

**IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF GEORGIA
CHATHAM COUNTY**

JOSEPH P. WARREN

Plaintiff,

v.

UNITED STATES OF AMERICA,

Defendant.

Case No.: CV422-243

JURY TRIAL DEMANDED

Complaint for Relief

COMES NOW Plaintiff Joseph P. Warren ("Plaintiff") and files this complaint against the Internal Revenue Service (I.R.S.), to compel compliance with the Freedom of Information Act (FOIA), 5 U.S.C.A. § 552.

I. PARTIES, JURISDICTION, & VENUE

1. At all times at issue, Plaintiff was and continues to be a resident of Chatham County, Georgia.

2. Defendant is the United States of America, Department of Treasury, Internal Revenue Service.

3. This court has subject matter jurisdiction pursuant to 28 U.S.C. § 1331 and 5 U.S.C. § 552(a)(4)(B).

4. Venue is proper pursuant to 28 U.S.C. § 1391(e) and 5 U.S.C. § 552(a)(4)(B).

II. FACTUAL ALLEGATIONS

5. Plaintiff incorporates by reference paragraphs 1 through 4

of this Complaint as though the same were set forth fully herein.

6. The I.R.S. is an agency of the United States government within the meaning of 5 U.S.C.A. § 552(f)(1), headquartered in Washington, D.C., that has possession and control over the records that Plaintiff seeks under the Freedom of Information Act ("FOIA").

7. The FOIA requires federal government agencies to release requested agency records to the public unless one or more specific statutory exemptions apply. 5 U.S.C.A. § 552(a)(3)(A).

8. Records are agency records subject to the FOIA if the agency created or obtained them and the agency controlled them at the time the FOIA request is made.

9. An agency has 20 business days after receipt of a FOIA request in which to determine whether to comply with the request. The agency must then immediately notify the requester of its determination, the reasons for such determination, and the right of the requester to appeal an adverse determination to the agency's head. 5 U.S.C.A. § 552(a)(6)(A)(i).

10. On September 11, 2020, Plaintiff submitted a FOIA request to the IRS seeking access to records relating to examination communications with the IRS for tax years 2006 through 2012. This Request is attached as "Exhibit A"

11. On or about November 9, 2020, the IRS acknowledged receipt

of Plaintiff's FOIA Request.

12. On or about November 9, 2020, the IRS sent Plaintiff a letter requesting additional time to review the records requested in Plaintiff's FOIA request.

13. The IRS also cited "impacts caused by the COVID-19 virus" and accordingly extended the time limit to respond to Plaintiff's FOIA request until November 27, 2020, but indicated that the Plaintiff's request could not be completed by then, and accordingly stated that the request should be completed by February 5, 2021.

14. The November 9, 2020, letter from the IRS additionally stated that Plaintiff had the right to file suit in the appropriate United States District Court after November 27, 2020.

15. The IRS has requested multiple extensions since this November 9, 2020, letter. The most recent request for additional time is dated September 14, 2022. The most recent request for additional time, dated September 14, 2022, is attached hereto as "Exhibit B".

16. To date, IRS has not produced any documents in response to Plaintiff's FOIA request. Nor has the IRS notified Plaintiff of a final determination as to whether the agency will comply with Plaintiff's request.

17. The deadlines for the IRS's final determination, notification to Plaintiff of this determination, and production

of responsive documents has passed pursuant to 5 U.S.C. § 552(a)(6)(A)(i).

III. CAUSE OF ACTION

Count I: Failure to Produce Requested Documents

18. Plaintiff, Joseph P. Warren, incorporates by reference the facts alleged in paragraphs 1-17 of this Complaint as fully set forth herein.

19. Plaintiff properly requested records within the IRS's control and possession in accordance with FOIA.

20. Plaintiff is entitled under FOIA to access the requested records.

21. The IRS failed to comply with the statutory deadlines imposed by FOIA pursuant to 5 U.S.C. § 552(a)(6)(A)(i).

22. Plaintiff has exhausted its administrative remedies with regard to the wrongfully withheld records.

IV. PRAYER FOR RELIEF

WHEREFORE, Plaintiff respectfully prays for the following:

1. An Order requiring the IRS to process Plaintiff's September 11, 2020, FOIA request and to issue a determination on that request within twenty (20) business days of the date of the Order;

2. An award for attorney's fees in accordance with 5 U.S.C.A. § 552(a)(4)(E);

3. A trial by jury on all issues triable by a jury; and

4. Such further relief as the court deems just and equitable.

Respectfully submitted this 17 October 2022.

/s/ Jeffrey L. Williamson
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IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF GEORGIA
SAVANNAH DIVISION

JOSEPH P. WARREN,)
) CIVIL ACTION: _____
Plaintiff,)
) COMPLAINT FOR RELIEF
)
vs.)
)
UNITED STATES OF AMERICA,)
) JURY TRIAL DEMANDED
Defendant.)

CERTIFICATE OF SERVICE

This is to certify that I have this day served all the parties in this case in accordance with the directives from the Court Notice of Electronic Filing ("NEF") which was generated as a result of electronic filing of the following documents: (1) Summons, (2) Complaint, and (3) Certificate of Interested Parties.

Submitted this 18th day of October 2022.

By: s/ Jeffrey L. Williamson
Jeffrey L. Williamson, Esq.
State Bar Number: 255935
Attorney for Plaintiffs

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