

UNITED STATES COURT OF APPEALS FOR THE DISTRICT OF COLUMBIA
CIRCUIT

Stephen Aguiar v. Drug Enforcement Administration

No. No. 18-5356, United States Court of Appeals for the District of Columbia Circuit (April 2, 2021)

SUMMARY

The D.C. Circuit held that the DEA was not required under FOIA, 5 U.S.C. § 552(a)(3)(B), to create map images from GPS coordinate data because doing so would constitute creating new records rather than reproducing an existing record in a requested form or format. The court rejected the argument that maps are merely another "form or format" of the coordinate data, emphasizing that FOIA only obligates agencies to disclose records they have created and retained, not to generate new records or organize information for the requestor's convenience. The court also affirmed the district court's denial of leave to file a supplemental complaint raising Privacy Act claims, finding those claims futile. Key topics: FOIA's "form or format" requirement, creation of new records, GPS tracking data, agency record obligations.

CASE DETAILS

COURT	United States Court of Appeals for the District of Columbia Circuit
WRITING FOR THE COURT	Rogers; Pillard; Walker
JURISDICTION	Federal
DECIDED	April 2, 2021
DOCKET	No. 18-5356
DISPOSITION	affirmed
PROCEDURAL POSTURE	Appeal from the United States District Court for the District of Columbia (No. 1:14-cv-00240). The district court granted summary judgment to DEA, holding that the GPS mapping software was not an agency record and that FOIA did not require DEA to create map images. The district court also denied as futile appellant's motion for leave to file a supplemental complaint with Privacy Act claims.
STANDARD OF REVIEW	The court reviews the grant of summary judgment de novo, <i>Judicial Watch, Inc. v. Dep't of Def.</i> , 913 F.3d 1106, 1110 (D.C. Cir. 2019), and the denial of leave to file a supplemental complaint for abuse of discretion, <i>James Madison Ltd. v. Ludwig</i> , 82 F.3d 1085, 1099 (D.C. Cir. 1996).

PRECEDENTIAL VALUE	Published
PARTIES	Stephen Aguiar v. Drug Enforcement Administration

TOPICS

administrative law statutory interpretation summary judgment standard of review civil procedure

PRACTICE AREAS

Freedom of Information Act Privacy Act Civil Procedure

QUESTIONS PRESENTED

1. Whether the Drug Enforcement Administration was required under FOIA to create map images based on GPS coordinate data from a tracking device in response to the appellant's request for the data in map form.
2. Whether the district court abused its discretion in denying appellant's motion for leave to file a supplemental complaint.

HOLDINGS

1. FOIA does not obligate an agency to create new records. The requested map images are new records, not a different form or format of the existing coordinate data, because the agency never created or retained such maps and producing them would require editorial judgment.
2. The district court properly denied the motion as futile because the proposed claims were not cognizable under the Privacy Act or related to any cognizable civil-rights claim.

KEY QUOTATIONS

“FOIA, however, ‘only requires disclosure of documents that already exist, not the creation of new records not otherwise in the agency's possession.’” (5)

“FOIA ‘only obligates [an agency] to provide access to those [records] which it in fact has created and retained.’” (9)

“The court therefore cannot accept amicus' sweeping interpretation that maps are, as a matter of law, another ‘form or format’ of coordinate data under § 552(a)(3)(B) merely because plotting coordinates on a map ‘displays them in an understandable form without altering their substance.’” (8)

FACTUAL BACKGROUND

DEA attached a GPS tracking device to Aguiar's vehicle from January 23 to July 30, 2009. DEA agents monitored the tracker's location via GPS mapping software that plotted coordinates on Google maps. At Aguiar's criminal trial, the U.S. Attorney's Office introduced exhibits including spreadsheets of coordinate data, screenshots of maps, and maps of travel paths. Aguiar submitted a FOIA request for a CD containing the

tracking information with all images and software. DEA produced 351 spreadsheet pages of coordinate data but stated no images were located. Aguiar sued.

PROCEDURAL HISTORY

Appellant Stephen Aguiar submitted a FOIA request to DEA for GPS tracking data and map images. DEA produced spreadsheet pages of coordinate data but stated no map images were located. Aguiar filed a FOIA complaint in the district court. The district court granted summary judgment to DEA on the map images issue and denied as futile Aguiar's motion for leave to file a supplemental complaint. Aguiar appealed, and the D.C. Circuit affirmed.

DISPOSITION

affirmed

CASES CITED

- Kissinger v. Reporters Comm. for Freedom of the Press, 445 U.S. 136 (1980)
- Yeager v. DEA, 678 F.2d 315 (D.C. Cir. 1982)
- Nat'l Sec. Counselors v. CIA, 969 F.3d 406 (D.C. Cir. 2020)
- NLRB v. Sears, Roebuck & Co., 421 U.S. 132 (1975)
- Judicial Watch, Inc. v. Dep't of Def., 913 F.3d 1106 (D.C. Cir. 2019)
- James Madison Ltd. v. Ludwig, 82 F.3d 1085 (D.C. Cir. 1996)
- Hettinga v. United States, 677 F.3d 471 (D.C. Cir. 2012)
- Toolasprashad v. Bureau of Prisons, 286 F.3d 576 (D.C. Cir. 2002)
- United States v. Aguiar, 737 F.3d 251 (2d Cir. 2013)
- Aguiar v. DEA, 865 F.3d 730 (D.C. Cir. 2017)
- SafeCard Servs., Inc. v. SEC, 926 F.2d 1197 (D.C. Cir. 1991)
- Wilbur v. CIA, 355 F.3d 675 (D.C. Cir. 2004)
- Sample v. Bureau of Prisons, 466 F.3d 1086 (D.C. Cir. 2006)
- Nat'l Sec. Counselors v. DOJ, 848 F.3d 467 (D.C. Cir. 2017)
- Bailey v. United States, 516 U.S. 137 (1995)
- Saadeh v. Farouki, 107 F.3d 52 (D.C. Cir. 1997)
- Proffitt v. FDIC, 200 F.3d 855 (D.C. Cir. 2000)
- Public Citizen v. Carlin, 184 F.3d 900 (D.C. Cir. 1999)
- Patchak v. Salazar, 632 F.3d 702 (D.C. Cir. 2011)
- Pennsylvania Dep't of Corr. v. Yeskey, 524 U.S. 206 (1998)
- Aguiar v. DEA, 334 F. Supp. 3d 130 (D.D.C. 2018)
- Aguiar v. United States, 574 U.S. 959 (2014)

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