)(2) (ii), and/or, the filing of a federal lawsuit to compel the production of the information.

In any such appeal or lawsuit, I intend to seek not only injunctive and/or monetary relief related to this request, but to the extent permitted by law, injunctive and/or monetary relief based on the Department of Veteran's Affairs patterns and/or practices of responding to FOIA requests in a manner violative of the FOIA, as well as attorney fees and litigation expenses, and any other remedy/relief available at law.

FEES

Fees may not be assessed for this request. See 38 C.F.R. §1.577(f).

POINT OF CONTACT

As discussed above, please respond to this request within twenty (20) business days. I may be contacted at 1-800-679-0791, 301-842-7038, or jon@veteranesquire.com.

Thank you, in advance, for your assistance. Please let me know if there is any further information I can provide to assist with the processing of this request.

Respectfully,



Jonathan H. Davis
Veteran Esquire Legal Solutions, PLLC
6303 Blue Heron Drive
Suite 400
Miami, FL 33126



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CONSENT TO RELEASE OF INFORMATION

I give my consent to the National Personnel Records Center (Military Personnel Records), St. Louis, MO; to the Department of Defense, the Department of Veterans Affairs, and the Social Security Administration; or any other public or private custodian (including, but not limited to hospitals, clinics, and current and former treating physicians) that possess control over my military, veteran, medical, psychiatric, drug or alcohol treatment, Discharge Review or Correction Board records and files, to release to my attorneys, or to any person designated by my attorneys, all records contained in those files.

I hereby explicitly authorize VA to provide a copy of my records to the undersigned attorney.

If these records include information (protected under 38 U.S.C. Sec. 7332) regarding drug abuse, infection with human immunodeficiency virus (HIV), alcoholism or alcohol abuse, or sickle cell anemia, I specifically consent to that disclosure as well. To permit this, and for no other purpose, I waive my rights under the Privacy Act, 5 U.S.C. Sec. 522(a)(b), and under any other federal or state law or regulation which controls access to my records.

Arthur Carucci
Appellant's Signature

11-14-17
Date

Arthur Carucci
Appellant's Printed Name

[REDACTED]
Appellant's Telephone Number

[REDACTED]
Appellant's Home Address

[Signature]
Attorney's Counter Signature

11-15-17
Date

Jonathan H. Davis
Attorney's Printed Name

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FREEDOM OF INFORMATION ACT APPEAL

VIA CERTIFIED MAIL (RETURN RECEIPT REQUESTED)

General Counsel (024)
Department of Veterans Affairs
810 Vermont Avenue, NW
Washington, DC 20420

VIA FACSIMILE

FOIA/Privacy Act Officer
Department of Veterans Affairs
Claims Intake Center
P.O. Box 4444
Janesville, WI 53547-4444
FAX: 844-531-7818

December 21, 2017

RE: FREEDOM OF INFORMATION ACT REQUEST

Veteran: Mr. Arthur Carucci

VA Claim No: [REDACTED]

To Whom it May Concern:

This is an appeal under the Freedom of Information Act ("FOIA"). On November 16, 2017, the undersigned requested a complete copy of the above-described C-File. *See attached.* To date, the VA Records Management Center has not acknowledged this request, nor has it provided the requested documents in the time required by the Freedom of Information Act.

I am seeking production of all documents related to the above-described VA benefits file. The Department of Veterans Affairs ("VA") is the Agency last known to have particular documents requested that are relevant and material to this appeal.

The Agency's 20 working days to respond to this request expired on 15 December 2017. AS the Agency has not acknowledged this request, the Agency did not request a 10-day extension of time, pursuant to the applicable provision of the FOIA.

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This is an appeal of the VA's failure to respond to the attached FOIA request. I am aware of no legitimate reason why the VA might withhold production of these records, why the VA would have failed to diligently search for the documents last known to be in its possession, control or custody, or why the VA would fail to respond to the production of the documents requested pursuant to my FOIA request.

An agency is required to make a "determination" on the merits of a FOIA appeal within 20 working days of receipt.

The undersigned's law firm practices FOIA and Privacy Act Law. Should the VA fail to respond to, or improperly deny, this appeal under the Freedom of Information Act, the undersigned's law firm is prepared to initiate a FOIA suit in the appropriate Federal District Court to compel disclosure of the documents, as well as any reasonable attorney fees and costs to which the Firm be entitled to under the law or in equity.

Please feel free to contact me to discuss any aspect of my appeal. I may be contacted at 1-800-679-0791, 301-842-7038, or jon@veteranesquire.com. Thank you for your prompt consideration of this appeal.

Respectfully,



Jonathan H. Davis
Veteran Esquire Legal Solutions, PLLC
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Enclosures

- (1) Photocopy of original FOIA Request
- (1) Photocopy of Certified Mail Return Receipt