

Background

(5) Each year plaintiff requests the annual financial disclosure reports of U.S. Supreme Court justices and, once obtained from the Administrative Office of U.S. Courts, posts the reports online for public consumption. Plaintiff makes the same request from the Administrative Office for federal judges who are on Republican and Democratic Supreme Court short lists, and it generally serves as a resource for members of the press and public looking for information on the judiciary that may be difficult to obtain.

(6) On January 31, 2017, President Donald Trump nominated Judge Neil M. Gorsuch of the U.S. Court of Appeals for the Tenth Circuit to the position of Associate Justice of the U.S. Supreme Court.

(7) The FOIA request at issue in this action, seeking information concerning Judge Gorsuch's tenure as deputy assistant attorney general in the Justice Department, is consistent with plaintiff's belief that public information about our nation's top judicial officers should be readily available to the public.

Plaintiff's FOIA Request and Defendant's Response

(8) By letter to defendant dated December 22, 2016, plaintiff requested under the FOIA copies of agency records. Specifically, plaintiff requested copies of all complaints, correspondence and any performance reviews or reprimands involving Neil Gorsuch from January 1, 2005, through December 31, 2006. Plaintiff noted that its request included, but was not limited to, the following:

- complaints regarding Mr. Gorsuch received from within the Department of Justice or from members of the public;
- digital (e-mail), print or other correspondence and attachments involving Mr.

Gorsuch, including instances where he was merely carbon copied (CC'd);

- performance reviews of Mr. Gorsuch and his service with the Department of Justice; and
- warnings or reprimands issued regarding Mr. Gorsuch and his service with the Department of Justice.

Plaintiff noted that Mr. Gorsuch served as a Deputy Assistant Attorney General at the Department of Justice from 2005 to 2006.

(9) By letter to plaintiff dated January 26, 2017, defendant acknowledged receipt of plaintiff's FOIA request. Defendant informed plaintiff that its FOIA request was received on December 22, 2016, and assigned an "EMRUFOIA tracking number" of 122216-3. Defendant further stated that plaintiff's request "requires a search in another Office, and so your request falls within 'unusual circumstances' [under] 5 U.S.C. 552 § (a)(6)(B)(i)-(iii)." Defendant informed plaintiff that "[b]ecause of these unusual circumstances, we need to extend the time limit to respond to your request beyond the ten additional days provided by the statute."

(10) To date, plaintiff has not received a determination or any response from defendant concerning the FOIA request plaintiff submitted on December 22, 2016.

CAUSE OF ACTION

Violation of the Freedom of Information Act for Wrongful Withholding of Agency Records

(11) Plaintiff repeats and realleges paragraphs 1-10.

(12) Plaintiff has exhausted the applicable and available administrative remedies with respect to defendant's processing of plaintiff's FOIA request.

(13) Defendant has wrongfully withheld the requested records from plaintiff by failing to comply with the statutory time limit for rendering a determination or response to plaintiff's FOIA request.

(14) Plaintiff is entitled to injunctive and declaratory relief with respect to the release and disclosure of the requested documents.

Requested Relief

WHEREFORE, plaintiff prays that this Court:

- A. Order defendant Department of Justice to disclose all non-exempt records responsive to plaintiff's FOIA request immediately;
 - B. Issue a declaration that plaintiff is entitled to disclosure of the requested records;
 - C. Provide for expeditious proceedings in this action;
 - D. Award plaintiff its costs and reasonable attorneys fees incurred in this action;
- and
- E. Grant such other relief as the Court may deem just and proper.

Respectfully submitted,



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