

4. Plaintiff, Jose Angel Rodriguez Gomez, is the Decedent's brother who has already filed a Complaint with Washington, D.C. Superior Court (*Case No: 2019 CA 000089 B*), (hereinafter "DCSC Complaint").

5. The Defendant, United States Attorney for the District of Columbia is federal agency of the United States, and sub-component of the United States Department of Justice, and as such, is an agency subject to the FOIA, pursuant to 5 U.S.C. § 552(f).

V. LEGAL FRAMEWORK OF FOIA

6. FOIA requires, inter alia, that all federal agencies must promptly provide copies of all non-exempt agency records to those persons who make a request for records that reasonably describe the nature of the records sought, and which conform with agency regulations and procedures in requesting such records. 5 U.S.C. § 552(a)(3)(A).

7. FOIA requires federal agencies to make a final determination on all FOIA requests that it receives within twenty days (excepting Saturdays, Sundays, and legal public holidays) after the receipt of such request, unless the agency expressly provides notice to the requester of "unusual circumstances" meriting additional time for responding to a FOIA request. 5 U.S.C. § 552(a)(6)(A)(I).

8. FOIA also requires federal agencies to make a final determination on FOIA administrative appeals that it receives within twenty days (excepting Saturdays, Sundays, and legal public holidays) after the receipt of such appeal, unless the agency expressly provides notice to the requester of "unusual circumstances" meriting additional time for responding to a FOIA request. 5 U.S.C. § 552(a)(6)(A)(ii).

9. FOIA expressly provides that a person shall be deemed to have constructively exhausted their administrative remedies if the agency fails to comply with the applicable time limitations provided by 5 U.S.C. § 552(a)(6)(A)(I) - (ii). See 5 U.S.C. § 552(a)(6)C).

10. FOIA provides that any person who has not been provided the records requested pursuant to FOIA, after exhausting their administrative remedies, may seek legal redress from the Federal District Court to enjoin the agency from withholding agency records and to order the production of any agency records improperly withheld from the complainant.

11. Under FOIA, the federal agency has the burden to sustain its actions. 5 U.S.C. § 552(a)(4)(B).

12. Pursuant to FOIA, this Court may assess attorney fees and litigation costs against the United States if the Plaintiff prevails in this action. 5 U.S.C. § 552(a)(4)(E).

VI. FACTUAL ALLEGATIONS

13. On August 15, 2019, this office personally served USAO-DC requesting production of all the documents pertaining to a car accident that happened on March 25, 2018 in Washington, D.C. USAO-DC has failed to provide the documents requested. On September 24, 2019 this office

renewed its FOIA request by emailing again a copy of its August 15, 2019 request and supporting documents to USAO-DC and a copy was also emailed to US Department of Justice (“DOJ”) following DOJ’s online instructions on how to file FOIA requests. USAO-DC and DOJ have not responded to our renewed FOIA request for release of documents. Efforts to resolve this dispute with USAO-DC Office via e-mail or by phone has proven to be futile. **Exh. B**, email communication with United States Attorney’s Office for Washington, D.C.

14. Following these unsuccessful attempts to resolve the dispute with USAO-DC, Superior Court for the District of Columbia granted our Motion to extend discovery. A copy of Judge’s order is enclosed as **Exh. A**.

VII. CLAIMS FOR RELIEF

15. Plaintiff realleges, as if fully set forth herein, paragraphs 1-14 previously set forth herein.

16. Defendant, USAO-DC, has violated FOIA by failing to provide the Plaintiff with all nonexempt responsive records for its August 15, 2019 personally served on USAO-DC Office and the renewed FOIA request filed by e-mail on September 24, 2019 on both USAO-DC and DOJ (hereinafter “FOIA Requests”).

17. By failing to provide Plaintiff with all non-exempt responsive record to its FOIA Requests, as described in paragraph 13 above, Defendant has denied Plaintiff’s right to this information as provided by the Freedom of Information Act.

18. Defendant has violated FOIA by failing to perform an adequate search reasonably calculated to locate all responsive records to Plaintiff’s FOIA Requests.

19. By failing to perform an adequate search reasonably calculated to locate all responsive records to Plaintiff’s FOIA Requests, Defendant has denied Plaintiff’s right to this information provided by law under the Freedom of Information Act. This information is very important in shedding light on what really happened on the March 25, 2018 early morning accident that caused the death of Carlos Samuel Rodriguez Orellana.

20. Unless enjoined by this Court, Defendant will continue to violate Plaintiff’s legal rights to be provided with copies of the records which it has requested in its FOIA requests described in paragraph 13 above.

21. Plaintiff is directly and adversely affected and aggrieved by Defendant’s failure to provide responsive records to its August 15, 2019 & September 24, 2019 FOIA requests described above.

22. Plaintiff has been required to expend costs and to obtain the services of this law office to prosecute this action.

23. Plaintiff is entitled to reasonable costs of litigation, including attorney fees pursuant to FOIA 5 U.S.C. § 552(a)(4)(E).

REQUEST FOR RELIEF

WHEREFORE, Plaintiff respectfully requests that this Court enter Judgment for the Plaintiff, providing the following relief:

1. Declare Defendant, USAO-DC has violated FOIA by failing to provide Plaintiff with all non-exempt records responsive to its FOIA requests.
2. Declare Defendant has violated FOIA by failing to complete an adequate search for records responsive to Plaintiff's FOIA requests.
3. Direct by injunction that Defendant perform an adequate search for records responsive to its FOIA requests, and provide the Plaintiff with all nonexempt responsive records to Plaintiff's FOIA requests.
4. Grant Plaintiff's costs of litigation, including reasonable attorney fees, as provided by FOIA, 5 U.S.C. § 552(a)(4)(E); and,
5. Provide such other relief as the Court deems just and proper.

DATED: This 29th day of October, 2019.

Respectfully submitted,

/s/ Akil Tirana
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Certificate of Service

I, Akil Tirana, do certify that a copy of this Complaint with all enclosed exhibits is sent by regular mail to U.S. Department of Justice as well as to United States Attorney's Office for the District of Columbia on October 29, 2019.

/s/Akil Tirana
Akil Tirana

ORDERED that Defendant pay Plaintiff's costs of litigation, including reasonable attorney fees, as provided by FOIA, 5 U.S.C. § 552(a)(4)(E).

SO ORDERED.

Judge
U.S. District Court for the
District of Columbia