☆ Hill *v.* Executive Office for United States Attorneys (4:17-cv-00027)

District Court, W.D. Virginia

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Assigned To: Jackson L. Kiser
Referred To: Robert S. Ballou
Date Filed: April 25, 2017
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Jurisdiction Type: U.S. Government Defendant

https://www.courtlistener.com/docket/6064365/hill-v-executive-office-for-united-states-attorneys/

Document Number	Date Filed	Description
1	Apr 25, 2017	MOTION for Leave to Proceed in forma pauperis by Brian David Hill. (Attachment: # 1 Post-it Note Attached to IFP Motion)(mlh) (Entered: 04/26/2017) Main Document — Motion for Leave to Proceed in forma pauperis — Buy on PACER
2	Apr 25, 2017	COMPLAINT FOR DECLARATORY AND INJUNCTIVE RELIEF against Executive Office for United States Attorneys, United States Department Of Justice, filed by Brian David Hill. 70 Day Notice due by 7/5/2017; 90 Day Service due by 7/24/2017. (Attachments: # 1 Exhibit 1, # 2 Exhibit 2, # 3 Exhibit 3, # 4 Exhibit 4, # 5 Exhibit 5, # 6 Exhibit 6, # 7 Exhibit 7, # 8 Exhibit 8, # 9 DVD for Defendants Marked as Exhibit 6 to be Served Upon Each Defendant, # 10 DVD for Clerk Marked as Exhibit 6 (Available for Viewing in Clerk's Office), # 11 Civil Cover Sheet, # 12 Post-it Note Attached to Complaint, # 13 Proposed Summons, # 14 Post-it Note Attached to Proposed Summons)(mlh) (Entered: 04/26/2017)

III. Statement of Claim

1. **This is an action under the Freedom of Information Act ("FOIA"), 5 U.S.C. §552, as amended, as well as agency FOIA regulations, challenging the failure of the Executive Office for United States Attorneys ("EOUSA") of the United States Department of Justice ("DOJ") to fulfill the requests in both the FOIA Request and FOIA Appeal of Brian David Hill "Brian D. Hill" for all discovery packet records concerning himself. That they improperly withheld records which were sought from the EOUSA. Then the U.S. Attorney may have lied that 0 records were withheld in full when testimonial and evidential facts show a different story.**
2. **This case seeks declaratory relief that defendants are in violation of the FOIA for failing to fulfill plaintiff's request for records, and injunctive relief that defendants immediately and fully comply with the plaintiff's request under the FOIA.**
3. **I am filing this action of litigation, on a Pro Se basis and am proceeding in forma pauperis. Affidavit/Application is attached but the Clerk shall file the Affidavit as separate document.**

Plaintiff Brian D. Hill is a citizen of the United States, who was born on May 26, 1990. The plaintiff was indicted on November 25, 2013, and the arrest warrant was issued on November

26, 2013. Brian was charged by Assistant U.S. Attorney Anand Prakash Ramaswamy of the U.S. Attorney Office located at 101 S. Edgeworth ST., 4th Floor, in Greensboro, North Carolina. The charge was filed in the U.S. District Court for the Middle District of North Carolina. That case was docketed under case no. 1:13-cr-435-1. The plaintiff was released from jail/imprisonment on November 12, 2014 based upon a sentence of time served. However the plaintiff still serves a sentence of ten years of federal supervised release by the U.S. Probation Office, as well as mandatory Sex Offender registration. The plaintiff feels that he is innocent of the charge and still wishes to prove actual innocence. The plaintiff has only until June 10, 2017 to file a Rule 33 Motion (citing Federal Rules of Criminal Procedure) for a new trial based upon newly discovered evidence. The FOIA Request at issue here is for the sole purpose of locating exculpatory information within the evidence records within the U.S. Attorney's own discovery evidence, for the sole purpose of proving Actual Innocence or to be found 'Not Guilty'. The FOIA Request is intended to get access to all records of the discovery packet, including the confession Audio CD, so that the information be cross-referenced and/or cross-examined, again for the sole purpose of proving actual innocence.

REQUEST TO EXPEDITE THE FOIA PROCEEDINGS

The good cause is that the North Carolina State Bureau of Investigation (SBI) may dispose of the seized property after a destruction order is issued, even though destruction may prevent me from being able to prove actual innocence. Since the property was seized on August 28, 2012, then the possibility of the destruction of my seized and forfeited property is imminent. Therefore it is necessary to quickly gather new evidence for mounting an actual innocence pleading via the affirmative defense of "frame up". The FOIA violations must be resolved before the deadline or before the Court decides to allow the destruction of seized property, as getting access to the discovery material takes time, as well as gathering new exculpatory evidence, before filing a 28 U.S.C. § 2255 Motion based upon the ground of Actual Innocence via proving the affirmative defense of "frame up". As a Motion would have to be filed way in advance, to have the Court order the preservation of the physical evidence to prevent destruction of evidence in SBI custody. The only available post-conviction Motions available

new evidence of prosecutorial misconduct, the resolution of this FOIA litigation must be conducted by June 10, 2017, to be legally allowed to file a motion for a new trial due to newly discovered evidence that could not have been previously discovered before Trial.

