

**UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLUMBIA**

LUCAS VINYARD

and

ALEJANDRO AMAYA

Plaintiffs,

v.

Case No. _____

UNITED STATES DEPARTMENT OF
THE INTERIOR,

Serve: Attorney General of the
United States, or
His designated representative
U.S. Department of Justice
950 Pennsylvania Ave, NW
Washington, DC 20530

Serve: Civil Process Clerk
U.S. Attorney's Office for the
District of Columbia
601 D Street, NW
Washington, DC 20530

and

LISA BRANUM
1849 C Street, N.W.,
Washington, D.C. 20240,

Defendants.

COMPLAINT

Plaintiffs, Lucas Vinyard and Alejandro Amaya, through counsel, Crowley So, LLP and Holtzman Vogel, PLLC, bring this action against the United States Department of the Interior (DOI) and Lisa Branum, in her official capacity as a Deputy Assistant Secretary, under the Mandamus Act, 28 U.S.C. §1361, the All Writs Act of 1948, 28 U.S.C. §1651, and the

Administrative Procedure Act of 1946, 5 U.S.C. § 706, for unreasonable delay in issuing a final decision on the Department's proposal to remove Officer Vinyard and Officer Amaya from their positions as Police Officers with the United States Park Police.

INTRODUCTION

United States Park Police Officers Lucas Vinyard and Alejandro Amaya bring this action to force the U.S. Department of the Interior, and in particular, Deputy Assistant Secretary Lisa Branum, to do their job and issue a decision on their proposed removal.

Officer Vinyard and Officer Amaya were involved in a 2017 traffic stop that resulted in the death of a motorist. The United States Department of Justice, the Commonwealth of Virginia, and a federal judge, all reviewed the evidence and independently concluded that Officers Vinyard and Amaya responded reasonably to the life-threatening danger the motorist presented. Nevertheless, in late 2021, the Department of the Interior ignored these findings and bypassed its own internal policies to propose the termination of Officers Vinyard and Amaya.

The DOI and its Deciding Official, Lisa Branum, have unreasonably delayed action on the proposal that has now been pending for more than two years. Indeed, it seems that the DOI has no intention of issuing a decision at all, preferring to have Officer Vinyard and Officer Amaya remain quietly on indefinite leave rather than do as it must and return them to work.

Throughout this interminable delay, Officers Vinyard and Amaya have been on administrative leave, unable to earn overtime, promotions, or otherwise advance their careers. Despite multiple inquiries, the DOI and Branum have refused to issue a decision or to even speak with the Officers' counsel regarding the status of any decision. Officer Vinyard and Officer Amaya ask the Court to order the DOI and Branum to do their job and issue a decision on the 2021 proposals.

JURISDICTION

1. This Court has subject-matter jurisdiction over this complaint pursuant to 28 U.S.C. § 1331, because the claims arise under the laws of the United States. This Court also has express subject-matter jurisdiction under 28 U.S.C. § 1361 and 28 U.S.C. § 1651.

2. Venue is proper pursuant to 28 U.S.C. § 1391 because the Defendant U.S. Department of the Interior is a resident of this district and because a substantial part of the events or omissions giving rise to the claim occurred in this district.

PARTIES

3. Plaintiff Lucas Vinyard is a natural person who resides in the Commonwealth of Virginia. He is currently employed as a Police Officer with the United States Park Police.

4. Plaintiff Alejandro Amaya is a natural person who resides in the Commonwealth of Virginia. He is currently employed as a Police Officer with the United States Park Police.

5. The United States Department of the Interior is an executive department of the U.S. federal government responsible for the management and conservation of federal lands and natural resources. The United States Park Police is a unit of the National Park Service, which is, in turn, a division of the U.S. Department of the Interior.

6. Lisa Branum is the Deputy Assistant Secretary for Public Safety, Resource Protection, and Emergency Services for the Department of the Interior. The DOI has designated Ms. Branum as the Deciding Official for the proposed removal of Officer Vinyard and Officer Amaya.

