

JUDICIAL WATCH, INC.,)
501 School Street, S.W., Suite 700)
Washington, DC 20024,)

Case: 1:10-cv-00593
Assigned To : Roberts, Richard W.
Assign. Date : 4/16/2010
Description: FOIA/Privacy Act

FEDERAL BUREAU OF
INVESTIGATION
J. Edgar Hoover Building
935 Pennsylvania Avenue, NW
Washington, D.C. 20535-0001

Defendant.

Plaintiff Judicial Watch, Inc. brings this action against Defendant Federal Bureau of Investigation to compel compliance with the Freedom of Information Act, 5 U.S.C. § 552 (“FOIA”). As grounds therefor, Plaintiff alleges as follows:

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

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 700, Washington, DC 20024. Plaintiff seeks to promote integrity, transparency, and

accountability in government and fidelity to the rule of law. In furtherance of its public interest mission, Plaintiff regularly serves FOIA requests on federal, state, and local government agencies, entities, and offices, and disseminates its findings to the public.

4. Defendant is an agency of the United States government and is headquartered at 935 Pennsylvania Avenue, NW, Washington, D.C. 20535-0001. Defendant has possession, custody, and control of records to which Plaintiff seeks access.

STATEMENT OF FACTS

5. In its effort to promote integrity and accountability in government, Plaintiff determines each year which politicians earn the dubious distinction of being the most corrupt in Washington. Representative John Murtha (D-PA) was a regular on Judicial Watch's list of "Ten Most Wanted Corrupt Politicians," most recently featured at number nine on Judicial Watch's 2009 list.

6. Representative Murtha was continually featured on Plaintiff's list because of his long legacy of corruption. Starting in the mid-1970s until his death, Representative Murtha has been known for his allegedly corrupt practices as well as his inflammatory and controversial statements. During the Abscam sting operation, he was caught on tape allegedly offering political concessions for cash. More recently, Representative Murtha was being investigated for his ties to the PMA group, a, now defunct, lobbying firm.

7. In a final effort to investigate and report on Representative Murtha's lack of ethics and his abuse of office for more than 25 years, on February 9, 2010, Plaintiff sent a FOIA request to Defendant seeking access to any and all records concerning, regarding, or relating to John Patrick Murtha. As part of its request, Judicial Watch requested that Defendant search its

automated indices, its older general (manual) indices, and its Electronic Surveillance (ELSUR) Data Management System (EDMS).

8. Defendant acknowledged receipt of Plaintiff's FOIA request by letter dated February 18, 2010 and assigned the request number 1143519-000.

9. Pursuant to 5 U.S.C. § 552(a)(6)(A)(i), Defendant was required to respond to Plaintiff's February 9, 2010 FOIA request within twenty (20) working days or by March 18, 2010.

10. As of the date of this Complaint, Defendant has failed to produce any records responsive to Plaintiff's FOIA request or demonstrate that responsive records are exempt from production. Nor has Defendant indicated when or whether any responsive records will be produced.

11. Because Defendant failed to comply with the time limit set forth in 5 U.S.C. § 552(a)(6)(A), Plaintiff is deemed to have exhausted any and all administrative remedies with respect to its February 9, 2010 FOIA request, 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. Defendant has violated FOIA by failing to produce any and all non-exempt records responsive to Plaintiff's February 9, 2010 FOIA request within the time limit required by 5 U.S.C. § 552(a)(6)(A).

14. Plaintiff is being irreparably harmed by reason of Defendant's violation of FOIA, and Plaintiff will continue to be irreparably harmed unless Defendant is compelled to conform its

conduct to the requirements of the law.

WHEREFORE, Plaintiff respectfully requests that the Court: (1) declare Defendant's failure to comply with FOIA to be unlawful; (2) order Defendant to search for and produce any and all non-exempt records responsive to Plaintiff's February 9, 2010 FOIA request and a *Vaughn* index of allegedly exempt records responsive to the FOIA request by a date certain; (3) enjoin Defendant from continuing to withhold any and all non-exempt records responsive to the 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: April 15, 2010

Respectfully submitted,

JUDICIAL WATCH, INC.

A handwritten signature in black ink, appearing to read 'James F. Peterson', is written over a horizontal line.

James F. Peterson

D.C. Bar No. 450171

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Attorneys for Plaintiff