

Subject: FW: 19-cv-3540 (DDC) - AO v. DOJ
Date: Friday, February 18, 2022 at 2:07:27 PM Eastern Standard Time
From: Sarah Colombo
To: FOIA
Attachments: Pages Flagged by AO - 1083-1084_Redacted.pdf

Paralegals - Please process the attachment to this email as a new production. Thanks!

From: "Freidah, Andrew F. (CIV)" <Andrew.F.Freidah@usdoj.gov>
Date: Friday, February 18, 2022 at 1:48 PM
To: Sarah Colombo <sarah.colombo@americanoversight.org>
Subject: RE: 19-cv-3540 (DDC) - AO v. DOJ

Sarah,

I hope you are doing well! I have attached a re-processed, lesser-redacted release of the pages you raised issues/questions about in November. To provide you some further information regarding the withholdings in this release, the Exemption 5 privilege for these redactions is the deliberative process privilege. Furthermore, I note that in these re-processed pages there is no information that is withheld pursuant to Exemption 5 alone. As indicated on the redaction boxes, the Exemption 5 withholdings are all made in addition to Exemption 3 (National Security Act of 1947 – 50 U.S.C. Section 3024 (i)(1)) and/or Exemption 7(E).

Please let me know if this resolves your concerns and/or if you have any additional questions.

I also note that I am working on drafting a JSR for the JSR we have due Tuesday, and will aim to get you a draft either tonight, or more likely Tuesday morning.

Thanks!

Best,
Andrew

From: Sarah Colombo <sarah.colombo@americanoversight.org>
Sent: Friday, January 21, 2022 9:28 AM
To: Freidah, Andrew F. (CIV) <Andrew.F.Freidah@usdoj.gov>
Subject: [EXTERNAL] Re: 19-cv-3540 (DDC) - AO v. DOJ

Andrew,

Thank you in advance for taking care of filing the JSR and thank you for the response; this is helpful context.

Best,
Sarah

From: "Freidah, Andrew F. (CIV)" <Andrew.F.Freidah@usdoj.gov>

Date: Thursday, January 20, 2022 at 10:29 PM
To: Sarah Colombo <sarah.colombo@americanoversight.org>
Subject: RE: 19-cv-3540 (DDC) - AO v. DOJ

Sarah,

Thanks for your email. I will get the JSR on file tomorrow morning.

Regarding your question, I do not currently have an expected date for a response, but I am working to get one and will let you know as soon as I do. Just to provide you some additional information/context regarding this, normally OIP (in conjunction with its client offices) can assess its position independently where it has independently withheld information. However, here, OIP withheld information in conjunction with a handful of other offices, and because of the sensitivities involved within the email chain, OIP has had to re-consult with these offices in order to assess how, if at all, this email chain may be further segregated. OIP is currently awaiting responses to this consultation process. It is our understanding that those consultation responses have been delayed by the issues I mentioned in my earlier email, but we are actively pushing to get those responses back as soon as possible.

Best,
Andrew

From: Sarah Colombo <sarah.colombo@americanoversight.org>
Sent: Thursday, January 20, 2022 9:17 PM
To: Freidah, Andrew F. (CIV) <Andrew.F.Freidah@usdoj.gov>
Subject: [EXTERNAL] Re: 19-cv-3540 (DDC) - AO v. DOJ

Hi Andrew,

This is fine for this JSR. Is there a date by which your client expects to have a response?

Thanks,
Sarah

--

Sarah M. Colombo
Counsel
American Oversight
sarah.colombo@americanoversight.org
www.americanoversight.org | @weareoversight

Admitted only in New York; practice in the District of Columbia under supervision of members of the D.C. Bar.

From: "Freidah, Andrew F. (CIV)" <Andrew.F.Freidah@usdoj.gov>

Date: Thursday, January 20, 2022 at 5:10 PM
To: Sarah Colombo <sarah.colombo@americanoversight.org>
Subject: RE: 19-cv-3540 (DDC) - AO v. DOJ

Sarah,

I've attached a draft JSR, for the JSR we have due tomorrow. Please let me know if you have any edits/issues.

