

UNITED STATES DISTRICT COURT FOR THE DISTRICT OF COLUMBIA

Crisman v. Department of Justice

Crisman v. Department of Justice · No. Civil Action No. 12-cv-1871 (TSC) · Decided February 3, 2026

SUMMARY

The United States District Court for the District of Columbia grants the defendants’ renewed motion for summary judgment and denies the plaintiffs’ cross-motion in a case involving FOIA, Privacy Act, APA, and Fifth Amendment claims. The court finds that the agencies conducted adequate searches, properly invoked FOIA Exemption 3 and Glomar responses regarding watchlist information, and that the remaining claims concerning classification of a document are moot. The court also concludes that the FBI’s subdelegation of classification authority was permissible under binding D.C. Circuit precedent.

CASE DETAILS

COURT	United States District Court for the District of Columbia
WRITING FOR THE COURT	Tanya S. Chutkan
JURISDICTION	United States District Court for the District of Columbia
DECIDED	February 3, 2026
DOCKET	Civil Action No. 12-cv-1871 (TSC)
DISPOSITION	other
PROCEDURAL POSTURE	Defendants renewed their motion for summary judgment on Counts 3, 9, 12, 13, and 15, and Plaintiffs cross-moved for summary judgment on all but Count 3.
STANDARD OF REVIEW	Summary judgment is appropriate when, viewing the facts in the light most favorable to the nonmoving party, there is no genuine dispute as to any material fact and the movant is entitled to judgment as a matter of law. In FOIA cases, the agency bears the burden to show an adequate search and that responsive records were produced or are exempt; an agency may rely on reasonably detailed, nonconclusory affidavits submitted in good faith. FOIA exemption justifications are sufficient when logical or plausible and not conclusory.
PRECEDENTIAL VALUE	published
PARTIES	Nancy Crisman, National Security Counselors v. Department of Justice, Board of Governors of the Federal Reserve System,

TOPICS

summary judgment judicial review of agency action administrative law civil procedure constitutional law

PRACTICE AREAS

administrative law freedom of information civil procedure constitutional law

QUESTIONS PRESENTED

1. Whether Defendants demonstrated adequate searches for records responsive to Plaintiffs' FOIA and Privacy Act-related requests.
2. Whether the Department of Homeland Security properly invoked FOIA Exemption 3 and issued Glomar responses concerning possible watchlist information.
3. Whether Plaintiffs' claims concerning the FBI's post-request classification of the FISA Alert remained justiciable under the policy-or-practice exception to FOIA mootness.
4. Whether the 1999 delegation of authority to classify records after receipt of a FOIA request complied with Executive Order 12958.

HOLDINGS

1. Summary judgment was appropriate for Defendants because the Justice Management Division conducted an extensive search that located no responsive records, and Plaintiffs did not oppose summary judgment on this count.
2. DHS and the other identified agencies were entitled to summary judgment because their declarations described searches of locations reasonably likely to contain responsive records with reasonable specificity, and Plaintiffs did not meaningfully challenge the searches.
3. The agencies properly relied on FOIA Exemption 3 and Glomar responses to decline to confirm or deny whether records existed concerning Crisman's placement on intelligence or transportation-security watchlists.
4. Counts 12, 13, and 15 were moot because the requested document had been produced and Plaintiffs failed to show an ongoing agency policy or practice that would impair future access to information.
5. The 1999 subdelegation of authority to the FBI Chief of the Document Classification Unit was permissible under Executive Order 12958 because subdelegation is presumptively permissible absent affirmative evidence of contrary intent, and the notification requirement ensured that the subdelegate acted under the direction of the designated senior official.

KEY QUOTATIONS

"Once requested records are produced, there is no longer a case or controversy, and the FOIA action becomes moot." (Page 8)

“Sub-delegation to a subordinate federal official is presumptively permissible, absent affirmative evidence in the original delegation of a contrary intent.” (Page 9)

“In the absence of arguments meaningfully challenging the adequacy of Defendants’ search or its invocation of Exemption 3, the court finds, in line with decisions from this district, that Defendants’ “declaration[s] offer sound justifications for nondisclosure with ‘reasonable specificity of detail,’ which have not been ‘called into question by contradictory evidence in the record or by evidence of agency bad faith.’” (Page 7)

FACTUAL BACKGROUND

In 2004, the FBI allegedly miscategorized a document concerning Nancy Crisman’s bank accounts as relating to the Foreign Intelligence Surveillance Act, after which Crisman claimed she lost employment and was placed on national-security watchlists. She submitted FOIA and Privacy Act requests seeking the document and records about her; the FBI initially withheld the document as classified, later declassified it, and released a redacted version. In this action, Plaintiffs challenged agency searches, withholding of watchlist information, and the FBI’s classification of the document after receiving the original request.

