

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF NEW YORK

LESLIE JAMES PICKERING,

Plaintiff,

v.

CENTRAL INTELLIGENCE AGENCY,

Defendant.

Complaint

1. This is an action under the Freedom of Information Act (hereinafter “FOIA”), 5 USC §552, for injunctive and other appropriate relief and seeking the disclosure and release of agency records pertaining to Leslie James Pickering.

Jurisdiction and Venue

2. This Court has both subject matter jurisdiction over this action and personal jurisdiction over the parties pursuant to 5 USC §552(a)(4)(B). This Court also has jurisdiction over this action pursuant to 28 USC §1331. Venue lies in the district under 5 USC §552(a)(4)(B).

Parties

3. Plaintiff Leslie James Pickering, is an environmentalist, free speech advocate, and a proprietor of Burning Books, a bookstore located in the City of Buffalo.

4. Defendant Central Intelligence Agency (hereinafter “CIA”) is a Department of the Executive Branch of the United States Government. The CIA is an agency within the meaning of 5 USC §552(f).

Facts

5. By letter dated November 11, 2022, addressed to the CIA, plaintiff requested copies of all records pertaining to Leslie James Pickering.

6. By letter dated November 17, 2022, the CIA notified plaintiff that it received his request for records on November 16, 2022. See Reference: P-2023-00114.

7. By letter dated May 1, 2023, the CIA denied plaintiff's FOIA request.

8. By letter dated May 23, 2023, plaintiff filed an administrative appeal with the CIA

9. The CIA did not respond to plaintiff's May 23, 2023 FOIA appeal in any manner.

10. By letter dated October 23, 2023, plaintiff informed the CIA that he would file a lawsuit if a determination on his FOIA appeal of May 23, 2023 was not made by December 1, 2023. To date, the CIA has not responded to this letter in any manner.

11. Defendant failed to make a determination on plaintiff's administrative appeal as required by 5 USC §552(a)(6)(A)(ii).

12. Plaintiff has exhausted the applicable administrative remedies with respect to his FOIA requests.

13. Plaintiff has a right of prompt access to the requested records under 5 USC §552(a)(3)(A) and the CIA failed to conduct an adequate search for responsive records and has wrongfully withheld the sought-after information from plaintiff.

Requested Relief

Wherefore, plaintiff prays that this Court:

1. order defendant to conduct a search for any and all responsive records to plaintiff's request and demonstrate that it employed search methods 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 plaintiff's request 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 plaintiff's request;

4. grant plaintiff an award of reasonable attorney fees and other litigation costs reasonably incurred in this action pursuant to 5 USC §552(a)(4)(E)(i); and

5. grant plaintiff such other relief as the Court may deem just and proper.

Dated: January 23, 2024

Respectfully submitted,

s/michael kuzma

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