In terms of an update regarding the issues you have raised, we are making progress but do not yet have a response. Things have unfortunately been delayed by the holidays, weather-related office closures, and because Omicron has impacted staffing. It is being actively worked on, though, and I will be in touch with updates as soon as I can.

Thanks!

Best,
Andrew

From: Sarah Colombo <sarah.colombo@americanoversight.org>
Sent: Thursday, January 20, 2022 2:16 PM
To: Freidah, Andrew F. (CIV) <Andrew.F.Freidah@usdoj.gov>
Subject: [EXTERNAL] Re: 19-cv-3540 (DDC) - AO v. DOJ

Thanks, Andrew. I appreciate the update and will look for your email.

FYI I have a hearing starting at 330 ET tomorrow that could go for several hours so ideally we'd get the JSR finalized before then.

Best,
Sarah

--

Sarah M. Colombo
Counsel
American Oversight
sarah.colombo@americanoversight.org
www.americanoversight.org | @weareoversight

Admitted only in New York; practice in the District of Columbia under supervision of members of the D.C. Bar.

From: "Freidah, Andrew F. (CIV)" <Andrew.F.Freidah@usdoj.gov>
Date: Thursday, January 20, 2022 at 2:13 PM
To: Sarah Colombo <sarah.colombo@americanoversight.org>
Subject: RE: 19-cv-3540 (DDC) - AO v. DOJ

Sarah,

Thanks for your email. I'm working on getting an update on things, and plan to send you a draft JSR tonight.

Best,
Andrew

From: Sarah Colombo <sarah.colombo@americanoversight.org>
Sent: Thursday, January 20, 2022 2:00 PM
To: Freidah, Andrew F. (CIV) <Andrew.F.Freidah@usdoj.gov>
Subject: [EXTERNAL] Re: 19-cv-3540 (DDC) - AO v. DOJ

Hi Andrew,

Just checking in as we have a JSR due tomorrow. Could you please let me know where things stand?

Thanks very much.

Best,
Sarah

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Sarah M. Colombo
Counsel
American Oversight
sarah.colombo@americanoversight.org
www.americanoversight.org | @weareoversight

Admitted only in New York; practice in the District of Columbia under supervision of members of the D.C. Bar.

From: Sarah Colombo <sarah.colombo@americanoversight.org>
Date: Tuesday, January 18, 2022 at 6:26 PM
To: "Freidah, Andrew F. (CIV)" <Andrew.F.Freidah@usdoj.gov>
Subject: Re: 19-cv-3540 (DDC) - AO v. DOJ

Hi Andrew,

I hope you are doing well. Does your client have a response to my Nov. 18 email that you can share?

Thanks,
Sarah

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Sarah M. Colombo
Counsel
American Oversight
sarah.colombo@americanoversight.org
www.americanoversight.org | @weareoversight

Admitted only in New York; practice in the District of Columbia under supervision of members of the D.C. Bar.

From: "Freidah, Andrew F. (CIV)" <Andrew.F.Freidah@usdoj.gov>
Date: Wednesday, December 22, 2021 at 10:46 AM
To: Sarah Colombo <sarah.colombo@americanoversight.org>
Subject: RE: 19-cv-3540 (DDC) - AO v. DOJ

Yes, I can take care of filing.

Happy holidays!

Best,
Andrew

From: Sarah Colombo <sarah.colombo@americanoversight.org>
Sent: Wednesday, December 22, 2021 9:39 AM
To: Freidah, Andrew F. (CIV) <Andrew.F.Freidah@usdoj.gov>
Subject: [EXTERNAL] Re: 19-cv-3540 (DDC) - AO v. DOJ

Hi Andrew,

This is fine. Can you take care of filing? It'd be helpful to have a status report in early January – let's plan to touch base then, unless you have an update sooner.

Thanks, and happy holidays!

