

IN THE UNITED STATES DISTRICT COURT  
WESTERN DISTRICT OF TEXAS  
EL PASO DIVISION

FILED

2018 OCT 16 PM 12:49

U.S. DISTRICT COURT  
WESTERN DISTRICT OF TEXAS

BY  DEPUTY

JUDGE FRANK MONTALVO

Jesus Rene Ramirez )  
#73256-080 )  
F.C.I. Big Spring )  
1900 Simler Avenue )  
Big Spring, TX 79720 )  
Plaintiff, )

v. )

U.S. DEPARTMENT OF JUSTICE )  
950 Pennsylvania Avenue, NW )  
Washington, DC 20530-0001 )

and )

U.S. DEPARTMENT OF JUSTICE )  
EXECUTIVE OFFICE FOR U.S. ATTORNEYS )  
600 E. Street, NW )  
Suite 7300, BICN Building )  
Washington, DC 20530-0001 )

and )

U.S. DEPARTMENT OF JUSTICE )  
U.S. ATTORNEY OFFICE WESTERN )  
DISTRICT OF TEXAS )  
601 NW Loop 410, Suite 600 )  
San Antonio, TX 78216-5597 )

and )

U.S. DEPARTMENT OF JUSTICE )  
U.S. ATTORNEY OFFICE WESTERN )  
DISTRICT OF TEXAS EL PASO DIVISION )  
700 E. San Antonio, Suite 200 )  
El Paso, TX 79901 )

Defendants. )

Civil Action No. \_\_\_\_\_

**EP 18 CV 03 08**

FREEDOM OF INFORMATION ACT COMPLAINT

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 records improperly withheld from Plaintiff by Defendant Department of Justice ("DOJ") and its components Executive Office for United States Attorneys (EOUSA), U.S. Attorney Office for the Western District of Texas, U.S. Attorney Office for the Western District of Texas El Paso Division.

Pursuant to 5 U.S.C. §552(a)(4)(C), the Defendants shall serve an answer or otherwise plead to any complaint made under 5 U.S.C. §552(a)(4)(B) within thirty days after service upon the Defendants of this complaint.

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 Jesus Rene Ramirez is a private citizen and a resident of the State of Texas, who is currently imprisoned at the Federal Correctional Institution Camp in Big Spring, Texas. Plaintiff's legal residence is in the City of El Paso, Texas, at 14316 Apache Point Dr.
4. Defendant DOJ is a Department of the Executive Branch of the United States Government, and includes components EOUSA, U.S. Attorney Office for the Western District of Texas, and U.S. Attorney Office for the Western District of Texas El Paso Division. The DOJ is an agency within the meaning of 5 U.S.C. §552(f).
5. Defendant Executive Office for United States Attorneys (EOUSA), is the Executive office within the DOJ that process and handles Freedom of Information Act and Privacy Act requests made to U.S. Attorney Offices. The EOUSA is an agency within the meaning of 5 U.S.C. §552(f).
6. Defendant United States Attorney Office for the Western District of Texas, is the office that prosecutes crimes against the United States within the Western District of Texas. The U.S. Attorney Office for the Western District of Texas is an agency within the meaning of 5 U.S.C. §552(f).
7. Defendant United States Attorney Office for the Western District of Texas El Paso Division, is the office that prosecutes crimes against the United States within the Western District of Texas in the El Paso Division. The U.S. Attorney Office for the Western District of Texas El Paso Division, is an agency within

the meaning of 5 U.S.C. §552(f).

**A Government's Assistant United States Attorney  
Provided a Written Immunity Agreement to  
Plaintiff in Relation to a Criminal Case**

8. On January 15, 2014, a Government's Assistant U.S. Attorney ("AUSA") provided to Plaintiff a written Immunity Agreement under Title 18 U.S.C. §6001-03, in exchange for Plaintiff's testimony, production of evidence and for Plaintiff's cooperation as a confidential informant, in the investigation of matters related to Criminal Case No. EP-14-CR-867-DB-1.
9. The written Immunity Agreement was signed by the Government's AUSA, by Plaintiff's attorney and by Plaintiff, at the U.S. Attorney's Office for the Western District of Texas El Paso Division.
10. The Government's AUSA kept the original signed Immunity Agreement under his custody and control. The Agreement was left at the U.S. Attorney's Office for the Western District of Texas El Paso Division.
11. The Immunity Agreement was signed in the presence of three (3) Special Agents from the Department of Homeland Security, and of two (2) Narcotic Detectives from the El Paso Police Department.
12. The Government's AUSA breached the terms and stipulations of the Immunity Agreement, and fraudulently concealed the signed instrument from Plaintiff.
13. Plaintiff must produce the signed Immunity Agreement on appeal, for him to demonstrate that his conviction and sentence rest on tainted evidence, and that the Government's AUSA committed a fraud upon this District Court and upon Plaintiff by the breach and fraudulent concealment of the Immunity Agreement, in relation to Criminal Case No. EP-14-CR-867-DB-1.
14. Plaintiff wishes to introduce the written Immunity Agreement as new evidence on appeal to demonstrate to this Court and to the Public that he was provided with immunity from prosecution in matters related to Criminal Case No. EP-14-CR-867-DB-1, and for this District Court or for an Appellate Court to review the Agreement or legal contract de novo and correct the errors committed during the Judicial Proceedings of the named Criminal Case, and protect the integrity of the Proceedings.

