UNITED STATES DISTRICT COURT

FOR THE DISTRICT OF COLUMBIA

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Courts for the District of Columbia

AARON GREENSPAN,
Plaintiff,

v.

EXECUTIVE OFFICE FOR U.S. ATTORNEYS, et al.,
Defendants,

BOLA AHMED TINUBU,
Intervenor.

Civil Action No. 1:23-cv-01816-BAH
Hon. Beryl A. Howell

MOTION FOR LEAVE TO FILE BRIEF AMICUS CURIAE BY DR. KARL VON BATTEN IN SUPPORT OF PLAINTIFF

Pursuant to Local Civil Rule 7(o), Dr. Karl Von Batten, appearing pro se as proposed amicus curiae, respectfully moves this Court for leave to file the accompanying Brief Amicus Curiae addressing a material development occurring after Intervenor Bola Ahmed Tinubu filed his August 28, 2026, Response to Plaintiff's Motion for Summary Judgment (ECF No. 98).

1. **Interest of Proposed Amicus.** Dr. Karl Von Batten is a Washington, D.C.-based government-affairs and public-policy professional and Managing Partner of Von Batten-Montague-York, L.C. He has followed and publicly addressed the issues presented in this litigation and has participated in policy discussions concerning the implications of the underlying records.

2. More importantly for purposes of this Motion, the September 3, 2026, official Statehouse Statement giving rise to this proposed amicus submission expressly identifies Dr. Von Batten by name, characterizes his relationship with former Nigerian Vice President Atiku Abubakar, and directly challenges Dr. Von Batten's public commentary concerning this litigation. Dr. Von Batten therefore has a direct and particular interest in ensuring that the Court has before it the complete official statement and an accurate understanding of its potential relevance to the issues presently under consideration.

3. **New Development After Intervenor's Filing.** On August 28, 2026, Intervenor filed ECF No. 98 asserting substantial privacy interests under FOIA Exemption 7(C) and the Privacy Act. Among other things, Intervenor argues that he retains a privacy interest in the

undisclosed contents of investigative files notwithstanding prior public disclosure concerning the historical forfeiture proceedings.

4. On September 3, 2026—six days after ECF No. 98—the Nigerian Presidency, through Bayo Onanuga, Special Adviser to the President on Information and Strategy, issued an official public communication entitled "STATEHOUSE STATEMENT: CLARIFICATION ON THE ONGOING FREEDOM OF INFORMATION ACT CASE IN WASHINGTON, D.C." The statement expressly addresses this action, the FBI and DEA records at issue, the production of 399 pages, the asserted FOIA exemptions, and President Tinubu's invocation of Exemption 7(C).

5. A PDF copy of the official Statehouse Statement as publicly issued is attached as **Exhibit A.** For the Court's convenience, a transcript of the Statehouse Statement is attached as **Exhibit B.**

6. **Relevance of Proposed Amicus Brief.** Proposed Amicus does not contend that the September 3 Statehouse Statement categorically waives every privacy interest Intervenor may possess or independently defeats every FOIA exemption asserted by Defendants. Rather, the proposed brief addresses the narrower question whether this subsequent, voluntary, official public engagement with the precise subject matter of this litigation is relevant to the nature and weight of the privacy interests asserted by Intervenor and to the Court's balancing under Exemption 7(C).

7. The proposed brief also addresses the countervailing FOIA public interest in understanding the conduct of the United States Government. The FBI's August 28 declaration states that the responsive records were compiled in furtherance of an FBI investigation of multiple individuals for drug-trafficking crimes. Those sworn representations bear directly on whether disclosure of reasonably segregable information would illuminate the FBI's and DEA's performance of their statutory law-enforcement responsibilities.

8. Proposed Amicus's submission therefore concerns not merely public interest in President Tinubu personally, but the distinct FOIA interest in understanding what federal law-enforcement agencies did, how they conducted and documented the investigation, and how they subsequently processed and withheld the resulting records.

