

UNITED STATES DISTRICT COURT
For the Northern District of Illinois –
Eastern Division

Jacqueline Stevens

Plaintiff

vs.

United States Department of Health and
Human Services et al.

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Civil Case No.: 22-cv-05072
Judge: Honorable M. Kennelly

**PLAINTIFF’S LR 56.1 STATEMENT OF UNDISPUTED FACTS IN SUPPORT OF HER
CROSS-MOTION FOR SUMMARY JUDGMENT**

Plaintiff, Jacqueline Stevens, submits the following Statement of Material Facts pursuant to Local Rule 56.1 of the United States District Court for the Northern District of Illinois in support of her Cross-Motion for Summary Judgment.

Parties

1. Plaintiff Jacqueline Stevens is a professor at Northwestern University. Answer ¶5.

RESPONSE:

2. Defendants HHS, DHS, and DOJ are agencies of the executive branch of the U.S. government within the meaning of 5 U.S.C. § 522(f)(1) from which Stevens sought information. Answer ¶16.

RESPONSE:

3. Defendants CBP, ICE, and USCIS are agencies within the U.S. Department of Homeland Security (“DHS”). Answer ¶17.

RESPONSE:

4. Defendant EOIR is a sub-agency within the United States Department of Justice (“DOJ”) which has responsibility for records of legacy Immigration and Naturalization Services (“INS”).

Answer ¶18.

RESPONSE:

5. Defendants have custody, possession, and control over the records and the systems of records sought by Stevens under FOIA and/or PA, and have had such custody, possession, and control at the time the records were requested and up to the present. Answer ¶19; see also Defendants’ Declaration in opposition to Request for Preliminary Injunction, ECF #16.

RESPONSE:

2020-00435-FOIA-OS — Lauren Underwood

6. On December 11, 2019, Stevens submitted the following request to HHS pursuant to the FOIA:

records tied to the hiring, transfers, and scope of work performed by Lauren Underwood at HHS. Underwood is at present a member of Congress (D-IL).

1) all position announcements associated with any jobs she held at HHS.

2) all reports, memorandums, or analyses she produced, including but not limited to her work on Ebola and other emergency public health matters.

3) all travel itineraries.

4) all expense reports. The time frame of this request is Jan. 1, 2010 to January 22, 2017.

Answer ¶20.

RESPONSE:

7. Other than acknowledging the filing of the request Stevens received no documents, determination, and no further communication from Defendant about this properly submitted FOIA request. Stevens Decl ¶¶8-9; Answer ¶22-24.

RESPONSE:

CBP-2022-080265 — Toan Hoang

8. On March 10, 2022, Stevens submitted a FOIA request directly to CBP. The request sought:

[A]ll system records and other items maintained, produced, or distributed by CBP pertaining to Toan Hoang. His “alien number” is 025-105-060. He was born in Vietnam on [PII- REDACTED]. Information responsive to this request includes but is not limited to: (1) all memoranda, notes, reports, email messages, and all other system records or communications associated with or pertaining to Mr. Hoang generated or received by CBP and; (2) screen shots of all databases likely to have responsive records. The time frame of this request is [REDACTED] to the present. Mr. Hoang has signed a waiver, including a certificate of identity, allowing me to receive these records. Please find a copy of this waiver attached.

Answer ¶25; Stevens Decl. ¶11.

RESPONSE:

9. On March 10, 2022, Plaintiff uploaded to her online FOIA request a PDF of the privacy waiver signed under penalty of perjury by Mr. Hoang and authorizing agencies to release his records to Stevens. Stevens Decl. ¶11 & Exh 2.

RESPONSE:

10. Other than acknowledging the filing of the request Stevens received no documents, determination, and no further communication from Defendant about this properly submitted FOIA request. Stevens Decl ¶¶13-14.

RESPONSE:

Lauren Underwood

11. On November 22, 2019, Stevens submitted a FOIA request to DHS. The request sought:

1) all communications and related materials created, received, or maintained by the Department of Homeland Security to which Rep. Lauren Underwood (D-IL) or any member of her staff. This includes but is not limited to all email, text messages, notes,

reports, memorandums, proposed bill texts, and bill evaluations. In a floor speech of 9/26/2019 Rep. Underwood stated she received information from the “Department of Homeland Security” indicating a request for an integrated Electronic Health Records System she referenced as "EHR." She refers to this in her remarks on HR 3525 as a “direct ask from medical officers at the Department of Homeland Security.”