**Plaintiff's FOIA Requests and Failure of Defendants to Respond**

15. By separate letters to the DOJ EOUSA, to the U.S. Attorney Office for the Western District of Texas and to the U.S. Attorney Office for the Western District of Texas El Paso Division, Plaintiff submitted Freedom of Information Act (FOIA) and Privacy Act (PA) requests for the production of a certified copy of the original signed Immunity Agreement that was provided to Plaintiff on January 15, 2014, by the Government's AUSA.
16. By a Demand that was filed in this Court, Plaintiff petitioned for an Order from this Court, for the U.S. Government and its attorneys, pursuant to 5 U.S.C. §552 and 5 U.S.C. §552(a), to produce a certified copy of the signed Immunity

Agreement to this Court and to Plaintiff. The Demand was filed under Criminal Case No. EP-14-CR-867-DB-1, Dkt. #335.

Failure of Defendants to Timely Comply with Plaintiff's FOIA Request

17. By letter, on November 9, 2015, Plaintiff requested a copy of his signed Immunity Agreement to the Chief AUSA of the General Crimes Section for the Western District of Texas El Paso Division, under FOIA/PA. The request was not answered.
18. By letter, on December 18, 2015, Plaintiff requested a copy of the signed Agreement to the U.S. Attorney for the Western District of Texas under FOIA/PA. The request was forward to the EOUSA on February 8, 2016.
19. By letter, on February 17, 2016, the EOUSA confirmed receipt of Plaintiff's FOIA/PA request for a copy of the signed Agreement, and assigned to the request No. FOIA-2016-01336. The request was assigned to the Complex Track. No documents under FOIA/PA were provided to Plaintiff.
20. By letter, on April 12, 2016, Plaintiff submitted to the EOUSA FOIA/PA Staff, an "Expedited Request" pursuant to 28 C.F.R. §16.5(e)(1)(iii) and (iv) under FOIA/PA for request No. FOIA-2016-01336. No response was provided to Plaintiff for his FOIA/PA "Expedited Request".
21. By letter, on October 13, 2016, Plaintiff requested a status of his "Expedited Request" under FOIA/PA for request No. FOIA-2016-01336. A response to his status request was received on November 8, 2016, with a new tracking request number, No. FOIA-2017-00166. No documents were provided to Plaintiff's "Expedited Request" by the EOUSA.
22. By letter, on December 6, 2016, the EOUSA FOIA/PA Staff notified Plaintiff that a new number was assigned to his FOIA/PA request No. FOIA-2016-01336. The new assigned number was No. FOIA-2017-00166, with Date of Receipt: October 25, 2016. No documents were provided to Plaintiff.
23. On March 3, 2017, Plaintiff filed a Demand in this District Court for an Order to the U.S. Government and its attorneys, pursuant to Title 5 U.S.C. §552 (FOIA) and to Title 5 U.S.C. §552(a) (PA), to produce a certified copy of the signed Immunity Agreement to this Court and to Plaintiff. The Demand was not answered by the U.S. Government and its attorneys. The Demand was filed under the Criminal Docket for Case No. 3:14-CR-00867-DB-1, Dkt. #335.
24. To date, Defendant DOJ has not provided the record or document requested by Plaintiff in his FOIA/PA "Expedited Request", notwithstanding the FOIA's requirement of agency response within twenty (20) working days.
25. Plaintiff has exhausted the applicable administrative remedies with respect to his FOIA/PA request to Defendant DOJ.
26. Defendant DOJ wrongfully withheld the requested record or document from Plaintiff.
27. To date, the EOUSA has not provided the record or document requested by Plaintiff in his FOIA/PA "Expedited Request", notwithstanding the FOIA's

requirement of an agency response within twenty (20) working days.

28. Plaintiff has exhausted the applicable administrative remedies with respect to his FOIA/PA request to the EOUSA.

29. The EOUSA has wrongfully withheld the requested record or document from Plaintiff.

30. To date the U.S. Attorney office for the Western District of Texas has not provided the record or document requested by Plaintiff in his FOIA/PA request, notwithstanding the FOIA's requirement of an agency response within twenty (20) working days.

31. Plaintiff has exhausted the applicable administrative remedies with respect to his FOIA/PA request to the U.S. Attorney Office for the Western District of Texas.