9. **Why Amicus Participation Is Desirable and Not Adequately Represented.** The September 3 Statehouse Statement was issued after the principal August 28 filings presently before the Court and specifically identifies and characterizes Proposed Amicus by name. No existing party represents Dr. Von Batten or is situated to address his particular connection to that subsequent official statement. Proposed Amicus seeks neither intervention nor party status, but only to provide the Court with the official

statement and a narrowly focused analysis of its potential relevance to the pending Exemption 7(C) issues.

10. The proposed submission is timely. It concerns an official statement issued only on September 3, 2026, after the August 28 filings presently before the Court, and its consideration need not delay resolution of the pending motions.

11. **Positions of the Parties. Positions of the Parties.** Pursuant to LCvR 7(o), Proposed Amicus states that Plaintiff Aaron Greenspan opposes the requested leave to file the proposed amicus brief. Plaintiff stated that, in his view, the proposed filing does not appear to comply with the rules of this Court and objected to the inclusion, within the attached Statehouse Statement and its transcript, of the Nigerian Presidency's assertion that Plaintiff works with Nigerian political figures, an assertion Plaintiff states is false. Proposed Amicus also requested the positions of Defendants and Intervenor Bola Ahmed Tinubu. As of the time of filing, neither Defendants nor Intervenor has responded to Proposed Amicus's request for their respective positions.

WHEREFORE, Proposed Amicus Dr. Karl Von Batten respectfully requests that the Court grant leave to file the accompanying Brief Amicus Curiae.

Dated: September 4, 2026

Respectfully submitted,

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BRIEF AMICUS CURIAE OF DR. KARL VON BATTEN IN SUPPORT OF PLAINTIFF

PRELIMINARY STATEMENT

This case presents competing interests that FOIA Exemption 7(C) requires the Court to evaluate carefully: legitimate personal privacy interests in law-enforcement records and the public's interest in understanding the activities of its Government.

Intervenor Bola Ahmed Tinubu argues that, notwithstanding public information concerning the historical forfeiture proceeding and the acknowledged existence of an investigation, he retains a distinct privacy interest in the undisclosed contents of investigative files. ECF No. 98 recognizes the Court's earlier distinction between Tinubu's interest in keeping secret the fact that he was under investigation and his separate interest in maintaining the privacy of the contents of investigative files. Amicus does not ask this Court to disregard that distinction.

Instead, Amicus brings to the Court's attention a material development occurring **after ECF No. 98 was filed**.

On September 3, 2026, the Nigerian Presidency issued an official Statehouse Statement devoted specifically to this litigation. The Presidency publicly discussed the litigation's history, the 399-page production, the nature of the asserted exemptions, the categories of law-enforcement information being withheld, and President Tinubu's own reliance on Exemption 7(C).

The official statement also expressly identifies Amicus by name, characterizes his relationship with former Nigerian Vice President Atiku Abubakar, and challenges his public commentary concerning this litigation.

A PDF copy of the official Statehouse Statement as publicly issued is attached as Exhibit A. A transcript of the statement is attached as Exhibit B for the Court's convenience.

The Statehouse Statement does not necessarily place every withheld investigative detail into the public domain. It does, however, materially alter the factual setting in which Intervenor's asserted privacy interest must be evaluated. President Tinubu's own Presidency has voluntarily and officially placed the existence, character, procedural history, asserted exemptions, and public significance of these records before an international audience.

At the same time, the FBI's own sworn declaration establishes that the responsive records are not merely documents concerning a private individual's background. The FBI states that the responsive records "were compiled in furtherance of the FBI's investigation of multiple individuals for drug trafficking crimes."

The relevant FOIA public interest therefore extends beyond curiosity concerning President Tinubu. Disclosure of non-exempt, reasonably segregable information may illuminate the activities of the FBI and DEA themselves: the nature and conduct of a federal drug-trafficking investigation, the investigative techniques employed, the Government's handling of the resulting records, and the bases upon which those agencies now seek to withhold portions of those records.

The Court should consider both sides of that balance on the complete and current record.

ARGUMENT

I. THE SEPTEMBER 3 STATEHOUSE STATEMENT IS RELEVANT TO THE WEIGHT OF INTERVENOR'S ASSERTED PRIVACY INTEREST

Intervenor argues that public knowledge of an investigation does not automatically eliminate every privacy interest in the contents of investigative files. Amicus does not contend otherwise.

