

UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF COLUMBIA

GUY DIGIROLAMO  
Plaintiff,

-versus-

JANET RENO,  
DRUG ENFORCEMENT AGENCY,  
and  
EXECUTIVE OFFICE FOR U.S.  
ATTORNEY'S

Defendants.

CASE NUMBER 1:95CV00180

JUDGE: Harold H. Greene

DECK TYPE: FOIA

DATE STAMP: 01/27/95

FILED

WITHOUT PREPAYMENT  
OF COSTS

JAN 27 1995

Clerk, U.S. District Court  
District of Columbia

COMPLAINT FOR DECLARATORY AND INJUNCTIVE RELIEF

1. This is an action under the Freedom of Information Act ("FOIA") and the Privacy Act ("PA") 5 U.S.C. §§ 552 and 552a, as amended, to order the production of agency records related to plaintiff and compiled by the Drug Enforcement Agency ("DEA"), Bureau of Prisons ("BOP") and the Executive Office for U.S. Attorney's ("EOUSA"). On September 11, 1994 these agencies were directed to respond to plaintiff's request by the Director, Facilities and Administrative Services Staff, Justice Management Division, Washington, DC 20530. Specifically, plaintiff requests production of all records, data compilations, and other memoranda pertaining to Criminal Number 91CR392; United States v. DiGirolamo, United States District Court for the Eastern District of New York. The detail of plaintiff's request is attached hereto as Exhibit A. All files related to plaintiff's request should be crossreferenced with related files to insure that an adequate search is conducted; a Vaughn Index is expected. Vaughn v. Rosen, 484 F.2d 820, 826-28 (D.C. Cir. 1974).

2. This Court has jurisdiction over this action pursuant to 5 U.S.C. § 552(a)(4)(B) and 5 U.S.C. § 552a(g)(1) and 28 U.S.C. § 1331.

3. Plaintiff Guy DiGirolamo is currently incarcerated at the United States Penitentiary Lewisburg located in Union County, Lewisburg, Pennsylvania. He is the requestor of the withheld records.

4. Defendant Janet Reno is the Attorney General of the United States. As such, defendant Reno exercises authority over the United States Department of Justice.

5. Defendant United States Department of Justice is composed of, in part, the Drug Enforcement Agency and the Executive Office for United States Attorney's, which maintains records on plaintiff of which plaintiff seeks access to.

6. By letter mailed June 22, 1994 to the Office of Information and Privacy and Privacy Office of Policy and Communications, plaintiff requested production of all records, data compilations and other memoranda maintained by that office. See ¶ 1 of said complaint.

7. On September 1, 1994, the Director of Facilities and Admin. Services Staff, Justice Management Division, referred plaintiff's FOIA/PA request to the DEA and the EOUSA for proper response to plaintiff; and that all future inquiries concerning the status of plaintiff's request should be addressed to the DEA and the EOUSA.

8. Plaintiff received a letter dated September 6, 1994 from the EOUSA. The EOUSA stated, inter alia, that plaintiff would have to pay a service fee. Plaintiff agreed to pay the \$25.00

fee and waited for a future response from EOUSA. There was no response. EOUSA exceeded the statutory time period and plaintiff appealed. Plaintiff's appeal went unanswered.

9. Plaintiff received a letter dated September 13, 1994 from the DEA. The letter denied, in part, plaintiff's FOIA/PA request. On November 1, 1994 plaintiff appealed the partial denial of his request. Plaintiff's appeal has went unanswered.

10. Plaintiff has received some documents from the DEA on the part of plaintiff's request chosen by the DEA to be answered. However, these few documents were not paginated; were heavily excised; and in most instances the documents were cryptic; no Vaughn Index was provided; and no exemptions were utilized by the DEA to justify their heavily excised documents. The DEA has not explained the extent of their actual search for plaintiff's request, if any.

11. Plaintiff has a statutory right to the records that he seeks, and there is no legal basis for defendants not to disclose plaintiff's FOIA/PA request to him. Plaintiff has made a good faith effort by extending his courtesy to defendants by allowing them additional working days to act on the various respective appeals. Defendants have not responded. 5 U.S.C. §§ 552(a)(6)(A), (a)(6)(B).

**WHEREFORE**, plaintiff prays that this Court:

- a. declare that defendants refusal/denial to disclose the FOIA/PA records requested by plaintiff is unlawful;
- b. enjoin the defendants to make the requested FOIA/PA records available to plaintiff;
- c. enjoin the defendants to provide the plaintiff with an

index of withheld documents and portions of documents at issue in this complaint pursuant to Vaughn v. Rosen, 484 F.2d 280 (D.C. Cir. 1973);

d. award plaintiff litigation costs in this action; and

e. grant such other and further relief as the Court may deem just and proper.

Respectfully submitted,



Guy DiGirolamo  
Reg. No. 07853-014  
SanEast-Annex  
P.O. Box 1000  
Lewisburg, PA 17837-1000

DATE: 12/30/94

Guy DiGirolamo 07853-014  
MDC  
100 29th St.  
Brookly, N.Y. 11232

Criminal Case No.91QR392

OFFICE OF INFORMATION AND PRIVACY  
OFFICE OF POLICY & COMMUNICATIONS  
U.S. DEPT OF JUSTICE  
WASHINGTON, D.C. 20530

Dear Sirs,

Pursuant to the FOIA (Title U.S.C. 552 and 552(A)) I am requesting the following.