FACTS COMMON TO ALL COUNTS

7. Officer Vinyard is a veteran of the U.S. National Guard who joined the United States Park Police in 2007. Upon joining the Park Police, Officer Vinyard attended a four-month Land Management Police Training Course at the Federal Law Enforcement Training Center

(FLETC) in Glynco, Georgia. Officer Vinyard graduated first in his class and his instructor remarked that he possessed “all the qualities of an excellent patrol officer,” and “shows exceptional maturity and commitment to excellence that is seldom seen in students.”

8. Officer Amaya is a decorated police officer who joined the United States Park Police in 2010. Since graduating from FLETC, Officer Amaya has received numerous commendations and awards for his service. Notably, Officer Amaya received two life-saving awards: one for saving a man’s life who collapsed while jogging near the Lincoln Memorial and another for jumping into the Potomac River to save a young man who was drowning. Officer Amaya also earned an award for his exemplary efforts in fighting impaired and aggressive driving.

November 17, 2017 Incident

9. On November 17, 2017, Officer Vinyard and Officer Amaya were engaged in a pursuit of a black Jeep on the George Washington Parkway in Alexandria, Virginia. The Jeep had fled the scene of a hit-and-run and the officers saw the Jeep driving recklessly and erratically. Officer Vinyard and Officer Amaya suspected the driver was intoxicated—a suspicion later confirmed by toxicology reports.

10. The Jeep stopped several times during the pursuit, but then sped off as the officers approached. During the final stop, the driver drove the Jeep at Officer Amaya, who was standing only a few feet in front of the vehicle. The Officers fired their weapons in self-defense, killing the driver.

Investigation and Court Cases

11. On November 20, 2017, the Park Police asked the FBI to conduct an objective and impartial investigation into the shooting. The FBI spent two years investigating the case,

interviewing more than 150 witnesses. In 2019, the Department of Justice announced that it would not prosecute the officers because Officer Amaya acted in self-defense and Officer Vinyard acted to defend Officer Amaya and others.

12. In the meantime, the motorist's family filed a *Bivens* suit against the officers in the United States District Court for the Eastern District of Virginia. Those claims were voluntarily dismissed in August 2018.

13. Despite the DOJ's conclusion, the elected Commonwealth's Attorney for Fairfax County, Virginia, sought to score political points. He presented the case to a special grand jury, and on October 15, 2020, obtained indictments against both officers for involuntary manslaughter and reckless discharge of a firearm. He then held a press conference touting the indictments, while admitting that as federal officers, "they will file motions to remove the matter to federal court," and that "the federal government will move to dismiss this case on the grounds of the Supremacy Clause."

14. As the Commonwealth's Attorney foretold, the cases were removed and dismissed. On October 22, 2021, the Honorable Claude M. Hilton issued a decision finding that the "officers performed their duties as expected," and "were reasonable to fear for Officer Amaya's life and discharge their weapons when [the] Jeep lurched forward while Officer Amaya was standing in front of [the] vehicle." Judge Hilton wrote that "[t]he officers' decision to discharge their firearms was necessary and proper under the circumstances and there is no evidence that the officers acted with malice, criminal intent, or any improper motivation." Accordingly, the Supremacy Clause prohibited the Commonwealth from prosecuting the federal officers.

15. The Commonwealth appealed Judge Hilton's decision to the Fourth Circuit.

Department of Interior Proposes Officer Vinyard for Removal

16. On November 17, 2021, the fourth anniversary of the shooting, the Interior Department hand delivered a written order to the officers instructing them to appear at the Main Interior Building on November 19, 2021. The order did not come from anyone at the Park Police, but from Jennifer Flynn, the Associate Director of the Visitor and Resource Protection division of the National Park Service.

17. On November 19, 2021, Ms. Flynn served Officers Vinyard and Amaya with an advanced written notice of proposed removal. The proposals stated that it was based on Ms. Flynn's "review of the evidence" and her assessment that the officers "did not have the requisite reasonable belief to justify the use of deadly force." This directly contradicts the findings of Judge Hilton and the Department of Justice.

