

I. INTRODUCTION

1. This is an action by Plaintiff pursuant to the Freedom of Information Act (hereinafter, "FOIA"), 5 USC § 552, et seq, to order the production of agency records maintained by the VA. Plaintiff seeks the documentation set forth below and seek this Court's assistance to compel production of documents wrongfully withheld from Plaintiff and to vindicate the statutory right to inspect federal agency documents. Plaintiff asserts that there is a "significant public interest in disclosure" of the records requested by Plaintiff.

2. This Court has jurisdiction over this action pursuant to 5 U.S.C. § 552(a)(4)(B), the Freedom of Information Act, and 28 U.S.C. § 2201, the Federal Declaratory Judgment Act.

3. The government records which Plaintiff requests are his individual claims files (hereinafter, "C-Files") maintained by the VA in a system of records for Veterans making claims for Veterans Disability Compensation and/or Survivor Benefits claims pursuant to Title 38 of the United States Code. *See Exhibit A (Plaintiff's FOIA Request).*

II. JURISDICTION AND VENUE.

4. This Court has jurisdiction over this action pursuant to 28 U.S.C. § 1331, as this action arises under the laws of the United States, in particular, 5 U.S.C. § 552. In addition, this Court has jurisdiction over this action pursuant to 5 U.S.C. § 552(a)(4)(b), under which, “the District Court of the United States, in the district in which the complainant resides ... has jurisdiction to enjoin the agency from withholding agency records and to order the production of any agency records improperly withheld from the complainant”, as Plaintiff’s residence is in this district.

III. PARTIES.

5. Plaintiff is an individual, and a resident of the State of Texas and resides at 433 Montreal Court, Hurst, TX 76054.

6. Defendant ROBERT MCDONALD is the Secretary of the Department of Veterans Affairs, which is believed to maintain facilities throughout this District.

7. Defendant WILLIAM A. HUDSON, JR. is the General Counsel of the Department of Veterans Affairs.

IV. SERVICE.

8. Defendant ROBERT MCDONALD, Secretary of the Department of Veterans Affairs, may be served by mailing a copy of this complaint and summons by certified mail to the following address: U.S. Department of Veterans Affairs, 810 Vermont Avenue, NW, Washington, DC, 20420.

9. Defendant, WILLIAM A. HUDSON, JR. General Counsel of the Department of Veterans Affairs, may be served by mailing a copy of this complaint and summons by certified mail to the following address: U.S. Department of Veterans Affairs, 810 Vermont Avenue, NW, Washington, DC, 20420.

10. The United States of America may be served by serving the U.S. Attorney for the district in which this action is brought Burnett Plaza Suite 1700 801 Cherry Street, Unit #4, Fort Worth, Texas 76102-6882 and by serving a copy of this complaint and a summons by certified mail to the Attorney General of the United States [U.S. Attorney General, 950 Pennsylvania Avenue, NW, Washington, DC 20530-0001].

V. FACTUAL ALLEGATIONS.

11. The FOIA requires U.S. government agencies to promptly make public records available to any person if that person makes a request which (1) reasonably describes the records sought and (2) complies with any applicable agency rules for making such a request. 5 U.S.C. § 552(a)(3)(A).

12. The FOIA requires an agency to issue a final determination on any such information request within twenty (20) business days from the date of its receipt. 5 U.S.C. § 552(a)(6)(A)(i)

13. The FOIA allows an agency to extend this determination deadline, however, by ten (10) working days when “unusual circumstances” exist and when the agency so notifies a requester in writing. 5 U.S.C. § 552(a)(6)(B).

14. An agency is entitled to only one (1) ten-business day extension. *Id.* The written notice provided to the requester must specify the specific unusual circumstances justifying the extension and the date on which a final determination is expected to be dispatched. *Id.*

15. In limited circumstances, the FOIA allows an agency to invoke an extension beyond ten (10) days. To invoke a longer extension, the FOIA requires an agency to provide written notification to the requester that (1) offers the requester an opportunity to limit the scope of the request so that it may be processed within that

time limit, or (2) offers the requester an opportunity to arrange with the agency an alternative time frame for processing the request. 5 U.S.C. § 552(a)(6)(B)(ii).

