

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLUMBIA**

JUDICIAL WATCH, INC.)
501 School Street, S.W., Suite 500)
Washington, DC 20024,)
)
Plaintiff,)
)
v.)
)
U.S. DEPARTMENT OF DEFENSE)
1950 Defense Pentagon)
Washington, DC 20301-1950)
)
Defendant.)
_____)

Civil

CASE NUMBER 1:06CV00309

JUDGE: Reggie B. Walton

DECK TYPE: FOIA/Privacy Act

DATE STAMP: 02/22/2006

**COMPLAINT FOR DECLARATORY AND
INJUNCTIVE RELIEF**

Plaintiff Judicial Watch, Inc. brings this action against Defendant U.S. Department of Defense to compel compliance with the Freedom of Information Act, 5 U.S.C. § 552 ("FOIA").

As grounds therefor, Judicial Watch, Inc. alleges as follows:

JURISDICTION AND VENUE

1. The Court has jurisdiction over this action pursuant to 5 U.S.C. § 552(a)(4)(B) and 28 U.S.C. § 1331.

2. Venue is proper in this district pursuant to 28 U.S.C. § 1391(e).

PARTIES

3. Plaintiff Judicial Watch, Inc. is a non-profit, educational organization incorporated under the laws of the District of Columbia and having its principal place of business at 501 School Street, S.W., Suite 500, Washington, DC 20024.

4. Defendant U.S. Department of Defense (“DOD”) is an agency of the United States government. DOD has its principal place of business in the District of Columbia. Defendant has possession, custody, and control of records to which Plaintiff seeks access.

STATEMENT OF FACTS

5. On December 15, 2004, Plaintiff sent a FOIA request to Defendant, by facsimile and by certified U.S. mail, return receipt requested, seeking access to any and all records concerning or relating to the following subjects:

- a. Video camera recording(s) obtained by federal official(s) and/or law enforcement from the Sheraton National Hotel in Arlington, Virginia on or about September 11, 2001;
- b. Video camera recording(s) obtained by any federal official(s) and/or law enforcement from a Nexcomm/Citgo gas station in the vicinity of the Pentagon on or about September 11, 2001;
- c. Pentagon security video camera recording(s) showing Flight 77 strike and/or hit and/or crash into the Pentagon on September 11, 2001;
- d. Closed Circuit television (CCTV) video camera recording(s) obtained by any federal official(s) and/or law enforcement from the Virginia Department of Transportation (“VDOT”) and/or the VDOT “Smart Traffic Center” on or about September 11, 2001.

6. On or about January 26, 2005, DOD advised Plaintiff that it possessed a videotape responsive to the December 15, 2004 request, but declined to produce the videotape, citing 5 U.S.C. § 552(b)(7)(A). DOD advised Plaintiff that it had the right to seek an administrative appeal of this determination, which Plaintiff did on or about March 27, 2005.

7. On or about June 10, 2005, DOD denied Plaintiff’s administrative appeal, citing the following grounds:

I have been advised that the video of the September 11, 2001, attack on the Pentagon is still part of an ongoing investigation involving Zacarias Moussaoui, and is exempt from release. Consequently, I must deny this information pursuant to 5 U.S.C. § 552(b)(7)(A).

You are advised that you have the right to judicial review of this decision in a United States District Court, in accordance with 5 U.S.C. § 552(a)(4)(B).

8. Plaintiff has a statutory right to the records that it seeks, and there is no legal basis for defendant's refusal to disclose these records to Plaintiff.

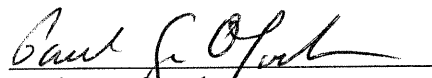
COUNT 1
(Violation of FOIA)

9. Plaintiff realleges paragraphs 1 through 8 as if fully stated herein.

WHEREFORE, Plaintiff respectfully requests that this Court: (1) declare that Defendant's refusal to disclose the records requested by Plaintiff is unlawful; (2) enjoin Defendant from continuing to withhold the requested records from Plaintiff; (3) order Defendant to produce the requested records to Plaintiff without further delay; (4) award Plaintiff its costs and reasonable attorneys' fees pursuant to 5 U.S.C. § 552(a)(4)(E); and (5) grant such other relief as the Court deems just and proper.

Respectfully submitted,

JUDICIAL WATCH, INC.



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Counsel for Plaintiff