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APPEAL OF INITIAL FOIA DECISION

92ASE(92-176)

Rec'd 5-20-92

May 13, 1992

Executive Director for Operations
U.S. Nuclear Regulatory Commission
Washington, D.C. 20555

Dear Executive Director for Operations:

Please consider this letter an appeal to the U.S. NRC decision to withhold information in my FOIA request FOIA-92-176, which was processed by the NRC on May 5, 1992. The denying official was Mr. Bert Davis, NRC Region III administrator.

I have enclosed a c-py of the document at issue for your review.

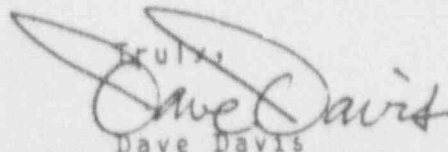
As you can see, Mr. Davis withheld information in six places on medical report and cover letter. He cited exemption 6, indicating that release of the material would be an invasion of personal privacy.

I can appreciate Mr. Davis' concern for protecting a hospital patient's privacy, but the two people whose names have been blacked out in these records are dead. In fact, the medical report at issue is a report on the death of a patient due to over-exposure to colbat, and in every instance Mr. Davis has withheld that patient's name.

I am requesting that I be provided with all the withheld information because, as you no doubt are aware, a dead person has no discernible privacy rights under current federal law.

In a similar case involving the Cleveland Clinic and a patient who had died, Donnie Grimsley, NRC Director of FOIA and Publication Services, recently ruled on an appeal in my favor, saying the NRC had no right to withhold the name of a dead patient. Mr. Grimsley was unable to provide the woman's name, however, because it had been deleted by the hospital, and not the NRC.

I appreciate your help in this matter and look forward to hearing from you soon.

Truly,

Dave Davis

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PDR FOIA
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