



U.S. Department of Justice  
Civil Division  
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May 12, 2017

Ms. Molly C. Dwyer  
Clerk of Court  
United States Court of Appeals for the Ninth Circuit  
The Janes R. Browning Courthouse  
95 7th Street  
San Francisco, CA 94103

Re: Edward Tuffly, A.K.A. Bud Tuffly v.  
United States Department of Homeland Security, No. 16-15342  
(to be argued June 5, 2017)

Dear Ms. Dwyer:

We are writing, under Fed. R. App. P. 28(j), regarding the decision in Cameranesi v. U.S. Dep't of Defense, 2017 WL 1826625 (9th Cir. May 8, 2017), decided after appellee's brief was filed.

Cameranesi is pertinent to the privacy interest at stake here. See Aplees. Br. 10-12. It also bears on Tuffly's claim that there must be "evidence" that the release of the requested names will lead to those persons being "contact[ed] and harass[ed]," whereas here such contact and harassment is only a "possibility." Rpy. Br. 1. Finally, the decision bears on Tuffly's claim that disclosure would advance public interest. See Aplees. Br. 15-20 and Tuffly's response. Rpy. Br. 2-3.

In Cameranesi, as here, the FOIA requestor claimed that the evidence of risks faced by the persons whose names were sought was "overly speculative." 2017 WL 1826625 at \*10. The Court responded that it "ha[d] never held that an agency must document that harassment or mistreatment have happened in the past or will happen in the future; rather the agency must merely establish that disclosure would result in 'potential for harassment'" (id. (emphasis added (quoting Forest Serv. Emps. For Env'tl Ethics v. U.S. Forest Serv., 524 F.3d 1021, 1026 (9th Cir. 2008))), that risk of harassment and mistreatment is "nontrivial." 2017 WL 1826625 at \*11.

Here, it is reasonable to conclude that the well-known "hostile atmosphere to unauthorized immigration" could lead to harassment of the individuals whose names are sought. Aplees. Br. 11-12. As our brief explains (id. at 13-15), it is irrelevant that Tuffly states he "does not seek \* \* \* addresses" (Rpy. Br. 2) and "has no intent to contact, harass, or embarrass" (id.)

the persons whose names he requests. Others may seek to do so, and would have little trouble tracking down the named persons.

Finally, much like Tuffly (Rpy. Br. 2-3), Cameranesi claimed that release of the students' names, so that their post-training conduct could be tracked, would appreciably enhance "understanding the agency's performance of its statutory duties." 2017 WL 1826625 at \*12. The Court closely examined and rejected that claim.

Thank you for your assistance.

Respectfully submitted,  
s/Robert Kamenshine  
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This letter complies with the type-volume limitation of Fed. R. App. P. 28(j) because the body of the letter does not exceed 350 words

s/Robert Kamenshine  
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Homeland Security

#### **Certificate of Service**

I hereby certify that in this 12th day of May, 2017, I caused to be served on all interested parties, via his Court's ECF system, a copy of the above letter.

s/Robert Kamenshine  
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