Best,
Sarah

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Sarah M. Colombo
Counsel
American Oversight
sarah.colombo@americanoversight.org
www.americanoversight.org | @weareoversight

Admitted only in New York; practice in the District of Columbia under supervision of members of the D.C. Bar.

From: "Freidah, Andrew F. (CIV)" <Andrew.F.Freidah@usdoj.gov>
Date: Tuesday, December 21, 2021 at 5:05 PM
To: Sarah Colombo <sarah.colombo@americanoversight.org>
Subject: RE: 19-cv-3540 (DDC) - AO v. DOJ

Sarah,

I've attached a draft JSR, for the JSR we have due tomorrow. Please let me know if you have any edits/issues.

As I mentioned in my email on Thursday, we are working on a response to the issues you have raised, and we will be in touch with updates on that as soon as we are able.

Thanks!

Best,
Andrew

From: Sarah Colombo <sarah.colombo@americanoversight.org>
Sent: Friday, December 17, 2021 5:16 PM
To: Freidah, Andrew F. (CIV) <Andrew.F.Freidah@usdoj.gov>
Subject: [EXTERNAL] Re: 19-cv-3540 (DDC) - AO v. DOJ

That sounds good. Thanks!

Sarah

From: "Freidah, Andrew F. (CIV)" <Andrew.F.Freidah@usdoj.gov>
Date: Friday, December 17, 2021 at 5:14 PM
To: Sarah Colombo <sarah.colombo@americanoversight.org>
Subject: RE: 19-cv-3540 (DDC) - AO v. DOJ

Sarah,

Yes, I plan to send you a draft, most likely on Tuesday (i.e. December 21).

Thanks, and have a great weekend!

Best,
Andrew

From: Sarah Colombo <sarah.colombo@americanoversight.org>
Sent: Friday, December 17, 2021 5:13 PM
To: Freidah, Andrew F. (CIV) <Andrew.F.Freidah@usdoj.gov>
Subject: [EXTERNAL] Re: 19-cv-3540 (DDC) - AO v. DOJ

Hi Andrew,

Thanks for the update. If you could draft the JSR in line with your client's status and send it over next week that would be great.

Have a nice weekend.

Best,
Sarah

--

Sarah M. Colombo
Counsel
American Oversight
sarah.colombo@americanoversight.org
www.americanoversight.org | @weareoversight

Admitted only in New York; practice in the District of Columbia under supervision of members of the D.C. Bar.

From: "Freidah, Andrew F. (CIV)" <Andrew.F.Freidah@usdoj.gov>
Date: Thursday, December 16, 2021 at 3:08 PM
To: Sarah Colombo <sarah.colombo@americanoversight.org>
Subject: RE: 19-cv-3540 (DDC) - AO v. DOJ

Sarah,

Thank you for your email, and I hope you are doing well too! To provide you an update, defendant is actively reviewing and looking into the issues you raised below. At this point, I do not believe we will be able to have a response for you prior to the December 22 JSR deadline, but we are making progress. Given that, I'm anticipating that next week's JSR will likely end up being substantially similar to the last few JSRs.

Best,
Andrew

From: Sarah Colombo <sarah.colombo@americanoversight.org>
Sent: Thursday, December 16, 2021 2:48 PM
To: Freidah, Andrew F. (CIV) <Andrew.F.Freidah@usdoj.gov>
Subject: [EXTERNAL] Re: 19-cv-3540 (DDC) - AO v. DOJ

Hi Andrew,

I hope you have been well. I'm writing to follow up on our exchange below. Have you been able to connect with your client? We have a JSR due on December 22 and I'd like to make some forward progress beforehand.

Thanks,
Sarah

--

Sarah M. Colombo
Counsel

American Oversight
sarah.colombo@americanoversight.org
www.americanoversight.org | @weareoversight

Admitted only in New York; practice in the District of Columbia under supervision of members of the D.C. Bar.

From: Sarah Colombo <sarah.colombo@americanoversight.org>
Date: Monday, November 22, 2021 at 11:00 AM
To: "Freidah, Andrew F. (CIV)" <Andrew.F.Freidah@usdoj.gov>
Subject: Re: 19-cv-3540 (DDC) - AO v. DOJ

You too. Thank you!

