

**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 HOMELAND)
SECURITY)
601 South 12th Street)
Arlington, VA 22202,)
)
Defendant.)
_____)

Case: 1:08-cv-01723
Assigned To : Bates, John D.
Assign. Date : 10/10/2008
Description: FOIA/Privacy Act

**COMPLAINT FOR DECLARATORY AND
INJUNCTIVE RELIEF**

Plaintiff Judicial Watch, Inc. brings this action against Defendant U.S. Department of Homeland Security 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 is an agency of the United States Government. Defendant has its principal place of business at 601 12th Street, Arlington, VA 22202. Defendant has possession, custody, and control of records to which Plaintiff seeks access.

STATEMENT OF FACTS

5. On July 31, 2008, Plaintiff sent a FOIA request to U.S. Customs and Border Protection (“CBP”), a component of Defendant, seeking access to the following records:

- Land and/or property in Maverick, Webb, Zapata, Starr, Hidalgo, and Cameron Counties Texas surveyed, considered, bought, and/or seized for construction of a border fence (referred to as Secure Border Initiative, Southwest Border Fence, Border Wall, etc).

6. Pursuant to 5 U.S.C. § 552(a)(6)(A)(I), CBP was required to respond to Plaintiff’s July 31, 2008 FOIA request within twenty (20) working days of receipt, or on or before August 28, 2008. As of October 10, 2008, Defendant CBP 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. Nor has it indicated when any responsive records would be produced.

7. Because CBP has 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 July 31, 2008 FOIA requests, pursuant to 5 U.S.C. § 552(a)(6)(C).

COUNT 1
(Violation of FOIA)

8. Plaintiff realleges paragraphs 1 through 7 as if fully stated herein.

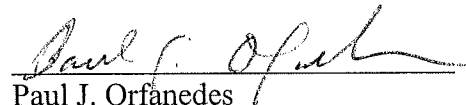
9. Defendant has violated FOIA by failing to produce any and all non-exempt records responsive to Plaintiff's July 31, 2008 FOIA request within the twenty (20) day time period required by 5 U.S.C. § 552(a)(6)(A)(I).

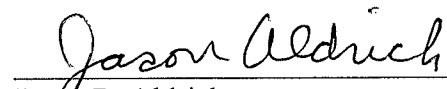
WHEREFORE, Plaintiff respectfully requests that the Court: (1) declare Defendant's failure to comply with FOIA to be unlawful; (2) order Defendant to produce any and all non-exempt records responsive to Plaintiff's July 31, 2008 FOIA request and a *Vaughn* index of allegedly exempt responsive records by a date certain; (3) enjoin Defendant from continuing to withhold any and all non-exempt records responsive to Plaintiff's July 31, 2008 FOIA request; (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: October 10, 2008

Respectfully submitted,

JUDICIAL WATCH, INC.


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