Citing 28 U.S.C. § 1657, *"Except that the court shall expedite the consideration of any action brought under chapter 153 or section 1826 of this title, any action for temporary or preliminary*

injunctive relief, or any other action if good cause therefor is shown. For purposes of this subsection, "good cause" is shown if a right under the Constitution of the United States or a Federal Statute (including rights under section 552 of title 5) would be maintained in a factual context that indicates that a request for expedited consideration has merit." **The 2255 Motion which is statutory remedy of the Constitutional Federal Writ of Habeas Corpus or Rule 33 Motion for a new trial based upon newly discovered evidence, both depend on getting access**

23. **The portion of evidence that was attached to the EOUSA's FOIA response letter is 19 pages of the Mayodan Police investigative report (aka the "Mayodan Police Report") but the plaintiff has proof that the original report was actually 20 pages long. The plaintiff filed evidence proving the missing 20th page with the Office of Information Policy (OIP) in the FOIA Appeal Number DOJ-AP-2017-002520. So 1 page was missing and withheld from the FOIA requested discovery packet. The Search Warrant where it's copy was originally served by Mayodan Police with the plaintiff on August 28, 2012. That was also missing from the FOIA response envelope. The "confession audio CD" was also not found within the envelope. The last record that was not found was the SBI forensic case file, Subject/Suspect was Brian David Hill and SBI Case File # 2012-02146. So 2 documented reports (Search Warrant, SBI case file), 1 audio CD containing the confession, and 1 page of the original 20 page Mayodan Police Report was missing from the envelope to which contained the response letter from EOUSA.**

24. **Plaintiff filed an administrative Appeal as remedy under the Office of Information Policy (OIP). Filed under the FOIA Appeal Number DOJ-AP-2017-002520. That appeal was received in the system and filed as of February 20, 2017 ("02/20/2017") according to the acknowledgement letter. (Citing Exhibit 3)**

27. **Around Saturday, March 11, 2017, another FAX was transmitted to OIP, and was received on March 13, 2017 on Monday. It further contains evidence and proof that further supports plaintiff's FOIA request and appeal. Evidence was filed concerning a copy of a letter from the Town of Mayodan dated September 21, 2015 denying request for access to or a copy of the confession Audio CD which contains plaintiff's confession that was made at the Mayodan Police Department around August 29, 2012. A response was filed to that denial citing Writ of Habeas Corpus and for need of the Audio CD to prove actual innocence as purpose to why the "confession Audio CD" was requested from the Town of Mayodan. It stated that since the confession was already going to be used in a public Jury trial against the plaintiff that the plaintiff had a right to get a copy of the confession Audio CD to prove that the confession was**

caused by coercion and was a false confession. The town of Mayodan refused to respond since then. A letter was sent to the State Bureau of Investigation (SBI) in North Carolina requesting a copy of the forensic case file that was needed to help prove actual innocence. A letter was returned by SBI Legal Counsel Angel Gray denying plaintiff's request to get access to the

forensic case file report by SBI Special Agent Rodney V. White. A response letter was written back criticizing the legal Counsel and giving her a copy of the threatening message that Brian D. Hill had received allegedly claiming that "we know some people in the SBI that will make sure that you are convicted". The entire threatening email message received at admin@uswgo.com which was the plaintiff's email address in 2012-2013, said *"You better watch out Brian...We are watching you...Having child porn planted on your hard drives and computer was only the beginning and we will set you up for violent sex crimes if you don't watch your back...Have fun becoming a sex offender...Police won't be6eve you no matter how much evidence you have that you been set up we know some people in the SBI who will make sure you are convicted. You will be shut up by being a sex criminaL Your friends Alex Jones, Dan, James, Sean, Alex, and others are next...BeWare!"* SBI Legal Counsel Angel Gray refused to respond to the allegations that the SBI may be part of an alleged plot to set up the plaintiff with child

porn and wrongfully convict him. There may be a good reason why the SBI is refusing to release a copy of the SBI case file to the plaintiff via FOIA. It is because there is information within that report that is very questionable and may be subject to impeachment in the criminal case proceeding by the U.S. Attorney. It stated that *"454 files have been downloaded with the eMule program between the dates July 20, 2012, and July 28, 2013."* The issue is that suspected child porn files may have been downloaded between the dates "*July 20, 2012, and July 28, 2013."* The very issue concerning that statement was that the seized Laptop cited in the SBI case file was seized on August 28, 2012. That may show an evidence report claim concerning possible evidence tampering and/or planting or is wrong and should be considered impeachable testimony that is clearly inadmissible for trial. So according to SBI Special Agent Rodney White, child porn had allegedly downloaded on plaintiff's Black Toshiba Laptop Computer Satellite C655D between the dates July 20, 2012, and July 28, 2013. The threatening email from tormail.org that was received by admin@uswgo.com was dated around Sunday, Apr 7, 2013. That threatening message was received by plaintiff between the claimed child pornography download dates. That might explain why the EOUSA and the SBI both do not