32. The U.S. Attorney Office for the Western District of Texas has wrongfully withheld the requested record or document from Plaintiff.

33. To date the U.S. Attorney Office for the Western District of Texas El Paso Division has not provided the record or document requested by Plaintiff in his FOIA/PA request, notwithstanding the FOIA's requirement of an agency response within twenty (20) working days.

34. Plaintiff has exhausted the applicable administrative remedies with respect to his FOIA/PA request to the U.S. Attorney Office for the Western District of Texas El Paso Division.

35. The U.S. Attorney Office for the Western District of Texas El Paso Division has wrongfully withheld the requested record or document from Plaintiff.

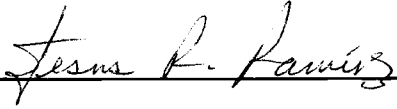
Requested Relief

WHEREFORE, Plaintiff prays that this Court:

- A. - Order Defendants to disclose the requested record or documents in their entireties and make certified copies available to Plaintiff;
- B. - provide for "expeditious proceedings in this action";
- C. - deliver to Plaintiff, either by certified mail or in person the certified copies of the requested records or documents to the place of his confinement;
- D. - grant such other relief as this Court may deem just and proper;
- E. - assigns this civil action to a U.S. District Judge other than Senior District Judge David Briones.

Dated: 10-15-2018

Respectfully submitted,

  
\_\_\_\_\_

Jesus Rene Ramirez  
#73256-080  
F.C.I. Camp  
1900 Simler Ave.  
Big Spring, TX 79720

Plaintiff, pro se

IN THE UNITED STATES DISTRICT COURT  
WESTERN DISTRICT OF TEXAS  
EL PASO DIVISION

AFFIDAVIT

STATE OF TEXAS §  
COUNTY OF HOWARD §  
§  
§

This Affidavit is submitted in connection with Plaintiff's Freedom of Information Act Complaint.

I, Jesus Rene Ramirez, under Oath, depose and state the following:

1.

I, Jesus Rene Ramirez, am 45 years old, and am the Plaintiff in the civil action to which this Affidavit relates to.

2.

I make this Affidavit in connection with my Freedom of Information Act Complaint filed in this U.S. District Court.

3.

Dates of important related matters and facts:

4.

On January 15, 2014, while under supervised release as part of the sentence imposed by virtue of the Judgment entered on September 21, 2010, and the Order Revoking Supervised Release filed on December 20, 2013, under Case No. EP-10-CR-882-FM, and without the authorization of the Court who entered the said Judgment and Order, Assistant U.S. Attorney (AUSA) Joseph E. Blackwell provided to me, a written Immunity Agreement under Title 18 U.S.C. §6001-03, in exchange for my testimony, for the production of evidence and for my cooperation as a confidential informant, in matters related to the investigation of criminal Case No. EP-14-CR-867-DB-1.

5.

The Immunity Agreement was signed by AUSA Blackwell, by attorney Kenneth Del Valle and by me, at the U.S. Attorney's Office for the Western District of Texas El Paso Division.

6.

AUSA Blackwell kept the original signed Immunity Agreement under his custody and control. Attorney Del Valle was provided with a copy of the signed Agreement to safe keep for my protection, under his custody and control.

7.

The Immunity Agreement was signed in the presence of Immigration and Customs Enforcement (ICE) Special Agent Cunningham, of Detective Pasillas from the El Paso Police Department (EPPD), of two additional ICE SAs and of one additional Detective from the EPPD.

8.

The Immunity Agreement that was provided to me by AUSA Blackwell on January 15, 2014, was provided in violation to the U.S. Department of Justice Guidelines

Regarding the Use of Confidential Informants and in violation of Authorized Procedures for Immunity Requests implemented by the U.S. Department of Justice Executive Office for U.S. Attorneys.

9.

AUSA Blackwell breached and fraudulently concealed the Immunity Agreement to obtain an indictment, a conviction and a sentence against me in relation to criminal Case No. EP-14-CR-867-DB-1. The breach and fraudulent concealment of the Immunity Agreement resulted on a fraud committed upon me.

10.

The Immunity Agreement, which is a legal contract, must be produced by AUSA Blackwell, for a Court with jurisdiction over the parties, to interpret the terms and stipulations of the Agreement, and enforce the Agreement pursuant to its terms and stipulations in accord with applicable State Law, and/or Federal Law, and/or Case Law.

11.

By letter, on November 9, 2015, I requested a copy of my signed Immunity Agreement to Chief AUSA Laura Franco-Gregory of the General Crimes Section for the Western District of Texas El Paso Division, under the Freedom of Information Act and Privacy Act (FOIA/PA). My request was not answered.

12.

