

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLORADO
Civil Action No. 76 M 1078

FILED
UNITED STATES DISTRICT COURT
DENVER, COLORADO
SEP 12 1977
JAMES R. HANSFEXNER
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JONATHAN O. OLOM,)
)
Plaintiff,)
)
v.)
)
FEDERAL BUREAU OF INVESTI-)
GATION, CLARENCE M. KELLY,)
Director, et al.,)
)
Defendants.)

MEMORANDUM AND ORDER

The plaintiff's Freedom of Information Act request was for "copies of all files and documents maintained by the F.B.I. relating to myself." The defendants moved for a summary judgment based upon an affidavit of David S. Byerly, a Special Agent assigned in a supervisory capacity to the Freedom of Information-Privacy Acts Branch, Records Management Division, F.B.I. Agent Byerly described the records search which was made and reported that three documents were located. Portions of two of those documents, with deletions, were provided to plaintiff. The three documents were examined by me, in camera, in their entirety, together with an additional affidavit of John C. Murphy, Special Agent, Freedom of Information-Privacy Acts Branch, Records Management Division, F.B.I. The three documents are self-explanatory and the defendants' claims of exemptions are determinable from the documents themselves.

The first document, chronologically, is a report of an employment security investigation of an individual employed in a sensitive position in the United States government. Because the only reference to the plaintiff in that report is his name and age, it is doubtful that this report could be considered to be within the scope of the request. At any rate, it is clear that public disclosure of this document would be an unwarranted invasion of the privacy of the person who was the subject of the

report and of those providing information concerning that individual. Accordingly, that investigation report is within the exemption provided in 5 U.S.C. 552(b) (7) (C).

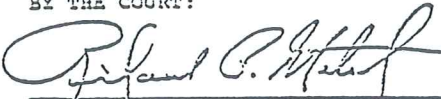
The second document is a name check request from the United States Postal Service in February, 1973, as a result of plaintiff's employment application. The plaintiff received that document with minimal deletions. Those deletions are exempt under 5 U.S.C. 552(b) (2) and 5 U.S.C. 552(b) (7) (C).

The third document is a thirteen page report concerning an organization named Indochina Information Center. Portions of three pages of that report were given to the plaintiff. While it can be said that those portions are the only matters which come within the scope of the plaintiff's request, I have reviewed the entire document and considered the defendants' claim of exemption upon the same basis as would be applicable if the request had been for the complete report of information concerning that organization. The primary purpose of my in camera inspection of that report was to determine whether it was properly characterized as an investigatory record compiled for law enforcement purposes within the jurisdiction of the F.B.I. Because the plaintiff here identified himself as an organizer of that group and because he identified it as a political organization, the concern was whether the defendants had acted inappropriately. My reading of the report results in the finding and conclusion that the F.B.I. did act within the authority authorized by statute in making an inquiry and investigation and that the F.B.I. activity was terminated when the political character of the Indochina Information Center was verified. A release of the report to the public would constitute an unwarranted invasion of personal privacy of persons named in the report and it would disclose the identity of confidential sources of information. Accordingly, the exemptions under 5 U.S.C. 552(b) (7) (C) and (D) are applicable.

Upon the finding and conclusion that the withheld material is within the exemptions claimed, it is ORDERED that judgment shall enter for the defendant, without costs.

Dated: September 12, 1977.

BY THE COURT:

s/ 
Richard P. Matsch, Judge
United States District Court