18. The Interior Department also produced the evidence file supporting the proposal. The file did not include the decisions by the Department of Justice or Judge Hilton, or even a statement or report from any Park Police personnel. The agency had not conducted any internal investigation, in violation of Park Police policy and the Collective Bargaining Agreement.

19. Instead, the proposals were based largely on what appears to be confidential discovery produced in the civil lawsuit. Several of the documents bear bates stamps and the notation, "SUBJECT TO PROTECTIVE ORDER." Also included were partial and misleading excerpts from transcripts of depositions taken in connection with the civil lawsuits.

20. When Officer Vinyard and Officer Amaya questioned how the Department received the documents, Chief of Employee and Labor Relations, Malia Wilber, claimed they came from the Assistant United States Attorney defending the United States in a related FTCA action. This made little sense, as the government attorney defending the officers' actions in

court was unlikely to supply misleading excerpts of deposition transcripts. So Officer Vinyard asked the AUSA about Ms. Wilber's claim and the AUSA denied supplying any information to the DOI. Officer Vinyard asked Ms. Wilber for an explanation, but she would not answer.

21. The DOI also disregarded other procedures and authorities to issue the unjustified proposal. For one, the Department's personnel manual and Park Police General Orders delegate personnel authority and disciplinary matters for the Park Police to the Chief of Police. The Chief of Police at the time, Pamela A. Smith, told officers that the DOI completely bypassed her authority and violated the CBA. Smith, now Chief of the District of Columbia's Metropolitan Police Department, urged the officers' union to do everything it could to support the officers.

22. The Interior Department also obstructed the officers' efforts to obtain evidence to support their defense. The Park Police Firearms Instructor, who was prepared to testify in the criminal case that the officers' actions were consistent with their training and Park Police policies, was instructed by the DOI not to cooperate with the officers in the administrative action.

23. The officers submitted separate written responses to the proposals on February 2 and February 4, 2022. Both officers raised these and other procedural arguments while also presenting a vigorous defense to the false allegations that they violated Park Police policies.

24. A few months later, on April 22, 2022, the Commonwealth dropped its appeal of Judge Hilton's dismissal of the criminal indictments. Virginia Attorney General Jason Miyares explained the decision:

We agree with the results of the extensive review conducted by the Department of Justice, and the analysis of the United States District Court. In light of the circumstances of the life-and-death situation confronting them, Officers Amaya and Vinyard acted reasonably in their use of force, and did no more than was necessary and proper to perform their lawful duties as federal officers.

25. Following the dismissal of the Commonwealth's appeal, politicians and other interested parties pressured the Department of Justice to reopen its investigation. In response, on June 10, 2022, the DOJ issued a press release stating that "[g]iven the totality of the evidence reviewed, including the evidence amassed during the prior federal investigation, materials submitted to the District Court, and the District Court's findings and dismissal, the department does not have an adequate basis to reopen its prior investigation."

The Department's Delay

26. In early May 2024, counsel for Officer Vinyard reached out to Ms. Branum about the DOI's extraordinary delay in issuing a decision. He noted that Officer Vinyard "has been on leave for 2.5 years and continues to miss out on overtime, promotions, and career advancement." He said Officer Vinyard "would like to see this case reach a resolution and would appreciate an opportunity to discuss that with you or whoever else would be appropriate for such a discussion."

27. Ms. Branum replied dismissively, "Thank you for your emails. I will consider them as well as any additional information you provide related to Officer Vinyard's proposed removal as part of my decision."

28. Later that month, counsel for Officer Vinyard contacted the Department's Chief of Employee and Labor Relations Malia Bruyneel Wilber requesting a telephone call to discuss the matter. Ms. Wilber did not agree to a call and said only that "[i]f your client would like to provide additional information as part of an updated reply, please contact the Deciding Official (Deputy Assistant Secretary Lisa Branum)."

29. Officers Vinyard and Amaya have been waiting for more than two years for a decision on their proposed removal. While the Department refuses to act, the officers continue to remain on administrative leave with significant career and financial consequences, including

damage to their reputation, loss of overtime pay, and the ongoing stress caused by their employer's efforts to drag out an administrative process that cannot be supported by the ample evidence available to the Department.