16. Plaintiff served, and the VA received, a FOIA Request on August 3, 2020, seeking production of Plaintiff's C-File. See Exhibit A.

17. The VA has not fulfilled this request.

18. Plaintiff served a timely FOIA Appeal to the VA OGC on September 24, 2020, pursuant to 5 U.S.C. § 552(a)(6)(A)(ii). See Exhibit B. The United States Postal Service (hereinafter, "USPS") has indicated that the VA OGC signed for this appeal on September 24, 2020. See, Exhibit B. Neither the VA nor the VA OGC has provided copies of Plaintiff's C-file, despite having actual knowledge of the statutory deadline to respond within 20 working days from receipt of appeal. See e.g., Exhibit A; Exhibit B.

VI. FIRST CAUSE OF ACTION.
(FOIA Request for Plaintiff's C-File)

19. Plaintiff incorporates the allegations in the foregoing paragraphs as though fully set forth herein.

20. FOIA mandates the disclosure of the documents that Plaintiff seeks in Plaintiff's FOIA request to the VA.

21. The VA has not provided Plaintiff with the records.

22. The VA has not sought extension to the lawful response time under FOIA.

23. No FOIA exemptions apply to this request.

24. No exceptional or unusual circumstances preclude a response to the request within twenty (20) business days of the request.

25. An actual and justiciable controversy exists as to whether the VA has violated the FOIA.

26. Plaintiff seeks declaratory judgment that FOIA entitles Plaintiff to the records it seeks as part of its FOIA request to the VA.

27. Unless enjoined and made subject to a declaration of Plaintiff's legal rights by this Court, the VA will continue to violate the rights of Plaintiff and others similarly situated by maintaining its pattern or practice of unlawfully delaying and/or denying and/or ignoring responses to FOIA requests and appeals.

IX. DEMAND FOR JURY TRIAL

28. Plaintiff respectfully prays for trial by jury, where not prohibited by law.

X. PRAYER FOR RELIEF

29. Wherefore, Plaintiff requests this Court:


- a) Order Defendant to provide true copies of all requested documents without further delay or obfuscation;
- b) Expedite this proceeding as provided for in 28 U.S.C. § 1657;
- c) IF APPROPRIATE: Award Plaintiff costs and fees in this action, as provided in 5 U.S.C. §552(a)(4)(E), and/or under any other appropriate federal statute; and,
- d) Grant such other and further relief as the Court, in its wisdom, may deem just and proper, including any damages for any violation of the U.S. Constitution that may arise herein.

RESPECTFULLY SUBMITTED,

s/Jason Compton

Jason Compton
433 Montreal Court
Hurst, TX 76054
jasoncurtisopt@gmail.com
817-517-3329

EXHIBIT A

SENDER: COMPLETE THIS SECTION	COMPLETE THIS SECTION ON DELIVERY
<ul style="list-style-type: none"> <input checked="" type="checkbox"/> Complete items 1, 2, and 3. <input checked="" type="checkbox"/> Print your name and address on the reverse so that we can return the card to you. <input checked="" type="checkbox"/> Attach this card to the back of the mailpiece, or on the front if space permits. 	<p>A. Signature <input checked="" type="checkbox"/> <i>[Signature]</i> <input type="checkbox"/> Agent <input type="checkbox"/> Addressee</p> <p>B. Received by (Printed Name) C. Date of Delivery</p>
<p>1. Article Addressed to:</p> <p><i>VA Claims Intake PO BOX 4444 JAMESVILLE WI 53547</i></p>  <p>9500 9402 5886 0038 1509 90</p>	<p>D. Is delivery address different from item 1? <input type="checkbox"/> Yes If YES, enter delivery address below: <input type="checkbox"/> No</p> <p>3. Service Type <input type="checkbox"/> Priority Mail Express® <input type="checkbox"/> Registered Mail™</p> <ul style="list-style-type: none"> <input type="checkbox"/> Adult Signature <input type="checkbox"/> Registered Mail Restricted Delivery <input type="checkbox"/> Adult Signature Restricted Delivery <input type="checkbox"/> Registered Mail Restricted Delivery <input checked="" type="checkbox"/> Certified Mail® <input type="checkbox"/> Return Receipt for Merchandise <input type="checkbox"/> Certified Mail Restricted Delivery <input type="checkbox"/> Signature Confirmation™ <input type="checkbox"/> Collect on Delivery <input type="checkbox"/> Signature Confirmation Restricted Delivery <input type="checkbox"/> Collect on Delivery Restricted Delivery
<p>2. Article N° <i>Transfer from service label</i></p> <p><i>7019 2280 0000 2454 2079</i> Delivery</p>	

