

UNITED STATES DISTRICT COURT
DISTRICT OF MASSACHUSETTS

DOUGLAS VALENTINE,)
)
 Plaintiff)
)
 VS.) Civil Action No. 99CV30255-MAP
)
 CENTRAL INTELLIGENCE AGENCY,)
)
 Defendant.)

MOTION FOR A VAUGHN INDEX AND PRODUCTION OF DOCUMENTS AND REDACTIONS

The plaintiff, Douglas Valentine, Pro Se, moves that the court compel the defendant, the CIA, to provide the plaintiff with a Vaughn Index of all documents it has regarding the Victims Task Force, and that the court compel the CIA to produce all documents denied in their entirety, and all redacted portions of documents released to date.

In making this Motion, rather than signing the Stipulation of Dismissal offered by the U.S. Attorney, the plaintiff argues that the CIA has a record, which must be considered, of not providing all releasable information unless

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compelled to do so. In 1992 the plaintiff sued the CIA in federal district court for documents in a "name file" the CIA maintains on the plaintiff. As Magistrate Judge Michael A. Ponsor noted on 15 April 1993, in a Report and Recommendation addressing the central issues in that case (CA 92-30025-F), "It has taken an application, an appeal, a lawsuit, a court order and the filing of a Vaughn Index for plaintiff finally to be given, in three installments, the material that the defendant now concedes he was entitled to in the first place under the Privacy Act. The defendant's action, or inaction -- whether deliberate or not -- has thwarted the intent of a statute designed to be self-executing..."

Although the above was a Privacy Act case, the statutory intent is the same for Freedom of Information Act cases. Notably, in this case it has taken the plaintiff over six years to obtain any documents, which were forthcoming only after the plaintiff filed suit. The plaintiff is filing this Motion in hopes of avoiding the impassable gauntlet of administrative hurdles he must otherwise face before he shall discover if all releasable information, in fact,

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has been provided. The defendant's tired argument that it is overloaded with Freedom of Information and Privacy Act requests is a canard. The defendant simply refuses to allocate the necessary resources to solve the problem and meet its obligations under the relevant statutes.

The plaintiff notes that the CIA has provided 96 documents, but has failed to account for others it may have. The plaintiff also believes that the denial of certain documents in their entirety is unfounded, that many redactions are unfounded, and that the defendant has redacted information inconsistently; that is, some names are redacted while others (for example, those of Bureau of Narcotic agents George Gaffney in Document 76 and Arthur Fluhr in Document 78) are not. In other instances a name redacted in one document was not redacted in another; for example, the names of victims Eliot and Barbara Smithe, Francine, and Clarise (about whom the CIA evidently has files which were not released) appear unredacted in portions of George White's diaries (Document 49, see dates 28 December 1952 and 22 June 1953). In yet another instance, the location of the safehouse at 225 Chestnut Street is redacted in Document 74, but revealed in Document 89.

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In regard to the CIA's alleged search for victims of its MKULTRA Program, in which unwitting U.S. citizens were administered LSD (now classified a Class 1 Substance by the Drug Enforcement Administration), the CIA has a record of deception and obstruction. In 1973, as noted in Document 13, MKULTRA program manager Dr. Sidney Gottlieb, with the approval of Mr. Richard Helms, who was then the Director of Central Intelligence, directed their CIA subordinates to destroy all operational reports pertaining to the MKULTRA Program. This action prevented the U.S. Congress and the American public from knowing how many U.S. citizens were victimized by the MKULTRA program. The destruction of these documents in 1973, before Congress passed Freedom of Information and Privacy Act legislation, effectively shielded, from legal and historical judgement, the CIA officers who perpetrated this crime against the American people.

Regarding the CIA's destruction of MKULTRA documents, in 1998, in a case filed by the estate of Stanley Milton Glickman, who believed himself to be a victim of the MKULTRA Program, Judge Jose A. Cardenas, writing for an unanimous court, ruled that "an adverse influence" could be drawn from the destruction of documents by the CIA, and that in conjunction with other evidence, this

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"adverse influence" was sufficient to warrant a trial on the estate's claim.

(Cited in the 13 July 1998 *New York Law Journal*, pages 1 and 2. Southern District of New York, Gloria Kronish, Executrix of the Estate of Stanley Milton Glickman, Plaintiff-Appellant, v. United States of America, Sidney Gottlieb, Richard Helms, and unknown agents of the CIA, Defendants-Appellees. Docket No. 97-6116, U. S. Court of Appeals, Second Circuit, Argued January 30, 1998, Decided July 9, 1998.)

Likewise, based on information obtained independently of documents released by the CIA, plaintiff is aware that in 1965, former CIA General Counsel Anthony Lapham, while serving as an official in the U.S. Treasury Department, was responsible for shutting down the CIA's MKLUTRA safehouse in New York City. Again in 1967, Mr. Lapham, while serving as an official in the U.S. Treasury Department, attended a meeting in which CIA officials debated how to prevent the U.S. Congress from discovering the true purpose of CIA's MKULTRA safehouses maintained by the Bureau of Narcotics (Exhibit #1).