- 1) Transcript of proceedings in front of Judge Carman Nov. 1992.
- 2) Transcript of proceedings in front of Judge Johnson Aug.1993.
- 3) Transcript of proceedings in front of Judge Johnson Dec.1993.
- 4) All foreign tapes in Case 91CR392 including March 6, 21, 25, and April 4,8,9 all in 1991.
- 5) Government Auth. to import the drugs involved.
- 6) Government auth. for the destruction of drugs along with date person who auth. it.
- 7) Government auth. to give samples.
- 8) Log sheets where drugs were kept.
- 9) Name of DEA in charge of the NY office at the time.
- 10) Name of person in DEA Wash. who auth. it.
- 11) Names of any Agents in Auth who gave any auth. in this operation.
- 12) Names of the Pakistani auth. that.gave auth.
- 13) Names of the U.S. Customs Agents that let the drugs in. Also their superiors.
14. The Manifest of TWA of Dec.1990 when Agent Maltz flew into U.S.
- 15) Medical records of Aziz Malik stay in Pakistan Hosp. in Nov.1992  
This was ordered by Judge Carman in Nov. 1992.
- 16) Also where Hizbullah Khan is being held.
- 17) Also where is Haji Sialek Jan being held.

I have been unable to obtain any of this information from my CJA at the time a Joel Weiss.

Thank you for your cooperation.

Sincerely,

  
Guy DiGi

EXHIBIT A

Department of Justice

Certification of Identity

FORM APPROVED OMB NO. 1105-0034  
EXPIRES 1-31-95

Agency Facility \_\_\_\_\_  
Control Number \_\_\_\_\_

**PRIVACY ACT STATEMENT:** In accordance with 28 CFR Section 16.4, personal data sufficient to identify the individuals submitting requests by mail under the Privacy Act of 1974, 5 U.S.C. Section 552a, is required. The purpose of this solicitation is to ensure that the records of individuals who are the subject of U.S. Department

of Justice systems of records are not wrongfully disseminated by the Department. Failure to furnish this information will result in no action being taken on the request by the System Manager. False information on this form may subject the requestor to criminal penalties under 18 U.S.C. Section 1001 and/or 5 U.S.C. Section 552a(i)(3).

Public reporting burden for this collection of information is estimated to average 0.50 hours per response, including the time for reviewing instructions, searching existing data sources, gathering and maintaining the data needed, and completing and reviewing the collection of information, including suggestions for reducing this

burden, to Director, Facilities and Administrative Services Staff, Justice Management Division, U.S. Department of Justice, Washington, DC 20530, and the Office of Information and Regulatory Affairs, Office of Management and Budget, Public Use Reports Project (1105-0034), Washington, DC 20503.

FULL NAME OF REQUESTOR<sup>1</sup> GUY DIETROLAMO 07853-014

CURRENT ADDRESS MDC, 100 28th, BROOKLYN, N.Y. 11232

DATE OF BIRTH 9/22/32

PLACE OF BIRTH MORRISVILLE, Pa.

EMPLOYEE IDENTIFICATION NUMBER, if applicable \_\_\_\_\_

(or Social Security Number)<sup>2</sup> 040-24-1796

I certify that I am the person named above and I understand that any falsification of this statement is punishable under the provisions of 18 U.S.C. Section 1001 by a fine of not more than \$10,000 or by imprisonment of not more than five years or both, and that requesting or obtaining any record(s) under false pretenses is punishable under the provisions of 5 U.S.C. 552a(i)(3) by a fine of not more than \$5,000.

Signature<sup>3</sup> [Handwritten Signature]

Subscribed and sworn to before me this 26 day of July, 19 94

Signature of Notary [Handwritten Signature]

My Commission Expires October 18, 1995

(Include Notary Seal or Stamp in this Space)

ASTRY RIVERA  
Notary Public, State of New York  
No. 01R15019352  
Qualified in Kings County  
Commission Expires Oct. 18, 1995

The bottom portion of this form to be completed by requestor when he or she requests that information relating to himself or herself be released to another person.

Further, pursuant to 5 U.S.C. 552a(b) I authorize the U.S. Department of Justice or any of its component organizations to release any and all information relating to me to \_\_\_\_\_, (attorney or other designee).

Signature<sup>3</sup> \_\_\_\_\_

<sup>1</sup>Name of individual who is the subject of the record sought.

<sup>2</sup>Providing your social security number is voluntary. You are asked to provide your social security number only to facilitate the identification of records relating to you. Without your social security number, the Department may be unable to locate any or all records pertaining to you.

<sup>3</sup>Signature of individual who is the subject of the record sought.

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that a true copy of the foregoing plaintiff's complaint for declaratory and injunctive relief was served on defendant parties below, via U.S. mail, postage prepaid, this 30th day of December, 1994.

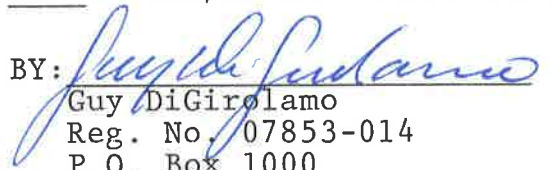
U.S. Attorney General  
10th & Consti., Ave., N.W.  
Washington, DC 20530

ATTN: FOIA/PA Administrator  
Executive Office for U.S. Attorney's

U.S. Attorney's Office  
555 4th Street, N.W.  
Washington, DC 20001

Co-Director  
Office of Information & Privacy  
Room 7238 MAIN  
U.S. Department of Justice  
Washington, DC 20530

ATTN: FOIA/PA Administrator for DEA

BY:   
Guy DiGirolamo  
Reg. No. 07853-014  
P.O. Box 1000  
Lewisburg, PA 17837-1000

DATE: 12/30/94