

**UNITED STATES DISTRICT COURT
FOR THE CENTRAL DISTRICT OF CALIFORNIA**

Allan J. Favish)
Plaintiff,)
)
v.)
)
Office of Independent)
Counsel)
Defendant,)
_____)

CASE NO. 00-00009-CM (EX)

DECLARATION OF JULIE A. CORCORAN

I, Julie A. Corcoran, pursuant to 28 U.S.C. § 1746, hereby declare as follows:

1. I am an Associate Independent Counsel in the Office of Independent Counsel -- Robert W. Ray ("OIC"). One of my responsibilities is to review or supervise the review of OIC files in response to requests made under the Freedom of Information Act, 5 U.S.C. § 552 ("FOIA"), and the Privacy Act, 5 U.S.C. § 552a, to determine whether such files contain records within the scope of a request and, if so, to ascertain what portions of those records can be made available to the requester. This declaration is made based upon my personal knowledge and my review of the official files and records of this Office.

2. This Declaration is provided in response to the above-captioned litigation that arose out of a FOIA request, dated October 28, 1999, submitted to the OIC by Mr. Allan Favish. In his request, Mr. Favish sought permission for both an expert and himself to personally inspect an original document, a copy of which he provided with his FOIA request. A true and correct copy of the FOIA request (including the copy of the document he requested to inspect) is attached as Exhibit 1.

3. In response to Mr. Favish's FOIA request, the OIC conducted a search for an original document in the OIC's files which corresponded to the document Mr. Favish had attached to his FOIA request. The OIC found no original of the document Mr. Favish attached to his FOIA request. The only document the OIC had in its possession at the time of the FOIA request was a certified copy of the report sought, not the original report. A review of the certified copy and a review of the document transmitted by Mr. Favish reflected that there were no FOIA redactions made in the copy submitted by Mr. Favish.

4. By letter dated November 22, 1999, Mr. Favish was informed his FOIA request pertained to a document that did not contain any FOIA redactions and, therefore, his request was considered closed. A true and correct copy of the November 22, 1999 letter is attached as Exhibit 2.

5. Mr. Favish submitted an FOIA appeal on November 24, 1999. Mr. Favish declared under the FOIA he was entitled to personally inspect documents. A true and correct copy of the November 24, 1999 letter is attached as Exhibit 3.

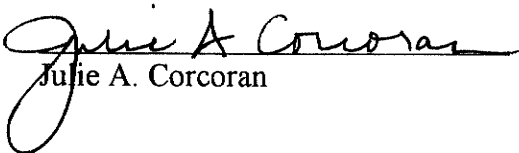
6. Mr. Favish's FOIA appeal was denied by letter dated December 28, 1999. Since no information was withheld, and Mr. Favish did not assert otherwise, it was determined there was no basis upon which to appeal his request to personally inspect documents. 5 U.S.C. § 552(a)(2)(D) states "each agency, in accordance with published rules, shall make available for public inspection and copying *copies* of all records, regardless of form or format, which have been released to any person under paragraph (3). . . ." 5 U.S.C. § 552(a)(3)(B) states that agencies "shall make the records promptly available to any person . . . in any form or format requested by the person if the record is readily *reproducible* by the agency in that form or format." A true and correct copy of the December 28, 1999 letter is attached as Exhibit 4.

7. In addition, the OIC had no responsive document as the OIC was in possession of a certified copy of the report sought, not the original report as of the time of the FOIA request.

8. A true and correct copy of the certified copy of the document in the OIC's files was provided to the U.S. Attorney's Office for transmittal to Mr. Favish. It is my understanding that the copy was sent to Mr. Favish from the U.S. Attorney's Office on February 7, 2000.

9. I declare under penalty of perjury that the foregoing is true and correct.

Executed: February 26, 2000
Washington, D.C.


Julie A. Corcoran

Exhibits omitted for this PDF copy of the
declaration. -- AJF