



OFFICE of GOVERNMENT INFORMATION SERVICES

December 22, 2015—Sent via U.S. mail

NATIONAL
ARCHIVES
and RECORDS
ADMINISTRATION

8601 ADELPHI ROAD
OGIS
COLLEGE PARK, MD
20740-6001

web: www.ogis.archives.gov

e-mail: ogis@nara.gov

phone: 202-741-5770

toll-free: 1-877-684-6448

fax: 202-741-5769

[REDACTED]

Re: Case No.: 201600162
NG: HK: CM

Dear [REDACTED]:

This responds to your November 4, 2015 request for assistance from the Office of Government Information Services (OGIS), which we received via U.S. mail. Your request for assistance pertains to your Freedom of Information Act (FOIA) request to the Executive Office for U.S. Attorneys (EOUSA).

Congress created OGIS to complement existing FOIA practice and procedure; we strive to work in conjunction with the existing request and appeal process. The goal is for OGIS to allow, whenever practical, the requester to exhaust his or her remedies within the agency, including the appeal process. OGIS has no investigatory or enforcement power, nor can we compel an agency to release documents. OGIS serves as the Federal FOIA Ombudsman and our jurisdiction is limited to assisting with the FOIA process.

We carefully reviewed your submission, and we understand that you made a request to EOUSA for records related to [REDACTED]. EOUSA denied your request, citing your waiver of your rights to receive records related to [REDACTED] pursuant to a 2011 plea agreement. You appealed this decision, explaining the circumstances of your agreement to waive your rights. The Department of Justice Office of Information Policy affirmed EOUSA's action on your request.

In your correspondence, you explain the circumstances of your signing the plea agreement, and the importance of the records you seek. However, courts have recognized that requesters who waive their FOIA rights by plea agreement are precluded from making a FOIA request seeking access to records pertaining [REDACTED]. *Caston v. EOUSA*, 572 F.




December 22, 2015

Page 2 of 2

Supp. 2d, 125, 129 (D.D.C. 2008) (granting agency's motion to dismiss because the "use of a FOIA waiver in a valid and binding plea agreement is an enforceable provision" that bars plaintiff's FOIA claim for records regarding his criminal case (quoting *Patterson v. FBI*, No. 08-186, 2008 WL 2597656, at *2 (E.D. Va. June 27, 2008))).

In cases such as this where an agency is firm in its position, there is little for OGIS to do beyond providing more information about the agency's actions. I hope that this information about your request is useful to you. Thank you for contacting OGIS; we will now consider this matter closed.

Sincerely,


 JAMES V.M.L. HOLZER
Director

cc: EOUSA FOIA