

From: Andrew Strenio
To: ["DEA.FOIA@usdoj.gov"](mailto:DEA.FOIA@usdoj.gov)
Subject: FOIA Request
Date: Monday, October 22, 2018 3:53:00 PM
Attachments: [2018-10-22_email_StrenioA_to_DrugEA_re_FOIA_Record_Requests_Restart.pdf](#)

Hello,

Please find attached my FOIA request. Thank you very much for your assistance with this matter.

--Andrew

Andrew Strenio
Mitigation Specialist
Louisiana Capital Assistance Center
636 Baronne St.
New Orleans, LA 70113
(504) 558-9867

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Louisiana

Capital

Assistance

Center

A Non-Profit Law Office

October 22, 2018

Freedom of Information & Privacy Act Unit (SARF)
Drug Enforcement Administration
8701 Morrisette Drive
Springfield, VA 22152

Phone: 202.307.7596
Fax: 202.307.8556
Email: DEA.FOIA@usdoj.gov

Sent via email

This is a Capital Habeas Case; Expedited Processing Requested

FOI/PA Request – Consolidated Request for Review and Reconsideration

Dear FOI/PA officer,

I am writing pursuant to the Freedom of Information Act as amended in 5 U.S.C. § 552 in conjunction with the Privacy Act 5 U.S.C. § 552 (a), to re-request a series of previously requested files and documents.

Please find below the relevant individuals and a brief history of each request, including the information on the individual(s) in question and the DEA FOI/PA request numbers assigned to each request. I have attached copies of each initial FOI/PA request. **I respectfully ask that you consolidate these previous FOI/PA requests into a single new request and assign this consolidated request a single DEA FOI/PA case number**, as we now re-seek all documents sought in the original requests.

Request Histories

Edgar Baltazar Garcia

DOB [REDACTED]; SSN [REDACTED]
FBI No. [REDACTED]; BOP no. [REDACTED]

DEA FOI/PA Request # 14-00440-P

The initial request was sent on June 11, 2014 (**Exhibit A**). On June 19, 2014, DEA FOI/PA Case # 14-00440-P was assigned, and an original COI for Mr. Garcia was requested. On July 3, 2014, receipt of Mr. Garcia’s COI was acknowledged by Katherine Myrick, Chief of DEA Freedom of Information / Privacy Act Unit. This was the last correspondence we received regarding this request. We now re-request all documents sought in our initial request of June 11, 2014.

Mark Isaac Snarr

DOB [REDACTED]; SSN [REDACTED]
FBI No. [REDACTED]; BOP no. [REDACTED]

Gabriel Nathaniel Rhones

DOB [REDACTED]; SSN [REDACTED]
FBI No. [REDACTED]; BOP no. [REDACTED]

DEA FOI/PA Request # 14-00521-F

The initial request was sent on June 11, 2014 (**Exhibit B**). On August 7, 2014, DEA FOI/PA Case # 14-00521-F was assigned, we were advised that the DEA were unable to locate any records responsive to Garbiel Nathaniel Rhones, and that no action would be taken regarding our request pertaining to Mark Isaac Snarr. We now re-request all documents sought in our initial request of June 11, 2014.

Roger Alan Wiggins

DOB [REDACTED]; SSN [REDACTED]
BOP No. [REDACTED]

DEA FOI/PA Request # 17-00527-P

The initial request was sent on August 9, 2016 (**Exhibit C**). On August 8, 2017, DEA FOI/PA Request # 17-00527-P was assigned. On August 14, 2017, expedited processing was granted. This was the last correspondence we received regarding this request. We now re-request all documents sought in our initial request of August 9, 2016.

Baltazar "Pelón" "Balta" García

DOB: [REDACTED]
USMS # [REDACTED]

DEA FOI/PA Request # 16-00829-F

The initial request was sent on August 9, 2016 (**Exhibit D**). On August 18, 2016 DEA FOI/PA case number 16-00829-F was assigned to this request. This was the last correspondence we received regarding this request. We now re-request all documents sought in our initial request of March 10, 2016.

Request Terms

All of these requests are for all DEA files relating to the named individuals, and specifically includes "main" files, including but not limited to numbered and lettered sub-files and "DO NOT FILE" files. These requests also encompass "see reference" cards, this request, file covers, multiple copies of the same documents if they appear in a file, tapes of electronic surveillance, IA envelopes, enclosures behind file (EBF's) and bulky exhibits. Should you deem documents not releasable, I would be grateful if you could provide me with a list containing a general description of each document and the reason for not releasing the document. The burden of

supporting any claim that requested information is exempt from disclosure is on the agency from which records are being sought. *Sims v. CIA*, 206 U.S. App. D.C. 157, 642 F.2d 562, 567-68 (D.C. Cir. 1980).

