

**UNITED STATES OF AMERICA
MERIT SYSTEMS PROTECTION BOARD
DALLAS REGIONAL OFFICE**

JUL -7 AM 10:18
RECEIVED
MSPB-DARO

SANDALIO GONZALEZ,
Appellant,

DOCKET NUMBER
DA-1221-05-0229-W-1

v.

DEPARTMENT OF JUSTICE,
Agency.

DATE: July 5, 2005

APPELLANT'S MOTION TO COMPEL DISCOVERY

This is a motion to compel discovery pursuant to Title 5, CFR, Chapter 2, Subchapter A, Part 1201.73 (c) (2). The Appellant submitted his discovery request to the agency in accordance with 5 CFR, Chapter 2, Subchapter A, Part 1201.73 on March 10, 2005, via First Class Mail. A copy of the Appellant's request is attached to this motion.

The information requested by Appellant is relevant and material to the subject matter of this appeal because it seeks to identify the specifics of the claim and the parties involved in the decision resulting in the Appellant's negative performance rating. The material sought, if provided by the agency, is specific enough so as to eliminate any likely waste of time in these proceedings. The Appellant's request for discovery has been in the hands of the Agency in excess of 20 days and no reply has been made to the Appellant, nor has any effort to communicate with him been made by the agency regarding any aspect of his discovery request.

Respectfully submitted,


Sandalio Gonzalez
Appellant

CERTIFICATE OF SERVICE

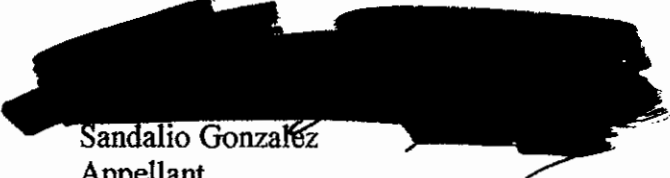
I certify that the attached document(s) was (were) sent as indicated this day to each of the following:

Agency Representative

U.S. Mail

Ellen Harrison, Esq
DEA Headquarters
Department of Justice
Attn: Chief, Management and Employee Services Section
Office of Personnel
2401 Jefferson Davis Highway
Alexandria, Virginia 22301

July 5, 2005



Sandalio Gonzalez
Appellant

March 10, 2005

Agency Representative
DEA Headquarters
Department of Justice
Attn: Chief, Management & Employee Services Section
Office of Personnel
2401 Jefferson Davis Highway
Alexandria, VA 22301

Re: MSPB Appeal DA-1221-05-0229-W-1
Appellant: Sandalio Gonzalez
Agency: Department of Justice

This is a request for discovery pursuant to 5 C.F.R. 1201.73.

Please provide the following:

1. The identity of every person of whom the Agency is aware, who may have information or knowledge which is relevant to the subject matter of this appeal or which may lead to the discovery of information relevant to the subject matter of this appeal or who has knowledge of any of the facts concerning the occurrences that are the subject of this appeal.
2. The name of each and every individual who made any formal or informal complaints or allegations against the Appellant relative to the subject matter of this appeal including, but not limited to, any and all individuals that made allegations that gave rise to the negative comments in the 2003-2004 performance evaluation of the Appellant.
3. The name and title of all individuals who conducted and/or were involved in the preparation of the Appellant's 2003-2004 performance evaluation, including the names of each and every individual who questioned or was questioned, interrogated or was interrogated, requested or provided information regarding the Appellant, in any way.
4. For each person identified in the immediately preceding interrogatory, please provide copies of each and every document, note, electronic mail message, or memoranda made by, submitted by, or forming the basis of information or knowledge which is relevant to the subject matter of this appeal or which may lead to the discovery of information relevant to the subject matter of this appeal or who has knowledge of any of the facts concerning the occurrences that are the subject of this appeal.
5. The name of each Agency employee who ordered and/or was involved in the issuance of the performance evaluation at issue in this appeal

6. If the Agency or any of its agents, attorneys, or employees has possession of or has obtained any statement from any individual, either orally or in writing, concerning the occurrences that are the subject of this appeal or concerning any allegation against the Appellant, describe separately each such statement by setting forth the substance of the statement, the name, address and telephone number of the person who gave it, the name, address and employment position of the person who received it, the date it was received, whether it was recorded, whether it was reduced to writing, whether it was signed, and the present location of all notes, recordings, transcripts, or writings of any kind pertaining to each such statement.

7. Copies of any and all documents, statements, notes, memoranda, or other writing referred to in the immediately preceding interrogatory

8. Copies of any and all documents reviewed or relied upon by the Agency in determining that the Appellant used "extremely poor judgment" including but not limited to all notes of Agency, ICE, DOJ, U.S. Attorney's Office, and any other government officials.


9. Each and every fact allegation and belief relied upon by the Agency to support the charge that the Appellant used "extremely poor judgment" by writing internal governmental correspondence that he had the authority to write, to someone of equal rank in another agency, and to the United States Attorney's Office, identifying outrageous and possibly criminal government conduct that resulted in the loss of human life, and the Agency's conclusion that charging the Appellant with using "extremely poor judgment" promotes the efficiency of the service. Please include in your answer how and in what manner the agency's action promotes the efficiency of the service.

11. Complete copies (with attachments) of the timeline of events conducted by DEA agents from the [REDACTED] Mexico Resident Office, and the Mexico City Country Office, and of the subsequent management review report of the [REDACTED] incident/evacuation conducted by personnel selected by the DEA Chief of Operations regarding the threat against Special Agent [REDACTED] and his [REDACTED] and the murder of several human beings that took place between [REDACTED] and [REDACTED] at a residence located at [REDACTED]

12. All documents generated by the Drug Enforcement Administration (DEA), the Bureau of Immigration and Customs Enforcement (ICE), the Office of the United States Attorney for the Western District of Texas, United States Attorney [REDACTED] of the Western District of Texas, the Department of Justice, DEA Administrator [REDACTED], DEA Deputy Administrator [REDACTED] and/or any other U.S. Government official that resulted in the Appellant receiving negative comments in his annual performance appraisal (2003-2004) as a result of a letter dated February 24, 2004, sent by the Appellant to his ICE counterpart in [REDACTED] and to the United States Attorney's Office on February 24, 2004.

Please comply with this request by submitting the requested documents to the Appellant at the following address not later than 20 days after receiving this request:

Sandalio Gonzalez


Thank you for your cooperation in this matter.

Sandalio Gonzalez
Appellant