

Exhibit 26:

The following 3 pages are submitted as an Exhibit for 'Plaintiff's Memo, Presenting Details of his Complaint'.

Description of Exhibit Contents:

This is Plaintiff's Appeal (dated September 5, 2012) to the Response by Defendant FAA for FOIA #2012-6573. It includes a 2-page cover letter, and a 1-page attachment. The attachment was a sample page from an ITS printout, as received in an earlier FOIA response.

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Wednesday, September 5, 2012

Federal Aviation Administration
AFN-1, Asst. Administrator for Finance and Management
800 Independence Avenue SW
Washington, DC 20591

Dear Sir or Madam,

Please accept this letter as an **Appeal requesting reconsideration** of the Agency response to FOIA request 2012-6573, as signed by Flor Ramos for Edward Jones. In that response, the following was declared:

"...you are requesting copies of all pages and all records scanned into the Investigative Tracking System (ITS) for Report of Investigation (ROI) AWP-20070078. The Investigative Tracking System (ITS) is an electronic system that retains scanned copies of original ROIs..."

...the Federal Aviation Administration Joint Security and Hazardous Materials Safety office responded to an earlier FOIA request (2007-007547WP) from you dated October 2, 2007 in which you also requested a copy of ROI AWP-20070078. In response to that request, the agency provided you a complete copy of ROI AWP-20070078 with no redactions...."

Mr. Jones and Mr. Ramos then concluded that my request under FOIA 2012-6573 "...is duplicative of your request under FOIA 2007-7547."

The problem is, their statement is incorrect. For starters, I knew nothing about the existence of the ITS when I filed my F07-7547 FOIA request, on 8/28/07, thus could not have made the request outlined above way back in 2007. In fact, within that FOIA request, I specifically requested a copy of the ROI, as well as other specific records held by the CCR ATCT ATM and/or the AWP Regional Flight Surgeon. Years later, when I made the F12-6573 request on 7/11/12, I specifically requested "...true copies of all pages and all records scanned into the ITS, for ROI AWP-20070078...." So, the only way these two different requests can represent the same record is if the ONLY record scanned into ITS was the ROI. But, other agency records indicate this is not the case.

The attached is a page from an ITS printout, as provided in October 2008, via F08-7407. Please note that it specifies:

- ROI AWP-20070078 was assigned to James Austin on 3/6/07;
- ROI AWP-20070078 was distributed to AWP-16 and to AWP-500 on 3/29/07;
- ROI AWP-20070078 completion/disposition is marked as 9/5/07;

← my 7/11/12 Request (roughly)

- Both copies of ROI AWP-20070078 are marked returned;
- This ITS printout is dated 9/8/08.

Please understand that ROI AWP-20070078 was a document with grave consequences. Although it was filled with contradictions and was never substantiated, it was nonetheless used as the sole document to 'justify' the firing of a 22-year controller with a clean work record, when he was just 6-months shy of retirement eligibility.¹ Please also understand, although this controller had already been issued a written admonishment in July 2007 (which was the basis for the case being marked 'completed' with a 9/5/07 date, and for the ROI copy having been sent to the controller on 10/2/07), it was a full year later that the same ROI was again used to fire the controller. Thus, there is a legitimate concern that the ROI contents may have changed after July 2007. The only sure way for this FOIA requestor to determine what changes were made, and for the Public to assess agency performance, is if AWP would comply with FOIA law and produce all ITS copies as they exist at the time of the 7/11/12 FOIA request.

For this Appeal, I respectfully request the immediate production of all records as specified in the original 7/11/12 FOIA request. Please produce true copies of all contents of the ITS as it existed on 7/11/12.

This is a very simple Appeal, so please comply with the 30-day FOIA Appeal timeline.

Thanks for your help.

Sincerely,



Jeff Lewis

¹ Worse than that, the firing denied the controller his right to collect the retirement annuity he had earned. I.e., he had to find other Federal employment at age-50, so that he could retire (which was nearly impossible, at his age, given the firing, and given the economic conditions of late 2008). Alternatively, he had to accept the disability retirement which was repeatedly offered by FAA officials (which was fraudulent, as he did not qualify. As it happens, this controller declined, and he was eventually issued a 'forced-voluntary retirement', which he continues to challenge.

INVESTIGATION TRACKING SYSTEM
WORK ASSIGNMENT

9/8/2008

Case Number: AWP20070078	Date Opened: 03/06/2007	Office: WP70	Status: Completed
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CASE INFORMATION:

Office: WP70
Status: F - Completed Requestor: AWP700 EIR:
Source: ABD - Accountability Board
Cntrl Assgnmnt #: 20070098
Prison Match Record #:
Category: EMP - EMPLOYEE
Sub-category 1: 02 - IMPROPER CONDUCT
Sub-category 2:
Sub-category 3:
Date Violtn Known:
Investigator: 5001 - Austin, James Assigned Date: 03/06/2007
Criminal Referral: Date:
Referral: Date:
Work Product: ROI
Delay Reason:
Case Transferred: No
Date Closed: 03/28/2007 Completed/Disposition Date: 09/05/2007

	Office	Electronic Copy	Distribution Date	Returned
Distribution:	AWP-16		03/29/2007	Y
Distribution:	AWP500		03/29/2007	Y

Final Action: AD - Administrative
Supplement:
Date Opened: Date Closed: Date Completed:
Remarks:
Distribute Office: Returned:
Associated Case #:

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Public availability to be determined under 5.U.S.C. 552