

UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLUMBIA

J. GARY SHAW
105 Poindexter Street
Cleburne, Texas 76031,

and

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

Plaintiffs,

v.

FEDERAL BUREAU OF INVESTIGATION
Washington, D.C. 20535,

Defendant.

Civil Action No. 82-2130

7/29/82

Jayne Green

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 26, 1982, plaintiffs made a formal request under FOIA to the FBI Field Office in New Orleans, Louisiana, for "all records (including "see references" or cross references) maintained by your agency pertaining to Perry Raymond Russo of Louisiana who was born in La. 1942 or 1943. In 1968 he was a Baton Rouge insurance salesman who was the star witness for DA Jim Garrison in the preliminary hearing for Clay L. Shaw. Russo testified that he heard Shaw, Lee Harvey Oswald, and Daniel William Ferrie plot the assassination in Sept. 1963. He said he knew Shaw as Clay Bertrand." 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 7, 1982, defendant acknowledged receipt of the request, but produced no records. The reply stated that a privacy waiver would have to be produced before the request could be processed. (See Exhibit 1b, attached hereto)

7. 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 1c, attached hereto)

8. On June 15, 1982, defendant replied to the effect that the appeal of May 24, 1982, could not be currently processed. (See Exhibit 1d, attached hereto)

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

10. To date, no records have been produced.

COUNT TWO

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

12. On April 2, 1982, plaintiffs made a formal request under FOIA to the FBI Field Office in New Orleans, Louisiana, for "all records (including "see references" or cross references) maintained by your agency pertaining to Dr. Carlos Bringuier for the years 1962-1964. Dr. Bringuier is an anti-Castro Cuban living in New Orleans. He was head of the Cuban Student Directorate. He scuffled with Oswald in the streets of New Orleans. Bringuier filed a defamation suit against Gambi Publications, Inc. and Harold Weisberg. Dr. Bringuier was born in Havana on June 22, 1934. He came to the U.S. on Feb. 8, 1961. He was trained as a lawyer in Cuba." 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)

13. On April 20, 1982, defendant acknowledged receipt of the request, but produced no records. The reply stated that a notarized waiver of privacy would have to be produced before the request could be processed. (See Exhibit 2b, attached hereto)

14. 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 2c, attached hereto)

15. On June 15, 1982, defendant's Office of Legal Policy replied to the effect that the appeal of May 24, 1982, could not be currently processed. (See Exhibit 2d, attached hereto)

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

17. To date, no records have been produced.

COUNT THREE

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

19. On March 12, 1982, plaintiffs made a formal request under FOIA to the FBI Field Office in New Orleans, Louisiana, for "all records (including "see references" or cross references) maintained by your agency pertaining to Layton Patrick Martens of New Orleans during the years 1960-1964. Martens was the roommate of David W. Ferrie, a central figure in Jim Garrison's probe. He was arrested in November, 1963, with Ferrie and Alvin R. Beauboeuf, after a mysterious round trip from New Orleans to Houston and Galveston. He was indicted for perjury in the New Orleans probe of JFK's murder." 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)

20. On March 30, 1982, defendant acknowledged receipt of the request, but produced no records. The reply stated that no search would be made without a notarized waiver of privacy. (See Exhibit 3b, attached hereto)

21. 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 3c, attached hereto)

22. On June 21, 1982, defendant replied to the effect that the appeal of May 24, 1982, would not be currently processed. (See Exhibit 3d, attached hereto)

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

24. To date, no records have been produced.

COUNT FOUR

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

26. On March 30, 1982, plaintiffs made a formal request under FOIA to defendant's FBI Field Office in New Orleans, Louisiana, for "all records (including "see references" or cross references) maintained by your agency pertaining to Guy L. Johnson during the years 1960-1968. Johnson was a New Orleans attorney who maintained an office in the Pere Marquette building. He ran for a seat on the Criminal District Court bench in 1963, but he was defeated. He was a reserve officer in Naval Intelligence. He also served as Clay Shaw's first defense attorney when he was accused of conspiring to murder President Kennedy. He died some years ago." 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)

27. On April 15, 1982, defendant acknowledged receipt of the request, but produced no records. (See Exhibit 4b, attached hereto)

28. 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 4c, attached hereto)

29. On June 15, 1982, defendant's Office of Legal Policy replied to the effect that the appeal of May 26, 1982, could not be currently processed. (See Exhibit 4d, attached hereto)

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

31. To date, no records have been produced.

COUNT FIVE

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

33. On March 27, 1982, plaintiffs made a formal request under FOIA to defendant's FBI Field Office in New Orleans, Louisiana, for "all records (including "see references" or cross references) maintained by your agency pertaining to David William Ferrie, an ex-Eastern Airlines pilot who lived in New Orleans in the 1960's. Ferrie dabbled in religion and medicine. He did investigative work for Carlos Marcello. He was alleged to have known both Clay Shaw and Lee Harvey Oswald. Ferrie died in New Orleans on Feb. 22, 1967." 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)

