

No. ____

In the
Supreme Court of the United States

ROBERT CAMPO,
Petitioner,

v.

U.S. DEPARTMENT OF JUSTICE,
Respondent.

FERISSA TALLEY,
Petitioner,

v.

U.S. DEPARTMENT OF LABOR,
Respondent.

APPENDIX

Jack Jordan
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3102 Howell Street
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816-746-1955
Counsel for Petitioners

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United States Court of Appeals
For the Eighth Circuit

No. 20-2430

Robert Campo

Plaintiff - Appellant

v.

U.S. Department of Justice

Defendant - Appellee

No. 20-2439

Ferissa Talley

Plaintiff - Appellant

v.

U.S. Department of Labor

Defendant - Appellee

No. 20-2494

Ferissa Talley

Plaintiff

Appendix 2a

Jack R. T. Jordan

Contemnor - Appellant

v.

U.S. Department of Labor

Defendant - Appellee

Appeals from United States District Court
for the Western District of Missouri - Kansas City

Submitted: June 17, 2021
Filed: July 30, 2021
[Unpublished]

Before GRUENDER, BENTON, and STRAS, Circuit Judges.

PER CURIAM.

For quite a while, Jack Jordan has been trying to get various emails that the United States government has in its possession. Rather than suing on his own behalf, as he did previously, he now represents others who seek them. Each of the cases ended at summary judgment, and the district court¹ imposed sanctions in one based on Jordan's litigation abuses. We affirm.

¹The Honorable Beth Phillips, Chief Judge, United States District Court for the Western District of Missouri, and the Honorable Ortrie D. Smith, United States District Judge for the Western District of Missouri.

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First, we agree with the district court that no genuine issue of material fact remained for trial. *See* 8th Cir. R. 47B; *Townsend v. Murphy*, 898 F.3d 780, 783 (8th Cir. 2018) (“We review a grant of summary judgment de novo.”). In each case, the United States fully complied with the Freedom of Information Act, *see* 5 U.S.C. § 552, and in one of them, res judicata provided an alternative basis for summary judgment.

Second, the district court had good reason to sanction Jordan for his abusive conduct, including by imposing \$1,500 in fines, setting filing restrictions, and alerting the bar disciplinary authorities to his behavior. The court had the power to take these actions, *see, e.g.*, Fed R. Civ. P. 11(c); *Chambers v. NASCO, Inc.*, 501 U.S. 32, 43–46, 50 (1991), which did not violate his First or Fifth Amendment rights, *see Gentile v. State Bar of Nevada*, 501 U.S. 1030, 1071–74 (1991); *Bill Johnson’s Rests., Inc. v. NLRB*, 461 U.S. 731, 743 (1983); *Coonts v. Potts*, 316 F.3d 745, 753 (8th Cir. 2003).

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UNITED STATES COURT OF APPEALS
FOR THE EIGHTH CIRCUIT

No: 20-2430

Robert Campo

Appellant

v.

U.S. Department of Justice

Appellee

No: 20-2439

Ferissa Talley

Appellant

v.

U.S. Department of Labor

Appellee

Appeal from U.S. District Court for the Western District of Missouri - Kansas City
(4:19-cv-00905-ODS)
(4:19-cv-00493-ODS)

ORDER

The petition for rehearing en banc is denied. The petition for rehearing by the panel is also denied.

November 02, 2021

Order Entered at the Direction of the Court:
Clerk, U.S. Court of Appeals, Eighth Circuit.

/s/ Michael E. Gans

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UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF MISSOURI

DECLARATION OF VINAY J. JOLLY

I, Vinay J. Jolly, declare the following to be a true and correct statement of facts:

1. I am an Attorney Advisor with the Executive Office for United States Attorneys ("EOUSA"), United States Department of Justice ("DOJ"). I am assigned to the component of EOUSA designated to administer the Freedom of Information Act ("FOIA"), 5 U.S.C. §552, amended by the OPEN Government Act of 2007, Pub. L. No. 110-175, 121 Stat. 2524, and the Privacy Act of 1974 ("PA"), 5 U.S.C. §552a. In that capacity, my responsibilities include the following: acting as liaison with other divisions and offices of the DOJ in responding to requests and litigation filed under both the FOIA/PA; reviewing FOIA/PA requests for access to records located in this office and the ninety-four United States Attorney's Offices ("USAO's") and the case files arising therefrom; reviewing correspondence related to requests; reviewing of searches conducted in response to requests; locating responsive records; and preparing EOUSA responses thereto to ensure that determinations to withhold or release such responsive records are in

ATTACHMENT A (with exhibits)

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accordance with FOIA, PA, and Department of Justice regulations (28 C.F.R. §§16.3 et seq. and §§16.40 et seq.).

2. As an Attorney Advisor of the FOIA/PA Unit, EOUSA, I have the authority to release and withhold records requested under the FOIA/PA. The statements I make in this Declaration are based upon my review of the official files and records of EOUSA, my own personal knowledge, and information acquired by me through the performance of my official duties.

3. Due to the nature of my official duties, I am familiar with the procedures followed by this office in responding to the FOIA request made to EOUSA by Plaintiff Robert Campo. This Declaration is being submitted in support of Defendant's Motion for Summary Judgment for records withheld by EOUSA.

BACKGROUND

4. On February 21, 2019 via routing from the Justice Management Division's Mail Referral Unit, EOUSA first received a FOIA/PA request letter from requester, Robert Campo, expressly seeking email records of Darin Powers in three cases relating to a litigant Jordan. (See Exhibit A.)

5. By electronic notification dated February 27, 2019 sent through its online FOIA portal, EOUSA advised the Plaintiff that it had received his request and assigned it a number of 2019-001917. (See Exhibit B.)

6. In this same letter, EOUSA further advised that the requested material seeking the files of the third parties could not be released absent express authorization and consent from the named third parties (Mr. Jordan), proof that the third party was deceased, or a clear demonstration that

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the public interest in disclosure outweighs the personal privacy interest of the third party.

EOUSA enclosed a form for Plaintiff to obtain the release authorization from the third party named in the request. (See id.)

7. In the same letter, EOUSA advised Plaintiff that to release the material without an authorization would result in an unwarranted invasion of personal privacy and would be in violation of the Privacy Act and generally exempt under FOIA. Accordingly, EOUSA denied Plaintiff's request pursuant to 5 U.S.C. §§ 552(b)(6) and (b)(7)(C), and the Privacy Act, 5 U.S.C. § 552a(b).¹ EOUSA further informed Plaintiff that, if requested, any responsive public records would be released without express authorization or public justification for release. Finally, Plaintiff was notified of his appeal rights and provided with contact information for the Office of Information Policy ("OIP"), and was informed that after the appeal has been decided, Plaintiff may have judicial review by filing a complaint.² ³ (See id.)

¹ EOUSA's response in this case is typically asserted to deny access to a third party's law enforcement records in the absence of a receipt of a privacy waiver or proof of death pursuant to FOIA Exemptions (b)(6) and (b)(7)(C), 5.U.S.C. §§ 552(b)(6) and (b)(7)(C), and the Privacy Act of 1974, 5 U.S.C. § 552a(b). See also 28 C.F.R. § 16.3.

² EOUSA has no record of receiving the third-party authorization from Plaintiff, and this request was subsequently closed.

³ Following Plaintiff's appeal to OIP, OIP fully affirmed EOUSA's action. (See Exhibit C.)

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EXEMPTION 5 U.S.C. §552(b)(7)(C)

UNWARRANTED INVASION OF PERSONAL PRIVACY

8. Exemption (B)(7)(C) protects from disclosure records or information compiled or law enforcement purposes, if such release could reasonably be expected to constitute an unwarranted invasion of personal privacy. Exemption 7(C) requires a balancing of private and public interests for an appropriate type of law enforcement records or information.

9. The subject request seeks investigatory files relating to third parties. It is well-recognized that individuals have a strong privacy interest in law enforcement records and that the mention of an individual's name and identifying information in connection with a law enforcement will engender comment and speculation, and carries a stigmatizing connotation. Moreover, the fact that an event is not completely private does not mean that an individual has no interest in limiting disclosure or dissemination of the information. Likewise, an individual mentioned in law enforcement records does not lose all rights to privacy merely because his or her name has been disclosed. Even public figures do not surrender all rights to privacy by placing themselves in the public eye.

10. In this case, EOUSA invoked Exemption b(7)(C), in conjunction with Exemption (b)(6), to withhold any records pertaining to the third party named in the FOIA request, Mr. Jordan. Plaintiff is seeking these files of Mr. Jordan. In making this decision, EOUSA determined that any records responsive to Plaintiff's request would be contained in the investigative files pertaining to a third party individual. EOUSA has determined that investigatory files are the type of law enforcement records where the balance characteristically tips in one direction due to the strong privacy interest of the individual named in these records.

ATTACHMENT A (with exhibits)

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See United States Dep’t of Justice v. Reporters Committee for Freedom of the Press, 489 U.S. 749, 776 (1989). For this reason, in the absence of an overriding public interest in disclosure, consent from the third parties or proof of death, EOUSA denied access to the third-party law enforcement information requested by Plaintiff pursuant to Exemption (b)(7)(C) because disclosure of the requested information could reasonably be expected to constitute an unwarranted invasion of these individuals’ privacy.⁴ This action is consistent with EOUSA’s handling of the third-party requests and is well-recognized by the courts.

11. As stated above, the Plaintiff has not provided EOUSA with authorization from the subject third party to release any privacy and other protected information that might be contained in the responsive files. Moreover, Plaintiff failed to meet its burden of establishing that there is any public interest in disclosure that outweigh the strong privacy interests of Mr. Jordan. Accordingly, “whether defendants actually searched for records … is ‘immaterial… because that refusal deprived [plaintiff] of nothing to which he is entitled.’” Lewis v. U.S. Department of Justice, 609 F.Supp.2d 80 (D.D.C.0 (2009) (Huvelle, J.).

12. EOUSA applied this exemption to any third-party information in conjunction with Exemption (b)(6).

EXEMPTION 5 U.S.C. §552(b)(6)

CLEARLY UNWARRANTED INVASION OF PERSONAL PRIVACY

13. Exemption (b)(6) permits the withholding of information contained in personnel, medical, and similar files, which if disclosed would constitute a clearly unwarranted invasion of

⁴ EOUSA also routinely invokes Exemption (b)(6), in conjunction with Exemption (b)(7)(C), to deny access to third-party information for the reasons stated infra at ¶¶ 13-14.

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personal privacy. This exemption protects from disclosure information that applies to a particular, identifiable individual.

14. EOUSA invoked Exemption (b)(6), in conjunction with Exemption (b)(7)(C), to deny access to information pertaining to the named third-party individual because this individual has strong privacy interests in this information, and Plaintiff has failed to establish an overriding public interest in disclosure. In addition, Plaintiff has failed to provide EOUSA with consent from Mr. Jordan or proof that the person is deceased. Consequently, the third-party individual's privacy interests in the requested law enforcement information outweigh the non-existent public interest in disclosure; therefore, to release any requested information would constitute a clearly unwarranted invasion of personal privacy.⁵ In light of the fact that any and all records responsive to the third-party request are exempt under Exemptions 6 and 7 (C), a document-by-document search and review of the responsive material is not conducted. It is under these circumstances in the instant matter that EOUSA denied access to Mr. Jordan's investigatory law enforcement records in response to Plaintiff's request.

CONCLUSION

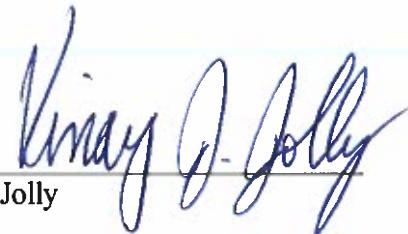
15. Each step in the handling of Plaintiff's request has been entirely consistent with the EOUSA's procedures adopted to ensure an equitable response to all persons seeking access to third-party records under the FOIA/PA. Thus, the EOUSA has properly responded to Plaintiff's FOIA request for third-party records.

