

UNITED STATES DISTRICT COURT
DISTRICT OF NEW YORK

EASTERN

ROGER B. FEINMAN,
Plaintiff,

-v-

UNITED STATES DEPARTMENT OF
JUSTICE; THE HONORABLE GRIFFIN B.
BELL,
Defendants.

Civil Action File No.

79C 1537

COMPLAINT NEAHER, J.

COMPLAINT FOR INJUNCTION UNDER THE FREEDOM OF
INFORMATION ACT (5 U.S.C. § 552, AS AMENDED)

Jurisdiction and Venue

1. This is a civil action brought by plaintiff under the Freedom of Information Act, as amended (5 USC § 552(a)(4)(B)). The action seeks preliminary and final injunction thereunder against withholding certain information from plaintiff and directing that it be disclosed.

2. Venue for this action is properly laid in this district.

The Plaintiff

3. Plaintiff ROGER B. FEINMAN was at all times hereinafter mentioned and still is a citizen of the United States of America, domiciled in and a resident of the State and City of New York, County of Queens. He is a student of law at the Benjamin N. Cardozo School of Law of Yeshiva University in New York City, New York. He sues on his own behalf.

The Defendants

4. The defendant UNITED STATES DEPARTMENT OF JUSTICE (hereinafter "the Justice Department") is an executive department of the federal government having its principal headquarters at Constitution Avenue & Tenth Street, N.W., Washington, D.C. 20530. The Justice Department is a federal administrative agency within the meaning of the Act, and defendant GRIFFIN B. BELL is the Attorney General of the United States of America, the director of such agency.

Cause of Action

5. Plaintiff is engaged in research for a book-length manuscript about how the major American news media have dealt with the controversy surrounding the assassination of President John F. Kennedy.

6. On May 25, 1976, plaintiff duly requested in writing that the Justice Department, through the appropriate officer or employee thereof, disclose to plaintiff records pertaining to contacts between the Office of the Attorney General of the United States, representatives of CBS News (a division of CBS INC., formerly the Columbia Broadcasting System, Inc.), and Dr. James J. Humes, chief prosecutor at the autopsy of the late President Kennedy. A copy of this request is attached hereto as Exhibit "A" and is incorporated into this complaint by reference.

7. The Justice Department failed to make timely reply to plaintiff's request.

8. On June 19, 1976, plaintiff sent a letter of appeal for the requested records to the Honorable Edward Levi, then Attorney General of the United States. A copy of this appeal letter is attached hereto as Exhibit "B" and is incorporated into this complaint by reference.

9. On August 12, 1976, one Richard M. Rogers, Acting Chief of the Freedom of Information and Privacy Unit of the Justice Department wrote to plaintiff saying that he was awaiting receipt of stored files from a federal records center; that such files would be reviewed; and, that plaintiff would be "advised whether they contain records within the scope of your request which may be released to you." A copy of this response is attached hereto as Exhibit "C" and is incorporated into this complaint by reference.

10. Plaintiff did not and never has received any further correspondence or results from his Freedom of Information Act request from either the Justice Department or any of its officers or employees.

11. On June 10, 1978, plaintiff sent a letter to the Chief of the Freedom of Information and Privacy Unit of the Justice Department asking to be informed of the status of his request and amending the original request to include "copies of all correspondence, or documents relating to such correspondence, generated by or pertaining to my letters of May 25 and June 19, 1976." A copy of this letter is attached hereto as Exhibit "D" and is incorporated into this complaint by reference.

12. Plaintiff has never received any reply to his letter of June 10, 1978 from any source connected with the Justice Department.

13. Plaintiff has exhausted his administrative remedies under the Freedom of Information Act with respect to his request of May 25, 1976.

14. Plaintiff's research and writing have been greatly delayed by the failure of defendants to comply with the Act, by their failure to timely reply to plaintiff's inquiries, by their wrongful refusal to issue a final determination of his request, and by their wrongful withholding of the records sought. Plaintiff has incurred and will continue to incur expenses for the within litigation.

15. The records hereinabove referred to were and are identifiable records within the meaning of the Freedom of Information Act. The Justice Department's refusal to disclose the same to plaintiff and/or to issue a determination of his request was wrongful and without lawful reason or excuse, and plaintiff is entitled to the relief provided by the Act.