But the privacy inquiry cannot be divorced from what Intervenor's own Presidency has voluntarily placed before the public.

On September 3, the Nigerian Presidency issued an official statement addressing this specific litigation. It publicly identified the 399-page production, described categories of asserted exemptions and law-enforcement information, acknowledged President Tinubu's assertion of Exemption 7(C), addressed the pending briefing schedule, and expressly sought to shape public understanding of the litigation.

Amicus does not contend that this statement discloses the contents of every withheld record. Nor does Amicus contend that the statement categorically eliminates every privacy protection that may otherwise apply.

The narrower point is that the official statement is relevant to the weight of the privacy interest being asserted.

President Tinubu asks this Court to protect the undisclosed contents of investigative records because of their private character. Yet the Presidency over which he presides has voluntarily invoked the authority of the State House to address those same records publicly, characterize the

litigation, explain the asserted exemptions, defend President Tinubu's invocation of Exemption 7(C), and address the Nigerian media and public concerning the controversy.

Indeed, the Statehouse Statement goes beyond a general acknowledgment of the litigation. It discusses specific categories of information and exemptions at issue and publicly presents the Nigerian Presidency's interpretation of the pending dispute.

The Court should consider subsequent official public engagement when evaluating the nature and weight of the asserted privacy interest.

II. THE COUNTERVAILING PUBLIC INTEREST CONCERNS THE CONDUCT OF THE FBI AND DEA, NOT MERELY PRESIDENT TINUBU'S PERSONAL BACKGROUND

Intervenor characterizes the asserted public interest principally as an interest in his personal background and fitness for office.

The Government's own August 28 filings demonstrate that the public-interest inquiry is broader.

The FBI states under oath that the responsive records were compiled in furtherance of an FBI investigation of multiple individuals for drug-trafficking crimes. The FBI's filings further describe substantial investigative activity reflected in the responsive records.

Accordingly, disclosure can illuminate more than President Tinubu's personal history. It may illuminate the conduct of federal law enforcement itself—including how the FBI and DEA investigated serious drug-trafficking activity, how investigative information was collected and documented, how federal law-enforcement agencies handled the resulting information, and how those agencies are now applying FOIA exemptions to the resulting records. That distinction is critical.

FOIA is designed to permit the public to understand what its Government is doing. Where records concern the conduct of federal law-enforcement agencies in an investigation of serious criminal activity, disclosure of reasonably segregable, non-exempt information can serve precisely that purpose.

The relevant question is therefore not simply whether the public wants to know more about President Tinubu. It is whether additional disclosure would enable the public to understand what the FBI, DEA, and Department of Justice did. That is a cognizable FOIA interest.

III. THE NIGERIAN PRESIDENCY'S OWN PUBLIC STATEMENT DEMONSTRATES THAT THE CONTROVERSY HAS MOVED BEYOND A PURELY PRIVATE MATTER

Intervenor's August 28 filing repeatedly characterizes the requested information as concerning an individual's private background.

The September 3 Statehouse Statement presents a materially different factual context.

The Presidency itself determined that this litigation warranted an official Statehouse response. It publicly addressed the nature of the records, the agencies involved, the asserted exemptions, President Tinubu's personal invocation of Exemption 7(C), the litigation schedule, the Nigerian media's treatment of the controversy, and the political debate surrounding disclosure.

The Presidency also expressly identified Amicus and former Nigerian Vice President Atiku Abubakar in discussing the litigation.

Amicus does not suggest that political significance alone creates a cognizable FOIA public interest. Rather, the Statehouse Statement is relevant because it demonstrates that Intervenor's own government has voluntarily made the controversy surrounding these U.S. law-enforcement records a subject of official governmental communication.

That fact should be considered when determining the appropriate weight to assign the privacy interest asserted by Intervenor.

IV. THE COURT SHOULD CONSIDER THE SEPTEMBER 3 STATEMENT IN CONDUCTING THE EXEMPTION 7(C) BALANCE WHILE PRESERVING INDEPENDENTLY VALID EXEMPTIONS

Amicus does not ask the Court to order indiscriminate disclosure of information independently protected by federal law.