From: "Freidah, Andrew F. (CIV)" <Andrew.F.Freidah@usdoj.gov>
Date: Monday, November 22, 2021 at 10:46 AM
To: Sarah Colombo <sarah.colombo@americanoversight.org>
Subject: RE: 19-cv-3540 (DDC) - AO v. DOJ

Thanks for filing! I did get the ECF notice. My apologies for being unable to file.

Have a great Thanksgiving!

Best,
Andrew

From: Sarah Colombo <sarah.colombo@americanoversight.org>
Sent: Monday, November 22, 2021 10:44 AM
To: Freidah, Andrew F. (CIV) <Andrew.F.Freidah@usdoj.gov>
Subject: [EXTERNAL] Re: 19-cv-3540 (DDC) - AO v. DOJ

Hi Andrew – I was able to file. Let me know if you didn't get the ECF notice.

Thanks,
Sarah

From: "Freidah, Andrew F. (CIV)" <Andrew.F.Freidah@usdoj.gov>
Date: Monday, November 22, 2021 at 10:18 AM
To: Sarah Colombo <sarah.colombo@americanoversight.org>
Subject: RE: 19-cv-3540 (DDC) - AO v. DOJ

Thanks Sarah! I will get it on file shortly.

Best,

Andrew

From: Sarah Colombo <sarah.colombo@americanoversight.org>
Sent: Monday, November 22, 2021 9:38 AM
To: Freidah, Andrew F. (CIV) <Andrew.F.Freidah@usdoj.gov>
Subject: [EXTERNAL] Re: 19-cv-3540 (DDC) - AO v. DOJ

Hi Andrew,

I'm fine with the draft JSR. You have my permission to go ahead and file.

Thanks!
Sarah

From: "Freidah, Andrew F. (CIV)" <Andrew.F.Freidah@usdoj.gov>
Date: Friday, November 19, 2021 at 5:15 PM
To: Sarah Colombo <sarah.colombo@americanoversight.org>
Subject: RE: 19-cv-3540 (DDC) - AO v. DOJ

Sarah,

I've attached a draft JSR, for the JSR we have due Monday. Please let me know if you have any edits/issues.

Thanks!

Best,
Andrew

From: Sarah Colombo <sarah.colombo@americanoversight.org>
Sent: Thursday, November 18, 2021 3:21 PM
To: Freidah, Andrew F. (CIV) <Andrew.F.Freidah@usdoj.gov>
Subject: [EXTERNAL] Re: 19-cv-3540 (DDC) - AO v. DOJ

Thanks, Andrew. That sounds good!

Best,
Sarah

--

Sarah M. Colombo
Counsel
American Oversight
sarah.colombo@americanoversight.org
www.americanoversight.org | @weareoversight

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From: "Freidah, Andrew F. (CIV)" <Andrew.F.Freidah@usdoj.gov>
Date: Thursday, November 18, 2021 at 12:51 PM
To: Sarah Colombo <sarah.colombo@americanoversight.org>
Subject: RE: 19-cv-3540 (DDC) - AO v. DOJ

Sarah,

Thanks for your email! I will pass this along, and we will get back to you regarding that item as soon as we are able. Also, FYI, in terms of the JSR we have due Monday, my hope is to get you a draft JSR by end of day tomorrow.

b

Thanks!

Best,
Andrew

From: Sarah Colombo <sarah.colombo@americanoversight.org>
Sent: Thursday, November 18, 2021 12:23 PM
To: Freidah, Andrew F. (CIV) <Andrew.F.Freidah@usdoj.gov>
Subject: [EXTERNAL] 19-cv-3540 (DDC) - AO v. DOJ

Andrew,

I hope you have been well. I'm writing to follow up regarding the outstanding issues in this case. We have completed our review and have several concerns regarding withholdings and the application of redactions. For example, OLC has withheld in full a number of documents under Exemption 5 without any indication of which privilege applies. As another example, it appears that certain information redacted under Exemption 5 may be factual rather than deliberative or pre-decisional.