Prayer for Relief

WHEREFORE, plaintiff prays:

(1) That preliminary and final injunction issue against defendants prohibiting them from refusing to issue a determination of plaintiff's request and/or from withholding from plaintiff the records herein referred to and described.

(2) That preliminary and final injunctions issue against defendants directing them to make such records available to plaintiff ROGER B. FEINMAN and permit the inspection and copying thereof.

(3) That this Court order defendants to pay to plaintiff the costs and disbursements incurred by him in bringing this action, and the reasonable equivalent of attorney's fees should he continue the action pro se or attorney's fees in the event plaintiff is represented by counsel in this action.

(4) And that this Court grant to plaintiff such other and further relief as to the Court may seem just, proper and equitable.

New York City, New York
June 14, 1979

Respectfully submitted,

Roger B. Feinman

ROGER B. FEINMAN, pro se
142-10 Hoover Avenue #404
Jamaica, New York 11435
(212) 526-2362

Exhibits attached.



OFFICE OF THE DEPUTY ATTORNEY GENERAL
WASHINGTON, D.C. 20530

AUG 12 1976

Mr. Roger Feinman
Box 505
Fresh Meadows, New York 11365

Dear Mr. Feinman:

This is in response to your letters of May 25 and June 19, 1976, in which you requested access to records maintained by the Department of Justice pertaining to contacts between the Office of the Attorney General, representatives of CBS News and Dr. James J. Humes.

The delay in responding to your request has been caused by the fact that files which may contain the records you seek are not readily available. These files are stored in a Federal records center and have been sent for. Upon their receipt, the files will be reviewed and you will be advised whether they contain records within the scope of your request which may be released to you.

I regret this delay and will be in contact with you further on this matter as soon as possible. Your continuing courtesy is appreciated.

Very truly yours,

Richard M. Rogers, Acting Chief
Freedom of Information and Privacy Unit



Exhibit "C"

May 25, 1976

Mr. Quinlan J. Shea, Jr.
Chief, Freedom of Information
and Privacy Unit
Department of Justice
Constitution Avenue between 9th and 10th Streets
Washington, D.C. 20530

Dear Mr. Shea :

I am making this request for records under the Freedom of Information Act (5 U.S.C. § 552 as amended 1975) pertaining to contacts between the Office of the Attorney General of the United States, representatives of CBS News (a division of CBS, Inc., formerly Columbia Broadcasting System, Inc.), and Dr. James J. Humes, chief prosecutor at the autopsy of the late President Kennedy.

On Friday, May 12, 1967 there occurred in the office of Attorney General Clark a meeting between Clark and representatives of CBS. Included among the latter were Mr. Leslie Midgley, Mr. Joseph DeFrance and Dan Rather. At that meeting, CBS made an in person request for access to the x-rays and photographs taken at the Kennedy autopsy and permission for one of the original autopsy surgeons to review these materials for the purpose of a special television broadcast which CBS was planning concerning the assassination of President Kennedy.

Ultimately, the Attorney General granted Dr. Humes permission to appear on the CBS broadcast in an interview with Dan Rather.

Specifically, I request the following :

(1) Any and all memoranda of record and internal Department of Justice memoranda pertaining to the aforementioned meeting ;

(2) Records of any and all correspondence between The Office of the Attorney General or subordinate offices and CBS between May 12, 1967 and June 25, 1967.

(3) Records pertaining to General Clark's granting of permission to Dr. Humes to appear on CBS, including, but in no way limited to, records of correspondence on this matter between Clark and Humes.

(4) Records pertaining to any and all correspondence between General Clark and Mr. Burke Marshall, the Kennedy family's representative in the matter of the autopsy x-rays and photographs, pertaining to the CBS request.

(5) Records pertaining to any and all terms and

Exhibit "A"

May 25, 1976

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conditions set forth or agreed upon by the Attorney General or the Department of Justice and CBS concerning the appearance of Dr. Humes on CBS.

If any of the foregoing records are in the files of the Department of Justice, I would appreciate an itemization and information as to the cost of reproduction.

