

UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLUMBIA

DASHA T. COHEN)
4857 Sweetbirch Drive)
Rockville, Maryland 20853)
(301) 924-4393,)

Plaintiff,)

v.)

FEDERAL BUREAU OF INVESTIGATION)
10th Street and Pennsylvania Ave., NW)
Washington, DC 20535, and)

UNITED STATES DEPARTMENT)
OF JUSTICE)
10th Street and Constitution Ave., NW)
Washington, DC 20503,)

Defendants.)

JOHNSON, J. NHJ

93 1701

CIVIL ACTION NO. _____

I

FILED

AUG 17 1993

CLERK, U.S. DISTRICT COURT
DISTRICT OF COLUMBIA

COMPLAINT

Plaintiff, Dasha T. Cohen, for her claims for relief against defendants, alleges as follows:

NATURE OF CASE

1. Plaintiff brings this action pro se under the Freedom of Information Act ("FOIA"), 5 U.S.C. § 552, and the Privacy Act ("PA"), 5 U.S.C. § 552a. She seeks access to information pertaining to her which defendant Federal Bureau of Investigation ("FBI") obtained during a routine background investigation in connection with her application of employment with the FBI and refuses to disclose to her. The FBI used the withheld information to (A) deny Plaintiff a security clearance, (B) deny her an FBI position for which she was well qualified, and (C) insidiously and scurrilously question her loyalty to the United States and her trustworthiness as an American citizen.

1

2. Plaintiff believes that the FBI has denied her employment on the basis of untrue, inaccurate, misleading and/or incomplete information and has inappropriately questioned her loyalty and trustworthiness as an American citizen. She seeks to enjoin the FBI and defendant U.S. Department of Justice ("DOJ"), which approved the FBI's actions, from withholding the requested information and an order compelling the FBI to produce the requested information to Plaintiff pursuant to 5 U.S.C. § 552(a)(4)(B) and 5 U.S.C. § 552a(g)(3)(A). Plaintiff further requests permission, pursuant to 5 U.S.C. § 552a(d)(2), to correct any untruthful statement or misinformation which may be contained in the records that the FBI is withholding.

JURISDICTION AND VENUE

3. This Court has original jurisdiction over this action pursuant to 5 U.S.C. § 552(a)(4)(B) and 5 U.S.C. §§ 552a(g)(1)(B), (D).

4. Venue is proper in this District pursuant to 5 U.S.C. § 552(a)(4)(B) and 5 U.S.C. § 552a(g)(5).

PARTIES

5. Plaintiff, Dasha T. Cohen, resides at 4857 Sweetbirch Drive, Maryland 20853. She was born in Moscow, USSR, and, at age 14, came to the United States as a political refugee with her parents in 1980 to escape the repression and tyranny of communism. She received her certificate of American citizenship in 1983.

6. Defendant FBI is located at 10th Street and Pennsylvania Avenue, NW Washington, DC 20535, and is an agency in the executive

branch of the Government of the United States. The withheld information was prepared and/or actually used by the FBI in connection with its official duties. The FBI has within it a Freedom of Information and Privacy Act Section ("FOIPA Section"), whose purpose is to review and make determinations on requests for access to FBI records made under the FOIA and PA statutes. At all times relevant to this action, the FBI acted as an "agency" within the meaning of 5 U.S.C. §§ 551(1), 552(f), and 5 U.S.C. § 552a(a)(1).

7. Defendant DOJ is located at 10th Street and Constitution Avenue, NW Washington, DC 20503, and is a department in the executive branch of the Government of the United States. In addition to the FBI, the DOJ has within it an Office of Information and Privacy, whose purpose is to review appeals of actions taken by agencies within the DOJ (in this case, the FBI) in responding to requests for access to records made under the FOIA and PA statutes. At all times relevant to this action, the DOJ acted as an "agency" within the meaning of 5 U.S.C. §§ 551(1), 552(f), and 5 U.S.C. § 552a(a)(1).

