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8 Attorneys for Federal Defendant

9 UNITED STATES DISTRICT COURT
10 NORTHERN DISTRICT OF CALIFORNIA
11 OAKLAND DIVISION

12 CAITLIN KELLY HENRY and JESSE
13 STOUT,
14 Plaintiffs,
15 v.

16 UNITED STATES DEPARTMENT OF
17 JUSTICE,
18 Defendant.

) Civil Action No. C13-5924 DMR
)
) **SUPPLEMENTAL DECLARATION OF GISELE**
) **BRYANT IN SUPPORT OF FEDERAL**
) **DEFENDANT’S MOTION FOR SUMMARY**
) **JUDGMENT**
)
) Date: January 22, 2015
) Time: 11:00 a.m.
) Place: Courtroom 4 - 3rd Floor
)
) Hon. Donna M. Rvu

- 19
20 1. I am a Freedom of Information Act (“FOIA”) and Privacy Act (“PA”) point of contact for the Civil
21 and Criminal Division of the United States Attorney’s Office for the District of New Jersey
22 (“USAO/NJ” or “District”). In this capacity, I serve as a liaison to the FOIA/PA Staff of the
23 Executive Office for United States Attorneys (“EOUSA”) in Washington, D.C., which processes and
24 responds to FOIA/PA requests located in the USAO/NJ.
25 2. My duties include receiving and reviewing requests made pursuant to FOIA, 5 U.S.C. § 552, and/or
26 the PA, 5 U.S.C. § 552a, for records maintained by, or located in the USAO/NJ. I am responsible
27 for the searches conducted by the USAO/NJ for records responsive to FOIA/PA requests.
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- 1 3. The statements I make in this supplemental declaration are made on the basis of my review of the
2 official files and records of the USAO/NJ, my own personal knowledge, or on the basis of
3 knowledge acquired by me through the performance of my official duties.
- 4 4. As discussed in my declaration dated September 24, 2014, "Declaration of Gisele Bryant In Support
5 of Federal Defendant's Motion for Summary Judgment" (hereinafter, "First Bryant Declaration"), I
6 am familiar with the FOIA/PA request submitted by plaintiff, Jesse Stout, dated April 30, 2013, and
7 assigned Request No. 2013-1996, and with the searches conducted by the USAO/NJ for records
8 responsive to Mr. Stout's request.
- 9 5. Cases and matters opened in the USAO/NJ are assigned a USAO number. The USAO/NJ maintains
10 paper case and matter files, identified by USAO number. The USAO/NJ does not have a central,
11 searchable, electronic filing system in which it maintains copies of records.
- 12 6. As discussed in the First Bryant Declaration, to search for records responsive to Mr. Stout's
13 FOIA/PA request, I used the Legal Information Office Network Systems ("LIONS"), a system used
14 by the USAO/NJ to track cases and matters in the District. LIONS does not store electronically the
15 actual documents from USAO/NJ cases and matters. As a first step, I used LIONS to determine if
16 there is a case/matter in the USAO/NJ involving Mr. Stout.
- 17 7. When I conducted a search of LIONS, I did so by entering the names that were provided to me on
18 Mr. Stout's FOIA request in a search of the "participants" field. The name variations that I used
19 were provided in the First Bryant Declaration at paragraph 6.
- 20 8. In LIONS, a "participant" may include litigants, subjects of investigation, victims and other
21 individuals, organization, or business associated with the case or matter.
- 22 9. The "participant" search returns all the cases/matters opened related to the person whose name (or
23 other search term) I enter into the search. Those results will include, among other information, the
24 USAO number for the case/matter, Assistant United States Attorney ("AUSA") assigned, case
25
26
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1 caption, and the status of the case, *i.e.*, whether the case/matter is active or closed. Closed files for
2 the District are stored at the Federal Records Center.

3 10. The District uses LIONS to track cases at the Federal Records Center. If LIONS identifies a
4 case/matter as closed, I use the USAO number assigned to that case/matter to locate and retrieve
5 case files at the Federal Records Center.

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7 11. In his FOIA/PA request, Mr. Stout provided his name and other personal identifying information,
8 which allowed me to conduct searches of the "participant" field. By entering Mr. Stout's name in a
9 "participant" search in LIONS, I would have been able see if there were any cases/matters that were
10 opened in the District that related to Mr. Stout. Specifically, by entering his name in this field, I
11 would be able to see if there was a single case, or multiple cases that related to him. Also, this type
12 of search allowed me to see what role, if any, he had regarding a case that was filed, investigated, or
13 prosecuted in the District. As discussed in the First Bryant Declaration, those searches returned no
14 results. I also performed a "participant" search of all the "associated key words" listed in Mr. Stout's
15 FOIA request. Those searches did not return any results.

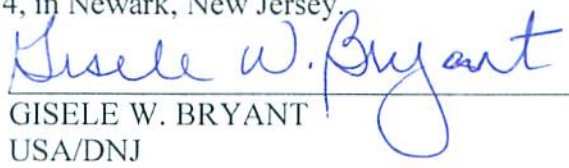
16
17 12. A "participant" search allowed me to obtain broader results than a LIONS query for a specific case
18 caption or case number. Those searches would only have allowed me to find information regarding
19 the specific case queried. Moreover, Mr. Stout did not provide a specific case caption or number in
20 his FOIA/PA request. Typically, in this District, in the event Mr. Stout's telephone was included as
21 part of a wiretap, notice would have been provided after completion of the wiretap. Mr. Stout has
22 provided no information regarding any such notice.

23
24 13. Although an AUSA may enter notes about the status of a particular case/matter to which the AUSA
25 is assigned in the "comments" fields on LIONS, use of these fields is discretionary. These fields are
26 often unused, and even if an AUSA opts to use the field, the type of status information that the
27 AUSA chooses to include is discretionary.

1 14. For the reasons described above and in the First Bryant Declaration, in the absence of a specific case
2 name or case number provided by Mr. Stout, a LIONS "participant" search using Mr. Stout's name
3 was the most comprehensive method available to determine whether there was a case/matter in the
4 USAO/NJ involving Mr. Stout. If the "participant" searches I ran had returned any results, those
5 results would have included the USAO number and the assigned AUSA, allowing the USAO/NJ to
6 locate the paper case file.
7

8 15. In the First Bryant Declaration, I explained that at my request an administrative support assistant in
9 the Records Department of the USAO/NJ conducted a search of an index on her computer for
10 archived cases that may have been purged from the LIONS database. These archived cases would
11 have been closed cases that were purged when the USAO/NJ transitioned to the LIONS database in
12 the 1990s.
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14 I declare under the penalty of perjury that the foregoing is true and correct, to the best of my knowledge
15 and belief. Executed this 8th day of December, 2014, in Newark, New Jersey.

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17 GISELE W. BRYANT
18 USA/DNJ
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