

UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLUMBIA

J. GARY SHAW
P.O. Box 722
Cleburne, Texas 76031,

and

MARK ALLEN
607 N. Carolina Avenue, S.E.
Washington, D.C. 20003,

Plaintiffs,

v.

CENTRAL INTELLIGENCE AGENCY
Washington, D.C. 20505,

Defendant.

Civil Action No. 82-1532

(Gaul)
6/30/82

COMPLAINT
For Declaratory and Injunctive Relief

1. This case is brought under the Freedom of Information Act, 5 U.S.C. 552, as amended, and the Administrative Procedure Act, 5 U.S.C. 301 and 701-706, to require defendant to permit access to certain records in its possession and under its control.
2. This Court has jurisdiction over this cause of action pursuant to 5 U.S.C. 552(a)(4)(B) and 5 U.S.C. 702.
3. Plaintiff J. Gary Shaw is an individual residing in Cleburne, Texas; and plaintiff Mark Allen is an individual residing at 607 N. Carolina Avenue, S.E., Washington, D.C. 20003.
4. Defendant is an agency of the United States and has possession of the records to which plaintiffs seek access.

COUNT ONE

5. On March 18, 1982, plaintiffs made a formal request under FOIA to defendant for "all records (including "see references" or cross references) maintained by your agency pertaining to attempts on the life of General de Gaulle, 1961-64." It was pointed out in the request that the records were sought in connection with an investigation of the John F. Kennedy assassination, and, because of the public concern with that matter, defendant was asked for a waiver of search and copying fees. (See Exhibit 1a, attached hereto)

6. On April 14, 1982, defendant acknowledged receipt of the request, but produced no records, citing a large backlog of cases. (See Exhibit 1c, attached hereto)

7. On April 5, 1982, the statutory time for production or denial of access having passed, plaintiffs made an administrative appeal under 5 U.S.C. 552(a)(6)(A) and under the defendant agency's regulations. (See Exhibit 1b, attached hereto)

8. On April 19, 1982, defendant replied to the effect that the Appeals Board had a backlog of 220 appeals which would be handled on a FIFO bases. No records have been produced to date. (See Exhibit 1d, attached hereto)

9. Plaintiffs construe this as a further denial and assert that their administrative remedies have been exhausted.

COUNT TWO

10. Paragraphs 1-4 are herein incorporated by reference.

11. On March 24, 1982, plaintiffs made a formal request under FOIA to defendant for "all records (including "see references" or cross references) maintained by your agency pertaining to Perminex ("Permanent Industrial Exhibition") Corporation of Basel, Switzerland during the years 1958-1963. This company was dissolved by the Swiss government which had received information from President de Gaulle of France that it was engaging in anti-Gaullist

activities of a criminal nature." It was pointed out in the request that the records were sought in connection with an investigation of the John F. Kennedy assassination, and, because of the public concern with that matter, defendant was asked for a waiver of search and copying fees. (See Exhibit 2a, attached hereto)

12. On April 14, 1982, defendant acknowledged receipt of the request, but produced no records citing a large backlog of cases. (See Exhibit 2b, attached hereto)

13. On May 26, 1982, the statutory time for production or denial of access having passed, plaintiffs made an administrative appeal under 5 U.S.C. 552(a)(6)(A) and under the defendant agency's regulations. (See Exhibit 2c, attached hereto)

14. On June 4, 1982, defendant replied to the effect that the appeal could not be timely processed as there existed a backlog of 230 appeals which would be taken on an FIFO basis. (See Exhibit 2d, attached hereto)

15. Plaintiffs construe this as a further denial and assert that their administrative remedies have been exhausted.

COUNT THREE

16. Paragraphs 1-4 are herein incorporated by reference.

17. On April 29, 1982, plaintiffs made a formal request under FOIA to defendant for "all records (including "see references" or cross references) maintained by your agency pertaining to Centro Mondiale Commerciale (CMC), an Italian Corporation, which was resident in Rome, for the years 1958-1965. It was organized as an international trade organization but was forced to move from Italy to South Africa circa 1963 because of alleged criminal activities." It was pointed out in the request that the records were sought in connection with an investigation of the John F. Kennedy assassination, and, because of the public concern with that matter, defendant was asked for a waiver of search

and copying fees. (See Exhibit 3a, attached hereto)

18. On May 13, 1982, defendant acknowledged receipt of the request, but produced no records citing a large backlog of cases to be processed. (See Exhibit 3b, attached hereto)

19. On May 21, 1982, the statutory time for production or denial of access having passed, plaintiffs made an administrative appeal under 5 U.S.C. 552(a)(6)(A) and under the defendant agency's regulations. (See Exhibit 3c, attached hereto)

20. On May 26, 1982, defendant replied to the effect that there was not only a large number of requests to be processed but also 225 appeals which would be processed on a FIFO basis. No time estimate was given. (See Exhibit 3d, attached hereto)