COUNT ONE

Mandamus Relief Under the Mandamus Act, 28 U.S.C. § 1361

30. Officers Vinyard and Amaya have a clear right to relief, and the Defendants have a clear duty to act. The Civil Service Reform Act of 1978 provides that “[a]n employee against whom an action is proposed is entitled to,” “a written decision and the specific reasons therefor at the earliest practicable date.” 5 U.S.C. § 7513(b). Once “an action is taken,” the employee “is entitled to appeal to the Merit Systems Protection Board[.]” 5 U.S.C. § 7513(d).

31. The Administrative Procedure Act directs agencies to conclude matters presented to them “within a reasonable amount of time.” 5 U.S.C. § 555(b).

32. The Collective Bargaining Agreement between the DOI and the Fraternal Order of Police, United States Park Police Labor Committee requires that the “Officer shall receive written notification of the decision,” and that such “notification shall include the reasons for the adverse action and shall inform the Officer of his/her right to appeal, and of the appropriate procedures available for appealing such actions, and the respective time limits involved.” CBA § 18.2. Once “an adverse action is taken,” the officer may either file at the MPSB or proceed to arbitration. CBA § 18.3.

33. The Advanced Written Notice of Proposed Removal states that “Deputy Assistant Secretary Lisa Branum, will issue to you a written final decision, with specific reasons for his [*sic*] decision, at the earliest practicable date.”

34. The Defendants have withheld and unreasonably delayed their decision on the proposals to remove Officer Vinyard and Officer Amaya from the federal service for two-and-a-half years.

35. The Defendants' unreasonable delay in issuing a final disciplinary decision has damaged the Officers' careers with the U.S. Park Police. It has caused them to suffer a loss of pay, promotion opportunities, career advancement, and has resulted in great stress and hardship.

36. The Defendants had ample opportunity to consider the officers' responses and issue a final disciplinary decision but have offered no reason for their delay.

37. The delay is particularly unreasonable in light of the DOJ's own investigation and the favorable resolution of the civil and criminal cases.

38. Officers Vinyard and Amaya have no other recourse but to ask this Court to order the Defendants to issue a final decision on their proposed removal. They cannot appeal the action to the MSPB or through arbitration because the Defendants have not issued their final decision.

COUNT TWO

To Compel Agency Action Unlawfully Withheld and Unreasonably Delayed Under the Administrative Procedure Act, 5 U.S.C. § 706.

39. Defendants have a legal duty to issue a decision on the proposals to remove Officers Vinyard and Amaya from the federal service. The Civil Service Reform Act of 1978 provides that "[a]n employee against whom an action is proposed is entitled to," "a written decision and the specific reasons therefor at the earliest practicable date." 5 U.S.C. § 7513(b). Once "an action is taken," the employee "is entitled to appeal to the Merit Systems Protection Board[.]" 5 U.S.C. § 7513(d).

40. The Administrative Procedure Act directs agencies to conclude matters presented to them “within a reasonable amount of time.” 5 U.S.C. § 555(b).

41. The Collective Bargaining Agreement between the DOI and the Fraternal Order of Police, United States Park Police Labor Committee requires that the “Officer shall receive written notification of the decision,” and that such “notification shall include the reasons for the adverse action and shall inform the Officer of his/her right to appeal, and of the appropriate procedures available for appealing such actions, and the respective time limits involved.” CBA § 18.2. Once “an adverse action is taken,” the officer may either file at the MPSB or proceed to arbitration. CBA § 18.3. Multiple disciplinary actions against Park Police Officers have been vacated by Arbitrators as untimely where the delays were significantly shorter than in this case.

42. The Advanced Written Notice of Proposed Removal states that “Deputy Assistant Secretary Lisa Branum, will issue to you a written final decision, with specific reasons for his [*sic*] decision, at the earliest practicable date.”

43. The Defendants have withheld and unreasonably delayed their decision on the proposals to remove Officer Vinyard and Officer Amaya from the federal service for two-and-a-half years.