For purposes of these requests, the terms “records,” “materials,” and “documents” are intended to include, without limitation, any and all written, typed, printed, recorded, graphic, computer-generated, or other matter of any kind from which information can be derived, whether produced, reproduced, stored on paper, cards, tapes, film, electronic facsimiles, computer storage devices, or any other medium. They include, without limitation, criminal investigative reports (including for investigations conducted within Bureau of Prison facilities), electronic database contents, letters, memoranda (including internal memoranda), calendars, schedules, books, indices, notes, printed forms, publications, press releases, notices, minutes, summaries or abstracts, reports, files, transcripts, computer tapes, printouts, drawings, photographs, recordings (including both videotapes and audiotapes), telegrams, and telex messages, as well as any reproductions thereof that differ in any way from any other reproduction, such as copies containing marginal notations

I additionally request a waiver of all costs pursuant to 5 U.S.C. §552(a)(4)(A)(iii) (“Documents shall be furnished without any charge . . . if disclosure of the information is in the public interest because it is likely to contribute significantly to public understanding of the operations or activities of the government and is not primarily in the commercial interest of the requester.”). The public interest requires confidence in the judicial system that operates in the public's name and on its behalf. *Cleaver v. Kelley*, 427 F. Supp. 80 (D.C. Dist. 1976) (“The public interest lies in assuring a complete and thorough adjudication of criminal matters. Such an interest outweighs that of those seeking material in the pursuit of less fundamental rights.”)

My office requires these records as part of our representation of Mr. Edgar García (DOB [REDACTED]; SSN [REDACTED]; FBI No. [REDACTED]; BOP No. [REDACTED]) in a pending legal matter; our client is currently facing the death penalty. To ensure public confidence in the disposition of Mr. García’s case and of the judicial process as a whole, it is necessary to examine all aspects of his conviction and incarceration, including his contact with co-defendants such as Mr. Wiggins. The public interest also includes the overseeing of governmental functions. *National Association of Atomic Veterans v. Director, Defense Nuclear Agency*, 583 F.Supp. 1483 (D.C. Dist. 1984). Disclosure in this case meets the statutory criteria, and a fee waiver would fulfill Congress’s legislative intent in amending FOIA. See *Judicial Watch*, 326 F.3d at 1312 (“Congress amended FOIA to ensure that it be ‘liberally construed in favor of waivers for noncommercial requesters.’”). If you rule otherwise and the fees exceed \$100, please contact me of the charge before you fulfill this request.

EXPEDITED REVIEW

Mr. García is currently operating under a firm filing deadline in federal habeas proceedings challenging his death sentence. He previously received the death penalty at his 2010 trial, a sentence that was affirmed on direct appeal. His petition for certiorari to the US Supreme Court was denied on 24 February 2014, and a petition for post-conviction relief was submitted on 25 February 2015. That petition is currently under review, and our office has only a limited window

of time in which to amend the petition with materials from DOJ sources. Given the normal period of time for a response from DOJ entities for the receipt of full records, it is clear that without expedited processing of this request our office will not have sufficient time to fully review records and pursue an effective investigation within the time limits imposed by Federal habeas statutes.

Expedited processing of requested records is being sought pursuant to 5 U.S.C. §552(a)(6)(E)(v) (“that a failure to obtain requested records on an expedited basis under this paragraph could reasonably be expected to pose an imminent threat to the life or physical safety of an individual”). Because Mr. García faces criminal prosecution which could mean his loss of freedom or life, an exceptional and urgent need exists which justifies expedited processing for the records being sought. *Cleaver v. Kelley*, 427 F. Supp. 80, 81 (D.D.C. 1976) (court orders expedited processing of records for plaintiff facing multiple criminal charges carrying possible death penalty in state court). As provided under 5 U.S.C. §552(a)(6)(E)(ii)(I), I expect to receive a determination of my request for expedited processing within ten working days after the date of this request.

Pursuant to 5 U.S.C. §552(a)(6)(A)(i), I expect to receive a determination regarding your compliance with this request within 20 working days of its receipt. I withhold the right to appeal a decision to withhold any information and to deny a waiver of fees.

Thank you for your assistance. If there are questions concerning this request I can be contacted via email at astrenio@thejusticecenter.org or phone, 504.558.9867.

Please send all records to:

Andrew Strenio
Louisiana Capital Assistance Center
636 Baronne Street
New Orleans LA 70113

My preference would be to receive the information in electronic format if possible, perhaps with the documents in .pdf format burned onto a CD or DVD.

I affirm that the information provided supporting the request for expedited processing is true and correct to the best of my knowledge and belief.

Sincerely,

Andrew Strenio

Andrew Strenio
Mitigation Investigator

Exhibit A

Louisiana

Capital

Assistance

Center

A Non-Profit Law Office

11 June 2014

Freedom of Information & Privacy Act Unit (SARF)
Drug Enforcement Administration
8701 Morrisette Drive
Springfield, VA 22152

Phone: 202.307.7596
Fax: 202.307.8556
Email: DEA.FOIA@usdoj.gov

Sent via fax

Records Request: Edgar Baltazar Garcia

DOB [REDACTED]; SSN [REDACTED]
FBI No. [REDACTED]; BOP no. [REDACTED]

Dear Custodian of Records,

Pursuant to the Federal Freedom of Information Act (5 U.S.C. §552), as modified by the Privacy Act of 1974, I request access to and copies of any and all records, documents, or materials in the control of the Drug Enforcement Administration in which Mr. Garcia listed as a suspect, defendant, witness, complainant, victim, or otherwise. Attached you will find a DOJ Certificate of Identity (Form DOJ-361) authorizing the release of Mr. Garcia's records to my office, which is representing Mr. Garcia in pending court proceedings.