FACTS

Plaintiff Applied for an FBI Position

8. On December 3, 1990, Plaintiff applied for the position of Language Specialist with the FBI. The position required a candidate to be proficient in English and Russian. Plaintiff is fluent in both languages.

9. As part of the application process, the FBI tested

Plaintiff's English and Russian language skills. On the Russian portion of the test, Plaintiff scored the highest grade possible (a "5" out of 5). On the English portion of the test, Plaintiff scored the highest grade possible for a non-native English speaker (a "4" out of 5). Plaintiff was also interviewed by several FBI employees, who told Plaintiff that she was qualified for the Language Specialist position and would be an asset to the FBI.

Plaintiff was Denied the Position

10. Despite her qualifying test scores and interviews, Plaintiff was informed, by letter dated February 3, 1992 (Attachment A), that the FBI was "unable to offer" Plaintiff the position of Language Specialist. The letter indicated that the FBI's decision was based on a "variety of sources," including "comments obtained during the [routine background] investigation and public source records." The letter did not indicate the nature, content or source(s) of the "comments" or "public source records."

11. Plaintiff is unaware of the content and source(s) of the "comments" referred to in the FBI's February 3, 1992 letter, and has never been questioned by the FBI about these "comments." The next step in the employment process would have been for Plaintiff to undergo a lie detector test, which, on information and belief, is routinely given to all FBI employees who receive a security clearance. During such a test, the FBI could have questioned Plaintiff about the "comments" referred to in its February 3, 1992 letter, in addition to any other matter that the FBI deemed

important and relevant to the Language Specialist position.

Plaintiff Requested a Copy of Her File

12. By letters dated February 12, 1992 and March 10, 1992 (Attachment B), Plaintiff requested the FBI's FOIPA Section to, among other things, disclose to her the nature, content and source(s) of the "comments" referred to in the FBI's February 3, 1992 letter pursuant to 5 U.S.C. § 552(a)(3) and 5 U.S.C. § 552a(d)(1). Plaintiff was concerned that the FBI's employment decision may have been based upon untrue, inaccurate, misleading or incomplete information, and wished to be given the opportunity to correct any untruthful statement or misinformation about her.

Plaintiff Received an Incomplete File

13. The FOIPA Section's response to Plaintiff's request came nearly a year later, on January 26, 1993. The response consisted of a file (File No. 358,784) containing documents which appeared to have been compiled during the FBI's standard background check taken in connection with Plaintiff's employment application.

14. The cover sheet to the file (Attachment C) indicated that the FOIPA Section had found 63 pages in response to Plaintiff's request; however, only 62 pages were included in the file provided to Plaintiff. The file indicated that one document was being withheld in its entirety on the basis of 5 U.S.C. § 552(b)(1). A portion of a document that was included in the file had also been redacted on the basis of 5 U.S.C. § 552(b)(1). The file contained other documents of which portions were redacted on the basis of 5 U.S.C. §§ 552(b)(2) and 552(b)(7)(C). The cover sheet indicated

that records were also being withheld on the basis of 5 U.S.C. §§ 552a(k)(2), but did not indicate which records were subject to this provision. The cover sheet advised Plaintiff of her right to appeal the FBI's action to withhold the redacted information to the DOJ's Office of Information and Privacy.

15. One of the documents contained in the file was a copy of the FBI's February 3, 1992 letter to Plaintiff on which the following words appeared which did not appear on the copy sent to Plaintiff: "NOTE: No further consideration is being afforded the applicant as applicant will not be given a 'Top Secret' security clearance" (Attachment D). This was the first time Plaintiff had learned of the FBI's decision to deny her a security clearance for the position of Language Specialist.

16. Plaintiff knows of no reason which would disqualify her from receiving a security clearance for the position of Language Specialist. In fact, for the period 1985 to 1987, Plaintiff had received a "Secret" security clearance from the United States Department of State in connection with her employment with the State Department during that period. Because the notation described in paragraph 15 above appeared on a copy of the FBI's February 3, 1992 letter, Plaintiff strongly suspects that the decision to deny her a security clearance was made on the basis of the "comments" that were alluded to, but never described, in the FBI's February 3, 1992 letter.

