

IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF COLUMBIA

ROBERT G. WRIGHT, JR., )  
 )  
 Plaintiff, )  
 )  
 v. )  
 )  
 FEDERAL BUREAU OF )  
 INVESTIGATION, *et al.*, )  
 )  
 Defendants. )  
 \_\_\_\_\_ )

Civil Action No. 02-0915 (GK)

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U.S. DISTRICT COURT  
DISTRICT OF COLUMBIA  
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**SECOND AMENDED COMPLAINT**

Plaintiff, Special Agent Robert G. Wright, Jr., submits this Second Amended Complaint for Declaratory and Injunctive Relief. As grounds therefore, Plaintiff alleges as follows:

**JURISDICTION AND VENUE**

1. This court has jurisdiction over this action pursuant to 28 U.S.C. § 1331, because Plaintiff's claims arise under federal law and the U.S. Constitution.
2. Venue is proper in this district pursuant to 28 U.S.C. § 1391(b) and (e).

**PARTIES**

3. Plaintiff Robert G. Wright, Jr. is a U.S. Citizen and a resident of the State of Indiana. He is employed as a Special Agent of the Federal Bureau of Investigation ("FBI").
4. Defendant FBI is an agency of the U.S. Government. The FBI's headquarters is located at 935 Pennsylvania Avenue, N.W., Washington, DC 20535.

5. Defendant U.S. Department of Justice (“DOJ”) also is an agency of the U.S. Government. DOJ’s headquarters is located at 2201 C Street, N.W., Washington, DC 20520.

**STATEMENT OF FACTS**

6. In 1994 Plaintiff was assigned to the FBI’s Chicago Field Office, where he worked as a member of the counter-terrorism squad.

7. In early 1994, Plaintiff recognized and reported to his supervisors that terrorist suspects in the Chicago area were deeply involved in organized criminal activities. Plaintiff also learned, among other things, that non-profit organizations in the Chicago area were being used by the “HAMAS” terrorist organization to recruit, organize, train and support terrorist operatives, and to plan and carry out terrorist attacks. Indeed, many of the terrorist suspects Plaintiff identified were affiliated with these same non-profit organizations linked to HAMAS.

8. Although Plaintiff repeatedly brought this information to the attention of his supervisors in the Chicago Field Office and officials at FBI headquarters, Plaintiff was thwarted in his efforts to undertake criminal and/or civil investigations of these terrorist suspects and organizations. Rather than arresting the suspects and attempting to stop any terrorist attacks, the FBI only ever undertook intelligence (*i.e.*, information gathering) investigations of these suspects and organizations. When Plaintiff complained to his supervisor that the FBI was merely gathering intelligence so it would know who to arrest when a terrorist attack occurred, his supervisor agreed that this was true.

9. Despite being thwarted by the FBI, Plaintiff nonetheless succeeded in bringing about the June 9, 1998 seizure of \$1.4 million of funds destined for terrorist activities. The seized funds were linked directly to Saudi businessman Yassin Kadi. This seizure was the first occasion that the

U.S. Government utilized civil forfeiture laws to seize terrorist assets in the United States. On October 21, 2001, Kadi, a/k/a Yassin Al-Qadi, was designated by the U.S. Government as a financial supporter of Osama Bin Laden. According to a U.S. Government source, Kadi provided \$3 million to Bin Laden and his al-Qaeda organization.

10. Despite the unqualified success of Plaintiff's anti-terrorist efforts, the FBI failed to take seriously the threat of terrorism in the United States, and continued to thwart Plaintiff's attempts to launch a more comprehensive investigation to identify terrorist suspects in the United States and their sources and methods of funding.

11. The FBI withheld resources, funding and support from Plaintiff, forcing Plaintiff at one point in 1999 to purchase much needed equipment and software with his personal funds because he was unable to obtain the necessary funding and support from the FBI.

12. The FBI also withheld information from Plaintiff. For example, in 1997, Plaintiff began an investigation of two known HAMAS terrorist suspects believed to be residing in the Chicago area. Plaintiff asked a relief supervisor whether he had any information about these suspects. The relief supervisor said he did not. Plaintiff then spent several weeks investigating the whereabouts of these two terrorist suspects, only to learn later that the relief supervisor not only knew one of the suspects had been arrested overseas in 1995 as a result of terrorist activities, but that he had placed a copy of a statement provided by the arrested terrorist to overseas authorities in an obscure location where no one would find it.

13. On August 4, 1999, the FBI removed Plaintiff from the investigation that led to the 1998 seizure of funds linked to Yassin Kadi. Shortly thereafter, the FBI closed the investigation.

14. In August 1999, Plaintiff began writing a manuscript about his investigation into known terrorist threats against U.S. national security and the FBI's efforts to thwart this investigation. Plaintiff completed this 500-page manuscript two days after the September 11, 2001 terrorist attacks in New York City and Washington, DC.

15. As a Special Agent, before Plaintiff publicly disclosed certain materials or information, he was required to submit the materials or information to the Office of Public and Congressional Affairs ("OPCA") for prepublication review.

16. On or about October 3, 2001, Plaintiff mailed his manuscript to OPCA for prepublication review.

17. On or about November 3, 2001, OPCA advised Plaintiff that it had not yet received the manuscript, purportedly due to delays occasioned by anthrax terror attacks earlier in the year.

18. On or about November 5, 2001, Plaintiff sent another copy of his manuscript, along with public source documentation, to OPCA.

19. On November 13, 2001, Plaintiff submitted two additional documents to OPCA for prepublication review. The first document was a thirty-eight page complaint filed by Plaintiff with the U.S. Department of Justice, Office of Inspector General entitled "Dereliction of Duty by the Federal Bureau of Investigation in Failing to Investigate and Prosecute Terrorism and Obstruction of Justice in Retaliating Against Special Agent Robert G. Wright, Jr." The second document was a one hundred-thirteen (113) page complaint to be filed at a later date with the U.S. Department of Justice, Office of Inspector General entitled "Whistleblowing Retaliation by the Federal Bureau of Investigation Against Special Agent Robert Wright, Jr."

20. On or about November 19, 2001, OPCA notified Plaintiff that it had received his manuscript and that it was in the process of reviewing his work.

21. On November 28, 2001, OPCA advised Plaintiff that it had received his two complaints and was in the process of reviewing them.

22. On January 2, 2002, OPCA issued a letter to Plaintiff raising alleged concerns about approximately eighteen percent (18%) of the text of his manuscript. Thus, approximately eighty-two percent (82%) of the manuscript's text was approved for publication.

23. On January 7, 2002, OPCA issued a letter to Plaintiff raising alleged concerns about approximately four percent (4%) of the text of the first complaint and approximately six percent (6%) of the text of the second complaint. Thus, approximately ninety-six percent (96%) of the first complaint and ninety-four percent (94%) of the second complaint were approved for publication.

24. On January 18, 2002, Plaintiff resubmitted both complaints to OPCA, correcting or deleting the four percent (4%) of the text of alleged concern in the first complaint and the six percent (6%) of the text of alleged concern in the second complaint.

25. On January 24, 2002, OPCA advised Plaintiff that it had received his revised complaints and had begun reviewing them.

26. On February 10, 2002, Plaintiff resubmitted his manuscript to OPCA, correcting or deleting the eighteen percent (18%) of the text of alleged concern.

27. On March 31, 2002, Plaintiff sent to OPCA, by facsimile, copies of proposed answers to questions posed by Judith Miller, a reporter for *The New York Times*, who sought to interview Plaintiff.

28. Although OPCA was required to respond to Plaintiff within thirty (30) days, it failed to do so. *See* 28 C.F.R. § 17.18.

29. On May 8, 2002, Plaintiff initiated this action for declaratory and injunctive relief seeking to compel the OPCA to respond.

30. On May 10, 2002, two days after Plaintiff filed suit, OPCA responded, advising Plaintiff that, despite previously identifying only portions of his manuscript and complaints that were of alleged concern, it was now seeking to prohibit him from publicly disclosing any of the materials he had submitted:

The FBI review and the guidance we are receiving from the U.S. Attorney's Office find that your submissions still contain information regarding an open investigation, matters occurring before a federal grand jury, sensitive law enforcement techniques, intelligence information, and other materials otherwise prohibited from disclosure. Despite our efforts to provide you with a version of your material you could publish, we have found that your submissions are so inextricably intertwined with protected information that we are unable to do so. We cannot, therefore, authorize public dissemination of this material in its entirety at this time.

31. On June 5, 2002, Plaintiff wrote to FBI Director Robert S. Mueller to appeal the FBI's denial of permission to publish his manuscripts. Plaintiff cited 28 C.F.R. § 17.144(s)(3) as the basis for his appeal. However, that section has been superseded; the proper appeal should have been directed to the office of the Deputy Attorney General.

32. On July 24, 2002, W. Wilson Lowery, Executive Assistant Director of the FBI, wrote to Plaintiff, informing him that his "appeal" had been denied and that permission to publish his manuscript still was being withheld.