PS Form 3811, July 2015 PSN 7530-02-000-9053 Domestic Return Receipt

7019 2280 0000 2454 2079

*VA Claims Intake
 PO BOX 4444
 JAMESVILLE WI 53547*

FREEDOM OF INFORMATION ACT REQUEST

Department of Veterans' Affairs,
Evidence Intake Center
FAX: (844) 531-7818

7/24/2020

RE: FREEDOM OF INFORMATION ACT REQUEST
Veteran: Jason C. Compton
Veteran Social Security #: 225-41-7248

To Whom it May Concern:

This is a request for documents under 38 C.F.R. §1.577, the Freedom of Information Act (FOIA), 5 U.S.C. § 552, and the Privacy Act, 5 U.S.C. § 552a, on behalf of Jason Compton (Veteran). This request is properly made via facsimile as it contains the signature of the requester.

1. IDENTIFICATION OF DOCUMENTS.

I hereby request a copy of all documents contained in any VA claims folder for any of Veteran's VA claims, to include all documents in the right flap, left flap and center flap, and all electronic documents in any VBA file related to Veteran's Title 38 Claim(s), including by not limited to "Virtual VA", VBMS-A, VBMS-R, and VBMS-D, as well as any documentation pertaining to this Veteran and/or his/her VA claims and/or Appeals in AMIE/CAPRI/VGRIS/VACOLS, and/or in any other system of records in the BVA (or under contract with the VBA) used to preserve information (whether substantive, procedural, or meta-data) related to those records, wherever such records about the Veteran's claim are kept or stored by the VA

2. FORM/FORMAT IN WHICH TO PRODUCE INFORMATION.

The FOIA and the VA's own internal policies related to FOIA requests, require that the records be produced in the format sought by the requester, if the record is readily reproducible in that form or format.

I PREFER RECEIPT OF THESE RECORDS ON CD-ROM

Please take special care to ensure that both sides of any two-sided documents produced in response to this request are included in the response, and are scanned into a PDF in such a way that they do not "bleed-through" from one side of the document to the other.

3. TIME FOR RESPONSE.

Please note that this request for documents is being made pursuant to the Privacy Act, 5 U.S.C. § 552, and the Freedom of Information Act (FOIA), 5 U.S.C. § 552a, as well as 38 C.F.R. §1.550 and 38 C.F.R. § 1.577. Your agency has a duty to respond to this request within TWENTY (20) BUSINESS DAYS of the date of this request pursuant to 5 U.S.C. § 552 (a)(6)(A)(2)(i).

Additionally, although an extension of time to respond may be requested, it may only be granted for "unusual circumstances." "Predictable agency workload" is not typically considered an unusual circumstance as stated in 5 U.S.C. § 552(a)(6)(C)(ii).

Moreover, even to the extent that unusual circumstances could be demonstrated in this instance, the time limit for the extension is limited to "10 working days" pursuant to 38 C.F.R. § 1.553(d).

Please also be aware that your agency's failure to respond to this request within twenty business (20) days can result in the filing of an administrative appeal with the office of the Secretary of the Department of Veterans Affairs pursuant to 38 C.F.R. § 1.557 and 5 U.S.C. § 552(a)(6)(A)(2)(ii), and/or, the filing of a federal lawsuit to compel the production of the information.

In any such appeal or lawsuit, I intend to seek not only injunctive and/or monetary relief related to this request, but to the extent permitted by law, injunctive and/or monetary relief based on the Department of Veteran's Affairs patterns and/or practices of responding to FOIA requests in a manner violative of the FOIA, as well as attorney fees and litigation expenses, and any other remedy/relief available at law.

4.) Point of Contact.

As discussed above, please respond to this request within twenty (20) business days. I may be contacted at 817-517-3329.

Thank you very much in advance for your assistance.