Plaintiff Requested the FBI to Reconsider its Decision

17. By letter dated February 22, 1993 (Attachment E),

Plaintiff requested the FBI to explain its decision to deny her the security clearance she needed for the Language Specialist position, and to produce the information it relied on for its decision. She further requested the FBI to reconsider the decision not to offer her the position.

18. The FBI responded to Plaintiff's February 22, 1993 letter with a letter dated April 14, 1993 (Attachment F). In its letter, the FBI disregarded Plaintiff's requests by its failure to explain the decision to deny Plaintiff a security clearance and by not providing the information it relied on for its decision. Instead, the FBI summarily stated that the decision not to offer Plaintiff the Language Specialist position "remains the same," and, without providing any context or explanation, the FBI juxtaposed a reference to, and description of, "Executive Order 10450:"

[E]ach Executive Branch agency [shall] have an effective program to ensure the employment of any civilian officer or employee is clearly consistent with the interest of national security. It requires all Federal employees be reliable, trustworthy, of good conduct and character, and of complete and unswerving loyalty to the United States. It enumerates the security factors which must be considered in determining if conduct indicates employment of a person would pose a risk of damage to the national security.

19. The clear and unmistakable implications of the FBI's April 14, 1993 letter are that (A) the decision to deny Plaintiff a security clearance was based on Executive Order 10450, (B) the FBI has concluded, on the basis of the "comments" referred to but never described in the February 3, 1993 letter, that Plaintiff is not reliable, trustworthy, of good conduct and character, and that her loyalty to the United States is not complete and unswerving,

and (C) issuing Plaintiff a security clearance would pose a risk of damage to the national security.

The FBI's Innuendos About Plaintiff are Patently Untrue

20. The FBI's April 14, 1993 letter contains insidious and scurrilous innuendos about Plaintiff which are patently untrue. Plaintiff is reliable, trustworthy, of good conduct and character, and her loyalty to the United States is beyond reproach. At no time has Plaintiff engaged in conduct that would pose a risk of damage to the security of the United States.

21. Plaintiff takes the innuendos and implicit conclusions contained in the FBI's April 14, 1993 letter very seriously, as they amount to an accusation that Plaintiff is of questionable character and a threat to the security of the United States. For an implicit accusation of this kind to be made in so insidious a fashion on the basis of secret information that the FBI never saw fit to question Plaintiff about and now refuses to disclose to her is fundamentally unfair and an infringement of her rights. Plaintiff will not allow the FBI's innuendos about her to fester at the expense of her good name and citizenship.

Plaintiff was Denied Administrative Relief

22. By letter dated May 3, 1993 (Attachment G), Plaintiff appealed the FBI's action to withhold the requested information (Appeal No. 93-1315) to the DOJ's Office of Information and Privacy ("OIP").

23. The OIP responded to Plaintiff's appeal by letter dated July 27, 1993 (Attachment H). In its letter, the OIP affirmed the

FBI's action to withhold the requested information from Plaintiff on the basis of the statutory exemptions asserted by the FBI. The letter advised Plaintiff of her right to seek judicial review.

24. In its July 27, 1993 letter, the OIP informed Plaintiff that the FBI is prepared to release an additional 90 pages of documents which are responsive to her previous FOIA and PA requests, and that these additional pages would be provided to her "shortly." As of the filing of this complaint, Plaintiff did not receive the additional responsive documents, and, as with the records that were withheld from the original 62 page production, has not received an explanation as to why these additional responsive documents were initially withheld from Plaintiff.

FIRST CLAIM FOR RELIEF

THE FBI AND THE DOJ HAVE INTERFERED WITH PLAINTIFF'S RIGHTS UNDER, AND HAVE ACTED CONTRARY TO, 5 U.S.C. § 552(a)(3)

25. The allegations of paragraphs 1 through 24 of this complaint are incorporated by this reference as though set out fully herein.

