

**UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF NEW YORK**

NAACP LEGAL DEFENSE AND EDUCATIONAL )  
FUND, INC., )

Plaintiff, )

v. )

U.S. DEPARTMENT OF JUSTICE, )

Defendant. )

Case No. 18-cv-09363 (AJN)

**PLAINTIFF’S CROSS-MOTION FOR SUMMARY JUDGMENT**

Pursuant to Federal Rule of Civil Procedure 56, Plaintiff NAACP Legal Defense and Educational Fund, Inc. (LDF) hereby moves for summary judgment. Specifically, Plaintiff seeks an order granting summary judgment on its claim that Defendant U.S. Department of Justice (DOJ) failed to conduct an adequate search for records and, therefore, improperly withheld information requested by Plaintiff under the Freedom of Information Act, 5 U.S.C. § 552 (FOIA).

On April 11, 2018, LDF submitted a FOIA request to DOJ’s Civil Rights Division (CRT) and DOJ’s Office of Legal Policy (OLP) seeking records regarding DOJ’s role in the Department of Commerce’s decision to add a citizenship status question to the 2020 decennial census. CRT denied the request in full, and OLP failed to respond, leading to the instant litigation. Since this action was filed, DOJ has produced 178 pages in full or with redactions and withheld 63 pages in full.

DOJ has not conducted an adequate search for records. The agency should have performed a more thorough search for responsive records using more appropriate and precise search terms within the readily identified database that DOJ created. Moreover, the inadequacy of the search as conducted is highlighted by the lack of records relating to DOJ’s purported review and analysis of

whether a citizenship status question on the 2020 census is necessary to enforce Section 2 of the Voting Rights Act and protect minority voting rights, an absence of records that is strikingly inconsistent with the Department's public position on the question. Finally, DOJ's overly narrow reading of LDF's FOIA request has resulted in an inadequate search for responsive records.

Filed separately in support of this Motion are (1) a Notice of Motion; (2) a Memorandum of Law in support of this Motion; (3) a Statement of Material Facts; (4) a Declaration from Leah C. Aden attaching two exhibits; and (5) a Proposed Order.

**WHEREFORE**, Plaintiff respectfully requests that this Court grant this Motion for Summary Judgment.

Dated: June 10, 2019

Respectfully submitted,

/s/ Leah C. Aden

Leah C. Aden

Aaron Sussman

John Z. Morris

NAACP LEGAL DEFENSE &  
EDUCATIONAL FUND, INC.

40 Rector Street 5th Fl.

New York, NY 10006

(212) 965-7715

laden@naacpldf.org

/s/ Cerissa Cafasso

Austin R. Evers

*Executive Director*

Cerissa Cafasso\*

AMERICAN OVERSIGHT

1030 15th Street NW, B255

Washington, DC 20005

(202) 869-5244

austin.evers@americanoversight.org

cerissa.cafasso@americanoversight.org

*\*admitted Pro Hac Vice*

*Counsel for Plaintiff*

**CERTIFICATE OF SERVICE**

I hereby certify that on June 10, 2019, a true and correct copy of the foregoing was served on Defendant via its counsel of record through the Court’s Electronic Case Filing (ECF) system.

*/s/ Leah C. Aden*  
\_\_\_\_\_  
Leah C. Aden