Respectfully,

A handwritten signature in black ink, appearing to read "Jason Compton", is written over a faint, larger version of the same signature.

Jason Compton
433 Montreal Court
Hurst, TX 76054

EXHIBIT B

SENDER: COMPLETE THIS SECTION	COMPLETE THIS SECTION ON DELIVERY	
<p>■ Complete items 1, 2, and 3.</p> <p>■ Print your name and address on the reverse so that we can return the card to you.</p> <p>■ Attach this card to the back of the mailpiece, or on the front if space permits.</p>	<p>A. Signature <input checked="" type="checkbox"/> Agent <input type="checkbox"/> Addressee</p>	
<p>1. Article Addressed to: VA-DEPT OF General Counsel 810 Vermont Ave. NW Washington DC 20420</p>	<p>B. Received by (Printed Name) Deborah Sims</p>	<p>C. Date of Delivery 11/10/20</p>
<p>9530 9402 5888 0038 1509 83</p>	<p>D. Is delivery address different from item 1? <input type="checkbox"/> Yes If YES, enter delivery address below: <input type="checkbox"/> No</p>	
<p>2. Article Number (Transfer from service label) 7019 2280 0000 2454 2086</p>	<p>3. Service Type <input type="checkbox"/> Adult Signature <input type="checkbox"/> Adult Signature Restricted Delivery <input checked="" type="checkbox"/> Certified Mail® <input type="checkbox"/> Certified Mail Restricted Delivery <input type="checkbox"/> Collect on Delivery <input type="checkbox"/> Collect on Delivery Restricted Delivery <input type="checkbox"/> Insured Mail® <input type="checkbox"/> Restricted Delivery <input type="checkbox"/> Priority Mail Express® <input type="checkbox"/> Registered Mail™ <input type="checkbox"/> Registered Mail Restricted Delivery <input type="checkbox"/> Return Receipt for Merchandise <input checked="" type="checkbox"/> Signature Confirmation™ <input type="checkbox"/> Signature Confirmation Restricted Delivery</p>	
<p>PS Form 3811, July 2015 PSN 7530-02-000-9053 Domestic Return Receipt</p>		

7019 2280 0000 2454 2086

Washington, DC 20420

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\$2.35

86

\$0.00

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\$0.00

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07/01/2020

\$7.10

VA OFFICE of General Counsel
 810 Vermont Ave. NW
 Washington DC 20420

FREEDOM OF INFORMATION ACT APPEAL

VIA Facsimile

Department of Veterans' Affairs,
Records Management Center
P.O. Box 5020
St. Louis, MO 63115
FAX: 314-679-3730

VIA Facsimile

Department of Veterans' Affairs,
Evidence Intake Center
FAX: (844) 531-7818

VIA CERTIFIED MAIL (RETURN RECEIPT REQUESTED) 7019 2280 0000 2454 2086

Department of Veterans Affairs,
Office of the General Counsel
810 Vermont Avenue, NW,
Washington, DC 20420

8/28/20

RE: FREEDOM OF INFORMATION ACT APPEAL
Veteran: Jason Curtis Compton
Veteran Social Security #: 225-41-7248

To Whom it May Concern:

This is an appeal under the Freedom of Information Act.

On July 24, 2020, I requested a complete copy my C-File under the Freedom of Information Act (FOIA). See attached. The FOIA Request was received by the VA Regional Office FOIA Officer on August 3, 2020, See attached. The VA Regional Office FOIA Officer has not provided the requested documents in the time required by law.

I am seeking production of documents related to my VA benefits that are relevant and material to my dispute. The Dept. of Veterans Affairs is the Agency last known to have particular documents requested that are relevant and material to my appeal.

The VA's 20 working days to respond to that request have passed on August 31, 2020.

This is an appeal of the VA's failure to respond to my FOIA request. I am aware of no legitimate reason why the VA might withhold production of these records, why the VA would have failed to diligently search for the documents last known to be in its possession, control or custody, or why the VA would fail to respond to the production of the documents requested pursuant to my FOIA request.

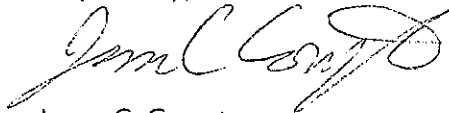
An agency is required to make a "determination" on the merits of a FOIA appeal within 20 working days of receipt. 5 U.S.C. § 552(a)(6)(A)(ii).