26. 5 U.S.C. § 552(a)(3) provides, inter alia, that each agency, upon any request for records which reasonably describes such records and is made in accordance with established procedures, shall make the records promptly available.

27. By withholding the one missing document in its entirety from Plaintiff's file and redacting portions of several documents that were included in the file, the FBI has interfered with Plaintiff's rights under, and has acted contrary to, 5 U.S.C. § 552(a)(3).

28. By affirming the action of the FBI, its own agency, to withhold the records referred to in paragraph 27 above, the DOJ has also interfered with Plaintiff's rights under, and has acted contrary to, 5 U.S.C. § 552(a)(3).

SECOND CLAIM FOR RELIEF

THE FBI AND DOJ HAVE INTERFERED WITH PLAINTIFF'S RIGHTS UNDER, AND HAVE ACTED CONTRARY TO, 5 U.S.C. § 552a(d)(1)

29. The allegations of paragraphs 1 through 28 of this complaint are incorporated by this reference as though set out fully herein.

30. 5 U.S.C. § 552a(d)(1) provides, inter alia, that each agency that maintains a system of records shall, upon request by any individual to gain access to her record or to any information pertaining to her which is contained in the system, permit her to review the record and have a copy made of all or a portion thereof in a form comprehensible to her.

31. By withholding the one missing document in its entirety from Plaintiff's file and redacting portions of several documents that were included in the file, the FBI has interfered with Plaintiff's rights under, and has acted contrary to, 5 U.S.C. § 552a(d)(1).

32. By affirming the action of the FBI, its own agency, to withhold the records referred to in paragraph 31 above, the DOJ has also interfered with Plaintiff's rights under, and has acted contrary to, 5 U.S.C. § 552a(d)(1).

THIRD CLAIM FOR RELIEF

THE FBI AND DOJ HAVE INTERFERED WITH PLAINTIFF'S RIGHTS UNDER, AND HAVE ACTED CONTRARY TO, 5 U.S.C. § 552a(d)(2)

33. The allegations of paragraphs 1 through 32 of this complaint are incorporated by this reference as though set out fully herein.

34. 5 U.S.C. § 552a(d)(2) provides, inter alia, that each agency that maintains a system of records shall permit an individual the opportunity to make any correction of any portion of any record which the individual believes is not accurate, relevant, timely, or complete.

35. By withholding the one missing document in its entirety from Plaintiff's file and redacting portions of several documents that were included in the file, the FBI has effectively denied Plaintiff the opportunity under 5 U.S.C. § 552a(d)(2) to correct any untruthful, inaccurate, misleading or incomplete information which may be contained therein.

36. By affirming the action of the FBI, its own agency, to withhold the records referred to in paragraph 35 above, the DOJ has also effectively denied Plaintiff the opportunity under 5 U.S.C. § 552a(d)(2) to correct any untruthful, inaccurate, misleading or incomplete information which may be contained therein.

PRAYER FOR RELIEF

WHEREFORE, Plaintiff prays that the following relief be granted in her favor:

1. That the Court, pursuant to 5 U.S.C. §§ 552(a)(4)(B) and 552a(g)(3)(A), determine de novo whether the withheld records, or

any part thereof, have been improperly withheld under the statutory exemptions asserted by the FBI and the DOJ, and that, pursuant to these statutory provisions, the burden be placed on the FBI and the DOJ to sustain their actions.

2. That the Court not rely solely upon any affidavits or indexes that the FBI and the DOJ submit in support of their actions, but rather, pursuant to 5 U.S.C. §§ 552(a)(4)(B) and 552a(g)(3)(A), examine all of the withheld records in camera to determine the appropriateness of the agencies' actions. In this case, the Court could accomplish an in camera review within a matter of minutes.

