

UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLUMBIA

ROBERT MOORE, <i>et al.</i> ,)	
)	
Plaintiffs,)	
)	
v.)	Civil Action No. 20cv1027 (RCL)
)	
UNITED STATES CENTRAL)	
INTELLIGENCE AGENCY)	
)	
Defendant.)	
_____)	

**DECLARATION OF ASSISTANT UNITED STATES ATTORNEY
IN SUPPORT OF DEFENDANT’S OPPOSITION TO PLAINTIFF’S
CROSS-MOTION FOR SUMMARY JUDGMENT**

I, Darrell C. Valdez, declare as follows:

1. I am an Assistant United States Attorney assigned to the Civil Division of the United States Attorney’s Office for the District of Columbia (“USAO/DC”). I have been employed with the United States Attorney’s Office for over 27 years, since October 1994. Prior to my employment with the United States Attorney’s Office, I was employed from 1990 to October 1994 as a Senior Trial Attorney with the District of Columbia Office of the Attorney General (formerly the Office of the Corporation Counsel).

2. My responsibilities with the United States Attorney’s Office include representing the United States and its federal agencies in civil actions before the United States District Court for the District of Columbia and the Court of Appeals for the D.C. Circuit. I have also previously served as an Assistant United States Attorney in the Criminal Division of the United States Attorney’s Office, including assignments in the Homicide/Major Crimes Section and Federal Narcotics Section.

3. The statements I make in this declaration are made on the basis of my personal knowledge, including knowledge acquired by me through the performance of my official duties.

4. This matter initially came to the United States Attorney's Office after Plaintiffs filed a Complaint alleging violations of the Freedom of Information Act ("FOIA") on April 20, 2020. See Complaint (ECF No. 1). The Defendant filed an Answer to the Complaint on June 3, 2020. Answer (ECF No. 6).

5. As early as October 7, 2020, Defendant began providing Plaintiffs with responsive, non-exempt documents. See Declaration of Vanna Blaine ("Blaine Decl.") (ECF No. 21-2) at ¶ 9; see also Exh. B (ECF No. 21-3). Additional documents were provided by Defendant on October 22, 2020 (Exh. C), January 8, 2021 (Exh. D), April 30, 2021 (Exh. E), June 25, 2021 (Exh. F), September 16, 2021 (Exh. G), October 13, 2021 (Exh. H), and November 16, 2021 (Exh. I). See also Blaine Decl. at ¶¶ 10-17.

6. I contacted John Clarke, counsel for Plaintiffs, shortly after the Defendant's October 2021, production, including an email communication with Mr. Clarke on October 15, 2021, in which I specifically asked counsel for Plaintiffs to identify any issues that Plaintiffs had with the Defendant's production so that we could discuss them and possibly resolve or narrow any disputes prior to asking for a summary judgment schedule. See Exh. J (email from AUSA Darrell Valdez to Plaintiff counsel John Clark, dated October 15, 2020, 9:52 am).

7. Soon after I sent the email to counsel for Plaintiffs, I had a telephone conversation with Mr. Clarke, in which he informed me that we should be asking for a summary judgment schedule. In order to narrow the issues to be presented to the Court, I specifically asked Mr. Clarke what issues the Plaintiffs had with the Defendant's responses, and Mr. Clarke stated that the Plaintiffs were only challenging "the redactions and withholdings."

8. Upon completion of the call, I immediately drafted a Status Report setting out the precise language used by Mr. Clarke, stating that Plaintiffs were only challenging “the redactions and withholdings” made by Defendant and I sent the draft to counsel for Plaintiffs to confirm that it was correct. Def. Exh. J (Email at 1:54 pm).

9. At 2:16 pm, counsel for Plaintiffs sent a response email, confirming that the representation was “perfect.” *Id.* (Email at 2:16 pm).

10. The status report approved by counsel for Plaintiffs was then filed with the Court setting out Plaintiffs’ specific objections to be litigated in the dispositive motion proceedings. ECF No. 20.

11. In reliance upon Mr. Clarke’s representation, Defendant filed its Motion for Summary Judgment confining its arguments solely to those issues identified by Plaintiffs. ECF No. 21.

12. At no time prior to filing its Opposition/Cross-Motion for Summary Judgment did Plaintiffs ever notify Defendant that Plaintiffs had issues with the search.

Pursuant to 28 U.S.C. § 1746, I declare under penalty of perjury that the foregoing is true and correct.

Executed on February 21, 2021.

DARRELL C. VALDEZ
Assistant United States Attorney