



November 17, 1999

Ms. Barbara Schwarz  
335 East Broadway, Apt. 401  
Salt Lake City, Utah 84111

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RE: Freedom of Information Act Request  
Reference #: 99-58

Dear Ms. Schwarz:

This is a response to your October 26, 1999, appeal of Legal Services Corporation's ("LSC's") denial of your request under the Freedom of Information Act ("FOIA"). You requested all records pertaining to the court case of Mr. Mark Rathbun and/or any records in your name.

LSC is a non-profit corporation that disburses federal grants to legal aid programs around the country. Please note that LSC does not provide legal representation to clients, nor does LSC normally maintain records of the legal representation conducted by its grantees or private attorneys.<sup>1</sup>

I uphold the denial made by Ms. Nikki Adaway, LSC FOIA Officer. I have reviewed the law on this matter and maintain LSC's inability to assist you with regard to the above request.

Reason for Denial

Your request was denied because the records requested were not records maintained by LSC. Generally, LSC is obligated under FOIA to provide agency records to the public.<sup>2</sup> Agency records are records "made or received by the Corporation in connection with the transaction of the Corporation's business."<sup>3</sup>

As explained above, LSC does not represent clients and possesses no court records unrelated to LSC business. It was apparent that the court records you requested were not related to LSC business. Therefore, it was unreasonable to conduct a search under FOIA at that time.

<sup>1</sup> See 42 U.S.C. 2996 (Legal Services Corporation Act); see also the LSC web site at [www.lsc.gov](http://www.lsc.gov).

<sup>2</sup> 45 C.F.R. §1602.3.

<sup>3</sup> 45 C.F.R. §1602.2.

Response to Arguments

I am required to respond to each of the arguments you presented in your letter of appeal.<sup>4</sup> I will address them in the order presented.<sup>5</sup>

First, you argue that Ms. Adaway failed to inform you about LSC's legal records systems. Ms. Adaway responded to your request in accordance with the law. Under the law, she is required to inform you of the reasons for your denial, the right to appeal, and provide you with her name and title.<sup>6</sup> She complied with the law,<sup>7</sup> and is not required to provide you with the additional information you requested.<sup>8</sup>

Second, you argue that Ms. Adaway did not explain her search. Ms. Adaway did not conduct a search because it was apparent the requested records were unrelated to LSC business and FOIA did not apply. Since receipt of your appeal, Ms. Adaway conducted a Corporate search via the director of every LSC department for any records identifying yourself or Mr. Rathbun. No records were found.

Third, you argue that Ms. Adaway did not restate what records you sought. Under the law, Ms. Adaway is not required to restate in her response to you what records you sought.<sup>9</sup>

Your fourth and final argument is that Ms. Adaway did not send you a search certificate or a declaration. This is not evidence of bad faith because Ms. Adaway is not required by FOIA or LSC's FOIA rules to send you additional documents.<sup>10</sup>

Judicial Review

If you still believe LSC has not handled your FOIA request in accordance with the law, you have the right to challenge LSC in a federal court. You may file your suit in a federal district court in any of these places: (1) where you reside, (2) where you have your place of business, (3) the District of Columbia or (4) where the records are located. You have six years to file suit.

We hope you are able to obtain the records you seek from the correct source. I suggest you contact the attorney that provided legal assistance to Mr. Rathbun. Please let us know if we can provide any additional assistance.

Sincerely,

  
John McKay  
President

<sup>4</sup> 45 C.F.R. §1602.12(c).

<sup>5</sup> See copy of enclosed Schwarz Letter of Appeal, October 4, 1999.

<sup>6</sup> 5 U.S.C. §552(a)(6)(A)(i), (a)(6)(C)(i); see also 45 C.F.R. §1602.11.

<sup>7</sup> See copy of enclosed LSC Letter of Denial, September 28, 1999.

<sup>8</sup> See 5 U.S.C. §552(a)(6)(A)(i), (a)(6)(C)(i); see also 45 C.F.R. §1602.11.

<sup>9</sup> 5 U.S.C. §552(a)(6)(A)(i), (a)(6)(C)(i); see also 45 C.F.R. §1602.11.

<sup>10</sup> See 5 U.S.C. §552(a)(6)(A)(i), (a)(6)(C)(i); see also 45 C.F.R. §1602.11.