

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.

CENTRAL INTELLIGENCE AGENCY
Washington, D.C. 20505

Defendant.

Civil Action No. 82-2410

5/28/82

Blannely

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 June 8, 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 David G. Copeland, a Texas attorney, who had an office in the Landmark Building, 530 New Road, Waco, Texas 76710, and who died in 1981." 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 June 16, 1982, defendant acknowledged receipt of the request, but produced no records. The CIA refused to process the request without (a) more biographical data; (b) proof of death; and (c) the down payment of \$90.00. (See Exhibit 1b, attached hereto)

7. On June 18, 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 28, 1982, defendant repeated his demands of June 16, 1982, before processing could begin. (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 released.

COUNT TWO

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

12. On June 11, 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 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 June 17, 1982, defendant acknowledged receipt of the request, but produced no records. Before processing could begin, defendant required (a) more biographical data; (b) a change in the request to records dated 1962-64; and (c) a down payment of \$90.00. (See Exhibit 2b, attached hereto)

14. On June 18, 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 28, 1982, defendant repeated its requirements of June 17, 1982, before processing could begin. (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 released.

COUNT THREE

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

19. On June 15, 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 Nadine Bestougeff, a French National of Russian parentage who arrived in New York from Paris on Aug. 22, 1963. On November 23, 1963, she was interviewed by the FBI in New York. She possessed

French Passport Number 755315 and was issued a B-2 visa by the U.S. Embassy in Paris on July 17, 1963. Some information about her may be found in Warren Commission Document 1107; CD 14, p. 37-39; CD 301, p. 28-31; CIA No. 288-692. Ms. Bestougeff was born on Oct. 8, 1937." 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 June 23, 1982, defendant acknowledged receipt of the request, but produced no records. Before processing could begin, defendant required (a) more biographical data; (b) a privacy waiver or proof of death; and (c) a downpayment of \$90.00. (See Exhibit 3b, attached hereto)

21. On June 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 July 2, 1982, defendant repeated its demands of June 23, 1982. (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 released.

COUNT FOUR

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

26. On June 16, 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 Jean Denis Raingeard during the years 1960-1964. Mr. Raingeard was an anti-Gaullist officer who deserted from the French Army during the Algerian War. He became a member of the O.A.S."

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 June 23, 1982, defendant acknowledged receipt of the request, but produced no records. Before processing could begin, defendant required (a) more biographical data; (b) a privacy waiver or proof of death; (c) a change in the request, and (d) a check for \$90.00. (See Exhibit 4b, attached hereto)

28. On June 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 4c, attached hereto)

29. On July 2, 1982, defendant repeated its requirements of June 23, 1982. (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 released.

COUNT FIVE

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

33. On June 7, 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 Gilberto Policarp Lopez who was born in Cuba on Jan. 26, 1940. He came to the U.S. soon after Castro took power. In July 1960 he was issued U.S. Passport 310162. In 1962 he married an American woman and they lived in Key West, Florida. In 1963 he and his wife moved to Tampa. He was involved with the Fair Play for Cuba Committee. See Warren Commission Document 205 pp. 750-51, CIA 118, CIA 308-114, House Select Committee Report pp. 118-121." 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 June 16, 1982, defendant acknowledged receipt of the request, but produced no records. Before agreeing to process the request, defendant required (a) a waiver of privacy or proof of death, and (b) a down payment of \$90.00. (See Exhibit 5b, attached hereto)

35. On June 18, 1982, the statutory time for production of 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 28, 1982, defendant repeated its requirements of June 16, 1982. (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 released.

COUNT SIX

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

40. On June 10, 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 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 6a, attached hereto)

41. On June 15, 1982, defendant acknowledged receipt of the request, but produced no records. Before processing the request, the CIA required (a) more biographical data; (b) privacy waiver or proof of death; and (c) a downpayment of \$90.00. (See Exhibit 6b, attached hereto)

42. On June 18, 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 28, 1982, defendant repeated its requirements spelled out in its letter of June 15, 1982. (See Exhibit 6d, 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 released.

COUNT SEVEN

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

47. On June 3, 1982, plaintiffs made a formal request under FOI A to defendant for "all records (including "see references" or cross references) maintained by your agency pertaining to Robert Perrin, AKA Jack Starr, who was born in Kirkhoven, Minnesoat, on Oct. 11, 1914 or Oct. 11, 1920. His social security number is believed to have been 458-50-1541. Among other things, he was a gun runner. He was married to Nancy Perrin, who worked for Jack Ruby. He died in New Orleans in 1962 of arsenic poisoning." 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 June 16, 1982, defendant acknowledged receipt of the request, but produced no records. The CIA said that it could not process the request without (a) proof of death; and (b) a downpayment of \$90.00. (See Exhibit 7b, attached hereto)

49. On June 18, 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 28, 1982, defendant repeated the requirements stated in its letter of June 16, 1982. (See Exhibit 7d, 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 released.

COUNT EIGHT

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

54. On June 9, 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 Silvia Odio during the years 1960-1964. Mrs. Odio, a Cuban born woman who fled her country after the Castro take over and was living in Dallas in September 1963 when she was visited by a "Leon Oswald." She was questioned at great length by the Warren Commission." 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 June 16, 1982, defendant acknowledged receipt of the request, but produced no records. The CIA stated that the request could not be processed without a down payment of \$90.00. (See Exhibit 8b, attached hereto)

56. On June 18, 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 28, 1982, defendant repeated its requirement of a downpayment of \$90.00 before processing the request of June 9 or the appeal of June 18, 1982, could begin. (See Exhibit 8d, 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 released.

COUNT NINE

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

61. On June 1, 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 Intercontinental Penetration Force AKA Interpen, a violently anti-Castro group with headquarters in Miami. Among its members were Frank Sturgis, Alexander Rorke, and Gerald Patrick Hemming, Jr., and Howard K. Davis." 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 June 9, 1982, defendant acknowledged receipt of the request, but produced no records. The CIA denied the requested fee waiver, and refused to start processing the request without a commitment from plaintiffs to pay both search and copying fees incurred. (See Exhibit 9b, attached hereto)

63. On June 18, 1982, plaintiffs wrote to defendants agreeing to pay both search and copying fees up to \$250.00. (See Exhibit 9c, attached hereto)

64. On July 1, 1982, defendant CIA replied further, stating that a search would be made, but not until a backlog of 3,000 cases had been cleared. (See Exhibit 9d, attached hereto)

65. On July 9, 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 9e, attached hereto)

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

67. To date, no records have been released.

REQUESTED RELIEF

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

69. Plaintiffs have exhausted their administrative remedies.

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

71. 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, ^{motion, heard, and} and a draft Order to this effect ^{are} ~~is~~ appended for the Court's consideration;
- 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.



BERNARD FENSTERWALD, JR.
Fensterwald & Associates
1000 Wilson Blvd., Suite 900
Arlington, Virginia 22209
703-276-9297

Counsel to Plaintiffs

Dated: July 28, 1982