The FBI and DEA have invoked multiple FOIA exemptions. Some of those exemptions protect interests separate from President Tinubu's personal privacy. The September 3 Statehouse Statement does not automatically eliminate those protections.

The narrower question addressed by Amicus concerns Exemption 7(C) and the balance between personal privacy and the public interest.

Two developments are particularly significant to that analysis.

First, the FBI's sworn filings establish that the records at issue arose from a federal drug-trafficking investigation and contain information concerning substantial federal investigative activity.

Second, President Tinubu's own Presidency has now voluntarily issued an official public statement addressing this very litigation, the records at issue, the Government's withholding theories, and President Tinubu's assertion of privacy. Those developments should be considered together.

They do not necessarily extinguish every privacy interest. They do, however, reinforce the need for a careful, record-specific balancing analysis rather than treating the requested information categorically as nothing more than the private background of an individual.

The Court should therefore consider the September 3 Statehouse Statement in determining the appropriate weight to assign Intervenor's asserted privacy interests and require disclosure of all reasonably segregable information for which those interests do not outweigh the cognizable public interest in understanding the conduct of the FBI, DEA, and Department of Justice.

CONCLUSION

For the foregoing reasons, Amicus respectfully submits that the Nigerian Presidency's September 3, 2026, Statehouse Statement is a relevant subsequent development that should be considered in evaluating Intervenor's asserted privacy interests under Exemption 7(C).

Amicus further submits that the Government's own sworn descriptions of the responsive records establish a substantial FOIA public interest extending beyond President Tinubu personally: the public interest in understanding the conduct of federal law-enforcement agencies in investigating serious drug-trafficking activity and subsequently processing and withholding the resulting records.

Accordingly, Amicus respectfully requests that the Court consider the September 3 Statehouse Statement, attached as Exhibit A, the accompanying transcript, attached as Exhibit B, and the Government's August 28 declarations in conducting the Exemption 7(C) balancing analysis and order disclosure of all non-exempt, reasonably segregable information for which the asserted privacy interests do not outweigh the public interest, while preserving information independently protected by other properly invoked FOIA exemptions.

Dated: September 4, 2026

Respectfully submitted,



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EXHIBIT A

OFFICIAL SEPTEMBER 3, 2026, STATEHOUSE STATEMENT

"CLARIFICATION ON THE ONGOING FREEDOM OF INFORMATION ACT CASE IN WASHINGTON, D.C."

Official public statement issued by the Nigerian Presidency through Bayo Onanuga, Special Adviser to the President on Information and Strategy.

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Newspaper Chief Executive, Former Director Media and Publicity Tinubu/Shettima Campaign, Special Adviser Information and Strategy to President Tinubu. Married.

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statehouse.gov.ng/press-office/ · Joined October 2009 >

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Bayo Onanuga, OON, CON @aonanuga1956 · 5h
STATEHOUSE STATEMENT

CLARIFICATION ON THE ONGOING FREEDOM OF INFORMATION ACT CASE IN WASHINGTON, D.C.

The Presidency has noted recent speculative reports concerning an ongoing Freedom of Information Act case before the United States District Court for the District of Columbia.

For clarity, the matter is a civil records-disclosure dispute under the United States Freedom of Information Act. It is not a criminal case against President Bola Ahmed Tinubu, nor has the court found him guilty of any criminal wrongdoing.

Here is the background to the case, which comes 23 years after the American Consulate in Lagos, in a letter dated February 4, 2003, informed the then Inspector General of Police, Mr Tafa Balogun, that an FBI records check found no criminal arrest records, wants, or warrants for then Governor Bola Ahmed Tinubu.
In 2022, Mr Aaron Greenspan, who is known to work with Nigerian opposition figures including David Hundeyin and Atiku Abubakar, submitted FOIA requests to several United States government agencies seeking records relating to President Tinubu. After the agencies withheld certain records or declined to confirm or deny their existence, Mr Greenspan commenced Civil Action No. 23-1816 before the United States District Court for the District of Columbia in 2023.
The court subsequently permitted President Tinubu to participate in the proceedings as an intervenor.

During the proceedings, the Defendants asserted the "Glomar defence, a standard defence that US law enforcement agencies invoke from time to time. It simply means the government agency is not "in a position to deny or admit" the existence of an investigation. It protects government personnel and the techniques and sources law enforcement agencies use to investigate and prosecute crimes.

Based on the invocation of this defence, the United States District Court granted summary judgment in favour of the CIA, EOUSA, Department of State, Department of the Treasury and the Internal Revenue Service (IRS). It ruled that they be removed from the proceedings, leaving aspects of the claims involving the Federal Bureau of Investigation and the Drug Enforcement Administration for further consideration.
In compliance with the court's orders, the FBI and DEA produced 399 pages of records, with portions redacted under exemptions provided by United States law. The Plaintiff challenged the FBI and DEA's decisions to redact portions of the documents produced.

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The FBI and DEA, through the United States Department of Justice (USDoJ), pushed back against the Plaintiff's requests. The FBI and DEA rejected the application to produce the documents without redactions for the following reasons:

1. Some of the documents are protected from being revealed to the public by law, for example, Grand Jury proceedings. The law exempts transcripts of Grand Jury proceedings from public disclosure. The Pen Register Act also protects from disclosure information about certain court order(s) authorising or approving the installation and use of a pen register or trap and trace device. (FOIA Exemption 3)
2. Some of the documents fall squarely within the attorney-work product and attorney-client privileges. Some documents contain instances where FBI and DEA agents sought and/or received legal advice from USDoJ attorneys. (FOIA Exemption 5)
3. Some of the documents were prepared for law enforcement purposes. (FOIA Exemption 5)
4. Some of the documents contain information which, if revealed, could lead to an unwarranted invasion of personal privacy. (FOIA Exemptions 6 and 7(C)).
5. Some of the documents, if disclosed, will reveal the identities of confidential sources or compromise the techniques that law enforcement agencies use in investigating crimes. (FOIA Exemptions 7(D) and 7(E))

President Bola Tinubu, on advice of his lawyers, has also asserted his rights as guaranteed by FOIA Exemption 7(C).

The Plaintiff has until September 11, 2026, to file any opposition and reply to the Defendants' and Intervener's processes, while the FBI, DEA and the Intervenor have until September 18, 2026, to respond to the processes that the Plaintiff might have filed.

The release or withholding of records under FOIA does not, by itself, establish criminal liability. The case concerns access to government records and the proper application of statutory exemptions.

The Nigerian media should note that this case is exclusively within the control of Judge Beryl A. Howell of the United States District Court. She will determine its outcome, based on the evidence, applicable law, and the parties' arguments, not the wishful preference of Alhaji Atiku Abubakar or his agent, Mr Von Batten.

Recent public commentary by Mr Karl von Batten has inaccurately portrayed him and his client as central to the proceedings. Neither is a party to the case.
The litigation is a civil records-disclosure dispute under FOIA. It does not constitute a criminal charge, trial, or judicial finding against President Tinubu. The FBI and DEA have produced records with redactions, and the remaining question is whether those redactions are lawful.

The United States District Court will decide that issue based on the filings and applicable US law, not political commentary.

The Presidency therefore urges the media and the public to distinguish verified court proceedings from partisan speculation.

Bayo Onanuga
Special Adviser to the President
(Information and Strategy)
September 3, 2026

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@batten_von

EXHIBIT B

TRANSCRIPT OF SEPTEMBER 3, 2026, OFFICIAL STATEHOUSE STATEMENT

Provided for the Court's convenience. The original publicly issued statement is attached as Exhibit A.

STATEHOUSE STATEMENT

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The FBI and DEA, through the United States Department of Justice (USDoJ), pushed back against the Plaintiff's requests. The FBI and DEA rejected the application to produce the documents without redactions for the following reasons:

1. Some of the documents are protected from being revealed to the public by law, for example, Grand Jury proceedings. The law exempts transcripts of Grand Jury proceedings from public disclosure. The Pen Register Act also protects from disclosure information about certain court order(s) authorising or approving the installation and use of a pen register or trap and trace device. (FOIA Exemption 3)

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Bayo Onanuga

Special Adviser to the President

(Information and Strategy)

September 3, 2026