33. On November 7, 2002, Plaintiff, through counsel, appealed to the Office of the Deputy Attorney General pursuant to 28 C.F.R. § 17.18(i). Plaintiff appealed the denial of

permission to publish his manuscript “Fatal Betrayal”; the two complaints by Plaintiff to the FBI’s Office of Professional Responsibility and the U.S. Department of Justice’s Office of Inspector General; and three written answers by Plaintiff to questions posed by Ms. Judith Miller of *The New York Times*.

34. On November 22, 2002, Associate Deputy Attorney General David Margolis acknowledged receipt of Plaintiff’s appeal, but did not grant Plaintiff permission to publish non-classified portions of his manuscripts, nor did he identify any allegedly objectionable portions. Mr. Margolis stated only that “this office will make the determination required by the regulations as expeditiously as possible.”

35. On December 19, 2002, Mr. Margolis further responded to Plaintiff by contending that, as there was no “classified” information contained in the materials submitted by Plaintiff for review, an appeal to the Deputy Attorney General was not appropriate.

**COUNT I**  
**(Violation of the First Amendment)**

36. Plaintiff hereby realleges Paragraphs 1 through 35 as if fully stated herein.

37. Plaintiff enjoys the right of Freedom of Speech, as guaranteed by the First Amendment to the U.S. Constitution.

38. Defendants, acting under color of federal authority, have and are continuing to deprive Plaintiff of his First Amendment rights by refusing to grant him permission to publish the documents submitted by Plaintiff for pre-publication review and/or by failing to specify any particular portion of the documents that allegedly are objectionable so as allow Plaintiff to revise them to address Defendants’ alleged concerns.

WHEREFORE, Plaintiff respectfully requests that the Court: (1) declare Defendants' refusal to grant him permission to publish his documents as being unlawful; (2) enjoin Defendants from continuing to refuse to grant him permission to publish his documents; (3) award him reasonable attorney's fees and costs; and (4) grant such other relief as the Court may deem just and proper.

**COUNT II**  
**(Violation of the 28 C.F.R. § 17.18)**

39. Plaintiff hereby realleges Paragraphs 1 through 38 as if fully stated herein.

40. Plaintiff is entitled to judicial review of Defendants' denial to grant him prepublication review pursuant to 28 C.F.R. § 17.18(i).

41. Defendants acted contrary to law and contrary to their own procedures in refusing to grant Plaintiff permission to publish the documents submitted by Plaintiff for pre-publication review and/or failing to specify any particular portion of the documents that allegedly are objectionable so as allow Plaintiff to revise them to address Defendants' alleged concerns.

WHEREFORE, Plaintiff respectfully requests that the Court: (1) declare Defendants' refusal to grant him permission to publish his documents as being unlawful; (2) enjoin Defendants from continuing to refuse to grant him permission to publish his documents; (3) award him reasonable attorney's fees and costs; and (4) grant such other relief as the Court may deem just and proper.

**COUNT III**  
**(Violation of the Administrative Procedures Act)**

42. Plaintiff hereby realleges Paragraphs 1 through 41 as if fully stated herein.

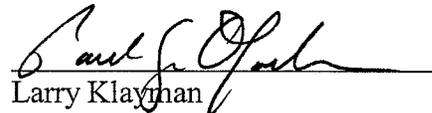
43. Defendants' rulings of May 10, 2002, July 24, 2002, and December 19, 2002 constitute final agency decisions.

44. Defendants acted arbitrarily, capriciously, and contrary to law and their own procedures in refusing to grant Plaintiff permission to publish the documents submitted by Plaintiff for pre-publication review and/or failing to specify any particular portion of the documents that allegedly are objectionable so as allow Plaintiff to revise the documents to address Defendants' alleged concerns, in violation of 5 U.S.C. §§ 706(2)(A) (B) and (D).

WHEREFORE, Plaintiff respectfully requests that the Court: (1) declare Defendants' refusal to grant him permission to publish his documents as being unlawful; (2) enjoin Defendants from continuing to refuse to grant him permission to publish his documents; (3) award him reasonable attorney's fees and costs; and (4) grant such other relief as the Court may deem just and proper.

Respectfully submitted,

JUDICIAL WATCH, INC.



Larry Klayman

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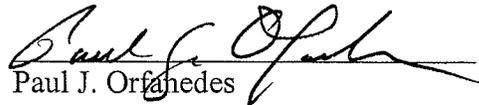
(202) 646-5172

Attorneys for Plaintiff

**CERTIFICATE OF SERVICE**

I hereby certify that on August 22, 2003 a true and correct copy of the foregoing SECOND AMENDED COMPLAINT was served, via first class U.S. mail, postage prepaid, on the following:

Peter D. Blumberg  
Assistant United States Attorney  
Judiciary Center Building  
555 Fourth Street, N.W., 10th Floor  
Washington, DC 20530

  
Paul J. Orfanedes