To assist in identifying records, I can provide the following information concerning known DEA investigations involving Mr. Garcia:

<u>Case Number</u>	<u>Arrest Date</u>	<u>Location</u>	<u>Charge at Arrest</u>
MB980023	15 January 2002	Abilene, Texas	Conspiracy/Methamphetamine

I request any information in ATFE files regarding these incidents, as well as any information in ATFE files regarding Mr. Garcia. This request specifically includes "main" files, including but not limited to numbered and lettered sub-files and "DO NOT FILE" files. I wish to be sent copies of "see reference" cards, this request, file covers, multiple copies of the same documents if they appear in a file, tapes of electronic surveillance, IA envelopes, enclosures behind file (EBF's) and bulky exhibits. Should you deem documents not releasable, I would be grateful if you could provide me with a list containing a general description of each document and the reason for not releasing the document. The burden of supporting any claim that requested information is exempt from disclosure is on the agency from which records are being sought. *Sims v. CIA*, 206 U.S. App. D.C. 157, 642 F.2d 562, 567-68 (D.C. Cir. 1980).

For purposes of this request, the terms "records," "materials," and "documents" are intended to include, without limitation, any and all written, typed, printed, recorded, graphic, computer-generated, or other matter of any kind from which information can be derived, whether

produced, reproduced, stored on paper, cards, tapes, film, electronic facsimiles, computer storage devices, or any other medium. They include, without limitation, criminal investigative reports (including for investigations conducted within Bureau of Prison facilities), electronic database contents, letters, memoranda (including internal memoranda), calendars, schedules, books, indices, notes, printed forms, publications, press releases, notices, minutes, summaries or abstracts, reports, files, transcripts, computer tapes, printouts, drawings, photographs, recordings (including both videotapes and audiotapes), telegrams, and telex messages, as well as any reproductions thereof that differ in any way from any other reproduction, such as copies containing marginal notations

I additionally request a waiver of all costs pursuant to 5 U.S.C. §552(a) (4) (A) (iii) (“Documents shall be furnished without any charge . . . if disclosure of the information is in the public interest because it is likely to contribute significantly to public understanding of the operations or activities of the government and is not primarily in the commercial interest of the requester.”). The public interest requires confidence in the judicial system that operates in the public's name and on its behalf. *Cleaver v. Kelley*, 427 F. Supp. 80 (D.C. Dist. 1976) (“The public interest lies in assuring a complete and thorough adjudication of criminal matters. Such an interest outweighs that of those seeking material in the pursuit of less fundamental rights.”) My office represents Mr. Garcia in a pending legal matter; Mr. Garcia is currently facing the death penalty. To ensure public confidence in the disposition of Mr. Garcia’s case and of the judicial process as a whole, it is necessary to examine all aspects of his arrest, including the investigation into the homicide. The public interest also includes the overseeing of governmental functions. *National Association of Atomic Veterans v. Director, Defense Nuclear Agency*, 583 F.Supp. 1483 (D.C. Dist. 1984). Disclosure in this case meets the statutory criteria, and a fee waiver would fulfill Congress’s legislative intent in amending FOIA. See *Judicial Watch*, 326 F.3d at 1312 (“Congress amended FOIA to ensure that it be ‘liberally construed in favor of waivers for noncommercial requesters.’”). If you rule otherwise and the fees exceed \$100, please contact me of the charge before you fulfill this request.

Expedited processing of requested records is being sought pursuant to 5 U.S.C. §552(a)(6)(E)(v) (“that a failure to obtain requested records on an expedited basis under this paragraph could reasonably be expected to pose an imminent threat to the life or physical safety of an individual”). Because Mr. Garcia faces criminal prosecution which could mean his loss of freedom or life, an exceptional and urgent need exists which justifies expedited processing for the records being sought. *Cleaver v. Kelley*, 427 F. Supp. 80, 81 (D.D.C. 1976) (court orders expedited processing of records for plaintiff facing multiple criminal charges carrying possible death penalty in state court). As provided under 5 U.S.C. §552(a)(6)(E)(ii)(I), I expect to receive a determination of my request for expedited processing within ten working days after the date of this request.

Pursuant to 5 U.S.C. §552(a)(6)(A)(i), I expect to receive a determination regarding your compliance with this request within 20 working days of its receipt. I withhold the right to appeal a decision to withhold any information and to deny a waiver of fees.

Thank you for your assistance. If there are questions concerning this request I can be contacted via email at stevem@thejusticecenter.org or phone, 504.558.9867.

Please send all records to:

Steve Merlan
Louisiana Capital Assistance Center
636 Baronne Street
New Orleans LA 70113

My preference would be to receive the information in electronic format if possible, perhaps with the documents in .pdf format burned onto a CD or DVD.

I affirm that the information provided supporting the request for expedited processing is true and correct to the best of my knowledge and belief.

Sincerely,

Steve Merlan
Mitigation Investigator

U.S. Department of Justice

Certification of Identity



Privacy Act Statement. In accordance with 28 CFR Section 16.41(d) personal data sufficient to identify the individuals submitting requests by mail under the Privacy Act of 1974, 5 U.S.C. Section 552a, is required. The purpose of this solicitation is to ensure that the records of individuals who are the subject of U.S. Department of Justice systems of records are not wrongfully disclosed by the Department. Failure to furnish this information will result in no action being taken on the request. False information on this form may subject the requester to criminal penalties under 18 U.S.C. Section 1001 and/or 5 U.S.C. Section 552a(i)(3).