44. The Defendants’ unreasonable delay in issuing a final disciplinary decision has damaged the Officers’ careers with the U.S. Park Police. It has caused them to suffer a loss of pay, promotion opportunities, career advancement, and has resulted in great stress and hardship.

45. The Defendants had ample opportunity to consider the officers’ responses and issue a final disciplinary decision but have offered no reason for their delay.

46. The delay is particularly unreasonable in light of the DOJ’s own investigation and the favorable resolution of the civil and criminal cases.

47. Officers Vinyard and Amaya have no other recourse but to ask this Court to order the Defendants to issue a final decision on their proposed removal. They cannot appeal the action to the MSPB or through arbitration because the Defendants have not issued their final decision.

COUNT THREE

Writ of Mandamus Under the All Writs Act, 28 U.S.C. § 1651

48. Officers Vinyard and Amaya have a clear right to relief and the Defendants a clear duty to act. The Civil Service Reform Act of 1978 provides that “[a]n employee against whom an action is proposed is entitled to,” “a written decision and the specific reasons therefor at the earliest practicable date.” 5 U.S.C. § 7513(b). Once “an action is taken,” the employee “is entitled to appeal to the Merit Systems Protection Board[,]” 5 U.S.C. § 7513(d).

49. The Administrative Procedure Act directs agencies to conclude matters presented to them “within a reasonable amount of time.” 5 U.S.C. § 555(b).

50. The Collective Bargaining Agreement between the DOI and the Fraternal Order of Police, United States Park Police Labor Committee requires that the “Officer shall receive written notification of the decision,” and that such “notification shall include the reasons for the adverse action and shall inform the Officer of his/her right to appeal, and of the appropriate procedures available for appealing such actions, and the respective time limits involved.” CBA § 18.2. Once “an adverse action is taken,” the officer may either file at the MSPB or proceed to arbitration. CBA § 18.3.

51. The Advanced Written Notice of Proposed Removal states that “Deputy Assistant Secretary Lisa Branum, will issue to you a written final decision, with specific reasons for his [*sic*] decision, at the earliest practicable date.”

52. The Defendants have withheld and unreasonably delayed their decision on the proposals to remove Officer Vinyard and Officer Amaya from the federal service for two-and-a-half years.

53. The Defendants' unreasonable delay in issuing a final disciplinary decision has damaged the Officers' careers with the U.S. Park Police. It has caused them to suffer a loss of pay, promotion opportunities, career advancement, and has resulted in great stress and hardship.

54. The Defendants had ample opportunity to consider the officers' responses and issue a final disciplinary decision but have offered no reason for their delay.

55. The delay is particularly unreasonable in light of the DOJ's own investigation and the favorable resolution of the civil and criminal cases.

56. Officers Vinyard and Amaya have no other recourse but to ask this Court to order the Defendants to issue a final decision on their proposed removal. They cannot appeal the action to the MSPB or through arbitration because the Defendants have not issued their final decision.

PRAYER FOR RELIEF

WHEREFORE, Plaintiffs Lucas Vinyard and Alejandro Amaya pray they be awarded a writ of mandamus, injunctive relief, or any other equitable relief the Court deems just and proper, including attorneys' fees and the costs of this action.

Dated: July 10, 2024

Respectfully submitted,



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emwenger@holtzmanvogel.com

Counsel for Plaintiff Alejandro Amaya

AO 440 (Rev. 06/12; DC 3/15) Summons in a Civil Action

UNITED STATES DISTRICT COURT

for the

_____ District of _____

Plaintiff(s)

v.

Defendant(s)

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Civil Action No.

SUMMONS IN A CIVIL ACTION

To: *(Defendant's name and address)*

A lawsuit has been filed against you.

Within 21 days after service of this summons on you (not counting the day you received it) — or 60 days if you are the United States or a United States agency, or an officer or employee of the United States described in Fed. R. Civ. P. 12 (a)(2) or (3) — you must serve on the plaintiff an answer to the attached complaint or a motion under Rule 12 of the Federal Rules of Civil Procedure. The answer or motion must be served on the plaintiff or plaintiff's attorney, whose name and address are:

If you fail to respond, judgment by default will be entered against you for the relief demanded in the complaint. You also must file your answer or motion with the court.

