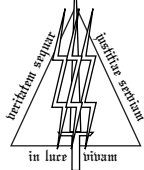


Appellant



United States of America Merit Systems Protection Board

[Redacted]

Appellant,

v.

United States Department of Justice,

Respondent.

Case No. [Redacted]

APPELLANT'S INITIAL DISCLOSURE

Federal Rules of Civil Procedure, Rule 26(a)(1)

I. Documents

Note: only documents in Appellant's possession, custody, or control that are intended to support his claims or defenses and which are not protected by a privilege are disclosed.

1. Appellant's partial file and contents produced by the FBI pursuant to FOIPA on 8/31/09 (see attached index).
2. Appellant's written materials prepared in support of the MSPB appeal (privileged/protected by work product doctrine until filed).
3. All correspondence to/from the FBI and its personnel.
4. Appellant's copies of documents not filed by the FBI in Appellant's file but prepared by Appellant or, e.g., [REDACTED] Field Office.

II. Persons With Discoverable Information

1. [REDACTED] (Appellant).
 - a. Every area of the appeal within appellant's personal knowledge.
 - b. Every document in appellant's possession, custody, or control that is anticipated to be used to support appellant's claims or defenses.
 - c. Information privileged or otherwise not subject to disclosure at this time.

Email:

Address and telephone:

2. Person Most Qualified of the FBI FOIPA unit.

- a. Reasons appellant's multiple FOIPA requests have been ignored.

Email unknown.

Address and telephone unknown.

//

//

3. Person Most Qualified of USDOJ FOIPA unit.

a. Reasons appellant's multiple FOIPA appeals have been ignored.

Email unknown.

Address and telephone unknown.

4. Special Agent Grahm Coder, FBI.

a. All communications with appellant from 6/15/09 to present.

b. Protocol violations by SA Coder.

c. Other areas yet to be identified.

Email: [REDACTED]

Address and telephone unknown.

5. Special Agent [REDACTED] FBI.

a. Appellant's Personnel Security Interview on 5/28/09 and all matters discussed or not discussed therein.

b. Protocol violations by SA [REDACTED]

c. Other areas yet to be identified.

Email unknown.

Address and telephone:

SA [REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

6. Special Agent [REDACTED] FBI

a. Appellant's polygraph examination on 6/9/09 and all matters discussed or not discussed therein.

b. Other areas yet to be identified.

Email unknown.

//

Address and telephone:

SA [REDACTED]

7. Unnamed Special Agent, FBI

a. Review of appellant's SF-86.

b. Sheet of handwritten notes in applicant file.

Email unknown.

Address and telephone:

8. Unnamed Analyst, FBI

a. Adjudication of appellant's application.

b. Suitability issues.

c. Other areas yet to be identified.

Email unknown.

Address and telephone unknown.

9.

a. If the FBI relies on Appellant's "yes" response to Question 23 on the SF-86 in contending that Appellant is not suitable:

- (1) Testimony that drug transaction appellant reported on SF-86 as involving appellant did not, in fact, involve appellant. Appellant misjudged his involvement.

//

1 Email: [REDACTED]

2 Address and telephone: [REDACTED]

3 [REDACTED]

4 [REDACTED]

5 [REDACTED]

6 10. [REDACTED]

7 a. If the FBI relies on Appellant's written description on the SF-86 Cover Sheet of a
8 reimbursement from cash receipts in contending that Appellant is not suitable:

9 (1) Testimony that cash reimbursement involving [REDACTED] organization
10 reported by applicant as improper was not, in fact, improper. Appellant
11 misjudged the impropriety.

12 Email: [REDACTED]

13 Address and telephone: [REDACTED]

14 [REDACTED]

15 [REDACTED]

16 [REDACTED]

17 [REDACTED]

18 [REDACTED]

19 11. [REDACTED]

20 a. If the FBI relies on Appellant's description of his past alcohol use in contending
21 that Appellant is not suitable:

22 (1) Testimony that appellant overestimated his prior alcohol use. Appellant
23 misjudged the severity of his past alcohol use.

24 b. Information privileged under [REDACTED]

25 Email: [REDACTED]

26 //

27 //

28 [REDACTED]

Appellant's Initial Disclosure

Address and telephone:

12.

a. If the FBI relies on Appellant's description of his past alcohol use, and/or his "yes" response to Question 24 regarding effect of past alcohol use on work performance, in contending that Appellant is not suitable:

(1) Testimony that appellant's work was unaffected. Appellant overestimated the impact of his prior alcohol use on work.

Email:

Address and telephone:

13. Acting Unit Chief Montchell Brice, FBI

a. The approval of Appellant's discontinuation.

b. Other matters as yet unknown.

Email unknown.

Address and telephone unknown.

14. Other persons, who are protected by a privilege under [REDACTED] and whose identities are not discoverable at this time.

