

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. 82-2522

9/9/82
(Riley)

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 May 14, 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 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 1a, attached hereto)

6. On May 26, 1982, defendant acknowledged receipt of the request, assigned it Number 226553, but produced no records. (See Exhibit 1b, attached hereto)

7. On June 14, 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 23, 1982, defendant's Office of Legal Policy replied to the effect that they could not process the appeal of June 14, 1982. (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 May 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 Spas T. Raikin, a representative of the Travelers Aid Society who met the Oswald family when they arrived in Hoboken from the U.S.S.R. in 1962. Raikin was the secretary-general of the American Friends of the Anti-Bolshevik Bloc of Nations, an emigre group in direct touch with the FBI and American military establishment. Relevant FBI files are: Bureau 105-82555; Newark 105-15291; Cincinnati 105-2505; N.Y. 105-38431." 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 May 20, 1982, defendant acknowledged receipt of the request, assigned it Number 226387, but produced no records. (See Exhibit 2b, attached hereto)

14. On June 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 2c, attached hereto)

15. On June 23, 1982, defendant's Office of Legal Policy replied to the effect that the appeal of June 9, 1982, could not be 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 released.

COUNT THREE

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

19. On May 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 Delesseps Morrison, for the years 1960-65. Morrison was Mayor of New Orleans and later connected with the Organization of American States. Morrison introduced Clay Shaw to President Kennedy in 1963. He died in a plane crash in Mexico on May 23, 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 3a, attached hereto)

20. On May 20, 1982, defendant acknowledged receipt of the request, assigned it Number 226358, but produced no records. (See Exhibit 3b, attached hereto)

21. On June 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 3c, attached hereto)

22. On June 23, 1982, defendant's Office of Legal Policy replied to the effect that the appeal of June 9, 1982, could not be processed currently. (See Exhibit 1d, 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 May 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 Enrique Ruedolo Concora, who was born in Guantanamo, Cuba on 3-11-18, for the years 1960-1964. Passport No. 17422.

Once in training camp for Bay of Pigs. Concora arrived Madrid on 11-29-63, his passage having been paid by U.S. Held in Carabanchel Prison for lack of valid visa to leave Spain. Story found in CIA Documents 365-148, 414-163, and 356-143. (Declassified 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 4a, attached hereto)

27. On May 25, 1982, defendant acknowledged receipt of the request, assigned it Number 226554, but produced no records. (See Exhibit 4b, attached hereto)

28. On June 11, 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 23, 1982, defendant's Office of Legal Policy replied to the effect that the appeal of June 11, 1982, could not be processed currently. (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 May 12, 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 Policarpo 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 May 19, 1982, defendant acknowledged receipt of the request, assigned it Number 226447, but produced no records. (See Exhibit 5b, attached hereto)

35. On June 10, 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 23, 1982, defendant's Office of Legal Policy replied to the effect that the appeal of June 10, 1982, could not be processed currently. (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 May 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 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, 1973." 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 May 20, 1982, defendant acknowledged receipt of the request, assigned it Number 226351, but produced no records. (See Exhibit 6b, attached hereto)

42. On June 7, 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 23, 1982, defendant's Office of Legal Policy replied to the effect that the appeal of June 7, 1982, could not be processed currently. (See Exhibit 1d, 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.

REQUESTED RELIEF

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

47. Plaintiffs have exhausted their administrative remedies.

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

49. 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: August 6, 1982