While serving as General Counsel of the CIA in 1978, Mr. Lapham wrote the position paper (referred to in Document 1, but withheld from the plaintiff in

its entirety), which set the tone and direction of the Victims Task Force. The tone and direction are revealed in Document 67, wherein the CIA contends that it never knew the purpose of the MKULTRA safehouses. One may reasonably infer that this "know nothing" position was set forth by Mr. Lapham, and yet Mr. Lapham knew, through personal involvement, what that purpose was. Only the complete and unredacted disclosure of all documents will reveal if Mr. Lapham and his colleagues deliberately attempted to subvert the Victims Task Force.

Wherefore the CIA, and some its most senior officials, have a record of concealing the Agency's unethical and possibly illegal activities, and because the CIA has an implicit, demonstrable policy of obstructing the U.S. Congress, and Freedom of Information and Privacy Act requests filed by U.S. citizens, the plaintiff respectfully requests the court to compel the CIA to provide a Vaugh Index in this case, and that the court compel the CIA to produce all redacted information in the documents already provided. The plaintiff believes that all redacted information should be produced, because the public's right to know outweighs the victims' right to privacy, as well as the CIA's statutory and

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state secrets interest in withholding the names of government employees. The plaintiff bases this belief on the fact that the vast majority of the victims of the MKLUTRA Program, as well as the government employees who participated in it, are deceased and cannot be harmed if their names become public knowledge. The information can do no harm to anyone, but it is essential, more than a generation after the fact, if Americans are to understand an important part of their history and national identity.

Respectfully submitted,

Douglas Valentine, Pro Se
136 Captain Road
Longmeadow, MA 01106
413-567-9236

United States District Court

DISTRICT OF MASSACHUSETTS

DOUGLAS VALENTINE

JUDGMENT IN A CIVIL CASE

V.

CENTRAL INTELLIGENCE AGENCY

CASE
NUMBER: 99-30255-MAP

- Jury Verdict.** This action came before the Court for a trial by jury. The issues have been tried and the jury has rendered its verdict.
- Decision by Court.** This action came to trial or hearing before the Court. The issues have been tried or heard and a decision has been rendered.

IT IS ORDERED AND ADJUDGED

PER ORDER ENTERED 9/1/00:

JUDGMENT ENTERED FOR DEFENDANT, THE COURT HAVING GRANTED THEIR MOTION FOR SUMMARY JUDGMENT

9-1-00
Date

TONY ANASTAS
Clerk

Elizabeth A. Funch
(By) Deputy Clerk

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF MASSACHUSETTS

FILED
IN CLERK'S OFFICE
2000 JUL 24 A 10:55
U.S. DISTRICT COURT
DISTRICT OF MASS.

DOUGLAS VALENTINE,

Plaintiff,

v.

CENTRAL INTELLIGENCE AGENCY,

Defendant.

NO. 99cv30255-MAP

DOCKETED

DEFENDANT'S MOTION FOR SUMMARY JUDGMENT

The defendant, the Central Intelligence Agency ("CIA"), by its attorney, Donald K. Stern, United States Attorney for the District of Massachusetts, pursuant to Rule 56 of the Federal Rules of Civil Procedure, moves for summary judgment on the grounds that there is no genuine issue as to any material fact and the defendant is entitled to judgment as a matter of law. In support of this motion, the Court is respectfully referred to the declaration of William H. McNair, CIA Information Review Officer for the Directorate of Operations, and the Memorandum of Law in Support Of Defendants' Motion For Summary Judgment, which includes a statement of undisputed material facts.

Respectfully submitted,

DONALD K. STERN
United States Attorney

By:

Karen L. Goodwin
KAREN L. GOODWIN
Assistant U.S. Attorney
1550 Main Street, Room 310
Springfield, MA 01103-1422
(413) 785-0269

I hereby certify that a true copy of the above document was served upon (each party appearing pro se and) the attorney of record for each other party by mail on

7/27/00
Karen L. Goodwin
Assistant U.S. Attorney

DATED: July 24, 2000

ALLOWED. The motion is meritorious and plaintiff has filed no opposition. The clerk will enter judgment for defendant. So ordered. Michael A. Paura USNT 7/27/00

Case: 3:99-cv-30255

Douglas Valentine
138 Captain Road
Longmeadow, MA 01108

Central Intelligence Agency



Washington, D.C. 20505

21 July 2000

Mr. Douglas Valentine
136 Captain Road
Longmeadow, Massachusetts 01106

Reference: F-1993-02381

Dear Mr. Valentine:

This is an additional response to your 19 November 1993 Freedom of Information Act (FOIA) request for "all records, memorandum, studies, correspondences, cables, notes, summaries, and other documents relating in whole or in part to the CIA project [...] titled the Victims Task Force." As you know, we provided you a total of 97 documents with our letters dated 14 January 2000, 31 January 2000, and 1 February 2000.

Please find enclosed 18 Victims Task Force documents which we are re-releasing to provide additional information. Further, we have determined that two documents that we had denied in full can be released in part. These newly released documents include number 97, which has withholdings based on FOIA exemption (b)(3), and number 98, with its withholdings based on (b)(3) and (b)(6). Finally, we notice that in one of our earlier releases we failed to cross through the "CONFIDENTIAL" markings on document 76. Although that document is being re-released to give you additional information, we would appreciate your striking through the CONFIDENTIAL markings on the earlier version. Thank you.

We trust this additional information will prove useful.

Sincerely,

A handwritten signature in black ink, appearing to read "Kathryn I. Dyer".

Kathryn I. Dyer
Acting Information and Privacy Coordinator

Enclosures