34. On April 14, 1982, defendant acknowledged receipt of the request, but produced no records. (See Exhibit 5b, attached hereto)

35. 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 5c, attached hereto)

36. On June 15, 1982, defendant replied to the effect that the appeal of May 26, 1982, could not be currently processed. (See Exhibit 5d, attached hereto)

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

38. To date, no records have been produced.

COUNT SIX

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

40. On March 23, 1982, plaintiffs made a formal request under FOIA to defendant's FBI Field Office in New Orleans, Louisiana, for "all records (including "see references" or cross references) maintained by your agency pertaining to Free Cuba Committee, an exile Cuban organization for the years 1960-64. The Florida branch of the organization was headed by Fladio del Valle. The Dallas branch was alleged to have been housed at 3128 Harlendale in 1963. See Warren Commission Vol. 7, p548." 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)

41. On April 8, 1982, defendant acknowledged receipt of the request, but produced no records. (See Exhibit 6b, attached hereto)

42. 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)

43. On June 15, 1982, defendant replied to the effect that the appeal of May 26, 1982, could not be currently processed. (See Exhibit 5d, attached hereto)

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

45. To date, no records have been produced.

COUNT SEVEN

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

47. On March 22, 1982, plaintiffs made a formal request under FOIA to defendant's FBI Field Office in New Orleans, Louisiana, for "all records (including "see references" or cross references) maintained by your agency

pertaining to Friends of Democratic Cuba, a group organized by William Dalzell of New Orleans and whose headquarters were located in the Balter Building. It was begun in late 1960." 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 7a, attached hereto)

48. On April 6, 1982, defendant acknowledged receipt of the request, but produced no records. (See Exhibit 7b, attached hereto)

49. 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 7c, attached hereto)

50. On June 15, 1982, defendant's Office of Legal Policy replied to the effect that the appeal of May 26, 1982, could not be currently processed. (See Exhibit 5d, attached hereto)

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

52. To date, no records have been produced.

COUNT EIGHT

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

54. On April 5, 1982, plaintiffs made a formal request under FOIA to defendant's FBI Field Office in New Orleans, Louisiana, for "all records (including "see references" or cross references) maintained by your agency pertaining to Clay Shaw, who was Managing Director of the International Trade Mart in New Orleans. Mr. Shaw was born in Kentwood, La., in 1913. He joined the Army in New York in 1942. During the late 1950's he was named to the Board of Directors of Permindex (a Swiss Corp.) and Centro Mondiale Commerciale (an

Italian Corporation). He was tried in New Orleans for conspiracy in the death of President Kennedy. Mr. Shaw is deceased, having died in New Orleans of cancer." 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 8a, attached hereto)

55. On April 23, 1982, defendant acknowledged receipt of the request, but produced no records. (See Exhibit 8b, attached hereto)

56. 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 8c, attached hereto)

57. On June 15, 1982, defendant replied to the effect that the appeal of May 26, 1982, could not be currently processed. (See Exhibit 5d, attached hereto)

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

59. To date, no records have been produced.

COUNT NINE

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

61. On March 17, 1982, plaintiffs made a formal request under FOIA to defendant's FBI Field Office in Dallas, Texas, for "all records (including "see references" or cross references) maintained by your agency pertaining to Peter Paul Gregory, an exiled Russian working in the Texas oil business. He made his home in Dallas. He was telephoned by Lee Harvey Oswald a week after Oswald arrived home from the U.S.S.R. in June 1962. Mr. Gregory was born in Chita, Siberia and arrived in the U.S. on or about Aug. 1, 1923. His testimony before the Warren Commission appears at p.337 of Vol. II of the

Hearings." 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 9a, attached hereto)

62. On April 1, 1982, defendant acknowledged receipt of the request, but produced no records. Defendant required a notarized waiver of privacy before processing the request. (See Exhibit 9b, attached hereto)

63. 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 9c, attached hereto)

64. Plaintiffs assert that their administrative remedies have been exhausted.

65. To date, no records have been produced.

COUNT TEN

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

67. On March 19, 1982, plaintiffs made a formal request under FOIA to defendant's FBI Field Office in Dallas, Texas, for "all records (including "see references" or cross references) maintained by your agency pertaining to Major General Edwin A. Walker, a U.S. Army officer who retired to Dallas, in the years 1960-1964. By 1963, General Walker was a notorious leader of the ultra-conservative right. He ran for the Texas Governorship. He was a member of the John Birch Society. Oswald is believed to have made an attempt on his life in 1963." 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 10a, attached hereto)

68. On April 2, 1982, defendant acknowledged receipt of the request,

but produced no records. (See Exhibit 10b, attached hereto)

69. 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 10c, attached hereto)

70. On June 15, 1982, defendant's Office of Legal Policy replied to the effect that the appeal of May 24, 1982, could not be currently processed. (See Exhibit 10d, attached hereto)

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

72. To date, no records have been produced.

REQUESTED RELIEF

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

74. Plaintiffs have exhausted their administrative remedies.

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

76. 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: July 15, 1982