PROCEDURAL HISTORY

Plaintiffs brought a seventeen-count action alleging violations of FOIA, the Privacy Act, the APA, and the Fifth Amendment arising from agency responses to records requests and the classification of a document concerning Plaintiff Crisman. The court previously granted Defendants summary judgment on most claims, denied summary judgment on Counts 3, 12, 13, and 15 because Defendants had not presented argument, and directed the parties to narrow the scope of the search relevant to Count 9. After further searches and submissions, the court granted Defendants' renewed motion for summary judgment and denied Plaintiffs' cross-motion.

DISPOSITION

other

CASES CITED

- Crisman v. Department of Justice, 332 F. Supp. 3d 139 (D.D.C. 2018), supplemented, 2019 WL 1330587 (D.D.C. Mar. 25, 2019)
- Matsushita Electric Industrial Co. v. Zenith Radio Corp., 475 U.S. 574, 587 (1986)
- Holcomb v. Powell, 433 F.3d 889, 895 (D.C. Cir. 2006)
- Anderson v. Liberty Lobby, Inc., 477 U.S. 242, 248 (1986)
- Brayton v. Office of the U.S. Trade Representative, 641 F.3d 521, 527 (D.C. Cir. 2011)
- Judicial Watch, Inc. v. U.S. Department of Homeland Security, 59 F. Supp. 3d 184, 189 (D.D.C. 2014)
- Steinberg v. U.S. Department of Justice, 23 F.3d 548, 551 (D.C. Cir. 1994)
- Weisberg v. U.S. Department of Justice, 745 F.2d 1476, 1485 (D.C. Cir. 1984)
- Mobley v. CIA, 806 F.3d 568, 582, 585 (D.C. Cir. 2015)
- Oglesby v. U.S. Department of Army, 920 F.2d 57, 68 (D.C. Cir. 1990)

- *Leopold v. National Security Agency*, 196 F. Supp. 3d 67, 72 (D.D.C. 2016)
- *United States Department of Justice v. Reporters Committee for Freedom of the Press*, 489 U.S. 749, 755 (1989)
- *Wolf v. CIA*, 473 F.3d 370, 374-75 (D.C. Cir. 2007)
- *Gardels v. CIA*, 689 F.2d 1100, 1105 (D.C. Cir. 1982)
- *Hayden v. National Security Agency*, 608 F.2d 1381, 1387 (D.C. Cir. 1979)
- *People for the Ethical Treatment of Animals v. National Institutes of Health*, 745 F.3d 535, 540 (D.C. Cir. 2014)
- *Ground Saucer Watch, Inc. v. CIA*, 692 F.2d 770, 771 (D.C. Cir. 1981)
- *Kalu v. Internal Revenue Service*, 159 F. Supp. 3d 16, 24 (D.D.C. 2016)
- *Electronic Privacy Information Center v. National Security Agency*, 678 F.3d 926, 931 (D.C. Cir. 2012)
- *Ryan v. Federal Bureau of Investigation*, 113 F. Supp. 3d 356, 363 n.5 (D.D.C. 2015)
- *Comptel v. FCC*, 945 F. Supp. 2d 48, 55 (D.D.C. 2013)
- *Cunningham v. U.S. Department of Justice*, 961 F. Supp. 2d 226, 236 (D.D.C. 2013)
- *Armstrong v. Executive Office of the President*, 97 F.3d 575, 582 (D.C. Cir. 1996)
- *Payne Enterprises, Inc. v. United States*, 837 F.2d 486, 491 (D.C. Cir. 1988)
- *Better Government Association v. Department of State*, 780 F.2d 86, 91 (D.C. Cir. 1986)
- *Iturralde v. Comptroller of the Currency*, 315 F.3d 311, 315 (D.C. Cir. 2003)
- *Lesar v. U.S. Department of Justice*, 636 F.2d 472, 479 (D.C. Cir. 1980)

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