want a copy of the SBI case file to be delivered to Brian D. Hill as per his FOIA request. Part of the Search Warrant was also filed as evidence, proving that the U.S. Attorney should have

said that *"Not only does the Court Transcripts further prove that the U.S. Attorney had the "confession audio CD" aka the "audio CD" of my confession on August 29, 2012, which I had formally requested in my original FOIA Request# FOIA-2016-03570. The other issue that it further proves that disclosure is necessary for the benefit of the public good, for the benefit of*

correcting an injustice within our Federal Courts, correcting false information on Federal Court records, and correcting a wrongful conviction. Disclosing the false confession Audio CD is necessary for the interests of the general public, for the interests of justice far outweigh the need to suppress the truth from this particular criminal case matter which was to had to go before a public Jury Trial with no legal means nor any resources to be able to come up with a criminal Defense which more likely than not, would have the finding of "Not Guilty" had I been given effective Counsel." **It proves enough evidence to the Office of Information Policy (OIP) proving that records were withheld and may have been covered up or concealed. (Exhibit 4)**

THE BASIS IS SIMPLE

41. The plaintiff wishes to prove his actual innocence by getting access to his discovery packet that he should have clearly been entitled to as apart of his rights to criminal discovery under the Fourteenth Amendment of the United States Constitution, Bill of Rights.

Police. The plaintiff said that he had downloaded child porn for "about a year or so" but the only download dates found were between the dates July 20, 2012, and July 28, 2013. So it had only downloaded for 1 month and 8 days while in the custody of plaintiff Brian D. Hill. The confession can be picked apart and proven totally false and cannot hold up as evidence of guilt of the plaintiff. However the plaintiff isn't being allowed by Ex-Attorney John Scott Coalter to prove any of that. The Attorney further refuses to transfer the discovery evidence to the defendant in that particular criminal case, even went as far as threatening Brian D. Hill with perjury and obstruction of justice for attempting to prove his actual innocence on September 30, 2016. Because of that, he feels the FOIA was his only legal means of getting access to his discovery packet for his criminal case, in support of Brady v. Maryland. Yes, this FOIA was used as a legal vehicle to assert and safeguard the plaintiff's deprived Constitutional due process right to criminal discovery that was previously denied to the plaintiff before his conviction and after his guilty plea, due to prosecutor colluding with the plaintiff's defense Attorneys and ineffective assistance of Counsel. Rights that the U.S. Attorney and the Defense Attorney had deprived and denied the plaintiff of.

44. The Defendants' have refused to, or failed to deliver a copy of the SBI case file, plaintiff's signed confession statement, Confession Audio CD, Search Warrant, and Page 20 of the Mayodan Police Report.

45. The Defendants' have no valid excuse for certain pages and one Police investigative report to still exist at the U.S. Attorney Office record-keeping for Brian's criminal case that they prosecuted, yet certain records appear to either not exist or have been quietly withheld and concealed from plaintiff's FOIA request or covered up.

PRAYER FOR RELIEF

WHEREFORE, plaintiff respectfully requests that this Court:

(1) Declare that defendants have violated the FOIA by failing to conduct an adequate search for records responsive to plaintiff's FOIA requests of July 25, 2016, and August 29, 2016;

2-1 is a copy of Brian's Disabled Parking Placard dated 8/3/2016 stating that he has autism spectrum disorder which impairs judgment by his medical doctor. This stays in his caregiver's (his mom's car). He also includes a medical form from his diabetic Endocrinology in Roanoke, VA dated 7/18/2016 stating that he is prescribed insulin flexpens & diabetic supplies, and is required to have eye & foot exams and Diabetic 6 month HGA1C.

Case 4:17-cv-00027-JLK Document 2-1 Filed 04/25/17 Page 4 of 5

https://www.courtlistener.com/docket/6064365/2/1/hill-v-executive-office-for-united-states-attorneys/

Proof to be found in the above link: Freedom of Information Act Appeal. This really has some good investigative reporting on Brian Hill's part & needs to all be read proving set up by Mayodan, NC police dept. & NC SBI in Greensboro, NC in 2012-2013 to set up Brian verifying threat emails in 2012, 2013, 2015 to be true threats to shut up USWGO (Internet investigative reporter). They admit to putting child porn on Brian's computer & hard drives, say they will do more & threatening others. They put a child porn virus on his computer, performed a police raid where they got all computers, memory sticks, hard drives, etc. This was local Mayodan, NC police and 1 Reidsville policeman who was a brother to Rockingham County assistant attorney. Mayodan, NC attorney was also the NC pro-templar senator. His son was the Rockingham County, NC Attorney. Brian (USWGO) was writing bad articles about this Mayodan attorney as well as the Mayodan police chief in July, 2012. Judges & courts in Middle district of NC ignore all of Brian's disabilities and constitutional rights.

