



U.S. Department of Justice

Executive Office for Immigration Review

Office of the General Counsel

5107 Leesburg Pike, Suite 1903
Falls Church, Virginia 22041
December 21, 2015

Jeremy A. Kutner
First Amendment Fellow
The New York Times Company
Legal Department
620 8th Avenue
New York, NY 10018

(replied via email)

RE: Freedom of Information Act Request for the Board of Immigration Appeals Decision issued on December 8, 2015, Regarding General Jose Guillermo Garcia

Dear Mr. Kutner:

This is a response to your Freedom of Information Act (FOIA) request in which you seek expedited treatment for the release of the Immigration Judge decision issued December 8, 2015, regarding General Jose Guillermo Garcia. Your request for expedited treatment is granted.

In accordance with the FOIA, EOIR only releases records with the proper authorization as evidenced by written consent from the subject of the records. Further, EOIR considers you a third-party requester of records because you are not currently the attorney of record, and you did not provide documentation authorizing the release of the requested documents to you, such as a completed form DOJ-361 signed by the subject of the request. When a third-party requester seeks records that are exempt from disclosure, in the absence of appropriate documentation authorizing release, generally EOIR only releases a redacted version of the final agency decision, to protect the privacy interests of parties who appear in EOIR proceedings.

Nevertheless, in this case EOIR has reviewed the record of proceeding and publicity surrounding the subject of this request and determined that the public interest in release of the information outweighs the privacy interest of General Jose Guillermo Garcia-Merino. In accordance with the requirements under 5 U.S.C. § 552(b)(6), the EOIR FOIA Service Center balanced the individual privacy interests against the public interest and determined that, except for the alien number of General Garcia, an unredacted release of information related to General Jose Guillermo Garcia-Merino is warranted. However, the EOIR FOIA Service Center did redact information regarding third parties pursuant to 5 U.S.C. § 552(b)(6) to avoid an unwarranted invasion of personal privacy. There will be no charge for this information as the processing of this request falls below the minimum amount that can be charged.

For your information, Congress excluded three discrete categories of law enforcement and national security records from the requirements of the FOIA. *See* 5 U.S.C. § 552(c) (2006 & Supp. IV 2010). This response is limited to those records that are subject to the requirements of the FOIA. This is a standard notification that is given to all our requesters and should not be taken as an indication that excluded records do, or do not, exist. *See* <http://www.justice.gov/oip/foiapost/2012foiapost9.html>.

If you are not satisfied with my response to this request, you may administratively appeal by writing to the Director, Office of Information Policy (OIP), United States Department of Justice, Suite 11050, 1425 New York Avenue, NW, Washington, DC 20530-0001, or you may submit an appeal through OIP's eFOIA portal at <http://www.justice.gov/oip/efoia-portal.html>. Please note that OIP is in the process of transitioning from its current eFOIA portal to the portal on FOIAonline. Please visit the link above for instructions for submitting an appeal electronically. Your appeal must be postmarked or electronically transmitted within 60 days of the date of my response to your request. If you submit your appeal by mail, both the letter and the envelope should be clearly marked Freedom of Information Act Appeal.

Sincerely,



Crystal Souza
Supervisory Government Information Specialist

Enclosure

EOIR FOIA# 2016-6450