U.S. Department of Justice

United States Attorney
Southern District of New York

86 Chambers Street
New York, New York 10007

February 16, 2024

BY ECF
The Honorable Andrew L. Carter, Jr.
United States District Judge
Thurgood Marshall United States Courthouse
40 Foley Square, Room 2203
New York, NY 10007

Re: *Knight First Amendment Institute v. U.S. Dep't of Homeland Security et al.*, No. 17 Civ. 7572 (ALC)

Dear Judge Carter:

I write respectfully on behalf of both parties in the above-referenced FOIA action to provide a status update.

Background

As the Court is aware, various defendant agencies and components agreed to conduct a search for documents responsive to Item Number 1 in plaintiff's FOIA Request, and the United States Department of State ("State"), Customs and Border Protection ("CBP"), Department of Justice ("DOJ"), Homeland Security ("DHS"), and Citizenship and Immigration Services ("USCIS") have completed searching, processing, and producing responsive, non-exempt documents, if any. *See* Dkt. No. 171. As the parties previously detailed at length, Immigration and Customs Enforcement ("ICE") and Plaintiff agreed on specific search terms, and as of October 2023, ICE completed processing and producing all remaining responsive documents. Accordingly, all defendants in this matter have now completed searching for, processing, and producing documents responsive to Plaintiff's FOIA Requests.

Current Status

Plaintiff has agreed to dismiss with prejudice all claims in this action (except for any claims for attorney's fees and costs) against the following agencies and/or components: DOJ, USCIS, and CBP. The agencies and/or components remaining in this action are therefore ICE, State, and DHS.

As the parties also previously detailed, Plaintiff identified certain records produced by ICE, State, and DHS that contain redactions pursuant to various FOIA exemptions that Plaintiff might challenge through a motion for summary judgment, and Plaintiff has asked the agencies to prepare draft Vaughn indices further explaining the bases for the exemptions. The parties agreed

to the following deadlines: by December 15, 2023, State will provide a draft Vaughn index; by December 20, 2023, DHS will provide a draft Vaughn index; and by November 8, 2023, ICE will provide Plaintiff with a date by which ICE can complete draft Vaughn index. As the parties explained on December 1, 2023, DHS was on track to provide draft Vaughn indices by December 20; State was reevaluating certain redactions and conferring with various stakeholders; and ICE informed Plaintiff that it expected to provide a draft Vaughn index in January 2024.

Since our last report to the Court: (1) DHS has provided Plaintiff a draft Vaughn index; (2) State is in the final stages of reevaluating certain redactions and conferring with various stakeholders, and expects to provide a draft Vaughn to Plaintiff by March 15, 2024; and (3) ICE (a) conducted a re-review of the identified documents and, on February 15, 2024, reproduced to Plaintiff certain of those documents without redactions; (b) provided Plaintiff with the first iteration of a draft Vaughn index on February 16, 2024; and (c) continues to confer with various other stakeholders about the remaining documents and will provide an updated Vaughn index regarding those documents forthwith. The parties respectfully propose to file a further status update on March 29, 2024.

I thank the Court for considering this matter.

Respectfully,

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United States Attorney

By: */s/ Ellen Blain*

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