

IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF TEXAS
SAN ANTONIO DIVISION

JAMES LUTCHER NEGLEY	§	
Plaintiff	§	
v.	§	CIVIL ACTION NO.
	§	SA-12-CV-362-OLG
	§	
FEDERAL BUREAU OF	§	
INVESTIGATION,	§	
Defendant	§	

PLAINTIFF'S RESPONSE TO DEFENDANT'S
MOTION FOR SUMMARY JUDGMENT

EXHIBIT C

JOHN F. CARROLL
ATTORNEY AT LAW
111 WEST OLMOS DRIVE
SAN ANTONIO, TEXAS 78212

TELEPHONE: (210) 829-7183

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March 22, 2013

Susan B. Gerson
Assistant Director
U.S. Department of Justice
Executive Office for United States Attorneys
Freedom of Information & Privacy Staff
600 E Street, N.W., Suite 7300, Bicentennial Building
Washington, DC 20530-0001
Via Fax: 202-252-6047

Re: FOIA Request No. 2013-162-R

Dear Ms. Gerson:

Please note that I represent James L. Negley in connection with the above referenced FOIA Request. On March 18, 2013, Mr. Prashant K. Khetan received a reply to his FOIA request disclosing 21 pages of documents with redactions. We are curious about the timeliness of the Response as the request was made several years ago.

I refer you to the page numbered Negley-437-FOIPA. That document is a fax cover sheet dated January 22, 2002, and apparently faxed on that same date according to the fax legend. Curiously, there is a handwritten notation that is dated 1/17/02. It is not understood how a handwritten note could have been made on January 17, 2002 on a document that was not created until January 22, 2002. Can you verify whether the notation is genuine?

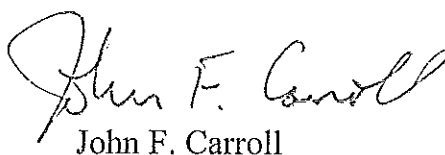
After the date, the handwritten notation appears to me to state: "case is still pending 500,00 pp in file (or it could read "info 6") 42,000 misc(appears to be misc) evidence"

The FBI has represented to us in an e-mail from Assistant United States Attorney Robert Shaw Meadow that the total number of pages regarding Mr. Negley was 7406 pages.(See copy of February 21, 2013 e-mail, attached)

Susan B. Gerson
March 22, 2013
Page 2

If the notation on page Negley-437-FOIPA is correct, does this mean that in 2002, the file regarding Mr. Negley totaled 42,000 pages, or even 542,000 pages? If that is the case, then the production of information by the Department of Justice in response to Mr. Negley's FOIA requests up to the present has been woefully inadequate. Please let me know if there are additional responsive documents regarding Mr. Negley that are subject to potential production under FOIA.

Very Truly Yours,



John F. Carroll

cc: David Castillo
Assistant United States Attorney
Western District of Texas
Fax No.: (512) 916-5854

Robert Pitman
United States Attorney
Western District of Texas
Fax No.: (210) 384-7312

Robert Shaw-Meadow
Assistant United States Attorney
Western District of Texas
Fax No.: (210) 384-7312

James L. Negley
Fax No.: 415-383-7719

JAN-22-2002 18:28

ATTY

512 916 5854 P. 01/03



U.S. Department of Justice

United States Attorney
Western District of Texas

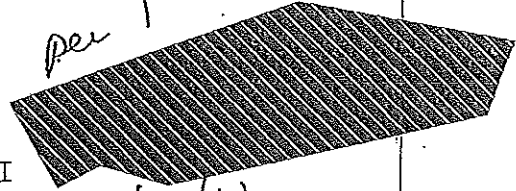
816 Congress Avenue, Suite 1000
Austin, Texas 78701

(512)916-5858
Fax: (512)916-5854

FACSIMILE TRANSMISSION

DATE: January 22, 2002

FROM: Daniel M. Castillo, Assistant U.S. Attorney
U. S. Attorney's Office
Western District of Texas
816 Congress Avenue, Suite 1000
Austin, Texas 78701
ph: (512) [redacted]
fax: (512) [redacted]



b6 per FBI
b7C

TO: [redacted]
Chief Division Counsel
Sacramento Division
Federal Bureau of Investigation
Sacramento, CA 95841
ph: [redacted]

1/17/02
Case is still pending
500,000 pp - in file
42,000 miles
evidence

FAX NO. (916) 971-1629

PAGE NO.: 3

RE: *John Lucher Negley v. U.S. Dep't of Justice and F.B.I.*
No. A-01-CA-57-JN (W.D. Tex. — Austin Division)

