

UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF COLUMBIA

MARK A. ALLEN, :  
 :  
 Plaintiff, :  
 :  
 v. : Civil Action No. 81-2543  
 :  
 DEPARTMENT OF DEFENSE, ET AL., :  
 :  
 Defendants :

PLAINTIFF'S RULE 1-9(h) STATEMENT

Comes now the plaintiff, Mark A. Allen, and sets forth the following list of material facts as to which he contends there is no genuine dispute:

1. Plaintiff Mark A. Allen ("Allen") has engaged in extensive research into the assassination of President John F. Kennedy. Allen Declaration, ¶¶3-6.

2. Allen is Director of Access, a public interest organization which was formed for the purpose of securing release of the records of the House Select Committee on Assassinations. Allen Declaration, ¶7.

3. By letter dated December 15, 1980, Allen request all correspondence or records of any communication between the Central Intelligence Agency ("CIA") and the House Select Committee on Assassinations ("HSCA" or "the Committee") relating to the Committee's investigation into the assassination of President John F. Kennedy. In this initial request letter Allen informed the CIA

that he was engaged in a program of scholarly research concerning the Committee's work, that he considered these records to be of important historical value, and that their release would significantly benefit the general public. Accordingly, he requested a fee waiver. Allen Declaration, Exhibit 1.

4. By letter dated April 6, 1981, Allen requested that the CIA furnish him with copies of all records relating to the Committee's investigation into the murder of President Kennedy not covered by his December 15, 1980 request. For the reasons given in his initial request letter, he again applied for a waiver of search fees and copying costs. Allen Declaration, Exhibit 5.

5. By letter dated June 28, 1981, Allen appealed the CIA's failure to provide records responsive to his April 6, 1981 request. Allen Declaration, Exhibit 7.

6. By letter dated July 27, 1981, the CIA denied Allen's fee waiver request and cited as grounds for its decision:

(a) the fact that release of any of the information sought by Allen would not be of significant benefit or usefulness to the public in light of the vast quantity of information already in the public domain concerning the assassination of President Kennedy;

(b) the fact that the House of Representatives has indicated to this Agency its judgment that such material not be publicly released without its prior written concurrence; and

(c) the fact that the House Select Committee on Assassinations has, with the publication of its voluminous report and findings, made a determination as to what information concerning the assassination of President Kennedy was significant enough to warrant the expenditure of public funds to release in printed form. Any material not published in the House Select Committee's public study was determined by Congress to have insufficient usefulness or benefit to the public to warrant the expenditure of any further public funds to make it available to the public.

Allen Declaration, Exhibit 8.

7. By letter dated August 13, 1981, Allen appealed the denial of his fee waiver request. In his appeal letter he contended:

(a) that although it is true that a great deal is known about the Kennedy assassination, it is equally true that a great deal is not known. For example, the Committee concluded that there was probably a conspiracy to murder President Kennedy, but it was unable to determine who the conspirators were;

(b) that the CIA's statement that the House of Representatives had asked it not to release the material sought by him without its prior written concurrence was irrelevant to the fee waiver determination;

(c) that the third reasons advanced by the CIA for denying his fee waiver request was based on the totally invalid inference that since the Committee did not publish the material sought by him, the Committee therefore determined that such material was not worth publishing; and, in addition, was contradicted by public statements of the former Chief Counsel and Staff Director of the Committee;

(d) that it was unlikely the Committee ever examined the CIA's internal memoranda regarding the Committee's probe, an important segment of the material he had requested.

Allen Declaration, Exhibit 9.

8. By letter dated September 21, 1981, the CIA denied Allen's fee waiver appeal for the same reasons stated in its initial denial. Allen Declaration, Exhibit 11.

9. Allen has exhausted his administrative remedies with respect to his fee waiver request. Allen Declaration, Exhibit 11.

10. The House Select Committee on Assassinations was not able to publish everything it wanted to publish or which was relevant to the assassination of President Kennedy. February 15,

1982 affidavit of G. Robert Blakey (filed in Mark A. Allen v. Federal Bureau of Investigation, et al., Civil Action No. 81-1206), ¶4. Attachment 5.

11. The records sought by Allen in this case are indispensable to a current and timely discussion of the Kennedy assassination. Allen Declaration, ¶10.

12. Allen has shared documents on the Kennedy assassination which he has obtained from the Government with authors, researchers and journalists who have written or worked on this subject and will continue to do so in the future. Allen Declaration, ¶¶8-9.

13. Information from Kennedy assassination-related documents which Allen has provided to authors, researchers and journalists has been used in their writings. Allen Declaration, ¶9.

14. Allen is unable to pay for copies of the records involved in this lawsuit. Allen Declaration, ¶11.

Respectfully submitted,

  
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