Thank you very much in advance of your efforts.

Sincerely yours,

Roger Feinman
Box 505
Fresh Meadows, N.Y. 11365

June 19, 1976

Hon. Edward Levi
Attorney General, United States
of America
Department of Justice
Constitution Avenue between 9th & 10th Streets
Washington, D.C. 20530

Re : Appeal under 5 U.S.C. § 552, et. seq.

Dear Mr. Attorney General :

Please accept this letter as the instrument of my appeal under the Freedom of Information Act for records which I have requested from the Department of Justice.

On May 25, 1976 I sent a letter to Mr. Quinlan J. Shea, Jr., Chief, Freedom of Information and Privacy Unit, Department of Justice, under 5 U.S.C. § 552 as amended, requesting records pertaining to contacts between the Office of the Attorney General of the United States, representatives of CBS News (a division of CBS, Inc., formerly Columbia Broadcasting System, Inc.), and Dr. James J. Humes, chief prosecutor at the autopsy of the late President John F. Kennedy. These contacts occurred in May and June of 1967.

I have received no reply to my letter to Mr. Shea. Well over ten working days have passed. I am enclosing a copy of my original request.

I hereby appeal for the records requested and if I do not hear from you within 20 working days, I will consider my appeal denied.

I consider the information requested clearly releasable under the Freedom of Information Act and I hereby inform you that I would consider your denial to be clearly arbitrary and capricious as defined by the Act.

As to any files or records which may in part contain information not required to be released under the FOIA, I would appreciate :

(1) your determination whether that information exempted from mandatory release might be released as a matter of discretion; or

(2) such information not required to be released be deleted before release of the remainder, pursuant to the last paragraph of section 552(b) of the FOIA.

Exhibit "B"

June 19, 1976

If you should deny any part of my request, please provide me with full identification of the recordings, records and documents being withheld or the nature of the information deleted with an explanation of the basis for withholding.

I would further appreciate records or reference to whether at any time anyone has destroyed, discarded or otherwise disposed of any records pertaining to this matter, including, but in no way limited to, those records requested in my letter of May 25 as items (1) through (5).

If Mr. Shea has indeed replied to my request prior to this date, it may be that a delay in handling or a delay in the mail has prevented it from reaching me up until now. Should this be the case, please hold this appeal in abeyance until I have had the opportunity to consider Mr. Shea's reply.

With deepest respect toward your office, and thanks for your cooperation in this matter, I remain

Sincerely yours,

Roger Feinman

Roger Feinman
Box 505
Fresh Meadows, N.Y. 11365

enc.

June 10, 1978

Mr. Quinlan J. Shea
Chief, Freedom of Information
and Privacy Unit
Department of Justice
Constitution Ave. between 9th and 10th Streets
Washington, D.C. 20530

Dear Mr. Shea :

This is in reference to a Freedom of Information Act request which I sent to you on May 25, 1976. In that letter I requested records pertaining to contacts between the Office of the Attorney General (in this case Ramsey Clark), representatives of CBS, Inc. (then the Columbia Broadcasting System, Inc.) and Dr. James J. Humes, who was the chief prosecutor at the autopsy of the late President Kennedy.

When no reply to that letter was forthcoming within the statutory period, I sent a letter of appeal to Mr. Levi, dated June 19, 1976.

On August 12, 1976 Richard Rogers wrote to me saying that he was awaiting receipt of stored files from a federal records center; that such files would be reviewed; and, that I would be "advised whether they contain records within the scope of your request which may be released to you."

The above is the record of our correspondence on this matter. I have not had any further response from the Justice Department since Mr. Rogers' letter. I am interested in bringing our correspondence concerning this request to an expeditious and certain conclusion, my hope being that resort to the courts will not be necessary and that your department will fully cooperate and comply.

First, what is the status of my request? Second, what records have been reviewed? Third, I request copies of all correspondence, or documents relating to such correspondence, generated by or pertaining to my letters of May 25 and June 19, 1976.

Your prompt reply will be greatly appreciated.

Very truly yours,

Roger Feinman
Box 505
Fresh Meadows, N.Y. 11365

Exhibit "D"