

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. 82-2679

9/2/82

Johnson

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 11, 1982, plaintiffs made a formal request under FOIA to the FBI Miami Field Office 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 1a, attached hereto)

6. On March 24, 1982, defendant acknowledged receipt of the request, but produced no records. According to the reply, "the central records system of the Miami office was negative in regards to your request." (See Exhibit 1b)

7. On May 27, 1982, plaintiffs wrote, asking for a re-check of the files, explaining that Friends of Democratic Cuba was a violently anti-Castro group. (See Exhibit 1c, attached hereto).

8. On June 2, 1982, FBI Miami repeated that they could locate no records in response to the request. (See Exhibit 1d, attached hereto)

9. 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 1e, attached hereto)

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

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

12. To date, no records have been released.

COUNT TWO

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

14. On March 15, 1982, plaintiffs made a formal request under FOIA to FBI Miami Field Office 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 2a, attached hereto)

15. On March 24, 1982, defendant acknowledged receipt of the request, but produced no records. The reply stated that no search could be made without Mr. Ferrie's notarized waiver of privacy. (See Exhibit 2b, attached hereto)

16. On April 2, 1982, defendant wrote saying that an "administrative error" had been made in their letter of March 24, but that a search revealed no relevant records. (See Exhibit 2c, attached hereto)

17. On May 27, 1982, plaintiffs asked for a recheck of files and explained why FBI Miami might be expected to have relevant records. (See Exhibit 2d, attached hereto)

18. On June 2, 1982, defendant repeated that no records could be found. (See Exhibit 2e, attached hereto)

19. 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 2f, attached hereto)

20. On July 12, 1982, defendant's Office of Legal Policy replied to the effect that the appeal could not be processed currently. (See Exhibit 1f, 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 THREE

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

24. On April 3, 1982, plaintiffs made a formal request under FOIA to FBI New Orleans Field Office 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, Minnesota, 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 3a, attached hereto)

25. On April 22, 1982, defendant acknowledged receipt of the request, but produced no records. FBI New Orleans said that they could locate no relevant records. (See Exhibit 3b, attached hereto)

26. On May 27, 1982, plaintiffs asked for a recheck of the files, explaining why it would be expected that defendant had relevant records. (See Exhibit 3c, attached hereto)

27. On June 15, 1982, defendant repeated that no relevant records could be found. (See Exhibit 3d, 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 3e, attached hereto)

29. On July 12, 1982, defendant's Office of Legal Policy replied to the effect that the appeal could not be currently processed. (See Exhibit 1f, 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 FOUR

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

33. On March 25, 1982, plaintiffs made a formal request under FOIA to FBI New Orleans Field Office for "all records (including "see references" or cross references) maintained by your agency pertaining to a raid which was made in July or August, 1963, by agents of the U.S. Government upon an anti-Castro training camp which was on the shores of Lake Pontchartrain, Louisiana, and which was on property owned by the McLaney family. During the raid eleven men were taken into custody." 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)

34. On April 7, 1982, defendant acknowledged receipt of the request, but produced no records. Defendant said that it could locate no relevant records. (See Exhibit 4b, attached hereto)

35. On May 27, 1982, plaintiffs asked for a recheck of the files, explaining that the raid was made by the F.B.I. and that eleven people were

taken into custody. (See Exhibit 4c, attached hereto)

36. On June 15, 1982, defendant replied again that no relevant records had been located. (See Exhibit 4d, attached hereto)

37. 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 4e, attached hereto)

38. On July 12, 1982, defendant's Office of Legal Policy replied to the effect that the appeal could not be currently processed. (See Exhibit 4f, attached hereto)

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

40. To date, no records have been released.

COUNT FIVE

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

42. On March 16, 1982, plaintiffs made a formal request under FOIA to FBI Miami Field Office for "all records (including "see references" or cross references) maintained by your agency pertaining to Fair Play For Cuba Committee (FPCC) for the years 1960-65. One of the organizers was Dr. Charles A. Santos-Buch. The national headquarters was at 799 Broadway, N.Y. City. The national organization was run by Vincent "Ted" Lee. The New Orleans "chapter" was run by Lee Harvey Oswald." 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)

43. On March 24, 1982, defendant acknowledged receipt of the request, but produced no records. The reply stated that no relevant records had been located. (See Exhibit 5b, attached hereto)

44. On May 27, 1982, plaintiffs asked for a recheck of the files, explaining why it would be anticipated that such files existed. (See Exhibit 5c, attached hereto)

45. On June 2, 1982, defendant replied again that they had been unable to locate any relevant records. (See Exhibit 5d, attached hereto)

46. 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 5e, attached hereto)

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

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

49. To date, no records have been released.

COUNT SIX

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

51. On March 9, 1982, plaintiffs made a formal request under FOIA to FBI Miami Field Office 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 head 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 6a, attached hereto)

52. On March 18, 1982, defendant acknowledged receipt of the request, but produced no records. It was said that no relevant records could be located. (See Exhibit 6b, attached hereto)