2) DHS communications and related materials created by or received from other components of DHS or the Department of Health and Human Services Office of Refugee Resettlement about the use of Electronic Health Records systems already in place as well as the establishment of an EHR for the use by offices of CBP.

3) Information on meetings and communications with private individuals, including but not limited to lobbyists or company officials related to past, current, or potential “enterprise” or other information technologies for collecting, coordinating, or maintaining health records data for those encountered or detained by DHS or any component of DHS. Technical reports, email, text messages, or other communications with the private sector tied to past, current, or potential contracts tied to EHR systems.

Answer ¶29.

RESPONSE:

12. On December 2, 2019, Stevens received an email notifying her that DHS created a case no. for Stevens’ request “2020-HQFO-00215,” and stated that the agency was “transferring this request to the FOIA Officers for [...] U.S. Customs and Border Protection (CBP), for processing under the FOIA and direct response to you.” Answer ¶30.

RESPONSE:

13. Other than acknowledging the filing of the request Stevens received no documents, determination, and no further communication from Defendant about this properly submitted FOIA request. Stevens Decl ¶¶15-17; Answer ¶¶34-35.

RESPONSE:

Miguel Silvestre - No case no. assigned

14. On June 22, 2021, Stevens submitted by email a request to ICE pursuant to the FOIA/PA for the following:

[A]ll system records and other items maintained, produced, or distributed by ICE pertaining to Miguel Guzman Silvestre. His date of birth is [PII- REDACTED]. His country of birth is the United States. His “alien” number is 077-166-008. I am interested in all system records pertaining to Mr. Guzman and all ICE correspondence with other government agencies, individuals, or attorneys pertaining to Mr. Guzman as well. Please include as well:

- 1) All records of all grievances filed by Mr. Guzman, orally or in writing and under the control of ICE or its components, including county jails or private prisons with which ICE has contracted.
- 2) Commissary account data, including but not limited to information tracking funds reimbursed to Mr. Guzman on release from custody.
- 3) Work program participation documents and payment records.
- 4) All correspondence, notes, and other records pertaining to assertions or findings of U.S. citizenship from all databases.
- 5) Communications with police, jails, prisons about Mr. Guzman's arrest and detention.
- 6) Screen shots of all tabs for interfaces associated with databases likely to have records responsive to this request.
- 7) All email, faxes, notes, and all other analyses and records tied to ICE investigations or findings for any deportation orders or arrests of Mr. Guzman.

Please note that I am attaching a third party waiver signed by Mr. Guzman and authorizing the release of all responsive documents to me under the FOIA/PA. Please note that components and officials that track detention facility compliance with ICE contracts are likely to have responsive records and will need to be queried. Please note that prior responses to similar requests have been incomplete and in violation of the FOIA/PA. If the final response does not include all of the records indicated below it is in violation of the law to represent it as a “final response.” It also is a violation of the Administrative Procedure Act, insofar as this is a pattern and practice of this agency. If you are a FOIA agent reviewing this, then I would appreciate your reviewing my request with your colleagues in offices tasked for documents items that are missing when they return to you only a few pages from EARM.

Answer ¶36.

RESPONSE:

15. Stevens attached to her request a privacy waiver signed under penalty of perjury by Mr. Silvestre authorizing agencies to release his records to Stevens. Answer ¶37.

RESPONSE:

16. The agency did not issue a determination, produce records, or otherwise respond to the properly submitted request prior to the filing of the lawsuit, despite the passage of 304 business days since the filing of the request. Answer ¶¶39-40.

