

**UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF FLORIDA
MIAMI DIVISION**

CASE NO. 14-20945-CIV-WILLIAMS

AMERICANS FOR IMMIGRANT
JUSTICE, INC.,

Plaintiff,

v.

UNITED STATES CUSTOMS
AND BORDER PROTECTION; and
UNITED STATES DEPARTMENT
OF HOMELAND SECURITY,

Defendants.

DEFENDANTS' ANSWER TO COMPLAINT

Defendants, United States Customs and Border Protection, a component of the United States Department of Homeland Security (“CBP”), by and through the undersigned Assistant United States Attorney, hereby answers Plaintiff, Americans For Immigrant Justice, Inc.’s Complaint for Declaratory and Injunctive Relief. Each of Plaintiff’s numbered allegations is addressed in turn:

1. CBP admits Plaintiff has brought suit under the Freedom of Information Act, 5 U.S.C. § 552, seeking the disclosure of records concerning the operations of U.S. Customs and Border Protection in CBP’s Rio Grande Valley Sector in Texas. CBP admits that it is a component of the United States Department of Homeland Security. CBP denies, however, that it is unlawfully withholding any records.
2. CBP admits the allegations in paragraph 2 of the Complaint.

3. The document referenced in paragraph 3 of the Complaint and included in Exhibit "A" thereto speaks for itself.

4. CBP lacks knowledge as to Plaintiff's operations or the descriptions provided to Plaintiff by unidentified detainees, as alleged in paragraph 4 of the Complaint. Therefore, CBP neither denies nor admits Plaintiff's allegations concerning the same. CBP denies that it operates ten stations in the Rio Grande Valley Sector. In fact, CBP operates nine stations in the Rio Grande Valley Sector. CBP denies that it subjects persons in detention to conditions that are inhumane and/or unlawful. In any event, CBP denies that the allegation in paragraph 4 is relevant to Plaintiff's claim in this lawsuit, for disclosure of records pursuant to the Freedom of Information Act.

5. CBP lacks knowledge as to the reports provided to Plaintiff by unidentified detainees, as alleged in paragraph 5 of the complaint. CBP therefore neither admits nor denies the allegations in paragraph 5 concerning the same. Again, CBP denies that it subjects persons in detention to conditions that are inhumane and/or unlawful. In any event, CBP denies that the allegation in paragraph 5 is relevant to Plaintiff's claim in this lawsuit, for disclosure of records pursuant to the Freedom of Information Act.

6. CBP denies that detainees are not provided showering facilities or hygiene products. CBP lacks knowledge as to the reports provided to Plaintiff by unidentified detainees, as alleged in paragraph 6 of the complaint. CBP therefore neither admits nor denies the allegations in paragraph 6 concerning the same. Again, CBP denies that it subjects persons in detention to conditions that are inhumane and/or unlawful. In any event, CBP denies that the allegation in

paragraph 6 is relevant to Plaintiff's claim in this lawsuit, for disclosure of records pursuant to the Freedom of Information Act.

7. CBP lacks knowledge as to the reports provided to Plaintiff by unidentified detainees, as alleged in paragraph 7 of the complaint. CBP therefore neither admits nor denies the allegations in paragraph 6 concerning the same. Again, CBP denies that it subjects persons in detention to conditions that are inhumane and/or unlawful. CBP lacks knowledge as to the reports provided to Plaintiff by unidentified detainees, as alleged in paragraph 7 of the complaint. CBP therefore neither admits nor denies the allegations in paragraph 7 concerning the same. Again, CBP denies that it subjects persons in detention to conditions that are inhumane and/or unlawful. In any event, CBP denies that the allegation in paragraph 7 is relevant to Plaintiff's claim in this lawsuit, for disclosure of records pursuant to the Freedom of Information Act.

8. CBP denies that detainees receive no medical attention or that the medical attention they receive is inadequate. CBP lacks knowledge as to the reports provided to Plaintiff by unidentified detainees, as alleged in paragraph 8 of the complaint. CBP therefore neither admits nor denies the allegations in paragraph 8 concerning the same. Again, CBP denies that it subjects persons in detention to conditions that are inhumane and/or unlawful. In any event, CBP denies that the allegation in paragraph 8 is relevant to Plaintiff's claim in this lawsuit, for disclosure of records pursuant to the Freedom of Information Act.

9. CBP lacks knowledge as to the reports provided to Plaintiff by unidentified detainees, as alleged in paragraph 9 of the complaint. CBP therefore neither admits nor denies the allegations in paragraph 9 concerning the same. Again, CBP denies that it subjects persons in detention to conditions that are inhumane and/or unlawful. CBP lacks knowledge as to the reports provided to Plaintiff by unidentified detainees, as alleged in paragraph 9 of the complaint.

CBP therefore neither admits nor denies the allegations in paragraph 9 concerning the same. Again, CBP denies that it subjects persons in detention to conditions that are inhumane and/or unlawful. In any event, CBP denies that the allegation in paragraph 9 is relevant to Plaintiff's claim in this lawsuit, for disclosure of records pursuant to the Freedom of Information Act.

10. CBP admits that in July 2013, AI Justice submitted to CBP the FOIA request underlying this lawsuit,

11. CBP admits that, due to an overwhelming backlog of FOIA requests, it did not respond to Plaintiff's FOIA request until after this lawsuit was filed. CBP has compiled and provided records responsive to Plaintiff's request and is continuing to do so. Plaintiff's allegation that CBP is violating FOIA is a legal conclusion to which no response is required. CBP denies the remaining allegations in paragraph 11.

12. CBP admits that this Court has subject matter jurisdiction over this action.

13. CBP admits that venue is appropriate in the Southern District of Florida.

14. Paragraph 14 presents only a legal conclusion as to the availability of relief under the authorities cited. Therefore, no response is required. Nevertheless, CBP asserts that FOIA provides the only appropriate basis for relief.

15. CBP admits that Plaintiff has exhausted its administrative remedies.

16. CBP lacks knowledge of Plaintiff's operation and its mission. Therefore, CBP neither admits nor denies the allegations in paragraph 16 of the Complaint.

17. CBP admits that the Department of Homeland Security is a department of the executive branch of the United States Government, responsible for enforcing federal immigration laws. CBP admits that the Department of Homeland Security has possession and control over some, but not all of the records sought by AI Justice.

18. CBP admits that it is a component of the Department of Homeland Security, and that it is responsible for enforcing immigration laws at and between ports of entry to the United States, including detaining non-citizens who enter without authorization and operating detention facilities for that purpose. CBP admits it has possession and control over some, but not all of the records sought by AI Justice.

19. Plaintiff's July 3, 2013 FOIA request to CBP, a copy of which is attached to the Complaint as Exhibit "A," speaks for itself.

20. Plaintiff's July 3, 2013 FOIA request to CBP, a copy of which is attached to the Complaint as Exhibit "A," speaks for itself.

21. Plaintiff's July 3, 2013 FOIA request to CBP, a copy of which is attached to the Complaint as Exhibit "A," speaks for itself.

22. CBP admits that Plaintiff's FOIA request sought a fee waiver.

23. CBP admits that it acknowledged receipt of Plaintiff's FOIA request, as alleged in paragraph 23 of the Complaint. CBP's email to Plaintiff, a copy of which is attached as Exhibit "B" to the Complaint, speaks for itself.

24. Plaintiff's September 13, 2013 letter to CBP, a copy of which is attached to the Complaint as Exhibit "C," speaks for itself.

25. Plaintiff's December 18, 2013 letter to CBP, a copy of which is attached to the Complaint as Exhibit "D," speaks for itself.

26. CBP admits that, due to an overwhelming backlog of FOIA requests, it did not respond to Plaintiff's FOIA request until after this lawsuit was filed. CBP has compiled and provided records responsive to Plaintiff's request and is continuing to do so.

27. CBP admits that Plaintiff has exhausted its administrative remedies.

28. CBP repeats its responses to paragraphs 1-27 of the Complaint.

29. Paragraph 29 of the Complaint paraphrases 5 U.S.C. § 552(a)(6)(A)(i), which speaks for itself.

30. Paragraph 30 of the Complaint paraphrases 5 U.S.C. § 552(a)(6)(C)(i), which speaks for itself.

31. Paragraph 31 of the Complaint paraphrases 5 U.S.C. § 552(a)(4)(B), which speaks for itself.

32. CBP admits that Plaintiff properly submitted a FOIA request to it, which contained a request for a fee waiver. Although such a fee waiver has been granted, CBP has since learned that Plaintiff has a private interest in the disclosure of records sought.

33. Paragraph 33 presents Plaintiff's conclusions as to the ultimate legal issues in this lawsuit. To the extent that a response is required, the allegations in paragraph 33 are denied.

34. CBP denies that it has refused to conduct a reasonable search for the records sought. The remainder of paragraph 34 presents Plaintiff's conclusions as to the ultimate legal issues in this lawsuit. To the extent that a response is required, the allegations in paragraph 34 are denied.

35. CBP denies that it is improperly withholding agency records.

36. CBP repeats its responses to paragraphs 1-35 of the Complaint.

37. Paragraph 37 of the Complaint paraphrases 5 U.S.C. § 552(a)(4)(A)(i), which speaks for itself.

38. Paragraph 38 of the Complaint paraphrases 5 U.S.C. § 552(a)(4)(A)(ii)(III), which speaks for itself.

39. Paragraph 39 of the Complaint quotes 5 U.S.C. § 552(a)(4)(A)(4)(A)(iii), which speaks for itself.

40. Paragraph 40 of the Complaint paraphrases 5 U.S.C. § 552(a)(4)(A)(vii), which speaks for itself.

41. CBP denies that it has denied Plaintiff's application for a fee waiver.

42. CBP denies that Plaintiff is entitled under FOIA to the requested records "immediately." CBP has compiled and provided records responsive to Plaintiff's request and is continuing to do so. Moreover, CBP has granted Plaintiff' fee waiver application.

43. CBP denies that Plaintiff is entitled to costs of litigation including attorneys fees.

The remainder of Plaintiff's Complaint presents a prayer for relief, to which no response is required. To the extent that a response is required, CBP denies that Plaintiff is entitled to the relief it seeks.

Dated: September 8, 2014
Miami, Florida

Respectfully submitted,

WIFREDO A. FERRER
UNITED STATES ATTORNEY

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CERTIFICATE OF SERVICE

I hereby certify that on September 8, 2014, I filed the foregoing document with the Clerk of the Court, using the CM/ECF system.

/s/ Carlos Raurell
CARLOS RAURELL
Assistant United States Attorney