

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLUMBIA**

FREDDY MARTINEZ)
5810 South Kenneth Ave.)
Chicago, IL 60629)
)
Plaintiff,)
)
v.)
)
U.S. DEPARTMENT OF JUSTICE,)
950 Pennsylvania Avenue, NW)
Washington, D.C. 20530)
)
FEDERAL BUREAU OF)
INVESTIGATION,)
935 Pennsylvania Avenue, NW)
Washington, D.C. 20535)
)
)
Defendants.)

COMPLAINT

1. Plaintiff FREDDY MARTINEZ files this Freedom of Information Act suit to force Defendants DEPARTMENT OF JUSTICE and FEDERAL BUREAU OF INVESTIGATION, to produce records related to the fatal shooting of a teenager, Laquan McDonald, by Chicago Police Officer Jason Van Dyke.

PARTIES

2. Plaintiff FREDDY MARTINEZ is a member of the media and made the FOIA request at issue in this case.

3. Defendant DEPARTMENT OF JUSTICE (“DOJ”) is a federal agency subject to the Freedom of Information Act, 5 U.S.C. § 552.

4. Defendant FEDERAL BUREAU OF INVESTIGATION (“FBI”) is a federal agency subject to the Freedom of Information Act, 5 U.S.C. § 552 and a component of DOJ.

JURISDICTION AND VENUE

5. This case is brought under 5 U.S.C. § 552(a)(6)(c)(i) and presents a federal question conferring jurisdiction on this Court.

6. Venue is proper under 5 U.S.C. § 552(a)(4)(B).

DEFENDANTS' FOIA VIOLATION

7. On December 18, 2018, MARTINEZ sent the following request to FBI: “[1] I am seeking any and all records that the FBI has related to the fatal shooting of a teenager Laquan McDonald by Chicago Police officer Jason Van Dyke [2] On Nov 24, 2015 a story ran in Chicago that stated “Alvarez said the FBI contacted the Cook County state's attorney's office in November 2014, a few weeks after the fatal shooting of 17-year-old Laquan McDonald, and the two offices began working together on the case in December.” (source: <https://www.nbcchicago.com/blogs/ward-room/Alvarez-Opponents-Question-Timeline-of-Release-of-McDonald-Video-353183351.html>) [3] On October 5th of 2018, Jason Van Dyke was convicted of manslaughter for the killing of Laquan McDonald. (source: <https://www.washingtonpost.com/news/post-nation/wp/2018/10/05/chicago-police-officer-jason-van-dyke-convicted-of-second-degree-murder-for-killing-laquan-mcdonald>) [4] Therefore I am requesting any and all documents that the FBI has on this case which is now concluded. [5] I am explicitly asking your agency to conduct a “cross-referenced” search for records relevant to your inquiry. *Do not limit your search to the Central Records System* [6] I am also request a search of “ELSUR” (Electronic Surveillance) records. These include the names of all people and/or locations for which the agency sought a court order for electronic surveillance.” A true and correct copy of the request is attached as Exhibit A.

8. On December 21, 2018, FBI acknowledged receipt of the request and assigned the following FOIPA Request No.: 1424878-000. A true and correct copy of the acknowledgement letter is attached as Exhibit B.

9. On January 4, 2019, FBI denied the request in its entirety and cited 5 U.S.C. § 552(b)(7)(A). A true and correct copy of the denial letter is attached as Exhibit C.

10. On January 11, 2019, MARTINEZ appealed the denial of his FOIA request. A true and correct copy of the appeal is attached as Exhibit D.

11. On February 12, 2019, FBI assigned the following Appeal Tracking Number to the request: DOJ-AP-2019-002351. *See* Exhibit D.

12. On May 10, 2019, MARTINEZ followed up with FBI regarding the status of his appeal. *See* Exhibit D.

13. On July 24, 2019, FBI affirmed its previous denial. A true and correct copy of the appeal response is attached as Exhibit E.

14. In violation of FOIA, Defendants have not produced the records.

COUNT I – FOIA VIOLATION

15. The above paragraphs are incorporated herein.

16. Defendants are agencies subject to FOIA.

17. Plaintiffs made a FOIA request to FBI on December 18, 2018.

18. Defendants have failed to produce the requested records.

WHEREFORE, Plaintiffs ask the Court to:

- i. Order Defendants to conduct a reasonable search for records and to produce promptly all non-exempt requested records;
- ii. Award Plaintiff attorney fees and costs; and
- iii. Enter any other relief the Court deems appropriate.

Dated: August 22, 2019

Respectfully Submitted,

/s/ Matthew Topic

Attorneys for Plaintiffs

Matthew Topic, Bar No. IL0037
Joshua Burday, Bar No. IL0042
Merrick Wayne, Bar No. IL0058
(E-Mail: foia@loevy.com)
LOEVY & LOEVY
311 N. Aberdeen, Third Floor
Chicago, Illinois 60607
Tel.: (312) 243-5900
Fax: (312) 243-5902