

UNITED STATES DISTRICT COURT
DISTRICT OF MINNESOTA
Civil Case No. _____

MOHAMED ABDIHAMID FARAH,)
)
)
 Plaintiff,)
)
 v.)
)
)
 ,)
 UNITED STATES DEPARTMENT)
 JUSTICE,)
)
 Defendant.)

COMPLAINT

Plaintiff Mohamed Abdihamid Farah, for his Complaint against Defendant United States Department of Justice, states and alleges as follows:

I. INTRODUCTION

1. This is an action under the Freedom of Information Act (“FOIA”), 5 U.S.C. § 552, in which Plaintiff seeks the disclosure of information that he has requested from United States Department of Justice (“DOJ”), Executive Office of United States Attorneys (“EOUSA”). Plaintiff seeks information pertaining the criminal prosecution of him by the United States Attorney’s Office in the District of Minnesota. Plaintiff requested the information on October 1, 2019 and has never received a response despite informing EOUSA of Plaintiff’s deadline of February 25, 2020 for filing a motion under 28 U.S.C. § 2255. Plaintiff requests that the Court perform a de novo review of the FOIA request, an in camera review of all of the information in question, and then order that the

DOJ release to Plaintiff the information that he has requested.

II. JURISDICTION AND THE PARTIES

2. This action is based upon the Freedom of Information Act, 5 U.S.C. § 552. Plaintiff's federal statutory claim gives rise to Federal question jurisdiction pursuant to 28 U.S.C. § 1331.

3. Plaintiff Mohamed Farah is, currently incarcerated in Federal Prison in Forest City, Arkansas. He was a resident of Minnesota at the time that the records were created and the records were created and are currently situated in the office of the U.S. Attorney in Minnesota. Plaintiff's action may be brought in the District of Minnesota, based upon the location of the records, pursuant to 5 U.S.C. § 552(a)(4)(B). Plaintiff has further exhausted his administrative remedies pursuant to 5 U.S.C. § 552(a)(6)(C) because Defendant has failed to comply with the time limits of set forth under § 552(a)(6)(A)(ii).

4. Defendant US DOJ is a federal agency within the meaning of the Freedom of Information and Administrative Procedure Acts.

III. FACTUAL BACKGROUND

5. During 2015-2016, Plaintiff was prosecuted by the United States Attorney's office in the District of Minnesota for multiple federal criminal offenses. He was convicted after a trial by a jury and sentenced to 360 months in prison on November 16, 2016. The convictions and sentence were upheld on appeal

6. On October 1, 2019, Plaintiff submitted through undersigned counsel a request under the FOIA to the EOUSA for records relating to his prosecution. The requested was submitted via the internet through the process set forth for FOIA requests on the DOJ EOUSA's website. The FOIA request identified the case, described the documents requested, and requested expedited review because the documents were needed for a post-conviction motion under 28 U.S.C. § 2255 for which the deadline was February 25, 2020.. A copy of that request as submitted is attached and incorporated by reference as Exhibit 1.

7. Later in the day on October 1, 2019, the EOUSA emailed undersigned counsel a Request Confirmation which provided a tracking number and repeated the substance of the request. A copy of that Confirmation is attached and incorporated by reference as Exhibit 2.

8. Also on October 1, 2019, EOUSA sent undersigned counsel an email informing him that the request for expedited processing had been denied, in part because the deadline for the Section 2255 motion was not until February 25, 2020. A copy of the email is attached and incorporated by reference as Exhibit 3.

9. The DOJ EOUSA has not further responded to Plaintiff's FOIA request to date, more than four months after the statutory deadline and after Plaintiff's stated deadline.

IV. CAUSE OF ACTION - 5 U.S.C. § 552

10. Plaintiff hereby realleges and incorporates by reference all allegations contained within paragraphs 1 through 9 of this Complaint.

11. Defendant has failed to comply with the 20 day time limit under 5 U.S.C. § 552(a)(6)(A)(i) for responding to Plaintiff's FOIA request. Plaintiff is therefore entitled to bring this action pursuant to § 552(a)(6)(C).

12. Plaintiff is entitled under the FOIA to obtain all of the information requested. Plaintiff was entitled more than four months ago to a determination as to his request or specific notification pertaining to the delay.

13. Plaintiff is entitled to have the Court review his request under the FOIA de novo, and conduct in an in camera review to determine whether the records Plaintiff has requested shall be produced either all or in part.

14. Plaintiff is entitled to reasonable attorney fees and other litigation costs reasonably incurred in connection with this matter pursuant to 5 U.S.C. § 552(a)(4)(E).

V. RELIEF REQUESTED

WHEREFORE, Plaintiff respectfully requests that the Court grant Judgment in his favor as follows:

1. Ordering the DOJ to produce fully all records and information that Plaintiff has requested, or in the alternative, all records and information that the court determines

should not be withheld, or in the further alternative, to order the DOJ to promptly issue a determination while retaining jurisdiction over the case.

2. Ordering the DOJ to pay all of Plaintiff's reasonable attorney fees and other litigation costs reasonably incurred.
3. Such other and further relief that the Court may deem just and proper.

Dated: February 27, 2020

LAW OFFICE OF JORDAN S. KUSHNER

By s/Jordan S. Kushner

Jordan S. Kushner, ID 219307

Attorney for Plaintiff

431 South 7th Street, Suite 2446

Minneapolis, Minnesota 55415

(612) 288-0545