The FOIA Request (FOIA-2016-03570) was my only option to get access to the discovery records and material that the U.S. Attorney had originally used against me, gives me my Constitutional right to cross examination and be able to defend myself via the affirmative defense of "frame up" (that I never had due to bad counsel that collaborated with the U.S. Attorney since the beginning. The email between my own Attorney and the U.S. Attorney and other actions affirm my suspicions).

Here is more evidence that should be considered in the course of my FOIA Appeal and

Exhibit 5 proves that the NC SBI has also denied my request for access to the SBI forensic report. Later on the SBI even lied to me and my Attorney by claiming "they will give access to whatever she deems necessary." The reason why is that I asked former FBI Agent and private investigator Kevin Wetzel to consider conducting a independent forensic examination of my seized computer. He lives in North Carolina, works there, and I live in Virginia, both one party consent states for recording personal phone calls. He told me over the phone that the SBI has responded to each one of his requests to examine a seized computer to conduct a forensic examination at the SBI. He said it is interesting because they have not returned his call on getting the paperwork ready to examine my Black Toshiba Laptop Computer, Satellite C655D, seized computer in SBI custody. So the NC SBI is refusing to let me prove my actual innocence and is stonewalling me too. My only option is my FOIA Request to the U.S. Attorney. Every other option is blocked while every 3 months I get a visit from the State Police over my Sex Offender registration, which is ridiculous. I continue being treated like a criminal for my Autism while the

Case 4:17-cv-00027-JLK-RSB Document 2-2 Filed 04/25/17 Page 1 of 47 Pageid#: 33

Exhibit 7 and Exhibit 8 are the most important to cross examine.

In both of those exhibits, by reading the full search warrant, Reidsville PD Detective Robert Bridge admit to watching child pornography videos and then describes what each suspected video is about. He lists the hash code for the public file sharing network, he tells what the video is about, and even the file name. All in a public Search Warrant. So then we go to the SBI forensic report and it doesn't confirm whether the files claimed in Detective Bridge's Search Warrant Affidavit were even downloaded to the computer. That is the most important way to prove a suspect guilty is always to confirm whether the files being downloaded were actually downloaded onto the suspect's computer by eMule. I had even faxed a letter to J. Joy Strickland, the current Legal Counsel for the N.C. State Crime Laboratory, asking about whether the files that

I, Kenneth R. Forinash, declare pursuant to Title 28 U.S.C. § 1746 and subject to the penalties of perjury, that the following is true and correct:

I, Kenneth R. Forinash, spoke with attorney John Scott Coulter of Coulter Law Offices by telephone on this date at approximately 3:34 PM. The reason for my call was due to speaking with a different attorney pertaining to Brian Hill's case, and she was influenced by what Mr. Coulter had to say about the case, and advised me that she would not be able to take his case or do anything for him. I asked Mr. Coulter how Brian Hill could go about acquiring the discovery files from his court case. His response was that according to the rules of the Middle District Court of North Carolina the defendant in a case cannot have access to their discovery. He said an attorney is the only person that can get the files, or the files could be destroyed, and that is the only disposition available for discovery files. I mentioned that several attorneys had told me that Mr. Hill could have access to his discovery, and he said he could send Mr. Hill the rule from the Middle District if he so desired. I thanked him for his time and ended the call. The below pictures are proof of the calls I made to Mr. Coulter.

I declare under penalty of perjury that the foregoing is true and correct to the best of my knowledge.

Executed on Apr 23, 2017

Kenneth R. Forinash

Kenneth R. Forinash, TSgt, USAF, Ret

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CLERK'S OFFICE U.S. DIST. COURT
AT DANVILLE, VA
FILED

JUN 12 2017

JULIA C. DUDLEY, CLERK
BY: DEPUTY CLERK

In the United States District Court

For the Western District of Virginia

Danville Division

Brian David Hill
Plaintiff(s)

v.

