

**IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF COLUMBIA**

DAILY CALLER NEWS FOUNDATION	)	
1920 L Street N.W., Suite 200	)	
Washington, DC 20036	)	
Plaintiff,	)	
v.	)	Civil Action No. 18-1833
FEDERAL BUREAU OF INVESTIGATION	)	
935 Pennsylvania, Avenue, N.W.	)	
Washington, D.C. 20535,	)	
Defendant.	)	

**COMPLAINT**

1. Plaintiff Daily Caller News Foundation (“DCNF”) brings this action under the Freedom of Information Act (“FOIA”), 5 U.S.C. § 552, seeking access to records improperly withheld by Defendant Federal Bureau of Investigation (“FBI”).

2. This Complaint concerns a FOIA request for records relating to FBI Special Government Employee (“SGE”) Daniel Richman, including FBI communications with and about him, as well as his relationship with former FBI Director James Comey.

3. By failing to provide a final determination on this request or to produce non-exempt responsive records in a timely manner, Defendant FBI has unlawfully withheld agency records to which DCNF has a right.

**JURISDICTION AND VENUE**

4. Jurisdiction is asserted pursuant to 28 U.S.C. § 1331 and 5 U.S.C. § 552(a)(4)(B).

5. Venue is proper pursuant to 28 U.S.C. § 1391(e) and 5 U.S.C. § 552(a)(4)(B).

## **PARTIES**

6. Plaintiff DCNF is a 501(c)(3) non-profit organization that provides original investigative reporting from a team of professional reporters who operate for the public benefit. Content created by the DCNF is available without charge to any eligible news publisher that can provide a large audience.

7. Defendant FBI is an agency within the meaning of 5 U.S.C. § 552(f)(1). The FBI has possession, custody, or control of records to which DCNF seeks access and that are the subject of this Complaint.

## **FACTS**

8. By online form, dated April 25, 2018, DCNF submitted a FOIA request to the FBI seeking access to “all records, documents, and communications pertaining to Daniel Richman, a Special Government Employee hired by former FBI Director James Comey.” Ex. 1 (hereinafter “FOIA request”).

9. DCNF specified that “[t]his request includes all communications between the bureau and Mr. Richman concerning his SGE work assignments, all intra-bureau communications about Mr. Richman and his assignments and activities, as well as all work product delivered to Director Comey or to others within the bureau.” Ex. 1.

10. DCNF also specified that “[t]his additionally includes all of Mr. Richman's work product whose messages were conveyed to the public in FBI comments, speeches and printed material.” Ex. 1.

11. DCNF requested a full waiver of all fees for this “highly important topic” and explained that it is “an accredited news organization based in the District of Columbia. [DCNF]

has received recognition as a news organization from the U.S. Congress, the Pentagon and the White House, among other government entities.” Ex. 1.

12. DCNF “placed \$200 in [its] ‘maximum’ pay out, but in fact [DCNF] seek[s] all documents from the bureau for no cost to TheDCNF.” Ex. 1.

13. DCNF additionally requested expedited processing, explaining, “This issue touches on the trustworthiness, integrity and honesty of Director Comey, a key matter of public importance that can lead to a lack of public trust in our government officials. In light of these facts, we seek an expedited processing of this FOIA request.” Ex. 1.

14. By letter, dated May 7, 2018, the FBI acknowledged that it had received DCNF’s FOIA request and assigned it tracking number 1404359-000. The agency did not provide an estimated date of completion nor did the agency check the box on its letter indicating that the request was “currently being processed[.]” Ex. 2.

15. The FBI properly construed the DCNF request to be asking both for news media requester status and a public interest fee waiver. Ex. 2.

16. The FBI granted DCNF “news media requester” status and noted that DCNF’s application for a public interest fee waiver was still “under consideration.” Ex. 2.

17. To date, the FBI has failed to issue an interim response, final determination, or production of any responsive agency records.

### **COUNT I**

#### **Violation of the FOIA: Failure to Comply with Statutory Requirements**

18. DCNF repeats all of the above paragraphs.

19. The FOIA requires an agency to accept and process any request for access to agency records that (a) “reasonably describes such records,” and (b) “is made in accordance with published rules stating the time, place, fees, . . . and procedures to be followed[.]” 5 U.S.C. § 552(a)(3)(A).

20. The FOIA further requires an agency to respond to a valid request within twenty business days or, in “unusual circumstances,” within thirty business days. *Id.* § 552(a)(6)(A)–(B).

21. DCNF’s April 25, 2018 FOIA request seeks access to agency records maintained by the FBI, reasonably describes the records sought, and otherwise complies with the FOIA and applicable FBI regulations.

22. More than thirty business days have passed since the FBI acknowledged receipt of the FOIA request.

23. The FBI has failed to issue a final determination on or produce records responsive to the request within the applicable statutory time limits.

24. DCNF has fully exhausted its administrative remedies under 5 U.S.C. § 552(a)(6)(C).

**RELIEF REQUESTED**

WHEREFORE, DCNF respectfully requests and prays that this Court:

- a. Order the FBI to process the FOIA request and to issue a final determination within twenty business days of the date of the Order;
- b. Order the FBI to produce all responsive records promptly upon issuing its final determination on the FOIA request;
- c. Award DCNF its costs and reasonable attorney fees incurred in this action pursuant to 5 U.S.C. § 552(a)(4)(E); and
- d. Grant such other relief as the Court may deem just and proper.

Dated: August 6, 2018

Respectfully submitted,

/s/ Eric R. Bolinder

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