

Subject: [REDACTED] v. Dept. of Justice
From: [REDACTED]
Date: Mon, 02 Nov 2009 22:24:37 -0800
To: patricia.miller@ic.fbi.gov



Dear Ms. Miller,

This concerns the materials produced in the FBI filing of 10/26/2009 in my MSPB appeal.

I have observed two SACU correspondence tracking sheets that appear to be from Acting Unit Chief Montchell Brice to an undetermined recipient, perhaps the Analyst. The notes regarding the 9/16/2009 letter I wrote to the Acting Unit Chief direct the recipient to explain the appeal process to me, and in the later note regarding the 9/23/2009 letter I wrote, to consult with the Office of General Counsel in preparing the response.

Without judging the merits of the contentions and evidence I have filed in my MSPB appeal or the possible effect on the internal appeal of presenting these subjects in the direct manner in which they are presented in the appeal, I think we can both agree that the MSPB appeal is almost certain to be dismissed without further processing. As the cat is now out of the bag, as it were, I invite OGC's suggestions on where in the FBI I might most appropriately address my concerns about my applicant investigation.

On the one hand, I feel some level of responsibility to communicate these concerns promptly to recipients whose identities I might speculate might be the most appropriate. On the other hand, I feel somewhat of a need to be told in some fashion that the contentions I have made in the MSPB appeal (and others yet to be disclosed) are of a sufficient basis to actually be considered by whoever that someone may be without causing unwarranted issues for the FBI.



I point out that, at least as to the internal appeal and my communications with the Acting Unit Chief of SACU, I believe I am expressing an appropriate amount of discretion for an applicant who is in this position- particularly when viewed in light of a post-rejection email message from the SACU Special Agent (an Exhibit in my 10/14/2009 filing) that when viewed in light of his FD-302, its effects, and my subsequent actions in attempting to make myself more competitive in order to reapply, could reasonably be described as a gratuitously cruel gesture.

I am also unfamiliar with etiquette involving the chain of command, and so it would be helpful to be advised whether three letters (9/16/2009, 9/23/2009, and 10/20/2009) in 7 weeks is too short or too long for a response just letting me know what the appeal process is. I apologize for being clueless about this as I have not yet seen the Manual of Administrative Operations and Procedures and have no idea what might be contained in it that is pertinent to timing of correspondence or to the internal appeal. I am unable to determine from a treatise I was able to find- the Naval Correspondence Manual- whether it is ever appropriate to write a higher command simply because the reply from the lower command is not fast enough. Section 1-13 of the NCM suggests that



10 working days is appropriate for routine correspondence, but naturally that would be internal naval correspondence. I assume coordination with an attorney's office such as yours would increase the time required but I am not sure by how much. If there were any possibility that you might be able to comment on time frame issues, I would very much appreciate it.

In light of the FBI filing of 10/26/2009 and its contents, namely the suitability determination that seems to confirm the grounds I previously theorized but using what appear to be different facts, and adding one other ground I did not anticipate, I feel a need to communicate this in some fashion to the Acting Unit Chief. However, I am unsure if I have written too many letters to him or how specific my next letter should be regarding the appropriate forum in which to present concerns such as those I now believe are involved, in addition to those that were originally presented in the appeal. I would really appreciate some type of comment from your office in this area if it is not too much to ask for.

Best,