Date: 10/1/2009

By: /S/

Appellant

Appellant's Initial Disclosure

CERTIFICATE OF SERVICE

I certify that the attached Document(s) was (were) sent as indicated this day to each of the following:

Agency Representative

FBI

Office of General Counsel

Employment Law Unit

935 Pennsylvania Avenue, NW, Room PA-400

Washington, DC 20535

by way of:

☐ Email

☒ U.S. Mail

☐ Overnight Delivery

☐ Facsimile

I declare under penalty of perjury [REDACTED] that the foregoing is true and correct.

Date: 10/1/2009

By: /S/

[REDACTED]
Appellant

[REDACTED] Appellant's Initial Disclosure

INDEX OF PARTIAL APPLICANT FILE

Page no.	Item Description	Date (if applicable)	Notes
1-3	FBI Freedom of Information/Privacy Act response letter and attachment describing FOIPA exemptions By: Section Chief David M. Hardy	8/31/2009	
4	FOIPA Deleted Page Information Sheet	n/a	8 pages are deleted, citing 5 U.S.C. 552a(k)(6) (selection test materials, et al.)
5-6	Polygraph Report By: SA [REDACTED] Reviewed By: SSA "RGL"	6/11/2009	Deception not indicated. Actual questions redacted.
7-8	SF-86C Certification updating applicant's address and employment status By: Applicant	6/12/09	
9	SF-86 Attachment 23—Illegal Drugs By: Applicant	n/a	Handwritten notes apparently written by polygraph examiner, SA [REDACTED]
10	SF-86 Attachment 24—Alcohol By: Applicant	n/a	
11	SF-86 13A—Employment Information By: Applicant	n/a	
12	Second Supplemental Attachment 1. To SF-86 Cover Sheet: Personal Declarations By: Applicant	5/18/2009	Additions to SF-86 cover sheet due to clarification from Field Office staff regarding scope of question.
13	Supplemental Attachment 1. To SF-86 Cover Sheet: Personal Declarations By: Applicant	5/18/2009	Additions to SF-86 cover sheet due to clarification from Field Office staff regarding scope of question. Margin note and underlining by unknown author.
14-17	SF-86 Cover Sheet and Personal Declarations By: Applicant	5/18/2009	
18-21	SF-86A Continuation Sheet By: Applicant	5/18/2009	Additions to employment section of SF-86 due to later-recalled employer
22-48	SF-86 By: Applicant	5/17/2009	SF-86 is missing additional information provided during the Personnel Security Interview. p. 29 (education information) corrected by letter to Applicant

			Coordinator dated 7/25/09 (p. 58 of this file)
49-57	Authorizations for Release of Medical/Financial Information		
58	Letter from Applicant to Applicant Coordinator regarding error in higher education portion of SF-86 By: Applicant	7/25/09	Post-rejection correction from applicant.
59	Handwritten notes from unnamed reviewer of SF-86 and SF-86 Cover Sheet	Undated	
60-76	Personnel Security Interview Form By: SA [REDACTED]	5/28/2009	
77-79	FD-991 Illegal Drug History Disclosure	5/28/2009	
80-84	Passport and Driver's License photocopies	5/28/2009	
85-112	Medical Records; Fitness For Duty Exam	5/27/2009	
113-114	Memo from FBI [REDACTED] Applicant Unit to [REDACTED] Security requesting pre-employment polygraph examination	6/8/2009	
115	Memo from [REDACTED] Applicant Unit to SA Clearance Unit—Security Division requesting initiation of Background Investigation	6/15/2009	Memo encloses SF-86, PSI Form, and all required hiring forms.
116-117	Duplicate of 113-114		
118	Personnel Consent to Release Information	5/15/2009	
119	Non-Personnel Consent to Release Information	5/15/2009	
120	Memo from [REDACTED] Applicant Unit to CJIS requesting fingerprint processing of applicant fingerprints.	6/8/2009	
121	Page 2 of SF-86 Roommate Attachment (partial)	5/17/2009	
122-123	Memo from [REDACTED] Applicant Unit to [REDACTED] Security requesting pre-employment polygraph examination	5/28/2009	Exam rescheduled by examiner.
124-125	Memo from [REDACTED] Applicant Unit to SA Clearance Unit—Security Division, [REDACTED] Security requesting pre-employment investigative checks	5/22/2009	
126-128	Memo from [REDACTED] Applicant Unit to [REDACTED] Security requesting Personnel Security Interview	5/22/2009	Encloses PSI Form, SF-86
129	Electronic FBI Physical Fitness Test score report	5/13/2009	
130	PSI assignment sheet and instructions	Undated	
131	TB Skin Test result	5/29/2009	
132	Paper FBI PFT score report	5/12/2009	
133-	FBI PFT liability waiver	5/12/2009	

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135- 136	FBI PFT Certificate of Wellness	3/31/2009	
137- 140	FBI Phase II Conditional Appointment Offer	5/6/2009	
141- 142	Updated applicant resume	3/13/2009	
143	FBI PFT Self-Test Evaluation	2/3/2009	
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160- 165	File Closures from withdrawn 2005 application	9/23/2005- 11/10/2005	