Executive Office for United States Attorneys (EOUSA)
&
United States Department of Justice (U.S. DOJ)
Defendant(s)

Civil Action No. 4:17-cv-00027

Declaration

I, Brian David Hill, declare pursuant to Title 28 U.S.C. § 1746 and subject to the penalties of perjury, that the following is true and correct:

1. **I am Brian David Hill, also known as Brian D. Hill, and am the plaintiff in the Federal civil case Brian David Hill v. Executive Office for United States Attorneys et al., Civil Case No. 4:17-cv-00027. I file this Declaration type of Affidavit with the Court with original signature as a sign of good faith and demonstrating factual evidence showing good cause for such action.**
2. **Mr. Coalter has betrayed my trust and won't let me have the discovery. My grandparent's asked him to send them the local rule to which he claimed is the reason why he cannot give me my criminal case discovery packet of evidence but he hasn't even sent to us the very rule that he himself claimed was why he cannot give me the papers and the Audio CD. He had made it clear on September 30, 2016, that it is against his interest to let me prove my actual innocence, as I believe he would be held accountable for being ineffective Counsel as to why I would falsely take the guilty plea. He acts as my enemy at this point, he still has the discovery evidence, and may now dispose/destroy the evidence. That is my major concerns. Mr. Coalter no longer needs to even have the discovery materials and should either be given to me or given to a newly designated Attorney to protect my due process. I believe subpoenaing Mr. Coalter is the best course of action, and to prove my claims in the complaint.**

3. **I and my family had attempted to find an Attorney to get the discovery evidence out of Mr. Coalter's hands, but that had failed. My family had got in contact with an Attorney named Emily Gladden of the 'Tin Fulton Walker & Owen' law firm located at 127 West Hargett Street, Raleigh, NC 27601. I and my family wanted her to get the discovery evidence out of Mr. Coalter's hands and she suggested that we could also work on trying for my actual innocence. So she gave my family a contract paper and she was going to further do some research before my mother signs a contract for her services as my private Attorney-of-record, and my family was going to use what little money they had to try to at least stop Mr. Coalter from blocking me any further from proving my innocence. On April 13, 2017, I tried to fax her some records that can help her to prove my innocence. At a later day which is sometime in April, 2017, I had received a phone call from my grandparents that informed me that Emily Gladden had heard from Mr. Coalter and was told some things, and after that her boss had decided that there was nothing we could do and decided not to do anything more. It has come to my attention that Mr. Coalter seems to be working against me and possibly sabotaging my criminal defense, by playing dirty games against me, and that he will never let any**

papers, which was left in a voicemail message. Mr. Coalter had harmed my mental health that day as I was very angry and also going towards depression which goes towards suicide. The only reason why I have not killed myself over the sex offender garbage, is because I still have some kind of hope of overturning my wrongful child porn conviction in Greensboro Federal Court. The feeling of being called a sex offender, a

drives me into total fear and depression, because I was framed with child porn and gave a false confession. The way I have to comply with a ton of different sex offender restrictions, and laws can be passed in the future placing all sex offenders under more unreasonable, cruel and unusual punishment, type restrictions that don't seem to get the protection of the grandfather clause in my opinion, as if making all registered sex offenders suffer more and more restrictions and penalties for the rest of their lives will actually protect the children. There are children that I

with every day for the rest of their lives. What about all of the sex offenders that were innocent but were given a public pretender as a lawyer instead of a real defense attorney to ask questions and gather real evidence that can point towards innocence? I even plan to sue SORNA because of how I am being treated, how SORNA is cruel and unusual punishment, especially when I am not being allowed to prove my own actual innocence, the sex offender restrictions on me are unreasonable and wrong. It is that kind of garbage why I talked about suicide, because of what Phil Berger Sr., his District Attorney Son Phil Berger Junior, and what the Town of Mayodan has done to me. I feel like they (not-literally) raped me, they took my life from me and I want my life back, I want my freedom back, I want my law abiding citizen status back, I want my conviction overturned and I want to prove my innocence. Mr. Coalter's

5. The reason I wish to prove factual innocence is because, if I take my criminal case back to a Jury trial and having trust issues with court appointed attorneys, without a defense I would likely lose the Jury trial (since Defendants don't testify at Grand Jury proceedings, a petit Jury trial without a defense would be the same as a Grand Jury hearing where I was indicted aka being found guilty) and face twenty years in prison without a solid defense at trial. I could be in the same situation as I was before I falsely took the guilty plea where I wasn't given my diabetic insulin at court hearings when I was incarcerated,

lawyer doesn't want to present any evidence of my innocence, and the Jury would have no knowledge of my Autism and would not have known that I did give a false confession on August 29, 2012. The risk of getting another court appointed lawyer that may not do their job is high, and I risk prison time without a legal defense to the charge. So I have decided to prove as much factual matter of actual innocence as possible. I will prove as many facts of innocence, as needed, to the Court, so that if it were still to go to a trial, I would have a fair chance at fighting instead of being set up to fail like in 2014. I want a fair trial and I don't want a defense attorney that acts like a prosecuting attorney that refuses to prove my actual innocence. So I wish to establish as many facts of innocence as possible, so that even if the Court still finds a few facts that cannot be factual, then it gives me a better

WESTERN ROCKINGHAM FAMILY MEDICINE, P.A.
BROWN SUMMIT FAMILY MEDICINE

Donald W. Moore, M.D.
Tom Pickard, M.D.
Mary Beth Dixon, PA-C
Andrew Maier, PA-C,
Francis P. Wong, M.D.

