

**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 JUSTICE)
950 Pennsylvania Ave, N.W.)
Washington, DC 20530-0001,)
)
and)
)
U.S. DEPARTMENT OF STATE)
2201 C Street, N.W.)
Washington, DC 20520,)
)
Defendants.)
_____)

**COMPLAINT FOR DECLARATORY AND
INJUNCTIVE RELIEF**

Plaintiff Judicial Watch, Inc. brings this action against Defendants U.S. Department of Justice (“DOJ”) and U.S. Department of State (“DOS”) to compel compliance with the Freedom of Information Act, 5 U.S.C. § 552 (“FOIA”). As grounds therefor, Plaintiff 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 is a non-profit, educational foundation organized 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 DOJ is an agency of the United States Government. Defendant DOJ has its principal place of business at 950 Pennsylvania Ave., N.W., Washington, DC 20530-0001. Defendant DOJ has possession, custody, and control of records to which Plaintiff seeks access.

5. Defendant DOS is an agency of the United States Government. Defendant DOS has its principal place of business at 2201 C St. N.W., Washington, DC 20520. Defendant DOS has possession, custody, and control of records to which Plaintiff seeks access.

STATEMENT OF FACTS

6. On April 1, 2008, Plaintiff sent a FOIA request to Defendant DOJ seeking access to the following records:

- a. Records detailing the distribution or allocation of T and U visas.
- b. Records establishing the legal and/or policy basis for alien eligibility for T and/or U visas.
- c. Records detailing the basis for establishing the number of T and U visas distributed per year.
- d. Statistical records documenting the issuance/use of T and U visas.

7. On April 1, 2008, Plaintiff sent a FOIA request to Defendant DOS seeking access to the following records:

- a. Records detailing the distribution or allocation of T and U visas.
- b. Records establishing the legal and/or policy basis for alien eligibility for T and/or U visas.
- c. Records detailing the basis for establishing the number of T and U visas distributed per year.
- d. Statistical records documenting the issuance/use of T and U visas.

8. Pursuant to 5 U.S.C. § 552(a)(6)(A)(i), Defendant DOJ was required to respond to Plaintiff's April 1, 2008 FOIA request within twenty (20) working days of receipt, or on or before April 29, 2008. As of July 1, 2008, Defendant DOJ has failed to acknowledge receipt and has failed to produce records responsive to Plaintiff's request or otherwise respond to the request in any fashion.

9. By letter dated April 21, 2008, Defendant DOS informed Plaintiff that it had assigned Case No. 2008-01859 to the April 1, 2008 FOIA request and that Defendant DOS would begin processing the request and notify Plaintiff as soon as responsive material was retrieved and reviewed.

10. Pursuant to 5 U.S.C. § 552(a)(6)(A)(i), Defendant DOS was required to respond to Plaintiff's April 1, 2008 FOIA request within twenty (20) working days of receipt, or on or before April 29, 2008. As of July 1, 2008, Defendant DOS has failed to produce any records responsive to the request or demonstrate that responsive records are exempt from production. Nor has it indicated when any responsive records would be produced.

11. Because Defendants have failed to comply with the time limit set forth in 5 U.S.C. § 552(a)(6)(A) or extend that time limit pursuant to 5 U.S.C. § 552(a)(6)(B), Plaintiff is deemed to have exhausted any and all administrative remedies with respect to its April 1, 2008 FOIA requests, pursuant to 5 U.S.C. § 552(a)(6)(C).

COUNT 1
(Violation of FOIA)

12. Plaintiff realleges paragraphs 1 through 11 as if fully stated herein.

13. Defendants have violated FOIA by failing to produce any and all non-exempt records responsive to Plaintiff's April 1, 2008 FOIA requests within the twenty (20) day time period required by 5 U.S.C. § 552(a)(6)(A)(i).

WHEREFORE, Plaintiff respectfully requests that the Court: (1) declare Defendants' failure to comply with FOIA to be unlawful; (2) order Defendants to produce any and all non-exempt records responsive to Plaintiff's April 1, 2008 FOIA requests and a *Vaughn* index of allegedly exempt responsive records by a date certain; (3) enjoin Defendants from continuing to withhold any and all non-exempt records responsive to Plaintiff's April 1, 2008 FOIA requests; (4) grant Plaintiff an award of attorney's fees and other litigation costs reasonably incurred in this action pursuant to 5 U.S.C. § 552(a)(4)(E); and (5) grant Plaintiff such other relief as the Court deems just and proper.

Dated: July 1, 2008

Respectfully submitted,

JUDICIAL WATCH, INC.



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