



OFFICE of GOVERNMENT INFORMATION SERVICES

April 1, 2016—Sent via email

[REDACTED]
[REDACTED]

Re: Case No.: 201600295
NG: CM

NATIONAL
ARCHIVES
and RECORDS
ADMINISTRATION

8601 ADELPHI ROAD
OGIS
COLLEGE PARK, MD
20740-6001

web: www.ogis.archives.gov
e-mail: ogis@nara.gov
phone: 202-741-5770
toll-free: 1-877-684-6448
fax: 202-741-5769

Dear [REDACTED]:

This responds to your request for assistance from the Office of Government Information Services (OGIS), which we received on December 16, 2015 via email. You requested assistance with a Freedom of Information Act (FOIA) request you submitted to the U.S. Citizenship and Immigration Services (USCIS).

As you may be aware, Congress created OGIS to complement existing FOIA practice and procedure; we strive to work in conjunction with the existing request and appeal process. The goal is for OGIS to allow, whenever practical, the requester to exhaust his or her remedies within the agency, including the appeal process. OGIS has no investigatory or enforcement power, nor can we compel an agency to release documents. OGIS serves as the Federal FOIA Ombudsman and our jurisdiction is limited to assisting with the FOIA process.

In your case, you submitted a request to USCIS on behalf of [REDACTED]. In that request, you asked for any documents that could prove that [REDACTED] was present in the United States or Puerto Rico. In its response, USCIS informed you that it found no records responsive to your request. You appealed this response, and the USCIS FOIA appeals office upheld the agency's initial response to your request. You dispute this response and ask for OGIS's assistance with this matter.

In response to your submission, we contacted USCIS to discuss your request and the agency's response. USCIS explained that it searched for both [REDACTED] and [REDACTED] (with variations in the spelling of both) in all of its systems, and it found no responsive records. Federal courts have long settled that in regard to a search for documents, the crucial issue is whether an agency conducted an adequate search for a document, not whether a document *might* exist. An adequate search is conducted when the search is reasonably calculated to uncover all relevant documents. *Weisberg v. Dep't of Justice*, 705 F.2d 1344, 1351 (D.C. Cir. 1983).

We note that your request was not for a specific record, but rather for proof that [REDACTED] was in a specific place at a certain time. Considering this, it may be helpful to understand the different types of records held by various U.S. immigration agencies. USCIS, for example, is the custodian of Alien Files, or A-Files, which document an alien's contacts with the Federal government as she or he lives as an immigrant and/or strives to become a naturalized citizen. Customs and Border Protection (CBP), on the other hand, has records of arrivals into and departures from the U.S. by air, land or sea,



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dating back to 1982. You can learn more about CBP's FOIA program at: <http://www.cbp.gov/site-policy-notices/foia>. Further, the U.S. Department of State (<https://foia.state.gov/>) has records pertaining to visas, which may be useful in determining travel dates for non-U.S. citizens. You may wish to file a request for the records you seek with one or both of those agencies according to the directions on the websites of each. Please be aware that any responsive records that mentions a third party other than the requester may be subject to withholding pursuant to FOIA's privacy protections without that individual's consent, proof of his/her death, or explanation of the overriding public interest in the information sought.

I hope that this information about your request is useful to you. Thank you for contacting OGIS; we will now consider this matter closed.

Sincerely,

/s/

JAMES V.M.L. HOLZER

Director

Office of Government Information Services (OGIS)

cc: USCIS FOIA

We appreciate your feedback. Please visit <https://www.surveymonkey.com/s/OGIS> to take a brief anonymous survey on the service you received from OGIS.