Donna Steadman, R.N.-C.S., N.P.
Mary Margaret Martin, FNP
Susan Weeks, FNP
Michelle Roseveich, Pharm-D, CPP
Tammy Eckard, Pharm-D, CPP

September 6, 2012

Re: Brian Hill
DOB: 5-26-90

To Whom it May Concern:

Brian Hill is a current patient at Western Rockingham Family Medicine. He has a diagnosis of Type I Diabetes, GERD, Autism, and depression with suicidal thoughts. His medication list is as follows: Nexium 40 mg, 1 po qd, Lantus Sola star pen, 36 units q hs, Novolog flex pen--sliding scale, Lisinopril 5mg, 1 po qd. Mr. Hill has an inability to take of himself, therefore needs around the clock care. If further assistance is required, please do not hesitate to contact our office at (336) 548-9618.

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REQUEST FOR FORENSICS REVIEW

FOR BRIAN D. HILL

Mr. Hill,

I am the lead investigator at SLC Security Services LLC and received your letter dated 10/12/2016 concerning your need for a computer forensics review of your laptop. In order to review your laptop we estimate a total of 40-120 hours depending on the size of the hard drive and amount of information to review and document. The process in doing the review for you is outlined below.

1. Sign and return this letter which will act as your contract with a deposit for $3000.00 USD.

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Declaration

June 8, 2017

My grandson, Brian Hill was released from jail in November, 2014. He was anxious for all of us to go to his attorney, Mr. Coalter's office to look at the discovery together. He said if he had to, he would spend the day there reading it. Brian called and made the appointment. We (Brian, his mom and both grandparents) went to Mr. Coalter's office on January 22, 2015. Mr. Coalter was not there, but his assistant gave Brian the discovery papers and escorted us to a large room to review them. We found out it was not as long as we thought because they had 3 copies of everything. This is from my notes as we were reading the discovery: "From the analysis, this record showed that 454 files had been downloaded with the **emule program between July 20, 2012, and July 28, 2013**". The Mayodan, NC police raided Brian's home, and they confiscated Brian's computer on **August 28, 2012**. How could Brian be downloading child porn when he did not have his computer for the 11 months that the discovery said that child porn or items of interest were being downloaded? We read everything in a little over an hour. There were no photos in the discovery papers; just typed descriptions of what they claimed were "items of interest". The Rockingham County, NC District Attorney's name (Phil Berger Jr.) was all over the papers, and it did not list any children as "victims". It listed the "state of North Carolina" as the victim.

Brian Hill, Roberta Hill (Brian's mom), Stella Forinash (Brian's grandma) and Ken Forinash (Brian's grandpa) went to see John Scott Coalter at his office in Greensboro, NC on Sept 30, 2016 to ask him if he would be willing to do the 2255 for Brian and how much he would charge since he already knew about Brian's case. We explained that when we saw the discovery in his office in January, 2015, we found out that the files of interest (child porn, we think) were downloaded on Brian's computer from **July 20, 2012 to July 28, 2013**. There was no way that Brian could be downloading child porn from August 28, 2012 until July 28, 2013 because his computer was in the care of the Mayodan Police Dept. and the NC State bureau of investigation in Greensboro, NC during those 11 months, and Brian was living in Virginia. Brian had told the court that there was a virus on his computer, and we (Brian's mom and grandparents) also signed affidavits that we

had witnessed Brian fighting some sort of virus on his computer on the day of the police raid as we were all at the house in Mayodan, NC during the raid, and these affidavits are in Brian's court records in 2014.

We all explained again to Mr. Coalter that with Brian's brittle diabetes, he was having a lot of seizures in 2011 and 2012. He would leave his computer on for hours during his OCD hand washing routines, and some days he shows more autism than other days. He did not want an antivirus program in his computer

Then as we were talking, Mr. Coalter told us that he could not represent Brian. "It would be a conflict of interest" He said that he would have to testify against Brian if Brian did the 2255 because Brian would have to say in the 2255 that he was an inaffective counsel. He did tell us that he had Brian's discovery in storage, and he would look at the dates we told him about and get back with us in a couple of weeks. We waited 3 weeks, then my husband called him from our home while I was in the room with my husband, and Mr. Coalter told my husband that he had been busy and did not have time to look over the discovery and would call us after he did. This is June, 2017, and we have not received any phone calls from Mr. Coalter about the discovery. We did get another attorney in April, 2017 who agreed to review the discovery and write a report, but after she called Mr. Coalter to get the discovery, she decided not to do it and called us to let us know.

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MOTION ASKING THE COURT TO REQUEST
LEGAL COUNSEL TO REPRESENT THE PLAINTIFF

NOW COMES, the plaintiff ("Brian D. Hill"), representing himself, and hereby asks that the Court request an Attorney to represent the plaintiff since he was already found to have been in forma pauperis (See Doc. #3). This is pursuant to 28 U.S.C. §1915(e)(1), "The court may **request an attorney to represent any person** unable to afford counsel."