21. Plaintiffs construe this as a further denial and assert that their administrative remedies have been exhausted.

COUNT FOUR

22. Paragraphs 1-4 are herein incorporated by reference.

23. On April 30, 1982, plaintiffs made a formal request under FOIA to defendant for "all records (including "see references" or cross references) maintained by your agency pertaining to "Ressurrection-Patrie" an offshoot of the French "secret army" (OAS). Both grew out of the Algerian War and were violently anti-Gaullist. The records sought are for the years 1961-1965." It was pointed out in the request that the records were sought in connection with an investigation of the John F. Kennedy assassination, and, because of the public concern with that matter, defendant was asked for a waiver of search and copying fees. (See Exhibit 4a, attached hereto)

24. On May 13, 1982, defendant acknowledged receipt of the request, but produced no records, citing a large backlog. (See Exhibit 4b, attached hereto)

25. On May 21, 1982, the statutory time for production or denial of access having passed, plaintiffs made an administrative appeal under 5 U.S.C. 552(a)(6)(A) and under the defendant agency's regulations. (See Exhibit 4c, attached hereto)

26. On May 26, 1982, defendant replied to the effect that there was not only a large number of requests to be processed but also 225 appeals which would be processed on a FIFO basis. No time estimate was given. (See Exhibit 4d, attached hereto)

27. Plaintiffs construe this as a further denial and assert that their administrative remedies have been exhausted.

COUNT FIVE

28. Paragraphs 1-4 are herein incorporated by reference.

29. On April 13, 1982, plaintiffs made a formal request under FOIA to defendant for "all records (including "see references" or cross references) maintained by your agency pertaining to an airplane that arrived in Havana from Dallas (via Tijuana and Mexico City) on or about November 22, 1963. This flight is referenced in CIA's Kennedy Assassination Document 979-927 AX which was declassified in 1977." It was pointed out in the request that the records were sought in connection with an investigation of the John F. Kennedy assassination and, because of the public concern with that matter, defendant was asked for a waiver of search and copying fees. (See Exhibit 5a, attached hereto)

30. On May 10, 1982, defendant acknowledged receipt of the request, but produced no records, citing a large backlog of cases to be processed. (See Exhibit 5b, attached hereto)

31. On May 24, 1982, the statutory time for production or denial of access having passed, plaintiffs made an administrative appeal under 5 U.S.C. 552(a)(6)(A) and under the defendant agency's regulations. (See Exhibit 5c, attached hereto)

32. On May 28, 1982, defendant replied to the effect that there was not only a large number of requests to be processed but also 225 appeals which would be processed on a FIFO basis. No time estimate was given. (See Exhibit 5d, attached hereto)

33. Plaintiffs construe this as a further denial and assert that their administrative remedies have been exhausted.

COUNT SIX

34. Paragraphs 1-4 are herein incorporated by reference.

35. On March 25, 1982, plaintiffs made a formal request under FOIA to defendant for "all records (including "see references" or cross references) maintained by your agency pertaining to the "Organisation Renseignement Operation" (ORO) the intelligence branch of French Secret Army (OAS) for the years 1961-1965. One of the top leaders in the ORO was Dr. Jean Claude Perez." It was pointed out in the request that the records were sought in connection with an investigation of the John F. Kennedy assassination, and, because of the public concern with that matter, defendant was asked for a waiver of search and copying fees. (See Exhibit 6a, attached hereto)

36. On April 14, 1982, defendant acknowledged receipt of the request, but produced no records, citing a large backlog of cases to be processed. (See Exhibit 6b, attached hereto)

37. On May 26, 1982, the statutory time for production or denial of access having passed, plaintiffs made an administrative appeal under 5 U.S.C. 552(a)(6)(A) and under the defendant agency's regulations. (See Exhibit 6c, attached hereto)

38. On June 4, 1982, defendant replied to the effect that there was not only a large number of requests to be processed but also 225 appeals which would be processed on a FIFO basis. No time estimate was given. (See Exhibit 6d, attached hereto)

39. Plaintiffs construe this as a further denial and assert that their administrative remedies have been exhausted.

REQUESTED RELIEF

40. Pursuant to 5 U.S.C. 552(a)(3), plaintiffs are entitled to access to the requested records.

41. Plaintiffs have exhausted their administrative remedies.

42. There is no legal basis for defendant's withholding of such access.

43. Defendant has abused its discretion and acted in an arbitrary and capricious manner in withholding records sought by plaintiffs.

WHEREFORE, plaintiffs pray that the Court:

a) Order defendant by a date certain to produce the requested documents to them for inspection and copying, and a draft order to this effect is appended for the Court's consideration;

b) In cases of withholding or deletions, order defendant by a date certain to prepare an index, description, and justification in accordance with the requirements of Vaughn v. Rosen, 484 F.2d 820 (D.C. Cir. 1973), cert. denied, 415 U.S. 977 (1974), and a draft order to this effect is appended for the Court's consideration;

c) Provide for expeditious proceedings in this action as provided in 5 U.S.C. 552(2)(4)(D);

d) Because of the great public interest in the Kennedy assassination, order a fee waiver as to search and duplication costs;

e) Award plaintiffs their costs and reasonable attorneys' fees in this case; and

f) Grant such other and further relief as the Court may deem just and proper.



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Dated: June 23, 1982