Should the VA fail to respond to, or improperly deny, this appeal under the Freedom of Information Act, I am prepared to initiate a FOIA suit in the appropriate Federal District Court to compel disclosure of the documents, as well as any reasonable fees and costs to which I might be entitled to under the law or in equity.

Please feel free to contact me to discuss any aspect of my appeal.

Thank you for your prompt consideration of this appeal.

Respectfully,

A handwritten signature in black ink, appearing to read "Jason C. Compton". The signature is fluid and cursive, with the first name "Jason" being the most prominent.

Jason C. Compton
433 Montreal Court
Hurst, TX 76054

Encl (1) A photocopy of my FOIA Request
 (1) A photocopy of the Certified Mail Signature from the VARO
 (1) A photocopy of the Certified Mail Signature from the VA RMC

The JS 44 civil cover sheet and the information contained herein neither replace nor supplement the filing and service of pleadings or other papers as required by law, except as provided by local rules of court. This form, approved by the Judicial Conference of the United States in September 1974, is required for the use of the Clerk of Court for the purpose of initiating the civil docket sheet. (SEE INSTRUCTIONS ON NEXT PAGE OF THIS FORM.)

I. (a) PLAINTIFFS

Compton, Jason, C.

(b) County of Residence of First Listed Plaintiff Tarrant (EXCEPT IN U.S. PLAINTIFF CASES)

(c) Attorneys (Firm Name, Address, and Telephone Number)

DEFENDANTS

Secretary Of The Department of Veterans Affairs,

County of Residence of First Listed Defendant (IN U.S. PLAINTIFF CASES ONLY)

NOTE: IN LAND CONDEMNATION CASES, USE THE LOCATION OF THE TRACT OF LAND INVOLVED.

Attorneys (If Known)

U.S. Attorney, Cox, Erin Nealy

II. BASIS OF JURISDICTION (Place an "X" in One Box Only)

- 1 U.S. Government Plaintiff, 2 U.S. Government Defendant, 3 Federal Question, 4 Diversity

III. CITIZENSHIP OF PRINCIPAL PARTIES (Place an "X" in One Box for Plaintiff and One Box for Defendant)

- Citizen of This State, Citizen of Another State, Citizen or Subject of a Foreign Country, PTF, DEF, Incorporated or Principal Place of Business In This State, Incorporated and Principal Place of Business In Another State, Foreign Nation

IV. NATURE OF SUIT (Place an "X" in One Box Only)

Click here for:

Table with columns: CONTRACT, REAL PROPERTY, CIVIL RIGHTS, TORTS, PRISONER PETITIONS, FORFEITURE/PENALTY, LABOR, IMMIGRATION, BANKRUPTCY, SOCIAL SECURITY, FEDERAL TAX SUITS, OTHER STATUTES.

V. ORIGIN (Place an "X" in One Box Only)

- 1 Original Proceeding, 2 Removed from State Court, 3 Remanded from Appellate Court, 4 Reinstated or Reopened, 5 Transferred from Another District, 6 Multidistrict Litigation - Transfer, 8 Multidistrict Litigation - Direct File

VI. CAUSE OF ACTION

Cite the U.S. Civil Statute under which you are filing... Brief description of cause: Department of Veteran Affairs Obligation of Production of Held Information Under Freedom Of Information Act

VII. REQUESTED IN COMPLAINT:

CHECK IF THIS IS A CLASS ACTION UNDER RULE 23, F.R.Cv.P. DEMAND \$ CHECK YES only if demanded in complaint: JURY DEMAND: Yes No

VIII. RELATED CASE(S) IF ANY

(See instructions): JUDGE DOCKET NUMBER

DATE 11/09/2020 SIGNATURE OF ATTORNEY OF RECORD s/Jason Compton (Pro se) 433 Montreal Court, Hurst, TX 76054 - 817-517-3329

FOR OFFICE USE ONLY RECEIPT # AMOUNT APPLYING IFP JUDGE MAG. JUDGE

UNITED STATES DISTRICT COURT

for the

Northern District of Texas



Jason Compton

Plaintiff

v.