The plaintiff is severely limited in legal knowledge, and needs the assistance of Counsel to aid in his ability to protect his Constitutional and Federal legal rights.

The plaintiff cannot afford an experienced attorney at law to fight for justice for the plaintiff, to fight for his constitutional and legal rights as per this civil case.

The plaintiff has Autism and Type 1 diabetes as exhibited in Document #2-1, and is considered legally handicapped/disabled under the Virginia Department of Motor Vehicles. It has stated that a licensed physician has certified that the plaintiff is

1

Case 4:17-cv-00027-JLK-RSB Document 13 Filed 06/16/17 Page 1 of 2 Pageid#: 273

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law. The fact that the defendants deny the allegations over a simple legal basis of the suit such as "Freedom of Information Act ("FOIA"), 5 U.S.C. §552, Right to discovery packet of evidence under the 14th Amendment of the U.S. Constitution, Due Process clause (citing Brady v. Maryland, 373 U.S. 83 (1963))" is also idiotic in my opinion. Both the FOIA and the 14th Amendment under the U.S. Constitution (the due process clause in the Bill of Rights) are not allegations against the U.S. Government but are simply stating the federal law under the FOIA and the fourteenth amendment that the plaintiff believes was violated by the Defendants. FOIA and the due process clause are both used as a vehicle giving the plaintiff a right to the evidence that was originally used to wrongfully indict the plaintiff, wrongfully convict the plaintiff, then the criminal charge was used to abuse and deny the plaintiff's due process rights. Such due process rights being violated was the fact that the plaintiff never got to see his entire discovery packet until after his false guilty plea. Plaintiff plead guilty falsely without

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action. I was the criminal defendant of case named United States of America v. Brian David Hill, Case # 1:13-cr-435-1, and in the U.S. District Court for the Middle District of North Carolina. I am INNOCENT, and am trying to prove my innocence but am being blocked and my due process was deprived forcing me into taking the guilty plea agreement under false pretenses, being misled by the Federal Public Defender office in Greensboro, North Carolina. I have Autism Spectrum Disorder (ASD), Obsessive Compulsive Disorder (OCD), Generalized Anxiety Disorder (GAD), and I have type 1 brittle diabetes (diabetes mellitus). Because of that I am good at performing visual legal work but my verbal legal work is severely limited by my Autism. So I need around the clock medical care by a medical caretaker. My health is brittle and I need the Court to consider this fact and review the medical

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CARILION CLINIC
CARILION CLINIC, FAMILY AND INTERNAL MEDICINE
1107a Brookdale Street
Martinsville VA 24112
Phone: 276-670-3300
Fax: 276-634-0379

5/16/2017

RE:
Brian Hill
310 Forest St Apt 2
Martinsville VA 24112-4939

To Whom it May Concern:

This is to certify that Brian Hill is my patient since 11/2014. He has a diagnosis of diabetes, seizures, autism and obsessive compulsive disorder. One or more of these condition can limit his ability to be in social situation or among people and do work.

Please feel free to contact my office if you have any questions or concerns. Thank you for your assistance in this matter.

Sincerely,

Shyam E Balakrishnan, MD

https://www.courtlistener.com/docket/6064365/23/1/hill-v-executive-office-for-united-states-attorneys/

DIVISION FOR TREATMENT AND EDUCATION OF AUTISTIC
AND RELATED COMMUNICATION HANDICAPPED CHILDREN

Department of Psychiatry
University of North Carolina

D I A G N O S T I C E V A L U A T I O N

Patient: Brian Hill
Chart #: 60373
D.O.B. 5-26-90
Center: High Point, NC
Date: 10-19-94

DIAGNOSIS:

Autism - mild range

https://www.courtlistener.com/docket/6064365/23/2/hill-v-executive-office-for-united-states-attorneys/

Dear Office of Information Policy (OIP), Re: Case No DOJ-AP-2017-002520,

I submit my Legal Basis of both a Statutory (FOIA Law) and Constitutional nature, that support my original FOIA Request and my claims under FOIA Appeal.

I sustain the right, due to asserting ineffective assistance of Counsel to the U.S. Attorney Office in Greensboro, NC, as well as the EOUSA, under Declaration, in my original FOIA Request, as to the right to obtain and request my discovery evidence that was used against me in my criminal case. I explained that I wish to prove my Actual Innocence, that I cannot prove my Actual Innocence without access to the original discovery evidence, pursuant to my right under Writ of Habeas Corpus. As I am still under a Federal sentence, in the custody of the U.S. Probation Office, which has taken away my rights to come and go as I please, sustain that I still have the right to file a Writ of Habeas Corpus Petition which was also superseded by the Statutory Section 2255 Motion which I had not exhausted. I can freely file this 2255 Motion upon any evidence gathered to help prove "Actual Innocence" by showing FACTS of Actual Innocence. I cannot make a credible, factual, and competent claim of Actual Innocence without access to a copy of all criminal evidence that was originally used to indict me in Federal Court.

Page 2/8 - Legal Basis to OIP; Re: DOJ-AP-2017-002520 - 03/24/2017

That includes my confession Audio recording that is retained by Mayodan Police Department, which is refusing to give me access to such confession to prove a competent claim that my confession was false as a result of coercion and/or threats.

https://www.courtlistener.com/docket/6064365/24/4/hill-v-executive-office-for-united-states-attorneys/

Dear Office of Information Policy (OIP), Re: Case No DOJ-AP-2017-002520
and Defendant Executive Office for United States Attorneys,

Brian D. Hill, the plaintiff, hereby notifies the defendants' Executive Office for United States Attorneys ("EOUSA") and United States Department of Justice ("U.S. DOJ") to preserve all electronically stored information, physical copies, case file records, records, Audio discs including Audio CD discs, copies and backup, as defined by Rule 34 of the Federal Rules of Civil Procedure, along with any paper files which EOUSA and U.S. DOJ maintains, relevant to this dispute. Brian will be seeking in discovery electronic and non-electronic (paper, discs, photographs) data in EOUSA and U.S. DOJ's custody and control that is relevant to this action, including without limitation emails, paper records, case files, and other information contained on EOUSA's computer systems, case files, any other relevant record keeping, and any electronic storage systems. Brian D. Hill considers this electronic data and paper files to be valuable and irreplaceable sources of discoverable information in this matter, to prove that the U.S. Attorney may be covering up evidence, in violation of the FOIA, to attempt to cover up or conceal any evidence that is favorable to the plaintiff's criminal case discovery which can be used to help prove any factual matter claim of actual innocence.

https://www.courtlistener.com/docket/6064365/24/7/hill-v-executive-office-for-united-states-attorneys/

The plaintiff places the EOUSA and U.S. DOJ on notice to preserve all documents regarding Brian David Hill and/or any case files of discovery evidence which includes the confession Audio CD, SBI Case File, Search Warrant, complete 20-Page Mayodan Police Report, and any other evidence relevant to the actual innocence of Brian D. Hill. In addition, Brian D. Hill places EOUSA and U.S. DOJ on notice not to allow the deletion of any electronic and non-electronic communications, case files, records, such as emails, relating to the guilt or innocence of the plaintiff ("Brian David Hill").
We are confident that EOUSA and U.S. DOJ already has taken steps to preserve this data since it had an obligation to preserve relevant evidence. Thus, no procedures should have been implemented to alter any active, deleted or fragmented data. Moreover, no electronic and non-electronic data should have been disposed of or destroyed.
We further trust that EOUSA and U.S. DOJ will continue to preserve such electronic data and paper files throughout this litigation.

The plaintiff Brian David Hill ("Brian D. Hill") has filed a lawsuit in the United States District Court for the Western District of Virginia, Roanoke Division. Brian D. Hill is seeking improperly withheld records under the Freedom of Information Act ("FOIA") from the EOUSA and U.S. DOJ, on records that should have been maintained and controlled by the U.S. Attorney Office in Greensboro, North Carolina. The plaintiff is also seeking for summary judgment to determine any factual matter that the U.S. Attorney Office did inappropriately covered up, destroyed, or concealed records which would aid in proving the Actual Innocence of plaintiff and allow the plaintiff to be found "Not Guilty" by a Jury of his peers. The North Carolina State Bureau of Investigation ("N.C. SBI") has a history of manufacturing evidence in a murder case and has conducted other questionable forensic practices. The N.C. SBI may coverup the truth on possible evidence tampering then resubmit the report to the U.S. Attorney to give plaintiff a high risk of going to prison and further create a miscarriage of justice based upon possibly false information and evidence fraud. The lawsuit is meant to deter such misconduct that could

This duty to preserve evidence is broad and extends to all documents, regardless of whether the document is stored electronically (such as email) or in hard-copy and regardless of the type of document or even Audio CD record. For example, reports, spreadsheets, photographs Audio recordings, and videotapes are all considered documents/records that must be preserved. Furthermore, the duty to preserve this documentary evidence extends to all documents/records in existence as of the time you reasonably anticipated this litigation.
To ensure that all relevant documents/records are preserved, you should communicate directly with all employees in the U.S. Attorney Office, as well as the EOUSA and U.S. DOJ who have possession or control of potentially relevant evidence, including but not limited to personnel who deal with record retention, deletion, and archiving. You should advise each of these employees to preserve any relevant documents in their custody. Furthermore, you should advise all such persons that any regularly scheduled and/or automatic deletion of paper or electronic documents must be discontinued with respect to any relevant data. In addition, any document destruction (such as shredding of documents) must cease with respect to any relevant documents. All relevant documents, both electronic and paper, must be preserved for the duration of this litigation.
If you have any questions about the details of these obligations, please contact me.