By letter, on December 18, 2015, I requested a copy of my signed Immunity Agreement to Robert Pitman, U.S. Attorney for the Western District of Texas under FOIA/PA. The request was forwarded to the U.S. Department of Justice Executive Office for U.S. Attorneys(EOUSA), on February 8, 2016, by Richard L. Durbin, Jr.

13.

By letter, on February 17, 2016, Susan B. Gerson, Assistant Director of the EOUSA FOIA/PA Staff, confirmed receipt of my FOIA/PA request for a copy of my signed Immunity Agreement, and assigned to my request No. FOIA-2016-01336. My request was assigned to the Complex Track. No documents under FOIA/PA were provided to me.

14.

By letter, on April 12, 2016, I submitted to the EOUSA FOIA/PA Staff, an "Expedited Request" pursuant to 28 C.F.R. §16.5(e)(1)(iii) and (iv) under FOIA/PA for request No. FOIA-2016-01336. No response was provided to my FOIA/PA "Expedited Request".

15.

By letter, on October 13, 2016, I requested a status of my "Expedited Request" under FOIA/PA for request No. FOIA-2016-01336. I received a response to my status request on November 8, 2016, with a new tracking request number, No. FOIA-2017-00166, the response was made by Thomas D. Anderson, Acting Assistant Director of the EOUSA FOIA/PA Staff. No documents under FOIA/PA were provided to me.

16.

By letter, on December 6, 2016, Kevin Krebs, Assistant Director of the FOIA/PA Staff, informed me that a new number was assigned to my FOIA/PA request No. FOIA-2016-01336. The new assigned number was going to be, No. FOIA-2017-00166 with a Date of Receipt: October 25, 2016. No documents under FOIA/PA were provided to me.



17.

On March 3, 2017, I filed a Demand in the U.S. District Court for the Western District of Texas El Paso Division, for the Court to order the U.S. Government and its attorneys, pursuant to 5 U.S.C. §552 (FOIA) and to 5 U.S.C. §552(a) (PA), to produce a certified copy of the signed Immunity Agreement to the Court and to me. The Demand was not answered by the U.S. Government and its attorneys. The Demand was filed under the criminal Docket for Case No. 3:14-CR-00867-DB-1, Dkt. #335.

18.

A copy of the Demand under FOIA was served on Jeff Sessions, Attorney General of the United States, on Kenneth A. Blanco, Acting Assistant Attorney General for the Criminal Division of the U.S. Department of Justice, on Kevin Krebs, Assistant Director of FOIA/PA Staff for the EOUSA, on Richard L. Durbin, Jr., U.S. Attorney for the Western District of Texas, on Joseph E. Blackwell, AUSA for the Western District of Texas, and on John Gibson, AUSA for the Western District of Texas, by certified mail on March 7, 2017, at their respective office address.

19.

Attached to this Affidavit are copies of letters submitted by me to the different components of the U.S. Department of Justice in which I made requests under FOIA/PA for a certified copy of the signed Immunity Agreement.

20.

Attached to this Affidavit are copies of letters that I received from the different components of the U.S. Department of Justice as response to my submitted requests under FOIA/PA for production of a certified copy of the signed Immunity Agreement.

21.

Attached to this Affidavit is a copy of the Demand under FOIA that was filed in the U.S. District Court for the Western District of Texas El Paso Division.

22.

Attached to this Affidavit are copies of letters submitted by attorney Del Valle, in response to my second complaint that I filed with the State Bar of Texas against him. In these letters, attorney Del Valle does state and confirm that (1) there was a document signed on January 15, 2014, that (2) I provided testimony in matters related to Case No. EP-14-CR-867-DB-1 while I was under supervised release, that (3) I was not going to be indicted, that (4) AUSA Blackwell and other agents were present at the time of debriefing, that (5) I became an informant and future witness for the Government, that (6) I allegedly breached the Agreement, and that (7) neither AUSA Blackwell, AUSA Gibson or attorney Del Valle seem to be able to find the original or the copy of the original document that was signed on January 15, 2014.

23.

To date, I have not been able to acquire a copy of the original signed Immunity Agreement, despite of my multiple requests made to the U.S. Department of Justice components under FOIA/PA.

24.

I, Jesus Rene Ramirez, submit this Affidavit with my Freedom of Information Act Complaint on my Own behalf and affirm it as the truth under Oath and without representation of any kind and without any purpose of deceit.

Under Title 28 U.S.C. §1746 I, Jesus Rene Ramirez, a living male and inhabitant of the land jurisdiction of the State of Texas in the flesh and with all rights reserved as a layman at law, declare under penalty of perjury that the foregoing is true and correct.

Executed on: 10-15-2018

Respectfully submitted and declared,

Jesus R. Ramirez

Jesus Rene Ramirez  
Plaintiff, pro se

Attachments to Affidavit submitted to the Court as Exhibits

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