William A. Hudson, Jr. General Counsel of the Department of Veterans Affairs

Defendant

)
)
)
)
)
)
)

Civil Action No.

SUMMONS IN A CIVIL ACTION

To: (Defendant's name and address) William A. Hudson, Jr. General Counsel U.S. Department of Veterans Affairs 810 Vermont Avenue, NW Washington, DC, 20420

A lawsuit has been filed against you.

Within 21 days after service of this summons on you (not counting the day you received it) — or 60 days if you are the United States or a United States agency, or an officer or employee of the United States described in Fed. R. Civ. P. 12 (a)(2) or (3) — you must serve on the plaintiff an answer to the attached complaint or a motion under Rule 12 of the Federal Rules of Civil Procedure. The answer or motion must be served on the plaintiff or plaintiff's attorney, whose name and address are: Jason Compton, Pro se 433 Montreal Court Hurst, TX 76054

If you fail to respond, judgment by default will be entered against you for the relief demanded in the complaint. You also must file your answer or motion with the court.

CLERK OF COURT

Date: _____

Signature of Clerk or Deputy Clerk

Civil Action No. _____

PROOF OF SERVICE

(This section should not be filed with the court unless required by Fed. R. Civ. P. 4 (l))

This summons for *(name of individual and title, if any)* _____
was received by me on *(date)* _____.

I personally served the summons on the individual at *(place)* _____
_____ on *(date)* _____; or

I left the summons at the individual's residence or usual place of abode with *(name)* _____
_____, a person of suitable age and discretion who resides there,
on *(date)* _____, and mailed a copy to the individual's last known address; or

I served the summons on *(name of individual)* _____, who is
designated by law to accept service of process on behalf of *(name of organization)* _____
_____ on *(date)* _____; or

I returned the summons unexecuted because _____; or

Other *(specify)*:

My fees are \$ _____ for travel and \$ _____ for services, for a total of \$ _____ 0.00.

I declare under penalty of perjury that this information is true.

Date: _____

Server's signature

Printed name and title

Server's address

Additional information regarding attempted service, etc:

UNITED STATES DISTRICT COURT

for the

Northern District of Texas

Jason Compton

Plaintiff

v.

Robert McDonald, Secretary of The Department of Veterans Affairs

Defendant

Civil Action No.

SUMMONS IN A CIVIL ACTION

To: (Defendant's name and address) Robert McDonald, Secretary of The Department of Veterans Affairs
U.S. Department of Veterans Affairs
810 Vermont Avenue, NW
Washington, DC, 20420

A lawsuit has been filed against you.

Within 21 days after service of this summons on you (not counting the day you received it) — or 60 days if you are the United States or a United States agency, or an officer or employee of the United States described in Fed. R. Civ. P. 12 (a)(2) or (3) — you must serve on the plaintiff an answer to the attached complaint or a motion under Rule 12 of the Federal Rules of Civil Procedure. The answer or motion must be served on the plaintiff or plaintiff's attorney, whose name and address are: Jason Compton, Pro se
433 Montreal Court
Hurst, TX 76054

If you fail to respond, judgment by default will be entered against you for the relief demanded in the complaint. You also must file your answer or motion with the court.

CLERK OF COURT

Date: _____

Signature of Clerk or Deputy Clerk

Civil Action No. _____

PROOF OF SERVICE

(This section should not be filed with the court unless required by Fed. R. Civ. P. 4 (l))

This summons for *(name of individual and title, if any)* _____
was received by me on *(date)* _____.

I personally served the summons on the individual at *(place)* _____
_____ on *(date)* _____; or

I left the summons at the individual's residence or usual place of abode with *(name)* _____
_____, a person of suitable age and discretion who resides there,
on *(date)* _____, and mailed a copy to the individual's last known address; or

I served the summons on *(name of individual)* _____, who is
designated by law to accept service of process on behalf of *(name of organization)* _____
_____ on *(date)* _____; or

I returned the summons unexecuted because _____; or

Other *(specify)*: _____

My fees are \$ _____ for travel and \$ _____ for services, for a total of \$ _____ 0.00.

I declare under penalty of perjury that this information is true.

Date: _____

Server's signature

Printed name and title

Server's address

Additional information regarding attempted service, etc: