

25-6147

ORIGINAL

No.

In the Supreme Court of the United States

Supreme Court, U.S.
FILED

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OFFICE OF THE CLERK

ANTHONY ROLAND, PETITIONER

v.

UNITED STATES DEPARTMENT OF JUSTICE and FEDERAL
COMMUNICATIONS COMMISSION

*ON PETITION FOR A WRIT OF CERTIORARI
TO THE UNITED STATES COURT OF APPEALS
FOR THE SEVENTH CIRCUIT*

PETITION FOR A WRIT OF CERTIORARI

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QUESTION PRESENTED

Petitioner Anthony Roland, proceeding *Pro se*, filed a Freedom of Information Act (FOIA) under 5 U.S.C. § 552 (a)(4)(B), claiming that 2 (*two*) of the Department of Justice (DOJ) components (FBI) Federal Bureau of Investigation, CRM (Criminal Division) and the Federal Communications Commission (FCC) agency failed to conduct an adequate search for Plaintiff records involving electronic surveillance and communication interference.

The FOIA was enacted in 1966 to prevent the government from hiding information simply because it is inconvenient, embarrassing, or politically sensitive. A government that hides information without lawful cause undermines accountability, public trust, and informed citizenship.

--- CONGRESS.GOV

The Question Presented is:

Whether the court of Appeals may summarily dismiss a Petitioner's Freedom of Information Act (FOIA) claim on the ground that "*any issues which could be raised are insubstantial and that further briefing would not be helpful*," rather than dismissing the action based on a Statutory FOIA's exemption or for failure to Exhaust Administrative Remedies.

PARTIES TO THE PROCEEDING

The petitioner, who was the plaintiff-appellant below, is Anthony Roland, an American citizen and native of Chicago.

The respondent, who was the defendant-appellee below, is Nigel B. Cooney, the Assistant United States Attorney for the U.S. Department of Justice for the Northern District of Illinois.

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Petition for a Writ of Certiorari

Petitioner Anthony Roland, proceeding *Pro se*, respectfully seeks a writ of certiorari to review the judgment of the United States Court of Appeals for the Seventh Circuit.

Opinion Below

The Judgment of the United States Court of Appeals for the Seventh Circuit denied Mr. Roland a direct appeal on October 01, 2025. A Federal Reporter Citation has not been issued for this appeal. Joint Appendix (“JA”) 1-2.

Jurisdiction

The Judgment of the United States Court of Appeals for the Seventh Circuit was entered on October 01, 2025. Mr. Roland invokes this Court’s Jurisdiction under 28 U.S.C. § 1254(1). Petitioner is simultaneously filing an *in forma pauperis* (IFP) to this petition for certiorari. This petition is timely filed pursuant to Sup. Ct. R. 13.1 & 29.2.

**Constitutional and Statutory
Provision Involved**

1. United States Constitution, Amendment I:

“Freedom of Speech.” The First Amendment broadly protects the rights of free speech and free press. Free speech means the free and public expression of opinions without censorship, interference, and restraint by the government.

2. 5 U.S.C. § 552(a)(4)(B), provides:

Judicial Review of Agency Withholding Decisions

Federal district courts have “jurisdiction to enjoin [an] agency from withholding agency records and to order the production of any agency records improperly withheld from the complainant. The Supreme Court, accordingly, has explained that a court has jurisdiction under §

552(a)(4)(B) if it can be shown “that an agency has (1) improperly; (2) withheld; (3) agency records.” FOIA instructs courts to review appeals from agency withholding decisions “*de novo*.”

Statement of the Case

Plaintiff Mr. Roland sought records under both the Freedom of Information Act (FOIA) and the Privacy Act (PA) from 2 (*two*) components of the Department of Justice (DOJ) agencies, which were the Federal Bureau of Investigation (FBI) and the Criminal Division (CRM), along with the Federal Communications Commission (FCC). The cause of Mr. Roland's FOIA request is the unreasonable occurrence of electronic surveillance and communication interference.

After appealing all 3 (*three*) FOIA requests to the Office of Information Policy (OIP) due to the agencies' responses stating that no records were found, Mr. Roland decided to file a FOIA lawsuit pursuant to 5 U.S.C. § 552(a)(4)(B), alleging violations under [*Counts*] failure to comply with statutory deadlines pursuant to 5 U.S.C. § 552 (a)(6)(A)(i) and failure to conduct an adequate search pursuant to 5 U.S.C. § 552(a)(3)(C).

This case presents the question of whether Mr. Roland's FOIA lawsuit can be dismissed under Federal Rule of Civil Procedure 12(b)(6) while sufficiently stating a claim for relief.

A. Factual Procedures

On May 7, 2024, Mr. Roland submitted his FOIA request to the FBI about the Plaintiff. The request sought:

1. FBI-002 (Central Records Systems); 2. Electronic Surveillance (ELSUR); 3. FBI-002 National Data Exchange (N-Dex); and 4. Vaugh index, among other systems of records.

JA 24-25.

On May 15, 2024, the FBI responded with Request No.: 1449518-001, and in the letter, a checked box was included for the statement, “Request for expedited processing is not applicable when final response is issued within ten calendar days.” JA 26.

On June 10, 2024, Mr. Roland filed an Appeal to the Office of Information Policy (OIP) explaining “the FBI failed to adequately search for Mr. Roland’s request records.”

On September 20, 2024, an *untimely* response letter was received with Appeal No. A-2024-01964 explaining, “The FBI informed you that it could locate no responsive main entity records subject to FOIA in its files. I have determined that the FBI’s action was correct and that it conducted an adequate, reasonable search for such records.” Along with explaining that I have permission to file a lawsuit in the Federal District Court. JA 28-29.

On November 1, 2024, the court approved Plaintiff *in forma pauperis* (IFP) to file his FOIA lawsuit under 5 U.S.C. § 552(a)(4)(B). FBI FOIA violation claim of actions: [Count 1] failure to comply with statutory deadlines under 5 U.S.C. § 552(a)(6)(A)(i) and [Count 2] failure to conduct an adequate search under 5 U.S.C. & 552(a)(3)(C). Plaintiff has sufficiently stated a claim for relief. JA 16-17.

On June 9, 2024, Mr. Roland submitted his FOIA request to the Criminal Division (CRM) with the submission ID: 1237671. The request sought:

1. CRM-003 (CHK to determine if those individuals have been subject to any electronic surveillance); 2. CRM-019 (Request to the Attorney General for approval of applications to the Federal Judge for electronic interceptions), among other systems of records. JA 30-32.

On September 30, 2024, an *untimely* response with a Response No. CRM-302113768 explaining “The Criminal Division personnel searched the section most likely to maintain records, and no responsive records subject to the FOIA were located.” JA 33.

On October 22, 2024, Mr. Roland filed an appeal to the Office of Information Policy (OIP) to explain “the CRM failed to adequately search for Mr. Roland’s request records.” On October 24, 2024, Plaintiff received a CRM acknowledgment letter with an assigned Appeal number A-2025-00212. On January 21, 2025, CRM responded, “I have been informed that you filed a lawsuit....Under 28 C.F.R. § 16.8(b)(2) (2023), an appeal ordinarily will not be acted upon by this Office if the FOIA request becomes the subject of litigation.” JA 34.

On November 1, 2024, the court approved Plaintiff *in forma pauperis* (IFP) to file his FOIA lawsuit under 5 U.S.C. § 552(a)(4)(B). CRM FOIA violation claim of actions: [Count 3] failure to comply with statutory deadlines under 5 U.S.C. § 552(a)(6)(A)(i) and [Count 4] failure to conduct an adequate search under 5 U.S.C. § 552(a)(3)(C). Plaintiff has sufficiently stated a claim for relief. JA 17-18.

On May 8, 2024, Mr. Roland submitted his FOIA request to the Federal Communications Commission (FCC), regarding the Plaintiff. The request sought:

1. FCC/OIG-3 (Investigation and Audit files); 2. FCC/OMD-17 (FOIA/PA request); 3. FCC/OEA-6 (Broadband Data Collection), among other requests. On May 21, 2024, the FCC responded with 2 (*two*) documents on FCC/OMD-17. JA 35-37.

On June 27, 2024, Mr. Roland submitted an Appeal FOIA request to the FCC, explaining that they failed to conduct an adequate search. On July 26, 2024, the FCC responded with an Appeal number: FCC-FOIA-2024-000636-A, explaining that his Application for Review (AFR) is denied. JA 37-39.

On November 1, 2024, the court approved Plaintiff *in forma pauperis* (IFP) to file his FOIA lawsuit under 5 U.S.C. § 552 (a)(4)(B). FCC FOIA violation claim of action: [Count 5] failure to conduct an adequate search under 5 U.S.C. § 552(a)(3)(C). Plaintiff has sufficiently stated a claim under this section. JA 19.

B. The Defendant's Furnished Zero Affidavits during the Cross-Motion to Dismiss Under Rule 12(b)(6).

On November 1, 2024, the court approved Mr. Roland's FOIA IFP, Case No. 1:24-cv-09617. Dkt 8¹.

On January 31, 2025, the Defendant, Mr. Cooney, filed a motion to dismiss for failure to state a claim. Dkt 22.

On February 19, 2025, Mr. Roland filed an Amended Complaint. JA 11, Dkt 26.

On March 13, 2025, the Defendant filed another motion to dismiss under Fed. R. Civ. P. 12(b)(6), arguing that Mr. Roland's allegations, as set forth in the Amended Complaint, are delusional and unsupported by any objective facts. Dkt 28. The Defendant further argued that:

- Mr. Roland is not entitled to any presumption that his claims should be deemed true, nor should he be allowed to maintain a FOIA case against the United States based on claims with no factual grounding, and his case is frivolous. *Id.*
- Even if Mr. Roland were correct that he is being watched pursuant to search warrants or as part of a covert NSA operation, such matters could not be uncovered through a FOIA lawsuit under 5 U.S.C. § 552(b)(1), (7)². *Id.*
- The agency should be **spared the time and effort** required to respond to frivolous allegations with **detailed affidavits** and agency records. *Id.*

¹ "Dkt." Refers to numbered items on the district court docket.

² 5 U.S.C. § 552(b)(1),(7) – Both National Security Exemption and Law Enforcement Records Exemption.

On April 3, 2025, Plaintiff Mr. Roland objected to the Defendant's motion to dismiss the Amended Complaint, arguing the Legal Standard of Rule 12(b)(6), **no affidavit**, and that under 50 U.S.C. § 1806 (f) *In-Camera and Ex parte* proceedings are designed to protect national security. Stated as Follows: Dkt 33.

- When a claim is challenged under Rule 12(b)(6), the court must presume all well-pleaded allegations are true, resolve all reasonable doubts and inferences in the pleader's favor, and view the pleading in the light most favorable to the non-moving party. See *Bell Atlantic Corp. v. Twombly*, 550 U.S. at 555 (2007). *Id.*
- The Defendant never provided an affidavit. Production of such an affidavit allows a requester to challenge, and a court to assess, the adequacy of the search performed by the agencies. *Id.*
- By allowing a judge to review classified information *In-camera* and *Ex parte*, the government can demonstrate the lawfulness of the surveillance without disclosing sensitive details to the public or the aggrieved person. *Id.*

C. The District Court's Opinion

On July 28, 2025, Judge April M. Perry issued an Opinion and Order dismissing Mr. Roland's FOIA lawsuit under Fed. R. Civ. P. 12(b)(6). The District Court Opinion is summarized as follows:

The Court dismissed the Plaintiff's case under Rule 12(b)(6) and 28 U.S.C. § 1915(e)(2) because the complaint failed to state a claim upon which relief could be granted. Although the plaintiff alleged that the FBI (Federal Bureau of Investigation) and the CRM (Criminal Division) delayed in responding to his FOIA requests, his request for injunctive relief was moot, and the remaining counts lacked factual plausibility. The Court also noted that the Plaintiff had filed

similar, repetitive claims before. Citing *Neitzke v. Williams*, 490 U.S. 319, 327 (1989), it found the action to be meritless and duplicative, and therefore dismissed the case with prejudice. JA 3-10, Dkt 38.

D. Seventh Circuit Ruling

The Seventh Circuit Panel *Granted* the Appellees' Motion for Summary Affirmance. The Panel Order is summarized as follows:

The court reviewed the district court's final order and the record on appeal and found no substantial issues warranting further briefing or argument. Citing prior Seventh Circuit precedents, it determined that summary disposition was proper because one party's position was clearly correct as a matter of law. The district court had reasonably found the complaint's claims implausible and repetitive of issues previously raised in similar cases. JA 1-2, Dkt 10.

REASONS FOR GRANTING THE PETITION

I. The Panel's Decision Conflicts with both Supreme Court and Circuit Precedent of Dismissing a FOIA complaint under Fed. R. Civ. P. 12(b)(6).

To survive a motion to dismiss pursuant to Rule 12(b)(6) for failure to state a claim, the complaint must state a Plausible claim for relief. See *Sykes v. United States*, 507 F. App. 455, 457 (6th Cir. 2012) (citing *Ashcroft v. Iqbal*, 556 U.S. 662, 678 (2009)). To state a plausible claim for relief under the Freedom of Information Act, 5 U.S.C. § 552, a plaintiff must allege that (1) he made a proper FOIA request; (2) the records requested fall within the purview of the statute; and (3) he has exhausted the available administrative remedies prior to bringing an action in federal court.

First, Mr. Roland made a proper FOIA request as listed in the above statement, complying with the rules of each agency as follows:

(1) Mr. Roland Submitted a written FOIA request to the agencies by both USPS (United States Postal Service) and electronic submission; (2) Mr. Roland's FOIA requests were detailed, seeking records that were in their System of Records category, listing the date to search from (e.g., January 1, 2023, to March 31, 2023); (3) The FOIA requests were all sent to the correct agency locations; and (4) The FOIA request explains a payment method.

Second, Mr. Roland's FOIA requests were consistent with the statute as listed in the above statement. None of the nine exemptions enacted by Congress was a factor in Mr. Roland's FOIA request; therefore, records were legally reviewable for disclosure under the FOIA statute, 5 U.S.C. § 552.

Finally, Mr. Roland has exhausted administrative remedies by appealing to the Office of Information Policy (OIP) before filing his FOIA lawsuit in a District Court. Each of the 3 (*three*) Federal agencies issued an Appeal acknowledgment receipt in their letter, formatted as follows:

- FBI **appeal** acknowledgment receipt: Appeal No. A-2024-01964.
- CRM **appeal** acknowledgment receipt: Appeal No. A-2025-00212.
- FCC **appeal** acknowledgment receipt: A-2024-000636.

Mr. Roland clearly complied with the procedures to survive a motion to dismiss pursuant to Rule 12(b)(6); moreover, no statutory exemption was mentioned in the Panel decision. (Quoting *Bell v. Hood*, 327 U.S. 678, 682 (1946)). Thus, the sufficiency of a complaint under Rule 12(b)(6) is “a question of law [that] must be decided after and not before the court has assumed jurisdiction over the controversy.” The basis for that conclusion is evidence. The Panel’s decision undermines the statutory structure of FOIA. Mr. Roland respectfully requests that this court issue a writ of certiorari to review the Judgment of the lower court dismissal under Rule 12(b)(6).

A. Lower Court Erred in Declaring Petitioner's FOIA Lawsuit Insubstantial.

According to *Goosby v. Osser*, 409 U.S. 512, 518 (1973). A claim is insubstantial, the court explained, when it is “obviously frivolous” or “inescapably” meritless. The Lower Court never clarified the reason behind dismissing Petitioner's FOIA lawsuit on the ground that “*any issues which could be raised are insubstantial and that further briefing would not be helpful*,” rather than dismissing the action based on the statutory FOIA's exemption or failure to Exhaust Administrative Remedies.

Petitioner Mr. Roland, proceeding *Pro se* can only conclude that the panel decided my FOIA lawsuit, insubstantial or “obviously frivolous,” is the purpose of the FOIA request. In the Plaintiff's FOIA lawsuit, Mr. Roland describes his experience of unreasonable electronic surveillance and communication interference as the cause of action. Petitioner's explanation of his purpose in filing a FOIA request is a layperson's attempt to contextualize their request, not an effort to make a legal argument. The First Amendment right of “*free speech*” should not be treated as frivolous or held to a technical standard. A claim is frivolous only if it “lacks an arguable basis either in law or in fact.” (Quoting *Neitzke*, 490 U.S. at 327 (1989)). A requester who earnestly explains why they believe the records matter to them is not acting frivolously, even if their reasoning is personal or not legally sophisticated.

Petitioner Mr. Roland's FOIA request still invokes a federal statute, pursuant to 5 U.S.C. § 552(a)(4)(B), which authorizes the Federal Court to order the production of any agency records improperly withheld. Treating a *Pro se* litigant's stated purpose as “obviously frivolous” risks penalizing them simply for their lack of legal training. That contradicts the FOIA's democratic intent to ensure all citizens, not just attorneys or experts, can access government records.

II. The Defendant Provided Zero Affidavit and *Vaughn* Index Necessary to Support a Motion for Summary Judgment.

Mr. Roland took all necessary steps before filing his FOIA lawsuit in a District Court under 5 U.S.C. § 552(a)(4)(B), authorizing the Federal Court to order the production of Mr. Roland's requested records from the agencies (FBI, CRM, and FCC).

Mr. Roland's FOIA violation claims involved [*Counts*] for failure to conduct an adequate search pursuant to 5 U.S.C. § 552(a)(3)(C), which causes for “*inference*” and failure to comply with statutory deadlines pursuant to 5 U.S.C. § 552(a)(6)(A)(i), which state a claim.

The lower court's FOIA summary judgment contradicts Circuit Court and U.S. Supreme Court decisions by excusing the agencies from their burden to demonstrate, with evidence and affidavits, the adequacy of their search methods. See *e.g.*, *Weisberg v. DOJ*, 705 F.2d 1344 (D.C. Cir. 1983). An agency cannot lawfully withhold records merely because it wants to keep them secret. It must identify a specific FOIA exemption and demonstrate that withholding is legally justified.

In the Summary judgment stage, the agency must provide evidence (*e.g.*, a reasonably detailed affidavit, setting forth the search terms and the type of search performed, and averring that all files likely to contain responsive materials were searched). See *Oglesby v. U.S. Dept. of Army*, 920 F.2d 57 (D.C. Cir. 1990) (holding that an agency affidavit was inadequate because it did not 1. Explain why the search method was reasonably calculated to uncover relevant documents; 2. Identify the search terms; or 3. Explain how the search was conducted.)

Additional grounds upon which the lower court could have granted summary judgment “if the pleadings, the discovery and disclosure materials on file, and any affidavits show that there is no genuine issue as to any material fact and that the movant is entitled to judgment as a matter of

law.” See Fed. R. Civ. P. 56 (c)³. Quoting *Military Audit Project v. Casey*, 656 F.2d 724, 738 (D.C. Cir. 1981), “the documents and justifications for nondisclosure with reasonably specific detail, demonstrate that the information withheld logically falls within the claimed exemption, and not controverted by either contrary evidence in the records or evidence of agency bad faith.”

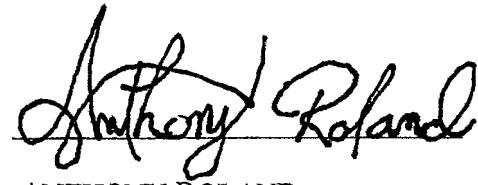
The Defendant never explained their search methodology or furnished **any** affidavits to challenge the agency’s “*no record*” response. Plaintiff Mr. Roland should have been afforded appropriate affidavits on whether the agencies have “any or all” records related to his FOIA request or a detailed *Vaughn Index* to justify their withholding of records if there were statutory exemption issues. Since there were no issues on Mr. Roland’s part involving any of the 9 (*nine*) exemptions, and given the fact that no Affidavit or *Vaughn Index* was issued, this petition for certiorari should be granted. Moreover, allegations of inadequate search state a plausible FOIA claim that still needs to be addressed.

CONCLUSION

For the foregoing reasons, Mr. Roland respectfully requests that this Court issue a writ of certiorari to review the judgment of the Seventh Circuit Court of Appeals.

³ Fed. R. Civ. P. 56 (c) – Is the procedural back bone of summary judgment motions. It ensures that parties present actual evidence (not speculation or arguments) and gives the judge a structured way to determine whether there are factual disputes that require a trial.

Respectfully submitted



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