Public reporting burden for this collection of information is estimated to average 0.50 hours per response, including the time for reviewing instructions, searching existing data sources, gathering and maintaining the data needed, and completing and reviewing the collection of information. Suggestions for reducing this burden may be submitted to Director, Facilities and Administrative Services Staff, Justice Management Division, U.S. Department of Justice, Washington, DC 20530 and the Office of Information and Regulatory Affairs, Office of Management and Budget, Public Use Reports Project (1103-0016), Washington, DC 20503.

Full Name of Requester ¹ EDGAR BAITAZAR GARCIA

Citizenship Status ² AMERICAN Social Security Number ³ [REDACTED]

Current Address RD. BOX 33, TERRE HAUTE IN 47808

Date of Birth [REDACTED] Place of Birth EL PASO TEXAS

I declare under penalty of perjury under the laws of the United States of America that the foregoing is true and correct, and that I am the person named above, and I understand that any falsification of this statement is punishable under the provisions of 18 U.S.C. Section 1001 by a fine of not more than \$10,000 or by imprisonment of not more than five years or both, and that requesting or obtaining any record(s) under false pretenses is punishable under the provisions of 5 U.S.C. 552a(i)(3) by a fine of not more than \$5,000.

Signature ⁴ [Signature] Date 4-27-14

OPTIONAL: Authorization to Release Information to Another Person

This form is also to be completed by a requester who is authorizing information relating to himself or herself to be released to another person.

Further, pursuant to 5 U.S.C. Section 552a(b), I authorize the U.S. Department of Justice to release any and all information relating to me to:

LOUISIANA CAPITAL ASSISTANCE CENTER

Print or Type Name

¹ Name of individual who is the subject of the record sought.

² Individual submitting a request under the Privacy Act of 1974 must be either "a citizen of the United States or an alien lawfully admitted for permanent residence," pursuant to 5 U.S.C. Section 552a(a)(2). Requests will be processed as Freedom of Information Act requests pursuant to 5 U.S.C. Section 552, rather than Privacy Act requests, for individuals who are not United States citizens or aliens lawfully admitted for permanent residence.

³ Providing your social security number is voluntary. You are asked to provide your social security number only to facilitate the identification of records relating to you. Without your social security number, the Department may be unable to locate any or all records pertaining to you.

⁴ Signature of individual who is the subject of the record sought.

TRANSMISSION VERIFICATION REPORT

TIME : 06/11/2014 16:26
NAME :
FAX :
TEL :
SER.# : BROM4J166575

DATE, TIME	06/11 16:24
FAX NO./NAME	912023078556986
DURATION	00:01:41
PAGE(S)	05
RESULT	OK
MODE	STANDARD ECM

Louisiana
Capital
Assistance
Center

A Non-Profit Law Office

FACSIMILE TRANSMITTAL SHEET

TO:	FROM:
<u>FOIA + PRIVACY ACT UNIT</u>	<u>S. MERLAN</u>
COMPANY:	DATE:
<u>DEA</u>	<u>11 JUNE 2014</u>
FAX NUMBER:	TOTAL # OF PAGES INCLUDING COVER SHEET:
<u>202.307.8556</u>	<u>5</u>
PHONE NUMBER:	RE:
<u>202.307.7596</u>	<u>RECORDS REQUEST</u>
COMMENTS:	
<u>Thank you!</u>	

WARNING: This fax message contains confidential legal material that is strictly privileged. It is intended solely for the confidential use of the designated recipient(s). If you are not the intended recipient, please be advised that any disclosure, copying, distribution, or use of the contents of this information is strictly prohibited. Please notify us immediately if you have received this communication in error.

Exhibit B

Louisiana

Capital

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Center

A Non-Profit Law Office

11 June 2014

Freedom of Information & Privacy Act Unit (SARF)
Drug Enforcement Administration
8701 Morrisette Drive
Springfield, VA 22152

Phone: 202.307.7596
Fax: 202.307.8556
Email: DEA.FOIA@usdoj.gov

Sent via fax

Freedom of Information Act Request:

Mark Isaac Snarr

DOB [REDACTED]; SSN [REDACTED]
FBI No. [REDACTED]; BOP no. [REDACTED]

Gabriel Nathaniel Rhones¹

DOB [REDACTED]; SSN [REDACTED]²
FBI No. [REDACTED]; BOP no. [REDACTED]

Dear Custodian of Records,

Pursuant to the Federal Freedom of Information Act (5 U.S.C. §552) I request access to and copies of any and all records, documents, or materials in the control of the Drug Enforcement Administration in which the above individuals are listed as a suspect, defendant, witness, complainant, victim, or otherwise.

I request any information in ATFE files. This request specifically includes "main" files, including but not limited to numbered and lettered sub-files and "DO NOT FILE" files. I wish to be sent copies of "see reference" cards, this request, file covers, multiple copies of the same documents if they appear in a file, tapes of electronic surveillance, IA envelopes, enclosures behind file (EBF's) and bulky exhibits. Should you deem documents not releasable, I would be grateful if you could provide me with a list containing a general description of each document and the reason for not releasing the document. The burden of supporting any claim that requested information is exempt from disclosure is on the agency from which records are being sought. *Sims v. CIA*, 206 U.S. App. D.C. 157, 642 F.2d 562, 567-68 (D.C. Cir. 1980).

For purposes of this request, the terms "records," "materials," and "documents" are intended to

¹ The majority of records generated by Department of Justice organizations, including the Federal Bureau of Prisons and the Federal Bureau of Investigation, refer to Mr. Rhones as "Gabriel Rhone."

² This Social Security number is indicated in a 1997 Presentence Report concerning Mr. Rhones. However, it appears likely that this is not actually the correct number for Mr. Rhones.

include, without limitation, any and all written, typed, printed, recorded, graphic, computer-generated, or other matter of any kind from which information can be derived, whether produced, reproduced, stored on paper, cards, tapes, film, electronic facsimiles, computer storage devices, or any other medium. They include, without limitation, criminal investigative reports (including for investigations conducted within Bureau of Prison facilities), electronic database contents, letters, memoranda (including internal memoranda), calendars, schedules, books, indices, notes, printed forms, publications, press releases, notices, minutes, summaries or abstracts, reports, files, transcripts, computer tapes, printouts, drawings, photographs, recordings (including both videotapes and audiotapes), telegrams, and telex messages, as well as any reproductions thereof that differ in any way from any other reproduction, such as copies containing marginal notations

I additionally request a waiver of all costs pursuant to 5 U.S.C. §552(a) (4) (A) (iii) (“Documents shall be furnished without any charge . . . if disclosure of the information is in the public interest because it is likely to contribute significantly to public understanding of the operations or activities of the government and is not primarily in the commercial interest of the requester.”). The public interest requires confidence in the judicial system that operates in the public's name and on its behalf. *Cleaver v. Kelley*, 427 F. Supp. 80 (D.C. Dist. 1976) (“The public interest lies in assuring a complete and thorough adjudication of criminal matters. Such an interest outweighs that of those seeking material in the pursuit of less fundamental rights.”) My office represents Mr. Edgar B. Garcia in pending Federal criminal proceedings; Mr. Garcia is currently facing the death penalty. To ensure public confidence in the disposition of Mr. Garcia’s case and of the judicial process as a whole, it is necessary to examine all aspects of his arrest, including the investigation into the homicide. The public interest also includes the overseeing of governmental functions. *National Association of Atomic Veterans v. Director, Defense Nuclear Agency*, 583 F.Supp. 1483 (D.C. Dist. 1984). Disclosure in this case meets the statutory criteria, and a fee waiver would fulfill Congress’s legislative intent in amending FOIA. See *Judicial Watch*, 326 F.3d at 1312 (“Congress amended FOIA to ensure that it be ‘liberally construed in favor of waivers for noncommercial requesters.’”). If you rule otherwise and the fees exceed \$100, please contact me of the charge before you fulfill this request.

Expedited processing of requested records is being sought pursuant to 5 U.S.C. §552(a)(6)(E)(v) (“that a failure to obtain requested records on an expedited basis under this paragraph could reasonably be expected to pose an imminent threat to the life or physical safety of an individual”). Because Mr. Garcia faces criminal prosecution which could mean his loss of freedom or life, an exceptional and urgent need exists which justifies expedited processing for the records being sought. *Cleaver v. Kelley*, 427 F. Supp. 80, 81 (D.D.C. 1976) (court orders expedited processing of records for plaintiff facing multiple criminal charges carrying possible death penalty in state court). As provided under 5 U.S.C. §552(a)(6)(E)(ii)(I), I expect to receive a determination of my request for expedited processing within ten working days after the date of this request.

Pursuant to 5 U.S.C. §552(a)(6)(A)(i), I expect to receive a determination regarding your compliance with this request within 20 working days of its receipt. I withhold the right to appeal a decision to withhold any information and to deny a waiver of fees.

Thank you for your assistance. If there are questions concerning this request I can be contacted via email at stevem@thejusticecenter.org or phone, 504.558.9867.

Please send all records to:

Steve Merlan
Louisiana Capital Assistance Center
636 Baronne Street
New Orleans LA 70113

My preference would be to receive the information in electronic format if possible, perhaps with the documents in .pdf format burned onto a CD or DVD.

I affirm that the information provided supporting the request for expedited processing is true and correct to the best of my knowledge and belief.

Sincerely,

A handwritten signature in black ink, appearing to read 'S Merlan', written in a cursive style.

Steve Merlan
Mitigation Investigator

Louisiana
Capital
Assistance
Center

A Non-Profit Law Office

FACSIMILE TRANSMITTAL SHEET

TO:	FROM:
<u>FOIA + PRIVACY ACT UNIT</u>	<u>S. MCLAN</u>
COMPANY:	DATE:
<u>DEA</u>	<u>11 JUNE 2014</u>
FAX NUMBER:	TOTAL # OF PAGES INCLUDING COVER SHEET:
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PHONE NUMBER:	RE:
<u>202-307-7596</u>	<u>RECORDS REQUEST</u>
COMMENTS:	
<u>Thank you!</u>	

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TRANSMISSION VERIFICATION REPORT

TIME : 06/11/2014 17:14
NAME :
FAX :
TEL :
SER.# : BROM4J166575

DATE, TIME	06/11 17:13
FAX NO./NAME	912023078556986
DURATION	00:01:17
PAGE(S)	04
RESULT	OK
MODE	STANDARD ECM

Exhibit C

Louisiana

Capital

Assistance

Center

A Non-Profit Law Office

9 August 2016

Drug Enforcement Agency Headquarters
Attn: FOI/PA Unit (SARF)
8701 Morrisette Drive
Springfield, VA 22152

Phone: (202) 307-7596
Fax: (202) 307-8556
Email: DEA.FOIA@usdoj.gov

Sent via email

This is a Capital Habeas Case; Expedited Processing Requested

Freedom of Information Act Request

Roger Alan Wiggins

DOB [REDACTED] SSN [REDACTED]

BOP No. [REDACTED]

Dear DEA FOI/PA Unit,

I am writing pursuant to the Freedom of Information Act as amended in 5 U.S.C. § 552 in conjunction with the Privacy Act 5 U.S.C. § 552 (a), to request copies of all files and documents maintained or stored by the Drug Enforcement Agency concerning the above individual, Roger Alan Wiggins. Attached is a DOJ Certificate of Identity (Form DOJ-361) authorizing the release of Mr. Wiggin's records to my office. To the best of our knowledge, on 27 March 2002 Mr. Wiggins plead guilty to charges of Possession With Intent to Distribute Cocaine and Aiding and Abetting in Cause number 1:02-cr-00003-C-1 in the Northern District of Texas.

This request specifically includes "main" files, including but not limited to numbered and lettered sub-files and "DO NOT FILE" files. I wish to be sent copies of "see reference" cards, this request, file covers, multiple copies of the same documents if they appear in a file, tapes of electronic surveillance, IA envelopes, enclosures behind file (EBF's) and bulky exhibits. Should you deem documents not releasable, I would be grateful if you could provide me with a list containing a general description of each document and the reason for not releasing the document. The burden of supporting any claim that requested information is exempt from disclosure is on the agency from which records are being sought. *Sims v. CIA*, 206 U.S. App. D.C. 157, 642 F.2d 562, 567-68 (D.C. Cir. 1980).

For purposes of this request, the terms "records," "materials," and "documents" are intended to include, without limitation, any and all written, typed, printed, recorded, graphic, computer-generated, or other matter of any kind from which information can be derived, whether produced, reproduced, stored on paper, cards, tapes, film, electronic facsimiles, computer storage devices, or any other medium. They include, without limitation, criminal investigative reports (including for investigations conducted within Bureau of Prison facilities), electronic database contents, letters, memoranda (including internal memoranda), calendars, schedules, books, indices, notes, printed forms, publications, press releases, notices, minutes, summaries or

abstracts, reports, files, transcripts, computer tapes, printouts, drawings, photographs, recordings (including both videotapes and audiotapes), telegrams, and telex messages, as well as any reproductions thereof that differ in any way from any other reproduction, such as copies containing marginal notations

I additionally request a waiver of all costs pursuant to 5 U.S.C. §552(a)(4)(A)(iii) (“Documents shall be furnished without any charge . . . if disclosure of the information is in the public interest because it is likely to contribute significantly to public understanding of the operations or activities of the government and is not primarily in the commercial interest of the requester.”). The public interest requires confidence in the judicial system that operates in the public's name and on its behalf. *Cleaver v. Kelley*, 427 F. Supp. 80 (D.C. Dist. 1976) (“The public interest lies in assuring a complete and thorough adjudication of criminal matters. Such an interest outweighs that of those seeking material in the pursuit of less fundamental rights.”)

My office requires these records as part of our representation of Mr. Edgar García (DOB [REDACTED] SSN [REDACTED] FBI No. [REDACTED] BOP No. [REDACTED]) in a pending legal matter; our client is currently facing the death penalty. To ensure public confidence in the disposition of Mr. García's case and of the judicial process as a whole, it is necessary to examine all aspects of his conviction and incarceration, including his contact with co-defendants such as Mr. Wiggins. The public interest also includes the overseeing of governmental functions. *National Association of Atomic Veterans v. Director, Defense Nuclear Agency*, 583 F.Supp. 1483 (D.C. Dist. 1984). Disclosure in this case meets the statutory criteria, and a fee waiver would fulfill Congress's legislative intent in amending FOIA. See *Judicial Watch*, 326 F.3d at 1312 (“Congress amended FOIA to ensure that it be ‘liberally construed in favor of waivers for noncommercial requesters.’”). If you rule otherwise and the fees exceed \$100, please contact me of the charge before you fulfill this request.

EXPEDITED REVIEW: Mr. García is currently operating under a firm filing deadline in federal habeas proceedings challenging his death sentence. He previously received the death penalty at his 2010 trial, a sentence that was affirmed on direct appeal. His petition for certiorari to the US Supreme Court was denied on 24 February 2014, and a petition for post-conviction relief was submitted on 25 February 2015. That petition is currently under review, and our office has only a limited window of time in which to amend the petition with materials from DOJ sources. Given the normal period of time for a response from DOJ entities for the receipt of full records, it is clear that without expedited processing of this request our office will not have sufficient time to fully review records and pursue an effective investigation within the time limits imposed by Federal habeas statutes.

Expedited processing of requested records is being sought pursuant to 5 U.S.C. §552(a)(6)(E)(v) (“that a failure to obtain requested records on an expedited basis under this paragraph could reasonably be expected to pose an imminent threat to the life or physical safety of an individual”). Because Mr. García faces criminal prosecution which could mean his loss of freedom or life, an exceptional and urgent need exists which justifies expedited processing for the records being sought. *Cleaver v. Kelley*, 427 F. Supp. 80, 81 (D.D.C. 1976) (court orders expedited processing of records for plaintiff facing multiple criminal charges carrying possible death penalty in state court). As provided under 5 U.S.C. §552(a)(6)(E)(ii)(I), I expect to receive a determination of my request for expedited processing within ten working days after the date of this request.

Pursuant to 5 U.S.C. §552(a)(6)(A)(i), I expect to receive a determination regarding your compliance with this request within 20 working days of its receipt. I withhold the right to appeal a decision to withhold any information and to deny a waiver of fees.

Thank you for your assistance. If there are questions concerning this request I can be contacted via email at stevem@thejusticecenter.org or phone, 504.558.9867.

Please send all records to:

Steve Merlan
Louisiana Capital Assistance Center
636 Baronne Street
New Orleans LA 70113

My preference would be to receive the information in electronic format if possible, perhaps with the documents in .pdf format burned onto a CD or DVD.

I affirm that the information provided supporting the request for expedited processing is true and correct to the best of my knowledge and belief.

Sincerely,

A handwritten signature in black ink, appearing to read 'S. Merlan', written in a cursive style.

Steve Merlan
Mitigation Investigator

U.S. Department of Justice

Certification of Identity



Privacy Act Statement. In accordance with 28 CFR Section 16.41(d) personal data sufficient to identify the individuals submitting requests by mail under the Privacy Act of 1974, 5 U.S.C. Section 552a, is required. The purpose of this solicitation is to ensure that the records of individuals who are the subject of U.S. Department of Justice systems of records are not wrongfully disclosed by the Department. Failure to furnish this information will result in no action being taken on the request. False information on this form may subject the requester to criminal penalties under 18 U.S.C. Section 1001 and/or 5 U.S.C. Section 552a(i)(3).

Public reporting burden for this collection of information is estimated to average 0.50 hours per response, including the time for reviewing instructions, searching existing data sources, gathering and maintaining the data needed, and completing and reviewing the collection of information. Suggestions for reducing this burden may be submitted to Director, Facilities and Administrative Services Staff, Justice Management Division, U.S. Department of Justice, Washington, DC 20530 and the Office of Information and Regulatory Affairs, Office of Management and Budget, Public Use Reports Project (1103-0016), Washington, DC 20503.

Full Name of Requester ¹ ROGER ALAN WIGGINS

Citizenship Status ² U.S.A. Social Security Number ³ [REDACTED]

Current Address [REDACTED]

Date of Birth [REDACTED] Place of Birth NEW ORLEANS, LA

I declare under penalty of perjury under the laws of the United States of America that the foregoing is true and correct, and that I am the person named above, and I understand that any falsification of this statement is punishable under the provisions of 18 U.S.C. Section 1001 by a fine of not more than \$10,000 or by imprisonment of not more than five years or both, and that requesting or obtaining any record(s) under false pretenses is punishable under the provisions of 5 U.S.C. 552a(i)(3) by a fine of not more than \$5,000.

Signature ⁴ Roger Wiggins Date 18 JUN 16

OPTIONAL: Authorization to Release Information to Another Person

This form is also to be completed by a requester who is authorizing information relating to himself or herself to be released to another person.

Further, pursuant to 5 U.S.C. Section 552a(b), I authorize the U.S. Department of Justice to release any and all information relating to me to:

STEVE MELLAN, LOUISIANA CAPITAL ASSISTANCE CENTER

Print or Type Name

¹ Name of individual who is the subject of the record sought.

² Individual submitting a request under the Privacy Act of 1974 must be either "a citizen of the United States or an alien lawfully admitted for permanent residence," pursuant to 5 U.S.C. Section 552a(a)(2). Requests will be processed as Freedom of Information Act requests pursuant to 5 U.S.C. Section 552, rather than Privacy Act requests, for individuals who are not United States citizens or aliens lawfully admitted for permanent residence.

³ Providing your social security number is voluntary. You are asked to provide your social security number only to facilitate the identification of records relating to you. Without your social security number, the Department may be unable to locate any or all records pertaining to you.

⁴ Signature of individual who is the subject of the record sought.

Exhibit D

9 August 2016

Drug Enforcement Agency Headquarters
Attn: FOI/PA Unit (SARF)
8701 Morrisette Drive
Springfield, VA 22152

Phone: (202) 307-7596
Fax: (202) 307-8556
Email: DEA.FOIA@usdoj.gov

Sent via email

Louisiana
Capital
Assistance
Center

A Non-Profit Law Office

This is a Capital Habeas Case; Expedited Processing Requested

Freedom of Information Act Request
Baltazar "Pelón" "Balta" García Villalba

DOB: [REDACTED]
USMS # [REDACTED]

Dear DEA FOI/PA Unit,

I am writing pursuant to the Freedom of Information Act as amended in 5 U.S.C. § 552 in conjunction with the Privacy Act 5 U.S.C. § 552 (a), to request copies of all files and documents maintained or stored by the Drug Enforcement Agency concerning the above individual, Baltazar García Villalba ("Mr. Baltazar García"). Attached is a DOJ Certificate of Identity (Form DOJ-361) authorizing the release of Mr. Baltazar García's records to my office. Please note that Mr. Baltazar García is not a United States citizen, and so does not have a Social Security number.

This request specifically includes "main" files, including but not limited to numbered and lettered sub-files and "DO NOT FILE" files. I wish to be sent copies of "see reference" cards, this request, file covers, multiple copies of the same documents if they appear in a file, tapes of electronic surveillance, IA envelopes, enclosures behind file (EBF's) and bulky exhibits. Should you deem documents not releasable, I would be grateful if you could provide me with a list containing a general description of each document and the reason for not releasing the document. The burden of supporting any claim that requested information is exempt from disclosure is on the agency from which records are being sought. *Sims v. CIA*, 206 U.S. App. D.C. 157, 642 F.2d 562, 567-68 (D.C. Cir. 1980).

For purposes of this request, the terms "records," "materials," and "documents" are intended to include, without limitation, any and all written, typed, printed, recorded, graphic, computer-generated, or other matter of any kind from which information can be derived, whether produced, reproduced, stored on paper, cards, tapes, film, electronic facsimiles, computer storage devices, or any other medium. They include, without limitation, criminal investigative reports (including for investigations conducted within Bureau of Prison facilities), electronic database contents, letters, memoranda (including internal memoranda), calendars, schedules, books, indices, notes, printed forms, publications, press releases, notices, minutes, summaries or abstracts, reports, files, transcripts, computer tapes, printouts, drawings, photographs, recordings (including both videotapes and audiotapes), telegrams, and telex messages, as well as any

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My office requires these records as part of our representation of Mr. Baltazar García’s son, Mr. Edgar Garcia (DOB [REDACTED]; SSN [REDACTED]; FBI No. [REDACTED]; BOP No. [REDACTED]; referred to here as simply “Mr. García” to differentiate him from his father) in a pending legal matter; our client is currently facing the death penalty. To ensure public confidence in the disposition of Mr. Garcia’s case and of the judicial process as a whole, it is necessary to examine all aspects of his incarceration including his contact with fellow inmates such as Mr. García. The public interest also includes the overseeing of governmental functions. *National Association of Atomic Veterans v. Director, Defense Nuclear Agency*, 583 F.Supp. 1483 (D.C. Dist. 1984). Disclosure in this case meets the statutory criteria, and a fee waiver would fulfill Congress’s legislative intent in amending FOIA. See *Judicial Watch*, 326 F.3d at 1312 (“Congress amended FOIA to ensure that it be ‘liberally construed in favor of waivers for noncommercial requesters.’”). If you rule otherwise and the fees exceed \$100, please contact me of the charge before you fulfill this request.

EXPEDITED REVIEW: Mr. García is currently operating under a firm filing deadline in federal habeas proceedings challenging his death sentence. He previously received the death penalty at his 2010 trial, a sentence that was affirmed on direct appeal. His petition for certiorari to the US Supreme Court was denied on 24 February 2014, and a petition for post-conviction relief was submitted on 25 February 2015. That petition is currently under review, and our office has only a limited window of time in which to amend the petition with materials from DOJ sources. Given the normal period of time for a response from DOJ entities for the receipt of full records, it is clear that without expedited processing of this request our office will not have sufficient time to fully review records and pursue an effective investigation within the time limits imposed by Federal habeas statutes.

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Pursuant to 5 U.S.C. §552(a)(6)(A)(i), I expect to receive a determination regarding your

compliance with this request within 20 working days of its receipt. I withhold the right to appeal a decision to withhold any information and to deny a waiver of fees.

Thank you for your assistance. If there are questions concerning this request I can be contacted via email at stevem@thejusticecenter.org or phone, 504.558.9867.

Please send all records to:

Steve Merlan
Louisiana Capital Assistance Center
636 Baronne Street
New Orleans LA 70113

My preference would be to receive the information in electronic format if possible, perhaps with the documents in .pdf format burned onto a CD or DVD.

I affirm that the information provided supporting the request for expedited processing is true and correct to the best of my knowledge and belief.

Sincerely,

A handwritten signature in black ink, appearing to read 'SM', written in a cursive style.

Steve Merlan
Mitigation Investigator

U.S. Department of Justice

Certification of Identity



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Full Name of Requester ¹ BALTAZAR GARCIA ULLALISA

Citizenship Status ² MEXICO Social Security Number ³ —

Current Address [REDACTED]

Date of Birth [REDACTED] Place of Birth CD. JUÁREZ, CHIH, MEX.

I declare under penalty of perjury under the laws of the United States of America that the foregoing is true and correct, and that I am the person named above, and I understand that any falsification of this statement is punishable under the provisions of 18 U.S.C. Section 1001 by a fine of not more than \$10,000 or by imprisonment of not more than five years or both, and that requesting or obtaining any record(s) under false pretenses is punishable under the provisions of 5 U.S.C. 552a(i)(3) by a fine of not more than \$5,000.

Signature ⁴ B Garcia Date 31 Aug 2015

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Further, pursuant to 5 U.S.C. Section 552a(b), I authorize the U.S. Department of Justice to release any and all information relating to me to:

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