⁵ EOUSA's balancing of the privacy and public interest in determining whether to withhold third-party information under Exemption (b)(7) (C), as set forth in Paragraphs 8-12, *supra*, applies equally to the balancing of interests under Exemption 6.

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I declare under penalty of perjury that the foregoing is true and correct and that Exhibits A-C attached hereto are true and correct copies.

Executed on JUN 1, 2020.



Vinay J. Jolly

Attorney Advisor

EOUSA, FOIA/PA Unit

ATTACHMENT A (with exhibits)

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Robert Campo
10606 Askew
Kansas City, Missouri 64137
816-761-7055
robertcampo@live.com

February 19, 2019

VIA EMAIL AT MRUFOIA.REQUESTS@USDOJ.GOV

U.S. Department of Justice
FOIA/PA Mail Referral Unit
Room 115
LOC Building
Washington, DC 20530-0001

Re: FOIA Request re: Powers' emails and Related Correspondence

Dear Sir or Ma'am:

Reference is made to the emails sent by Darin Powers on July 30, 2013 with the subject "WPS - next steps & actions" ("Powers' emails") that were at issue in three cases involving attorneys employed by the U.S. Department of Justice ("DOJ"): *Jordan v. U.S. Dep't of Labor*, (D.D.C. No. 1:16-cv-01868-RC) (and the related appeal to the D.C. Circuit No. 18-5128); *Jordan v. U.S. Dep't of Justice*, (D.D.C. No. 1:17-cv-02702-RC); *Jordan v. U.S. Dep't of Labor*, (W.D.Mo. No. 5:18-cv-06129-ODS). The signature pages on the filings in such cases included the local U.S. Attorney, one or more Deputy or Assistant U.S. Attorneys, and the local Civil Division Chief.

I respectfully request that the DOJ kindly promptly email to me an electronic (PDF) copy of any record maintained by the DOJ that satisfies the following criteria:

a copy of Powers' emails in any form that was transmitted to or from any DOJ employee by any person at any time in or after June 2016 along with any record establishing the date or manner of such transmission.

Please also note that I respectfully request that the DOJ communicate with me by email regarding this request, including in providing any response to or denial of this request.

Thank you for your prompt attention to this request.

Sincerely,

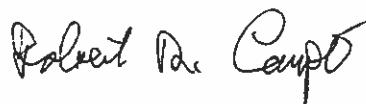


EXHIBIT A
ATTACHMENT A (with exhibits)

Appendix 13a
**UNITED STATES COURT OF APPEALS
FOR THE EIGHTH CIRCUIT**

No: 20-2430

Robert Campo

Appellant

v.

U.S. Department of Justice

Appellee

No: 20-2439

Ferissa Talley

Appellant

v.

U.S. Department of Labor

Appellee

No: 20-2494

Ferissa Talley

Jack R. T. Jordan

Appellant

v.

U.S. Department of Labor

Appellee

Appeal from U.S. District Court for the Western District of Missouri - Kansas City

(4:19-cv-00905-ODS)

(4:19-cv-00493-ODS)

(4:19-cv-00493-ODS)

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ORDER

Jack R. T. Jordan is disbarred from practicing law in this court.

November 02, 2021

Order Entered at the Direction of the Court:
Clerk, U.S. Court of Appeals, Eighth Circuit.

/s/ Michael E. Gans

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**UNITED STATES COURT OF APPEALS
FOR THE EIGHTH CIRCUIT**

No: 20-2430

Robert Campo

Appellant

v.

U.S. Department of Justice

Appellee

No: 20-2439

Ferissa Talley

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U.S. Department of Labor

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Appeal from U.S. District Court for the Western District of Missouri - Kansas City
(4:19-cv-00905-ODS)
(4:19-cv-00493-ODS)
(4:19-cv-00493-ODS)

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ORDER

The motions “for the issuance of a published (or at least reasoned) opinion” are denied. In the motions, counsel for the appellants accuses judges of this court and the district court of being liars, criminals, and “con men.” These scurrilous and unfounded allegations are unbecoming of an officer of the court and member of the bar. This order shall serve as notice of Jack R. T. Jordan’s unethical behavior to the Kansas and New York bars, of which he is a member, and we direct the Clerk of Court to serve copies of this order and the motions on the pertinent disciplinary bar authorities.

August 06, 2021

Order Entered at the Direction of the Court:
Clerk, U.S. Court of Appeals, Eighth Circuit.

/s/ Michael E. Gans

Appendix 17a
**UNITED STATES COURT OF APPEALS
FOR THE EIGHTH CIRCUIT**

No: 20-2430

Robert Campo

Appellant

v.

U.S. Department of Justice

Appellee

No: 20-2439

Ferissa Talley

Appellant

v.

U.S. Department of Labor

Appellee

No: 20-2494

Ferissa Talley

Jack R. T. Jordan

Appellant

v.

U.S. Department of Labor

Appellee

Appeal from U.S. District Court for the Western District of Missouri - Kansas City
(4:19-cv-00905-ODS)
(4:19-cv-00493-ODS)
(4:19-cv-00493-ODS)

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ORDER

Before GRUENDER, BENTON, and STRAS, Circuit Judges.

The pending motions, which repeat many of the unfounded, scurrilous allegations from previous filings, are denied. No further filings from Jack R. T. Jordan will be accepted in these cases, except for a proper petition for rehearing. We also order Jordan to show cause within 30 days why he should not be suspended or disbarred from practicing law in this court.

August 09, 2021

Order Entered at the Direction of the Court:
Clerk, U.S. Court of Appeals, Eighth Circuit.

/s/ Michael E. Gans

Appendix 19a

IN THE UNITED STATES DISTRICT COURT FOR THE WESTERN DISTRICT OF MISSOURI

In the Matter of
Jack R. T. Jordan,
Respondent.))))) No. 21-13-D



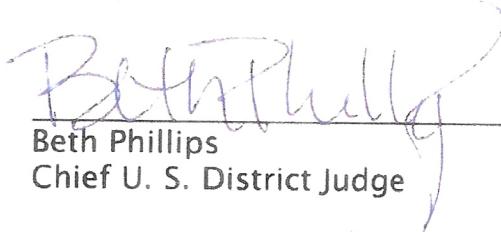
ORDER TO SHOW CAUSE WHY RESPONDENT SHOULD NOT BE DISBARRED FROM PRACTICING LAW BEFORE THIS COURT

On November 2, 2021, the United States Court of Appeals for the Eighth Circuit entered an order disbarring respondent from the practice of law before that court. A certified copy of that order has been presented to this Court.

Upon receipt by this Court of a certified or exemplified copy of a judgment or order stating that an attorney admitted to practice before this Court has been disciplined by another court, an order will issue directing the respondent to show cause why identical discipline should not be imposed by this Court. Local Rule 83.6(c)3.B.

Accordingly, it is ORDERED that:

- 1) respondent has 30 days after service of this order to show cause in writing why an order should not be entered by this Court pursuant to Local Rule 83.6(c)3.E disbarring respondent from the practice of law before this Court; and
- 2) the Clerk of the Court is directed to mail a copy of this order by regular United States Mail and by certified mail, return receipt requested, to Jack R. T. Jordan, 3102 Howell Street, North Kansas City, MO 64116.



Beth Phillips

Beth Phillips

Chief U. S. District Judge

Kansas City, Missouri

Dated: 11/17/21

I HEREBY ATTEST AND CERTIFY ON 11/17/21
THAT THE FOREGOING DOCUMENT IS A FULL TRUE AND
CORRECT COPY OF THE ORIGINAL ON FILE IN MY OFFICE
AND IN MY LEGAL CUSTODY.

PAIGE A. WYMORE-WYNN
CLERK U.S. DISTRICT COURT
WESTERN DISTRICT OF MISSOURI

BY C. labuca DEPUTY