RESPONSE:

2022-ICFO-08985 — Toan Hoang

17. On March 10, 2022, Stevens submitted a request to ICE pursuant to the FOIA/PA for the following:

- 1) All records of all grievances filed by Mr. Hoang, orally or in writing and under the control of ICE or its components, including county jails or private prisons with which ICE has contracted.
- 2) Commissary account data, including but not limited to information tracking funds reimbursed to Mr. Hoang on release from custody.
- 3) Work program participation documents and payment records.
- 4) All correspondence, notes, and other records pertaining to assertions or findings of U.S. citizenship from all databases, including records tied to proceedings in Los Angeles in 1999.
- 5) Communications with police, jails, prisons about Mr. Hoang's arrest and detention.
- 6) Screen shots of all tabs for interfaces associated with databases likely to have records responsive to this request.
- 7) All email, faxes, notes, and all other analyses and records tied to ICE investigations or findings for any deportation orders or arrests of Mr. Hoang.

The time frame of this request is January 1, 1996 through the present. Mr. Hoang has signed a waiver, including a certificate of identity, allowing me to receive these records. Please find a copy of this waiver attached. Please note that prior responses to similar requests have been incomplete and in violation of the FOIA. If your response does not include all of the records indicated below it is in violation of the law to represent it as a “final response.” The purpose of the FOIA is to provide to the public timely information. The information I obtain from the government has featured in my own research, from which journalists have drawn for widely circulated stories on matters of obvious public interest, especially ICE detaining and deporting U.S. citizens.

Stevens attached to her request a privacy waiver signed under penalty of perjury by Mr. Hoang authorizing agencies to release his records to Stevens. Answer ¶¶41, 43.

RESPONSE:

18. The agency did not issue a determination, produce records, or otherwise respond to the properly submitted request prior to the filing of the lawsuit, despite the passage of 128 business days since the filing of the request. Answer ¶¶45-46.

RESPONSE:

C. 2022-ICFO-27065 — Pascal Charpentier

19. On August 18, 2022, Stevens submitted a request to ICE via the DHS portal pursuant to the FOIA/PA for the following:

All system records and other items maintained, produced, or distributed by ICE, including ICE trial attorneys and HQ, pertaining to Pascal Charpentier. His date of birth is [PII - REDACTED]. His country of birth is Germany. His “alien” number was 029001711 and in 2016 he was given this number: 020578103. I am interested in all system records pertaining to Mr. Charpentier and all ICE correspondence with other government agencies, individuals, or attorneys pertaining to Mr. Charpentier as well. Please include as well:

- 1) All records of all grievances filed by Mr. Charpentier orally or in writing and under the control of ICE or its components, including county jails or private prisons with which ICE has contracted.
- 2) Commissary account data, including but not limited to information tracking funds reimbursed to Mr. Charpentier on release from custody.
- 3) All correspondence, notes, and other records pertaining to assertions or findings of U.S. citizenship, including but not limited to entries into PLAnet.
- 4) All ICE Fugitive Operation notes, memorandums, text messages, and other information in any medium related to the search and arrest of Mr. Charpentier. This includes but is not limited to database search protocols on which agents relied for information leading to the arrest.

I am seeking all instructions in any form on which ICE employees relied in their search for the information that led to the arrest of Mr. Charpentier.

5) Screen shots of all tabs for interfaces to databases searched for information responsive to this request.

Please note that I am attaching a third party waiver and certificate of identity signed by Mr. Charpentier and authorizing the release of all responsive documents to me under the FOIA/PA.

Answer ¶47.

RESPONSE:

20. Stevens stated the request was “expedited” and provided an attachment titled “Grounds for Expedited Request”. Answer ¶48.

RESPONSE:

21. The agency did not issue a determination, produce records, or otherwise respond to the properly submitted expedited request prior to the filing of the lawsuit. (ECF # 16 Pineiro Decl at Page ID 212-214).

RESPONSE:

July 2020 Rubin Request

22. On July 8, 2020, Stevens submitted a FOIA request to EOIR seeking “all documents released to Joel Rubin for FOIA case no 2017-22261, Statistics.” Ex. A & Santiago Declaration submitted in support of Defendant EOIR Rule 56 Motion, ECF #4 [hereinafter ‘Santiago Decl’] ¶

16.

RESPONSE:

23. EOIR sent Stevens an acknowledgement letter on July 15, 2020. Ex. A (Santiago Decl. ¶ 17.

RESPONSE:

24. Plaintiff has received no determination, no records responsive to this request, and no “final letter” dated July 23, 2020. Stevens Decl. ¶78.

