



NATIONAL SECURITY AGENCY  
FORT GEORGE G. MEADE, MARYLAND 20755-6000

Case No. 54122/Appeal No. 3372  
23 October 2008

Mr. Mark E. Hughes  
4444 North 85<sup>th</sup> Street  
Scottsdale, AZ 85251

Dear Mr. Hughes:

This replies to your letter, postmarked 8 October 2008, appealing the National Security Agency's (NSA) failure to provide you records responsive to your request under the Freedom of Information Act (FOIA) and Privacy Act (PA) for copies of records this Agency maintains on you as further described in your 20 November 2007 request.

The Deputy Associate Director for Policy responded to you by letter, dated 2 January 2008, indicating: (1) that NSA's records reflect that you have never been affiliated with this Agency; therefore, no PA records were located; and (2) that NSA could neither confirm nor deny whether intelligence records relating to you exist, or whether any specific technique or method or activity was employed by this effort. This determination is pursuant to the first and third exemption under the FOIA.

The initial denial letter advised you that any appeal of an adverse determination submitted to the NSA/CSS FOIA Appeal Authority must be *postmarked* within 60 days of the date of the initial denial. According to the Department of Defense Regulation 5400.7-R, Section C5.3.3.1, "If no appeal is received, or if the appeal is postmarked after the conclusion of this 60-day period, the appeal may be considered closed." NSA responded to you by letter dated 2 January 2008. You did not contact NSA to indicate your intent to appeal within the 60-day timeframe, and your appeal was postmarked after the 60 days had passed. Therefore, your appeal has been administratively closed.

Sincerely,

A handwritten signature in black ink, appearing to read "A. E. Cerlenko", is written over the typed name.

ARIANE E. CERLENKO  
Associate General Counsel (Litigation)

Encl:

Copy of the postmarked  
envelope