3. That the Court, with respect to the records that were withheld or redacted on the basis of the exemption set forth in:

- (a) 5 U.S.C. § 552(b)(1), ensure that the FBI and the DOJ are diligent in proving that the denial of these specific records (i) is specifically authorized under criteria established by an Executive order to be kept secret in the interest of national defense or foreign policy, (ii) have in fact been properly classified pursuant to the procedural and substantive criteria of the Executive order, and (iii) that disclosure of the information contained in the records reasonably could be expected to cause an identifiable damage to the national security, and to order the FBI to produce any of these

records, or any part thereof, which was improperly withheld from Plaintiff;

(b) 5 U.S.C. §§ 552(b)(2), order the disclosure of the redacted information to the extent necessary to vindicate Plaintiff's rights under the FOIA statute. It is not Plaintiff's purpose to learn the internal practices of the FBI. She seeks access to the "comments" and other withheld substantive information that the FBI used in denying her a security clearance and the Language Specialist position. To the extent disclosure is necessary to provide Plaintiff with meaningful access to the requested information, the Court should order such disclosure;

(c) 5 U.S.C. §§ 552(b)(7)(C), order the disclosure of the redacted information, but excluding the names of FBI agents and employees. It is not Plaintiff's purpose to learn the names of the FBI agents and employees who conducted the background check at issue here. It is Plaintiff's purpose to learn the identity of the individual(s) who is/are the source of the "comments" referred to in the FBI's February 3, 1992 letter; and

(d) 5 U.S.C. §§ 552a(k)(2), order the disclosure of

the withheld records so as to vindicate Plaintiff's rights under the PA statute.

4. That the Court determine that the FBI's actions have had an "adverse effect" on Plaintiff within the meaning of 5 U.S.C. § 552a(g)(1)(D), and order the FBI to provide Plaintiff with the opportunity to correct or amend any portion of her entire record in accordance with 5 U.S.C. §§ 552a(d)(2) and 552a(g)(2)(A).

5. That the Court, in making its determinations, be mindful of the facts that Plaintiff (A) has never been questioned by the FBI about the suppressed information despite its use by the agency in arriving at certain negative conclusions about her, (B) has been denied the opportunity to correct any untruthful, inaccurate, misleading or incomplete statement that may have been, and apparently was, made about her, (C) was denied a position that she was well qualified for on the basis of the suppressed information, and (D) has been the victim of scurrilous and patently untrue innuendos concerning her loyalty to the United States and her trustworthiness as an American citizen.

6. That the Court issue any other relief that it deems equitable and fair and which will help Plaintiff get to the bottom of a matter that has disturbed her greatly and caused her much stress.

Dated: 8/17/93



Dasha T. Cohen
4857 Sweetbirch Drive
Rockville, MD 20853
(301) 924-4393

Plaintiff is Pro Se

A



U.S. Department of Justice

Federal Bureau of Investigation -

93 1701

Washington, D. C. 20535

February 3, 1992

FILED

AUG 17 1993

Miss Dasha V. Talmy
10222 Royal Road
Silver Spring, Maryland 20903

CLERK, U.S. DISTRICT COURT
DISTRICT OF COLUMBIA

Dear Miss Talmy:

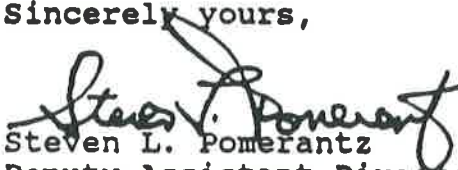
This is to advise you of the status of your application with the FBI.

Your desire to become associated with this Bureau is appreciated. I regret to inform you, however, that we are unable to offer you an appointment.

FBI appointments are offered on a very selective basis due to the large number of applicants and the limited number of positions available. Each application, therefore, receives a thorough review and each candidate's qualifications are carefully weighed.

In reaching any decision, information from a variety of sources is considered. These sources include your application itself, comments obtained during the investigation and public source records. The choices between the many qualified candidates are difficult ones, and I regret that we are unable to offer you a more favorable decision.

