

Acting Assistant Attorney General
Civil Division

Acting Director, FBI

62-112697

1 - Mr. A. Rosen
1 - Mr. D. J. Dalbey
(Hotis)

June 9, 1972

1 - Mr. E. S. Miller
1 - Mr. W. A. Branigan
1 - Mr. J. P. Thomas

BERNARD FEHSTERWALD, JR. v. DEPARTMENT
OF JUSTICE, USDC D.C., CIV. NO. 861-72

Reference is made to your communication captioned as above dated May 19, 1972, your reference 145-12-1727. You enclosed a copy of the complaint in the above entitled matter filed pursuant to the Freedom of Information Act and requested no later than June 9, 1972, a litigation report.

We are unable to prepare a litigation report in the form requested because this Bureau has had no communication written or oral with the plaintiff regarding his request for access to and the right to copy three photographs which were displayed in February, 1964, to one Pedro Gutierrez Valencia in Mexico City.

For your information, the Central Intelligence Agency (CIA) loaned certain photographs and, by cropping out the background of each, prepared them in February, 1964, for display by the FBI to Gutierrez. These photographs, as cropped, were displayed to Gutierrez and when he failed to identify any they were returned to CIA. Our representative in Mexico did not retain copies of the cropped photographs and did not send copies of these cropped photographs to the FBI Headquarters. CIA has stated that the photographs shown to Gutierrez were and are classified "Secret." A CIA representative in Mexico has informed our Legal Attache in Mexico that all items relating to this matter have been sent to CIA Headquarters.

The FBI has some uncropped photographs which were furnished by CIA in November, 1963, believed to be copies of the photographs which in cropped form were shown to Gutierrez in February, 1964. It is suggested that you may wish to consult with the General Counsel of CIA before answering the plaintiff. The specific photographs sought by the plaintiff are the property of CIA and a decision as to their release is properly within the purview of that Agency.

Enclosures - 2

DUPLICATE YELLOW

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SEE NOTE PAGE TWO

ORIGINAL FILED IN 105-82535-5683

Acting Assistant Attorney General
Civil Division

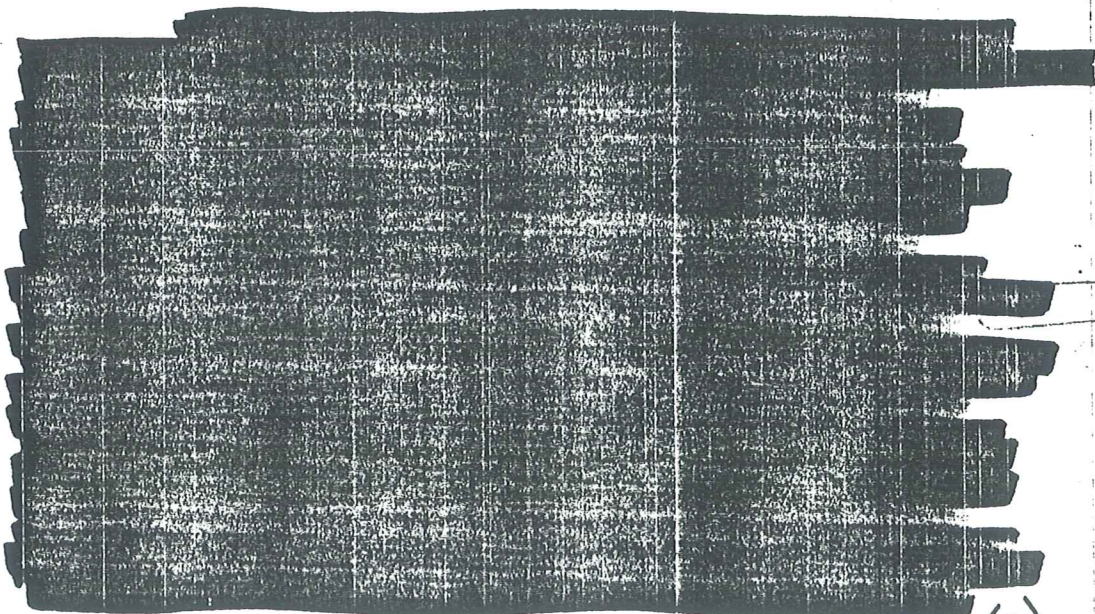
It was noted that in the plaintiff's letter to the Acting Attorney General dated April 11, 1972, a copy of which was forwarded to the FBI with your letter of May 18, 1972, the plaintiff stated that he had made inquiry of the General Counsel of CIA regarding the pictures.

Pursuant to the request of Mr. Jeffrey Axelrad of your office to Special Agent John B. Rotis of this Bureau on June 7, 1972, there are enclosed two copies of the plaintiff's letter of March 22, 1972, a copy of which was forwarded to this Bureau by the Acting Attorney General April 20, 1972.

In the event an affidavit is necessary regarding the uncropped photographs in the possession of the FBI and the interest of CIA in these photographs as well as in the cropped photographs shown to Gutierrez, such can be prepared in due course.

In the event further discussions are necessary in this matter, your representative may contact directly Special Agent John B. Rotis, telephone 175-2876 or Special Agent John P. Thomas, telephone 175-2181.

NOTE:



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