

**IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF TEXAS
DALLAS DIVISION**

RICHARD A. ARLEDGE,

Plaintiff,

vs.

**EXECUTIVE OFFICE OF THE
UNITED STATES ATTORNEYS,**

Defendant.

§
§
§
§
§
§
§
§
§
§

Case No. _____

**COMPLAINT FOR EXPEDITED RELIEF UNDER
THE FREEDOM OF INFORMATION ACT**

TO THE HONORABLE UNITED STATES DISTRICT JUDGE:

COMES NOW, Richard A. Arledge (“Plaintiff” or “Arledge”) and files this Complaint for Expedited Relief under the Freedom of Information Act complaining of and against the Executive Office of the United States Attorneys (“Defendant”) for failure to produce records in accordance with the Freedom of Information Act, 4 U.S.C. §552, and for cause of action would respectfully show unto the Court as follows:

**I.
THE PARTIES**

1. Richard A. Arledge is an individual currently housed at FDC Pollock.
2. The Executive Office of the United States Attorneys provides assistance to the United States Attorneys across the United States and coordinates the relationship between the United States Attorneys and the organizational components of the Department of Justice. The Executive Office of the United States Attorneys is charged with the responsibility to respond to

FOIA requests. A copy of the Complaint and summons should be delivered to the Department of Justice, 950 Pennsylvania Avenue, NW, Washington, DC 20530.

II.
JURISDICTION & VENUE

3. This court has jurisdiction over this action pursuant to 5 U.S.C. § 552(a)(4)(B).

4. Venue is proper in the Northern District of Texas, Dallas Division, because it is the district where Plaintiff was originally housed when he made the requests, it is the district where his family currently resides, and it is the district that is most convenient for Plaintiff.

III.
BACKGROUND FACTS AND REQUEST FOR RELIEF

5. This is an action under the Freedom of Information Act, 5 U.S.C. § 552, to order the production of agency records, concerning documents that were subpoenaed from Wachovia Bank n/k/a Wells Fargo Bank during the investigation and criminal prosecution by the United States of Plaintiff. Defendants have improperly withheld documents from Plaintiff.

6. During the investigation and criminal prosecution of Plaintiff, the IRS issued a subpoena to Wachovia Bank n/k/a Wells Fargo Bank dated February 13, 2008 in a related proceeding referred to as U.S. District TX vs. Cecil W. Coleman. In response to the subpoena, Wachovia Bank n/k/a Wells Fargo Bank produced documents to the IRS. In the subsequent criminal prosecution of Plaintiff, the IRS and the USAO relied upon the documents received from Wachovia Bank n/k/a Wells Fargo Bank. Only some of the documents, however, were produced to Plaintiff during the discovery phase of the criminal prosecution. Plaintiff believes that the documents contain exculpatory evidence.

7. Cecil W. Coleman is now deceased.

8. On September 5, 2017, Plaintiff made a written request under the FOIA to the IRS requesting all records “pertaining to a subpoena issued to Wachovia Bank (currently “Wells Fargo Bank”) dated 2/13/2008 in the case (No. 674697) referencing U.S. District TX vs. Cecil W. Coleman.”

9. The IRS responded on September 26, 2017 requiring proof of Plaintiff’s right to access the requested records.

10. Plaintiff responded on October 12, 2017, identifying his right to the records, which had become public records upon Wachovia Bank n/k/a Wells Fargo Bank’s production of such documents to the IRS in response to the original subpoena and their subsequent use in the criminal prosecution of Plaintiff.

11. The IRS never responded to Plaintiff’s October 12, 2017 letter.

12. On November 16, 2017, Plaintiff made a written request under the FOIA to the USAO for “any and all information pertaining to a subpoena issued to Wachovia Bank (currently “Wells Fargo Bank”) dated 2/13/2008 in the case (No. 674697) referencing *U.S. District TX vs. Cecil W. Coleman.*” Plaintiff’s request specifically included “any and all information provided by Wachovia Bank n/k/a Wells Fargo Bank in response to a Government subpoena, including but not limited to, bank records, bank statements, copies of the front and back of cashier’s checks, Form 8300s, deposit slips, etc.”

13. The USAO failed to respond to Plaintiff’s request.

14. On April 11, 2018, Plaintiff initiated a Complaint for Expedited Relief Under the Freedom of Information Act (Case No. 3:18-cv-00899-G) (the “Initial Lawsuit”).

15. On June 18, 2018, the USAO filed a Motion to Dismiss [Doc. 12] and Memorandum in Support [Doc. 13]. That same day, the IRS also filed a Motion to Dismiss [Doc.

14] and a Memorandum in Support [Doc. 15]. Both motions to dismiss argued that Plaintiff had failed to make a proper request because the requests were not directed to the appropriate office. On October 26, 2018, the Court granted the motions to dismiss and entered Judgment against Plaintiff [Docs. 22 & 23].

16. On October 31, 2018, Plaintiff submitted a FOIA request to the Criminal Division of the Department of Justice (the “DOJ”). On November 9, 2018, the DOJ acknowledged receipt of Plaintiff’s FOIA request and assigned it file number CRM-300685036. See a true and correct copy of the DOJ’s November 9, 2018 correspondence attached hereto as Exhibit “A” and incorporated herein by reference as if set forth in full. In its response, the DOJ directed Plaintiff to the IRS and closed the file.

17. On March 20, 2019, Plaintiff made another identical FOIA request to the DOJ. See a true and correct copy of Plaintiff’s March 20, 2019 FOIA request attached hereto as Exhibit “B” and incorporated herein by reference as if set forth in full. On April 4, 2019, the DOJ acknowledged receipt of Plaintiff’s FOIA request and assigned it file number CRM-300692928. See a true and correct copy of the DOJ’s April 4, 2019 correspondence attached hereto as Exhibit “C” and incorporated herein by reference as if set forth in full. In its response, the DOJ indicated that Plaintiff’s response was being directed to the Executive Office for United States Attorneys for response. But, the Executive Office for United States Attorneys did not further respond to Plaintiff’s FOIA request.

18. On November 26, 2019, after having received no response from the DOJ, Plaintiff requested mediation. See a true and correct copy of Plaintiff’s mediation request attached hereto as Exhibit “D” and incorporated herein by reference as if set forth in full. But, the DOJ denied Plaintiff’s mediation request stating:

We reached out to the EOUSA FOIA Public Liaison to inquire about the status of your request Nos. EOUSA-2019-04126 and EOUSA-2019-04127. We learned that both of these requests were closed as a duplicate of EOUSA -2018-003365 on September 5, 2019. We also learned that EOUSA-2018-003365 is currently in litigation. As a result of this matter being in litigation, our office, which provides mediation services to resolve disputes between FOIA requesters and Federal agencies as a non-exclusive alternative to litigation, can offer no further assistance in this matter.

See a true and correct copy of the DOJ's denial of Plaintiff's mediation request attached hereto as Exhibit "E" and incorporated herein by reference as if set forth in full. But, EOUSA-2018-003365 references the FOIA request that was the subject of the Initial Lawsuit, which was denied because the information was not directed to the correct department. FOIA requests CRM-300685036 and CRM-300692928 were directed to the correct department and the DOJ failed, without excuse, to timely and properly respond as is required under the FOIA.

19. Plaintiff has a right of access to the requested information under 5 U.S.C. §552(a)(3), and there is no legal basis for Defendant's denial of such access.

WHEREFORE PREMISES CONSIDERED, Richard A. Arledge respectfully requests this Court:

- (1) Expedite this proceeding as provided for in 28 U.S.C. §1657;
- (2) Order Defendant to provide access to the requested documents;
- (3) Award Plaintiff his costs and reasonable attorney's fees in this action, as provided in 5 U.S.C. §552(a)(4)(E); and,
- (4) Grant such other and further relief, at law or in equity, as the Court may deem necessary, just and proper.

Dated: April 16, 2020

Respectfully submitted,

/s/ Ryan K. Lurich

Ryan K. Lurich

State Bar No. 24013070

rlurich@flawoffice.com

FRIEDMAN & FEIGER, LLP

5301 Spring Valley Road, Suite 200

Dallas, Texas 75254

(972) 788-1400 (Telephone)

(972) 788-2667 (Telecopier)

ATTORNEY FOR PLAINTIFF

RICHARD A. ARLEDGE

#904627