United States Court of Appeals

FOR THE DISTRICT OF COLUMBIA CIRCUIT

No. 18-5073 **September Term, 2018**

FILED ON: JANUARY 3, 2019

JUDICIAL WATCH, INC.,
APPELLANT

v.

UNITED STATES DEPARTMENT OF STATE,
APPELLEE

Appeal from the United States District Court
for the District of Columbia
(No. 1:16-cv-02368)

Before: GARLAND, *Chief Judge*, and TATEL and WILKINS, *Circuit Judges*.

J U D G M E N T

This appeal was considered on the record from the United States District Court for the District of Columbia and on the briefs filed by the parties. *See* Fed. R. App. P. 34(a)(2); D.C. Cir. R. 34(j). The Court has accorded the issues full consideration and has determined that they do not warrant a published opinion. *See* D.C. Cir. R. 36(d). For the reasons stated below, it is hereby

ORDERED and **ADJUDGED** that the decision of the district court be affirmed.

In September 2016, Judicial Watch, Inc. submitted to the U.S. Department of State a request under the Freedom of Information Act (FOIA), 5 U.S.C. § 552 et seq., for "[a]ny and all records concerning, regarding or relating to the determination by the Office of Legal Counsel that the emails of former Secretary of State Hillary Clinton dated January-April 2009 would not be considered official State Department Records." Memorandum of Points and Authorities in Support of Defendant's Motion for Summary Judgment, ECF No. 14-1, at 1, *Judicial Watch, Inc. v. U.S. Department of State*, 288 F. Supp. 3d 150 (D.D.C. 2018) (No. 1:16-cv-02368). The State Department identified two offices and several individuals reasonably likely to have responsive records, but after searching the relevant files and locations, the Department found no responsive records. The district court concluded that the agency's search was adequate and granted the State Department's motion for summary judgment. *See Judicial Watch*, 288 F. Supp. 3d at 155.

Reviewing "de novo the adequacy of the [State Department's] search," *DiBacco v. U.S.*

Army, 795 F.3d 178, 188 (D.C. Cir. 2015), we reach the same conclusion as the district court. "In order to obtain summary judgment the agency must show that it made a good faith effort to conduct a search for the requested records, using methods which can be reasonably expected to produce the information requested." *Oglesby v. U.S. Department of Army*, 920 F.2d 57, 68 (D.C. Cir. 1990). "[A] search is not unreasonable simply because it fails to produce all relevant material," *Meeropol v. Meese*, 790 F.2d 942, 952–53 (D.C. Cir. 1986), "[n]or does the failure of a search to uncover a particular sought-after document evidence the search's insufficiency," *Bartko v. U.S. Department of Justice*, 898 F.3d 51, 74 (D.C. Cir. 2018). Having reviewed the record, we conclude that the State Department has demonstrated "beyond material doubt that its search was 'reasonably calculated to uncover all relevant documents,'" *Valencia-Lucena v. U.S. Coast Guard*, 180 F.3d 321, 325 (D.C. Cir. 1999) (quoting *Truitt v. Department of State*, 897 F.2d 540, 542 (D.C. Cir. 1990)), and we therefore affirm the district court.

Pursuant to D.C. Circuit Rule 36, this disposition will not be published. The Clerk is directed to withhold issuance of the mandate herein until seven days after the resolution of any timely petition for rehearing or rehearing *en banc*. *See* Fed. R. App. P. 41(b); D.C. Cir. R. 41.

Per Curiam

FOR THE COURT:
Mark J. Langer, Clerk

BY: /s/
Ken Meadows
Deputy Clerk