



OFFICE of GOVERNMENT INFORMATION SERVICES

September 27, 2013—Sent via email & U.S. mail

[REDACTED]

Re: OGIS Case No. 201300654
MN: NG: KM

NATIONAL
ARCHIVES
and RECORDS
ADMINISTRATION

8601 ADELPHI ROAD
OGIS
COLLEGE PARK, MD
20740-6001

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phone: 202-741-5770
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Dear [REDACTED]:

This responds to your July 7, 2013 request for assistance, which the Office of Government Information Services (OGIS) received on July 11, 2013, via our online intake system. Your request pertains to your April 9, 2013 Freedom of Information Act (FOIA) request, No. [REDACTED], to U.S. Citizenship and Immigration Services (USCIS) seeking access to information pertaining to [REDACTED].

In your request for OGIS assistance, you asked for help regarding an apparent discrepancy between USCIS's May 24, 2013 response that it has no records responsive to your request and a 2012 telephone conversation regarding a CD containing records pertaining to [REDACTED] that you note was sent to your old address.

As you know, OGIS serves as the FOIA Ombudsman, a neutral office within government that assists FOIA requesters and Federal agencies with the FOIA process. Congress created OGIS as a non-exclusive alternative to litigation and 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.

I note that USCIS, in response to Appeal No. [REDACTED] affirmed the agency's response that it located no records responsive to your request. OGIS Facilitator Kirsten Mitchell carefully reviewed your submission of information and discussed your case with several USCIS FOIA professionals, including Lincoln Cameron, supervisory government information specialist at USCIS's National Records Center, Amber Duggan in USCIS's Office of Chief Counsel, and Vera Whisnant of USCIS's Genealogy Program.

As USCIS told you in its June 20, 2013 response to your appeal, it conducted multiple searches for records responsive to your request. We learned that USCIS searched its main CIS database as well as a Records Indexing System that dates to the 1800s using the search terms provided on your Form G-639, a copy of which we obtained from USCIS. The agency searched its records for [REDACTED] name, date of birth, country of birth, arrival port and the name of the ship on which he arrived and did not find any records responsive to your request. Federal courts have long settled that in regard to a search for documents, the crucial issue is whether an agency conducted an adequate search for a document, not whether a document *might* exist. An adequate search is conducted when the search is reasonably calculated to uncover all relevant documents.



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We shared with USCIS some of the information you shared with OGIS, including the document from the National Archives and Records Administration (NARA) at San Francisco which references [REDACTED]. USCIS did not use that number in its search as it was not in your original request. You may wish to submit a new FOIA request for documents pertaining [REDACTED] and include in your request [REDACTED]. If you have any other information about [REDACTED] that you have obtained since you submitted Request No. [REDACTED], please provide that information as it may assist USCIS in its search for responsive records. Copies of the NARA document as well as Form G-639 with which you may make a new request are enclosed for your convenience.

With regard to a CD containing records pertaining to [REDACTED], we contacted Ms. Whisnant and learned that the Genealogy Program sends paper, not electronic, copies of documents in response to requests. All requests to the Genealogy Program are given tracking numbers starting with GEN, while requests that go to the National Records Center are given tracking numbers starting with NRC. Ms. Whisnant also said that it has one pending request from you and that request does not pertain to [REDACTED].

With regard to your August 10, 2013, request to Ms. Mitchell regarding your request for records pertaining to [REDACTED], I note that [REDACTED] is the subject of OGIS Case No. 201300329. As we told you in our April 2, 2013 letter, USCIS received your appeal of its response to your previous request, No. [REDACTED], after the 60-day deadline for appeals and as such, did not process it in accordance with Department of Homeland Security FOIA regulations, 6 C.F.R. Chapter 1, Part 5, Section 5.9 Appeals.

In the future, if you are at all dissatisfied with USCIS's response to your FOIA requests, we urge you to appeal within the 60-day deadline that USCIS provides in its FOIA response letters. There is nothing that OGIS can do to speed the process for you or any other requester nor can we do anything to assist requesters who have missed their 60-day deadline.

I hope you find this information useful in understanding USCIS records. It appears that USCIS's response is in accordance with established FOIA law and policy. We will close your case with OGIS at this time.

Sincerely,



Miriam Nisbet, Director
Office of Government Information Services (OGIS)

cc: Alan Hughes, associate counsel, National Records Center, USCIS, via email

Enclosure

We appreciate your feedback. Please visit <https://www.surveymonkey.com/s/OGIS> to take a brief anonymous survey on the service you received from OGIS.