

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLUMBIA**

JUDICIAL WATCH, INC.,)
425 Third Street SW, Suite 800)
Washington, DC 20024,)
)
Plaintiff,)
v.)
)
U.S. DEPARTMENT OF STATE,)
The Executive Office)
Office of the Legal Adviser, Suite 5.600)
600 19th Street NW)
Washington, DC 20522,)
)
Defendant.)
_____)

Civil Action No.

COMPLAINT

Plaintiff Judicial Watch, Inc. brings this action against Defendant U.S. Department of State 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 Judicial Watch, Inc. (“Plaintiff”) is a not-for-profit, educational organization incorporated under the laws of the District of Columbia and headquartered at 425 Third Street SW, Suite 800, Washington, DC 20024. Plaintiff seeks to promote transparency, integrity, and accountability in government and fidelity to the rule of law. As part of its mission, Plaintiff regularly requests records from federal agencies pursuant to FOIA. Plaintiff analyzes

the agencies' responses and disseminates both its findings and the requested records to the American public to inform them about "what their government is up to."

4. Defendant U.S. Department of State ("State Department" or "Defendant") is an agency of the U.S. Government headquartered at 2201 C Street NW, Washington, DC 20520. The State Department has possession, custody, and control of records to which Plaintiff seeks access.

STATEMENT OF FACTS

5. On August 8, 2023, Plaintiff sent a FOIA request to the Office of the Information Programs and Services at the State Department, via the State Department's online FOIA portal, seeking access to the following public records:

All records related to the modifications to the eligibility of citizens of Hungary to participate in the visa waiver program which went into effect on August 1, 2023 (<https://hu.usembassy.gov/visas/visa-waiver-program/>). This request includes, but is not limited to, all records reviewed, referenced, or relied upon in making the determination to implement the modifications, as well as all related records of communication between any official or employee of the Department of State and any other individual or entity.

The time frame for the requested records was identified as "January 1, 2023 to the present."

6. By automated email that same day, the State Department acknowledged receiving Plaintiff's request and informed Plaintiff that the request had been assigned FOIA case number F-2023-11699. Plaintiff has had no further communication from the State Department about the request.

7. As of the date of this Complaint, the State Department has failed to: (i) determine whether to comply with the request; (ii) notify Plaintiff of any such determination or the reasons therefor; (iii) advise Plaintiff of the right to appeal any adverse determination(s); or (iv) produce

the requested records or otherwise demonstrate that the requested records are exempt from production.

COUNT I
(Violation of FOIA, 5 U.S.C. § 552)

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

9. Defendant is in violation of FOIA.

10. 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 comply with the law.

11. Plaintiff has no adequate remedy at law.

12. To trigger FOIA's administrative exhaustion requirement, Defendant was required to make a final determination on Plaintiff's requests by September 6, 2023, at the latest. Because Defendant failed to make a final determination on Plaintiff's requests within the time limits set by FOIA, Plaintiff is deemed to have exhausted its administrative appeal remedies.

WHEREFORE, Plaintiff respectfully requests that the Court: (1) order Defendant to conduct searches for any and all records responsive to Plaintiff's FOIA request and demonstrate that it employed search methods reasonably likely to lead to the discovery of records responsive to the request; (2) order Defendant to produce, by a date certain, any and all non-exempt records responsive to the requests and a *Vaughn* index of any responsive records withheld under claim of exemption; (3) enjoin Defendant from continuing to withhold any and all non-exempt records responsive to the request; (4) grant Plaintiff an award of attorneys' 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 5, 2023

Respectfully submitted,

/s/ Paul J. Orfanedes

Paul J. Orfanedes

D.C. Bar No. 429716

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