ANGELA D. CAESAR, CLERK OF COURT

Date: _____

Signature of Clerk or Deputy Clerk

Civil Action No. _____

PROOF OF SERVICE

(This section should not be filed with the court unless required by Fed. R. Civ. P. 4 (l))

This summons for *(name of individual and title, if any)* _____
was received by me on *(date)* _____.

I personally served the summons on the individual at *(place)* _____
_____ on *(date)* _____; or

I left the summons at the individual's residence or usual place of abode with *(name)* _____
_____, a person of suitable age and discretion who resides there,
on *(date)* _____, and mailed a copy to the individual's last known address; or

I served the summons on *(name of individual)* _____, who is
designated by law to accept service of process on behalf of *(name of organization)* _____
_____ on *(date)* _____; or

I returned the summons unexecuted because _____; or

Other *(specify)*: _____.

My fees are \$ _____ for travel and \$ _____ for services, for a total of \$ _____.

I declare under penalty of perjury that this information is true.

Date: _____

Server's signature

Printed name and title

Server's address

Additional information regarding attempted service, etc:

AO 440 (Rev. 06/12; DC 3/15) Summons in a Civil Action

UNITED STATES DISTRICT COURT

for the

_____ District of _____

Plaintiff(s)

v.

Defendant(s)

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Civil Action No.

SUMMONS IN A CIVIL ACTION

To: *(Defendant's name and address)*

A lawsuit has been filed against you.

Within 21 days after service of this summons on you (not counting the day you received it) — or 60 days if you are the United States or a United States agency, or an officer or employee of the United States described in Fed. R. Civ. P. 12 (a)(2) or (3) — you must serve on the plaintiff an answer to the attached complaint or a motion under Rule 12 of the Federal Rules of Civil Procedure. The answer or motion must be served on the plaintiff or plaintiff's attorney, whose name and address are:

If you fail to respond, judgment by default will be entered against you for the relief demanded in the complaint. You also must file your answer or motion with the court.

ANGELA D. CAESAR, CLERK OF COURT

Date: _____

Signature of Clerk or Deputy Clerk

Civil Action No. _____

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on *(date)* _____, and mailed a copy to the individual's last known address; or

I served the summons on *(name of individual)* _____, who is
designated by law to accept service of process on behalf of *(name of organization)* _____
_____ on *(date)* _____; or

I returned the summons unexecuted because _____; or

Other *(specify)*: _____.

My fees are \$ _____ for travel and \$ _____ for services, for a total of \$ _____.

I declare under penalty of perjury that this information is true.

Date: _____

Server's signature

Printed name and title

Server's address

Additional information regarding attempted service, etc:

AO 440 (Rev. 06/12; DC 3/15) Summons in a Civil Action

UNITED STATES DISTRICT COURT

for the

_____ District of _____

Plaintiff(s)

v.

Defendant(s)

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Civil Action No.

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A lawsuit has been filed against you.

Within 21 days after service of this summons on you (not counting the day you received it) — or 60 days if you are the United States or a United States agency, or an officer or employee of the United States described in Fed. R. Civ. P. 12 (a)(2) or (3) — you must serve on the plaintiff an answer to the attached complaint or a motion under Rule 12 of the Federal Rules of Civil Procedure. The answer or motion must be served on the plaintiff or plaintiff's attorney, whose name and address are:

If you fail to respond, judgment by default will be entered against you for the relief demanded in the complaint. You also must file your answer or motion with the court.

ANGELA D. CAESAR, CLERK OF COURT

Date: _____

Signature of Clerk or Deputy Clerk

Civil Action No. _____

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_____, a person of suitable age and discretion who resides there,
on *(date)* _____, and mailed a copy to the individual's last known address; or

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designated by law to accept service of process on behalf of *(name of organization)* _____
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My fees are \$ _____ for travel and \$ _____ for services, for a total of \$ _____.

I declare under penalty of perjury that this information is true.

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Server's signature

Printed name and title

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Additional information regarding attempted service, etc: