

**Before the  
Federal Communications Commission  
Washington, D.C. 20554**

In the Matter of	)	
	)	
TINO CORTEZ SUTTON	)	FOIA Control No. 2013-451
	)	
On Request for Inspection of Records	)	

**MEMORANDUM OPINION AND ORDER**

**Adopted: December 9, 2013**

**Released: December 9, 2013**

By the Commission:

**I. INTRODUCTION**

1. This Memorandum Opinion and Order dismisses as unacceptable for filing an application for review filed by Tino Cortez Sutton (Sutton).<sup>1</sup> Sutton seeks review of a decision<sup>2</sup> by the Public Safety and Homeland Security Bureau (PSHSB) that denied Sutton's Freedom of Information Act (FOIA) request.<sup>3</sup> We find that Sutton's AFR fails to state any grounds for review and is therefore dismissed as unacceptable for filing.

**II. DISCUSSION**

2. Sutton's FOIA request appears to seek records related to authorizations for surveillance conducted by federal, state, and local agencies, and records related to the fruits of that surveillance, as well as information regarding the surveillance-related records of private news organizations, common carriers, and other providers of communications services.<sup>4</sup> PSHSB's Decision explained that the Commission does not conduct such surveillance and that the Commission's role in connection with surveillance activities by other government agencies is limited to administering rules implementing the Communications Assistance for Law Enforcement Act (CALEA).<sup>5</sup> PSHSB's Decision also stated that the Commission does not maintain records that may be maintained by media organizations. Accordingly, PSHSB found that the Commission had no records responsive to Sutton's Request.<sup>6</sup> Sutton's rambling AFR completely fails to address the Decision in any respect.<sup>7</sup> It therefore fails to comply with 47 C.F.R. § 1.115(b), which requires that applications for review must concisely and plainly state the questions

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<sup>1</sup> See Letter from Tino Cortez Sutton to Federal Communications Commission (Sept. 16, 2013) (AFR). Sutton's filing is titled "Informal Complaint/Showing of Exigent Need or Circumstance." The envelope containing the pleading, however, is labeled "Freedom of Information Appeal."

<sup>2</sup> See Letter from Thomas J. Beers, Chief, Policy Licensing Division to Tino C. Sutton (Aug. 26, 2013) (Decision).

<sup>3</sup> See Letter from Tino Cortez Sutton to Federal Communications Commission (Jul. 20, 2013) (Request).

<sup>4</sup> See Request at 1-3.

<sup>5</sup> See 47 U.S.C. § 1001 *et seq.*

<sup>6</sup> See Decision at 1-2.

<sup>7</sup> In fact, the AFR is nearly identical to an unrelated filing made by Sutton months earlier. See Pleading titled "Informal Complaint/Showing of Exigent Need or Circumstance," filed May 7, 2013, by Sutton.

presented for review and specify with particularity the factors warranting Commission consideration of the questions presented.

### III. ORDERING CLAUSES

3. IT IS ORDERED that the application for review filed by Tino Cortez Sutton IS DISMISSED as unacceptable for filing. Sutton may seek judicial review of this action pursuant to 5 U.S.C. § 552(a)(4)(B).<sup>8</sup>

4. The officials responsible for this action are the following: Chairman Wheeler, and Commissioners Clyburn, Rosenworcel, Pai, and O’Rielly.

FEDERAL COMMUNICATIONS COMMISSION

Marlene H. Dortch  
Secretary

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<sup>8</sup> We note that as part of the Open Government Act of 2007, the Office of Government Information Services (OGIS) was created to offer mediation services to resolve disputes between FOIA requesters and Federal agencies as a non-exclusive alternative to litigation. Using OGIS services does not affect Sutton’s right to pursue litigation. Sutton may contact OGIS in any of the following ways:

Office of Government Information Services  
National Archives and Records Administration  
Room 2510  
8601 Adelphi Road  
College Park, MD 20740-6001  
E-mail: [ogis@nara.gov](mailto:ogis@nara.gov)  
Telephone: 301-837-1996  
Facsimile: 301-837-0348  
Toll-free: 1-877-684-6448.