

**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,)

Civil Action No. 1:07-cv-00506 (RJL)

v.)

U.S. DEPARTMENT OF HOMELAND)
SECURITY)
601 South 12th Street)
Arlington, VA 22202,)

and)

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 Homeland Security (“DHS”), 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 DHS is an agency of the United States Government. Defendant DHS has its principal place of business at 601 12th Street, Arlington, VA 22202. Defendant DHS has possession, custody, and control of records to which Plaintiff seeks access.

5. 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.

6. 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

7. On January 24, 2007, Plaintiff sent a FOIA request to Defendant DHS seeking access to the following records:

- a. Communications between DHS (and its subordinate agencies) and any/all officers, agencies and/or representatives of the Government of Mexico concerning Osbaldo Aldrete-Davila, a Mexican national who testified in the prosecution of U.S. Border Patrol Agents Ignacio “Nacho” Ramos and Jose Alonso Compean over a shooting incident in Texas on February 17, 2005.
- b. Communications between DHS and the U.S. Department of Justice (to include the Office of U.S. Attorney Johnny Sutton of the Western District of Texas) and/or the Department of State concerning Osbaldo Aldrete-Davila, a Mexican national who testified in the prosecution of U.S. Border Patrol Agents Ignacio “Nacho” Ramos and Jose Alonso Compean over a shooting incident in Texas on February 17, 2005.
- c. The participation of DHS personnel in coordinating, facilitating and/or approving the lawful entry(ies) of Osbaldo Aldrete-Davilla into the United States (reportedly for the last time in February 2006). Mr. Aldrete-Davila reportedly entered the United States lawfully (with the approval of the U.S. Government) to obtain medical treatment, meet with federal investigators and to testify in court in El Paso, Texas.

8. On January 24, 2007, Plaintiff also sent a FOIA request to Defendant DOJ seeking access to the following records:

- a. Communications between DOJ and any/all officers, agencies and/or representatives of the Government of Mexico concerning Osbaldo Aldrete-Davila, a Mexican national who testified in the prosecution of U.S. Border Patrol Agents Ignacio “Nacho” Ramos and Jose Alonso Compean over a shooting incident in Texas on February 17, 2005.
- b. Communications between DOJ and the U.S. Department of State and/or the Department of Homeland Security (and its subordinate agencies) concerning Osbaldo Aldrete-Davila, a Mexican national who testified in the prosecution of U.S. Border Patrol Agents Ignacio “Nacho” Ramos and Jose

Alonso Compean over a shooting incident in Texas on February 17, 2005.

- c. The participation of DOJ personnel in coordinating, facilitating and/or approving the lawful entry(ies) of Osbaldo Aldrete-Davilla into the United States (reportedly for the last time in February 2006). Mr. Aldrete-Davila reportedly entered the United States lawfully (with the approval of the U.S. Government) to obtain medical treatment, meet with federal investigators and to testify in court in El Paso, Texas.
- d. Any/all agreements, deals, promises, settlements, grants, understandings, memoranda and/or letters granting any form of immunity to Osbaldo Aldrete-Davila.
- e. Records detailing the terms and conditions permitting Osbaldo Aldrete-Davila to lawfully enter the United States.

9. On January 24, 2007, Plaintiffs also sent a FOIA request to Defendant DOS

seeking access to the following records:

- a. Communications between DOS and any/all officers, agencies and/or representatives of the Government of Mexico concerning Osbaldo Aldrete-Davila, a Mexican national who testified in the prosecution of U.S. Border Patrol Agents Ignacio "Nacho" Ramos and Jose Alonso Compean over a shooting incident in Texas on February 17, 2005.
- b. Communications between DOS and the U.S. Department of Justice (to include the Office of U.S. Attorney Johnny Sutton of the Western District of Texas) and/or the Department of Homeland Security (and its subordinate agencies) concerning Osbaldo Aldrete-Davila, a Mexican national who testified in the prosecution of U.S. Border Patrol Agents Ignacio "Nacho" Ramos and Jose Alonso Compean over a shooting incident in Texas on February 17, 2005.
- c. The participation of DOS personnel in coordinating, facilitating and/or approving the lawful entry(ies) of Osbaldo Aldrete-Davilla into the United States (reportedly for the last time in February

2006). Mr. Aldrete-Davila reportedly entered the United States lawfully (with the approval of the U.S. Government) to obtain medical treatment, meet with federal investigators and to testify in court in El Paso, Texas.

10. Defendant DHS acknowledged receipt of Plaintiff's FOIA request by letter dated January 31, 2007. By letter dated February 13, 2007, Defendant DHS granted Plaintiff a fee waiver. As of March 16, 2007, Defendant DHS has failed to produce records responsive to Plaintiff's request.

11. Plaintiff's FOIA request was received by Defendant DOJ on January 29, 2007 at the latest. As of March 16, 2007, Defendant DOJ has failed to produce records responsive to Plaintiff's request or otherwise respond to the request in any fashion.

12. Plaintiff's FOIA request was received by Defendant DOS on January 30, 2007 at the latest. As of March 16, 2007, Defendant DOS has failed to produce records responsive to Plaintiff's request or otherwise respond to the request in any fashion.

COUNT 1
(Violation of FOIA)

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

14. Defendants have violated FOIA by failing to produce any and all non-exempt records responsive to Plaintiff's FOIA January 24, 2007 requests within the twenty (20) day time period required by 5 U.S.C. § 552(a)(6)(A)(i).

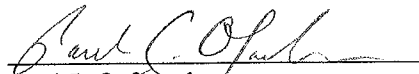
WHEREFORE, Plaintiff respectfully requests that the Court: (1) declare Defendants' failure to comply with FOIA to be unlawful; (2) order Defendants to produce any and all non-exempt records responsive to Plaintiff's January 24, 2007 FOIA requests and a *Vaughn* index of allegedly exempt responsive records by a date certain; (3) enjoin Defendants from continuing to

withhold any and all non-exempt records responsive to Plaintiff's January 24, 2007 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: March 16, 2007

Respectfully submitted,

JUDICIAL WATCH, INC.



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