NOTES: (b5)

Negley-437-FOIPA

7c, 6
b2

197A-SC-35435 - 25

Molly Matthews

From: John F Carroll
Sent: Friday, March 22, 2013 3:02 PM
To: Molly Matthews (mmatthews@111westolmos.com)
Subject: FW: Negley question

From: Shaw-Meadow, Rob (USATXW) [<mailto:Rob.Shaw-Meadow@usdoj.gov>]
Sent: Thursday, February 21, 2013 3:27 PM
To: John F Carroll
Subject: Negley question

Good Afternoon, John –

I followed-up with the FBI regarding your inquiry yesterday.

They confirmed my understanding that the only documents they have relate to either the Chico State incident or the subsequent litigation and FOIA inquiries. We have not done a painstaking review of all instances where law enforcement privilege asserted, but it is my understanding that for documents which were withheld in full the exemption asserted was b5 – which covers attorney/client, attorney work product, and deliberative process.

Can you point us to a specific law enforcement privilege which was asserted which raised question to you that it might not be relating to the Chico State incident?

Let me also recap the numbers I have regarding documents produced and documents withheld. By FBI's most recent count, a total of 7,406 pages were found and processed. Of this universe, 5,128 were released in full; 1,455 were released in part; and 823 were withheld in full.

Rob SM

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FACSIMILE TRANSMISSION

TO: Susan B. Gerson **FAX NO.:** (202) 252-6047
Assistant Director, U.S. Dept of Justice
David Castillo (512) 916-5854
Assistant U.S. Attorney, Western District of Texas
Robert Pitman (210) 384-7312
U.S. Attorney, Western District of Texas
Robert Shaw-Meadow (210) 384-7312
Asst. U.S. Attorney, Western District of Texas
James L. Negley (415) 383-7719

FROM: John F. Carroll **DATE:** 3-22-13

OPERATOR: Molly M. Matthews **NO. OF PAGES:** 5
IF THERE IS A PROBLEM WITH THIS TRANSMISSION,
PLEASE CONTACT THE OPERATOR AT (210) 829-7183

RE: Case No. SA-12-CV-00362-OLG; *James Lutchner Negley v. Federal Bureau of Investigation*, United States District Court for the Western District of Texas

MESSAGE: Please see attached letter.

THE INFORMATION CONTAINED IN THIS FACSIMILE MESSAGE IS ATTORNEY/CLIENT PRIVILEGED AND CONFIDENTIAL INFORMATION INTENDED ONLY FOR THE USE OF THE NAMED RECIPIENT OR THE INDIVIDUAL OR AGENT RESPONSIBLE TO DELIVER IT TO THE INTENDED RECIPIENT. YOU ARE HEREBY NOTIFIED THAT ANY DISSEMINATION, DISTRIBUTION OR COPYING OF THIS COMMUNICATION IS STRICTLY PROHIBITED. IF YOU HAVE RECEIVED THIS COMMUNICATION IN ERROR, PLEASE IMMEDIATELY NOTIFY THE OPERATOR BY TELEPHONE, AND RETURN THE ORIGINAL MESSAGE TO THIS OFFICE AT THE ABOVE ADDRESS VIA THE U.S. POSTAL SERVICE.

THANK YOU

1)
2)

Date/Time: Mar. 22. 2013 3:18PM

File No.	Mode	Destination	Pg(s)	Result	Page Not Sent
3823	Memory TX Carroll	12022526047 15129165854 3847312 14153837719	P. 5	OK OK OK OK	

Reason for error

E. 1)	Hang up or line fail	E. 2)	Busy
E. 3)	No answer	E. 4)	No facsimile connection
E. 5)	Exceeded max. E-mail size		

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U.S. Attorney, Western District of Texas
Robert Shaw-Meadow (210) 384-7312
Asst. U.S. Attorney, Western District of Texas
James L. Negley (415) 383-7719

FROM: John F. Carroll DATE: 3-22-13

OPERATOR: Molly M. Matthews NO. OF PAGES: 5
IF THERE IS A PROBLEM WITH THIS TRANSMISSION,
PLEASE CONTACT THE OPERATOR AT (210) 519-3113

RE: Case No. SA-12-CV-00362-OLG; James Latcher Negley v. Federal Bureau of
Investigation, United States District Court for the Western District of Texas

MESSAGE: Please see attached letter.

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THANK YOU