53. On May 27, 1982, plaintiffs asked for a recheck (see Exhibit 6c).

54. On June 2, 1982, defendant repeated that no relevant records had been located. (See Exhibit 6d, attached hereto)

55. 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 6e, attached hereto)

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

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

58. To date, no records have been released.

COUNT SEVEN

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

60. On March 8, 1982, plaintiffs made a formal request under FOIA to FBI New Orleans Field Office for "all records (including "see references" or cross references) maintained by your agency pertaining to W. Guy Banister for the years 1960-64. Mr. Banister was FBI SAC in charge until his retirement from the FBI in 1955. After a stint with the New Orleans Police Department, he opened a private detective agency called Guy Banister & Associates at 544 Camp St., New Orleans, La. Mr. Banister is deceased, having died of an apparent heart attack in New Orleans in 1964." 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)

61. On March 24, 1982, defendant acknowledged receipt of the request, but produced no records. The reply stated that FBI New Orleans had no file on Banister. (See Exhibit 7b, attached hereto)

62. On May 24, 1982, plaintiffs wrote, explaining why FBI New Orleans should have a file on Banister. (See Exhibit 7c, attached hereto)

63. On June 15, 1982, FBI New Orleans repeated that no relevant records could be located. (See Exhibit 7d, attached hereto)

64. 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 7e, attached hereto)

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

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

67. To date, no records have been released.

COUNT EIGHT

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

69. On March 12, 1982, plaintiffs made a formal request under FOIA to FBI Miami Field Office 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 Eladio 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 8a, attached hereto)

70. On March 24, 1982, defendant acknowledged receipt of the request, but produced no records. The reply stated that no relevant records could be located. (See Exhibit 8b, attached hereto)

71. On May 27, 1982, plaintiffs wrote, explaining why relevant records should exist in Miami. (See Exhibit 8c, attached hereto)

72. On June 2, 1982, FBI Miami repeated that no relevant records could be retrieved. (See Exhibit 8d, attached hereto)

73. 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 8e, attached hereto)

74. On July 12, 1982, defendant replied to the effect that the appeal could not be currently processed. (See Exhibit 1f, attached hereto)

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

76. To date, no records have been released.

COUNT NINE

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

78. On March 19, 1982, plaintiffs made a formal request under FOIA to FBI New Orleans Field Office for "all records (including "see references" or cross references) maintained by your agency pertaining to Permindex ("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 9a, attached hereto)

79. On April 6, 1982, defendant acknowledged receipt of the request, but produced no records. The reply stated that no relevant records could be retrieved. (See Exhibit 9b, attached hereto)

80. On May 27, 1982, plaintiffs explained why records should be extant in FBI New Orleans files. (See Exhibit 9c, attached hereto)

81. On June 15, 1982, defendant said that an additional search turned up no records. (See Exhibit 9d, attached hereto)

82. 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 9e, attached hereto)

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

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

85. To date, no records have been released.

COUNT TEN

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

87. On March 18, 1982, plaintiffs made a formal request under FOIA to

FBI Dallas Field Office 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 Eladio 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 10a, attached hereto)

88. On March 30, 1982, defendant acknowledged receipt of the request, but produced no records. The reply said that no records could be located. (See Exhibit 10b, attached hereto)

89. On May 27, 1982, plaintiffs explained why records should exist in Dallas. (See Exhibit 10c, attached hereto)

90. On June 14, 1982, defendant repeated that no records could be located. (See Exhibit 10d, attached hereto)

91. 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 10e, attached hereto)

92. On July 12, 1982, defendant replied to the effect that the appeal could not be currently processed. (See Exhibit 1f, attached hereto)

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

94. To date, no records have been released.

COUNT ELEVEN

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

96. On March 20, 1982, plaintiffs made a formal request under FOIA to FBI New Orleans Field Office 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 11a, attached hereto)

97. On April 6, 1982, defendant acknowledged receipt of the request, but produced no records. The reply stated that no relevant records could be located. (See Exhibit 11b, attached hereto)

98. On May 27, 1982, plaintiffs explained why records should be retrievable in New Orleans. (See Exhibit 11c, attached hereto)

99. On June 15, 1982, defendant again replied that no relevant records could be located. (See Exhibit 11d, attached hereto)

100. 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 11e, attached hereto)

101. On July 12, 1982, defendant's Office of Legal Policy replied to the effect that the appeal could not be currently processed. (See Exhibit 11f, attached hereto)

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

103. To date, no records have been released.

REQUESTED RELIEF

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

105. Plaintiffs have exhausted their administrative remedies.

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

107. 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;

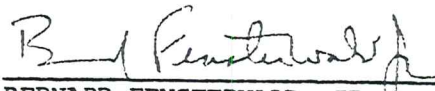
b) In cases of withholding or deletions, order defendant by a date certain to prepare an index, description, and justification in accordance with the requirements of Vaughn v. Rosen, 484 F.2d 820 (D.C. Cir. 1973), cert. denied, 415 U.S. 977 (1974), and a draft order to this effect is appended for the 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: September 1, 1982