

**UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF FLORIDA
TALLAHASSEE DIVISION**

STATE OF FLORIDA,

Plaintiff,

v.

Case No. 4:23-cv-145

UNITED STATES DEPARTMENT
OF JUSTICE; *and* UNITED STATES
DEPARTMENT OF HEALTH &
HUMAN SERVICES,

Defendants.

**COMPLAINT FOR INJUNCTIVE RELIEF AND
TO COMPEL PRODUCTION OF DOCUMENTS**

The State of Florida brings this action against the U.S. Department of Justice (DOJ) and the U.S. Department of Health and Human Services (HHS) to compel compliance with the Freedom of Information Act (FOIA), 5 U.S.C. § 552.

PARTIES

1. Plaintiff State of Florida is a sovereign State and has the authority and responsibility to protect its public fisc and the health, safety, and welfare of its citizens and to seek information related to these duties.

2. Defendant DOJ is an agency of the United States Government. DOJ has possession, custody, and control of certain public records to which Florida seeks access.

3. Defendant HHS is an agency of the United States Government. HHS has possession, custody, and control of certain public records to which Florida seeks access.

JURISDICTION AND VENUE

4. The Court has jurisdiction over this action pursuant to 5 U.S.C. § 552(a)(4)(B) and 28 U.S.C. § 1331.

5. Venue lies in this district pursuant to 28 U.S.C. § 1391(e)(1) because the State of Florida is a resident of every judicial district in its sovereign territory, including this judicial district (and division). *See California v. Azar*, 911 F.3d 558, 570 (9th Cir. 2018); *Florida v. United States*, No. 3:21-cv-1066, 2022 WL 2431443, at *2 (N.D. Fla. Jan. 18, 2022).¹

STATEMENT OF FACTS

6. On February 9, 2022, Florida sent FOIA requests to Defendants. *See* Ex. 1; Ex. 2; Ex. 3. Among other documents, the requests sought records regarding

¹ *Accord Alabama v. U.S. Army Corps of Eng'rs*, 382 F. Supp. 2d 1301, 1329 (N.D. Ala. 2005); *see also Atlanta & F.R. Co. v. W. Ry. Co. of Ala.*, 50 F. 790, 791 (5th Cir. 1892) (explaining that “the state government . . . resides at every point within the boundaries of the state”).

the use of federal grant funds to promote drug use, including through the provision of drug paraphernalia such as crack pipes.

7. Florida sent the request to MRUFOIA.Requests@usdoj.gov, the email address provided for DOJ.² *See* Ex. 2.

8. Florida also sent the request to HHS via HHS's online FOIA submission portal. *See* Ex. 3.

9. Under 5 U.S.C. § 552(a)(6)(A)(i), Defendants must respond to a FOIA requests within twenty working days of receipt. Here, Defendants were required to respond by March 10, 2022.

10. Section 552(a)(6)(B) allows an agency to take an extension of ten working days if “unusual circumstances” require more time for completion of the request. Neither DOJ nor HHS invoked this exception.

11. Even if they had invoked the ten-day extension, Defendants' response would have been due March 24, 2022.

12. As of the date of this Complaint, Defendants have failed to (i) determine whether to comply with the requests; (ii) notify Florida of any such determination or the reasons therefor; (iii) advise Florida of the right to appeal any adverse

² DOJ provides FOIA contact information at <https://www.justice.gov/oip/make-foia-request-doj#2>.

determination; or (iv) produce the requested records or otherwise demonstrate that the requested records are exempt from production.

COUNT I

Violation of the Freedom of Information Act, 5 U.S.C. § 552

13. Florida repeats and incorporates by reference ¶¶ 1–12.

14. Defendants have failed to process and make a determination regarding Florida’s February 9, 2022 FOIA requests within the statutory time limit and are unlawfully withholding records requested by Florida under 5 U.S.C. § 552.

15. Because Defendants failed to make a final determination on Florida’s requests within the time limits set by FOIA, Florida is deemed to have exhausted its administrative remedies. *See* 5 U.S.C. § 552(a)(6)(C)(i).

16. Defendants’ actions harm Florida by continuously denying Florida access to documents that it has a legal right to. This harm is irreparable because no monetary damages can compensate Florida for this loss. Florida will continue to be irreparably harmed unless and until Defendants are compelled to conform their conduct to the requirements of the law.

PRAYER FOR RELIEF

For these reasons, Florida asks the Court to:

- a) Order Defendants to conduct a search for any and all records responsive to Florida’s FOIA requests and to demonstrate that they employed search

methods reasonably calculated to uncover all records responsive to the requests;

- b) Order Defendants to produce, by a date certain, any and all non-exempt records responsive to Florida's FOIA requests and an index of any responsive records withheld under claim of exemption;
- c) Enjoin Defendants from continuing to withhold any and all non-exempt records responsive to Florida's FOIA requests;
- d) Award Florida costs and reasonable attorney's fees pursuant to 5 U.S.C. § 552(a)(4)(E); and
- e) Award such other relief as the Court deems equitable and just.

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