

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. 82-2523

9/4/82

*Gene 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 May 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 letter of May 15, 1964, from Hale Boggs to Lee Rankin, relating to General Edwin Walker." 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 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 1b, attached hereto)

7. On July 12, 1982, defendant's Office of Legal Policy replied to the effect that the appeal of June 24, 1982, could not be processed currently. (See Exhibit 1c, attached hereto)

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

9. To date, no records have been released.

COUNT TWO

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

11. On May 21, 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 Duran, a Mexican woman who worked in the Cuban Embassy in Mexico City in 1963 when the Embassy was visited by "Lee Harvey Oswald." After the assassination of President Kennedy, Ms. Duran was picked up by the Mexican police and questioned extensively. She is quoted at some length in the Warren Report." 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 June 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 2b, attached hereto)

13. On July 12, 1982, defendant's Office of Legal Policy replied to the effect that the appeal of June 21, 1982, could not be currently processed. (See Exhibit 2c, attached hereto)

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

15. To date, no records have been released.

#### COUNT THREE

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

17. On May 28, 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 3a, attached hereto)

18. On June 7, 1982, defendant acknowledged receipt of the request, assigned it Number 226859, but produced no records. (See Exhibit 3b, attached hereto)

19. 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 3c, attached hereto)

20. On July 12, 1982, defendant's Office of Legal Policy replied to the effect that the appeal of June 18, 1982, could not be currently processed. (See Exhibit 1c, attached hereto)

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

22. To date, no records have been released.

#### COUNT FOUR

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

24. On May 27, 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 Kerry Wendell Thornley, a writer, who served in the Marine Corps with Lee Harvey Oswald. Thornley wrote a book which included an Oswald-like character. He gave the Warren Commission extensive testimony of Oswald's Marine days. Mr. Thornley was born on April 17, 1938. His testimony appears at p82, Vol. XI of the Warren Commission 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 4a, attached hereto)

25. On June 7, 1982, defendant acknowledged receipt of the request, assigned it Number 226858, but produced no records. (See Exhibit 4b, attached hereto)

26. 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 4c, attached hereto)

27. On July 12, 1982, defendant's Office of Legal Policy replied to the effect that the appeal of June 18, 1982, could not be currently processed. (See Exhibit 1c, attached hereto)

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

29. To date, no records have been released.

#### COUNT FIVE

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

31. On May 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 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 5a, attached hereto)

32. On June 4, 1982, defendant acknowledged receipt of the request, assigned it Number 226759, but produced no records. (See Exhibit 5b, attached hereto)

33. 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 5c, attached hereto)

34. On July 12, 1982, defendant's Office of Legal Policy replied to the effect that the appeal of June 18, 1982, could not be currently processed. (See Exhibit 1c, attached hereto)

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

36. To date, no records have been released.

COUNT SIX

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

38. On May 26, 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 6a, attached hereto)

39. On June 7, 1982, defendant acknowledged receipt of the request, assigned it Number 226832, but produced no records. (See Exhibit 6b, attached hereto)

40. 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)

41. On July 15, 1982, defendant's Office of Legal Policy replied to the effect that the appeal of June 18, 1982, could not be currently processed. (See Exhibit 6d, attached hereto)

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

43. To date, no records have been released.

COUNT SEVEN

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

45. 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 Jacques Soustelle, former French Governor to Algeria and former French Prime Minister, for the years 1960-64." 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 7a, attached hereto)

46. On June 11, 1982, defendant acknowledged receipt of the request, assigned it Number 226935, but produced no records. (See Exhibit 7b, attached hereto)

47. On July 1, 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)

48. On July 22, 1982, defendant's Office of Legal Policy replied to the effect that the appeal of July 1, 1982, could not be processed currently. (See Exhibit 7d, attached hereto)

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

50. To date, no records have been released.

COUNT EIGHT

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

52. On March 15, 1982, plaintiffs made a formal request under FOIA to the Legal Attache at the U.S. Embassy in Mexico City for "all records

(including "see references" or cross references) maintained by your agency pertaining to two visits by Lee Harvey Oswald to Mexico, 1962-63." 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)

53. On April 1, 1982, the Embassy informed plaintiffs that the relevant records had been sent to FBI Headquarters in Washington, and further that the request of March 15, 1982, had been sent there for processing. (See Exhibit 8b, attached hereto)

54. On April 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 8c, attached hereto)

55. No reply to this appeal has been received.

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

57. To date, no records have been released.



REQUESTED RELIEF

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

59. Plaintiffs have exhausted their administrative remedies.

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

61. 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;

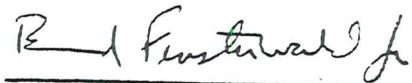
b) In cases of withholding or deletions, order defendant by a date certain to prepare an index, description, and justification in accordance with the requirements of Vaughn v. Rosen, 484 F.2d 820 (D.C. Cir. 1973), cert. denied, 415 U.S. 977 (1974), and a draft order to this effect is appended for the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

Dated: August 6, 1982