RESPONSE:

June 2021 Silvestre Request.

25. On June 22, 2021, Stevens submitted a FOIA request to EOIR seeking “all system records and other items maintained, produced, or distributed by EOIR pertaining to Miguel Silvestre. His ‘alien number’ is 077-166-008. He was born in Sacramento, on [here Stevens provided Silvestre’s birth date]. This request includes but is not limited to all memoranda, notes, reports, email messages, and all other system records or communications associated with or pertaining to Mr. Silvestre generated or received by EOIR. This also includes the record of proceedings for his immigration hearing(s), as well as any digital or audio recordings of prior hearing(s). Please include ALL calendar and case note records maintained by any EOIR digital systems, including screen shots of databases from which information on Mr. Silvestre is stored. The time frame for this request is 1/1/1996 to present.” Ex. A (Santiago Decl.) ¶ 19; Answer ¶ 75.

RESPONSE:

26. The agency did not issue a determination, produce records, or otherwise respond to the properly submitted expedited request prior to the filing of the lawsuit. Stevens Decl. ¶68-70; Santiago Decl. ¶ 22-26; Answer ¶78-80.

RESPONSE:

August 2021 Archie Request

27. On August 16, 2021, Stevens submitted a FOIA request to EOIR seeking “all system records and other items maintained, produced, or distributed by EOIR on Christopher Archie, A#018-658-496, DOB [here Stevens provided Archie’s birth date]. This includes the

record of proceeding for hearing(s), the case management interface outputs, as well as digital or audio recordings of hearing(s) and any email or other communications about his case. The time frame of this request is 1980 to present.” Ex. A (Santiago Decl.) ¶ 27; Answer ¶86.

RESPONSE:

28. The agency did not issue a determination, produce records, or otherwise respond to the properly submitted expedited request prior to the filing of the lawsuit. (Santiago Decl.) ¶ 34; (Stevens Decl. ¶¶74-77; Answer ¶89-92.

RESPONSE:

March 2022 Hoang Request

29. On March 10, 2022, Stevens submitted a FOIA request to EOIR seeking “all system records and other items maintained, produced, or distributed by EOIR pertaining to Toan Hoang. His ‘alien number’ is 025-105-060. He was born in Vietnam on [here Stevens provided Hoang’s birth date]. This request includes but is not limited to all memoranda, notes, reports, email messages, and all other system records or communications associated with or pertaining to Mr. Hoang generated or received by EOIR. This also includes the record of proceedings for his immigration hearing(s), as well as any digital or audio recordings of prior hearing(s). Please include ALL calendar and case note records maintained by any EOIR digital systems. The time frame of this request is January 1, 1995 to the present.” Ex. A (Santiago Decl.) ¶ 35; Answer ¶81.

RESPONSE:

30. The agency did not issue a determination, produce records, or otherwise respond to the properly submitted expedited request prior to the filing of the lawsuit. Santiago Decl. ¶ 40; Answer ¶84.

RESPONSE:

August 2022 Charpentier Request

31. On August 18, 2022, Stevens submitted a FOIA request to EOIR seeking “All system records and other items maintained, produced, or distributed by EOIR pertaining to Pascal Charpentier, including but not limited to the Record of Proceedings, including all audio recordings. His date of birth is [here Stevens provided Charpentier’s birth date]. His country of birth is Germany but ICE has stated in error it is Haiti. His ‘alien’ number was 029001711, and in 2016 he was given this number: 020578103. This request includes but is not limited to all memoranda, notes, reports, email messages, and all other system records or communications associated with or pertaining to Mr. Charpentier generated or received by EOIR. Please include ALL calendar and case note records maintained by any EOIR digital systems. The time frame for this request is January 1, 1972 to August 18, 2022.” Ex. A & Santiago Decl. ¶ 41; Answer ¶97.

RESPONSE:

32. The agency did not issue a determination required by the statute, produce records, or otherwise respond to the properly submitted expedited request prior to the filing of the lawsuit. Santiago Decl. ¶¶ 46-48; Stevens Decl. ¶¶79-81.

RESPONSE:

Respectfully Submitted by

____ s/ Nicolette Glazer Esq. _____
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