Rather than ask that you address each of those issues now - and in hopes avoiding the need to request a *Vaughn* index or move to summary judgment briefing - we have identified one item of particular concern that I wanted to raise first. Bates 20200518-0001083-1084 includes what appears to be a lengthy email from Edward O'Callaghan to Patrick Hovakimian that memorializes a September 23, 2019 meeting. The vast majority of the email is redacted on undifferentiated Exemption 3, 5, and 7(E) grounds and without segregation of any non-exempt material or indication as to why non-exempt material cannot be segregated. As a starting point, we would like to know DOJ's justification for applying each exemption to this material and which exemptions apply to which portions; if there are portions that are non-exempt, our hope is that DOJ will re-consider its position on redaction or provide further information justifying why that information has not been segregated.

Our hope is that satisfactory resolution of this particular issue will help expedite resolution of the case and I look forward to your response.

Best,
Sarah

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Sarah M. Colombo
Counsel
American Oversight
sarah.colombo@americanoversight.org
www.americanoversight.org | @weareoversight

Admitted only in New York; practice in the District of Columbia under supervision of members of the D.C. Bar.

Hovakimian, Patrick (ODAG)

From: Hovakimian, Patrick (ODAG)
Sent: Tuesday, September 24, 2019 8:34 PM
To: O'Callaghan, Edward C. (ODAG)
Subject: RE: 9/23 Meeting with Paul Murphy and Dave Bowdich

Thanks Ed. Your e-mail below generally comports with my recollection of these events. Thanks,

Pat

From: O'Callaghan, Edward C. (ODAG) (b)(6)
Sent: Tuesday, September 24, 2019 7:44 PM
To: Hovakimian, Patrick (ODAG) (b)(6)
Subject: 9/23 Meeting with Paul Murphy and Dave Bowdich

On the afternoon of September 23, 2019, DAG Rosen, AAG Brian Benczkowski, Patrick Hovakimian and I met with Paul Murphy (COS) and Dave Bowdich (DD) of the FBI in the DAG's conference room. (DD Bowdich joined the meeting after the conversation began, but the discussion was fully recapped after he arrived and he was fully informed of all matters that were discussed for the duration of the meeting). During the meeting, the DAG and AAG Benczkowski discussed the Department's conclusions with respect to a referral the Department had received in the last week of August from the Inspector General for the Intelligence Community (ICIG) regarding a purported complaint the ICIG had received, and about which he had notified the DNI. The ICIG's letter to the DNI notifying him of the complaint cited a conversation between the President and a leader of a foreign country, and opined that the conversation could form the basis of a potential violation of a federal campaign finance law. The ICIG's letter acknowledged that neither he nor the complainant had firsthand knowledge of the conversation that was cited and formed the basis of the complaint. (b)(3), (b)(5), (b)(7)(E)

[REDACTED]

[REDACTED] For that reason, the Department had concluded that there was no further action warranted in the matter. (The DAG also again explained that OLC had reviewed the facts of the matter and the applicable law under the relevant IC statute, and concluded that the complaint itself did not fall under the jurisdiction of the ICIG and therefore the complainant was not properly considered a whistleblower under the relevant statutory provisions that the ICIG cited).

(b)(3), (b)(5), (b)(7)(E)

[REDACTED]

(b)(3), (b)(5), (b)(7)(E)

(b)(5), (b)(7)(E)

The DAG then reviewed a proposed statement to be issued by DOJ to explain DOJ's and its components' handling of the ICIG referrals. The statement focuses on the legal analysis of the referral of the potential criminal campaign finance law violation performed by the Criminal Division pursuant to the provisions of the Justice Manual, and its conclusion that given the facts present in the transcript, there was no basis to predicate a preliminary investigation and that no further action was warranted. (b)(5), (b)(7)(E)

Edward C. O'Callaghan
Principal Associate Deputy Attorney General

(o)(b)(6)

(c)(b)(6)