Sincerely yours,


Steven L. Pomerantz
Deputy Assistant Director-
Personnel Officer
Administrative Services Division

ATTACHMENT A

B

Dasha V Talmy
10222 Royal Road
Silver Spring, MD 20903
(301)445-6531

93 1701

Mr. Steven L. Pomerantz
Deputy Assistant Director-
Personnel Officer
Administrative Services Division
Federal Bureau of Investigation
9th St. & Pennsylvania Ave., N.W.
Washington, D.C. 20535

12 February 1992

FILED

AUG 17 1993

CLERK, U.S. DISTRICT COURT
DISTRICT OF COLUMBIA

Dear Mr. Pomerantz:

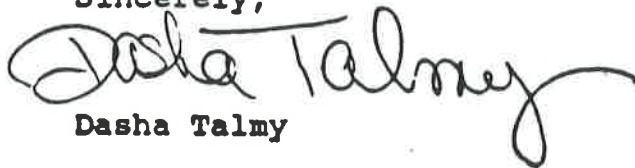
I was very disappointed to receive your letter of 3 Feb 92 (copy attached) informing me that you "are unable to offer [me] an appointment" at the FBI. As you write, "FBI appointments are offered on a very selective basis" and "In reaching any decision information from a variety of sources is considered. These sources include your application itself, comments obtained during the investigation and public source records."

As you probably know, in the process of reviewing my application, I was interviewed with regard to my Russian and English language qualifications. I know that my language proficiency was graded 5 in Russian and 4 in English. It therefore seems most likely that my application was denied not for reasons of qualification but because of information from the "variety of sources" mentioned in your letter.

It is my understanding that the Freedom of Information Act entitles me to be informed of the actual reasons for my application being rejected. I would appreciate receiving such information at the earliest possible date.

Thank you.

Sincerely,


Dasha Talmy

ATTACHMENT B-1

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3 

10222 Royal Road
Silver Spring, MD 20903
(301)445-6531

March 10, 1992

Federal Bureau of Investigation
Attention: FOIPA Section
9th Street & Pennsylvania Avenue, NW
Washington, DC 20535

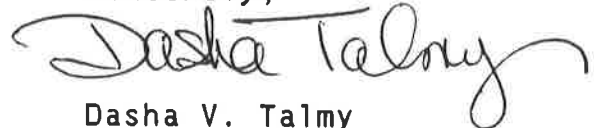
Dear Sir or Madam:

My name is Dasha V. Talmy; I was born in Moscow, Russia on August 9, 1965; my current address is at the upper right hand corner of this letter.

On February 3, 1992 I received a letter from Mr. Steven L. Pomerantz, Deputy Assistant Director-Personnel Officer, Administration Services Division, informing me that my application for a Russian Language Specialist has been rejected. Mr. Pomerantz stated that "variety of sources" are considered in reaching a decision about the qualifications of the applicant. I took an exam in Russian, receiving the highest grade possible - 5 (an educated native speaker), and an exam in English, receiving a grade of 4. Thus I am assuming that my rejection was not due my professional qualifications. Under the Freedom of Information Act, I would very much like to find out why I was rejected for the position for which I am obviously qualified.

Your response would be very much appreciated.

Sincerely,

A handwritten signature in cursive script that reads "Dasha Talmy". The signature is written in black ink and is positioned above the typed name.

Dasha V. Talmy

ATTACHMENT B-2

C



U.S. Department of Justice

Federal Bureau of Investigation

93 1701

Washington, D.C. 20535

MR DASHA V TALMY
10222 ROYAL ROAD
SILVER SPRING, MD 20903

FILED
JAN 22 1993
AUG 17 1993

Subject of Request: Dasha V Talmy

FOIPA No. 358,784 /190-

CLERK, U.S. DISTRICT COURT
DISTRICT OF COLUMBIA

Dear Ms. Talmy:

Enclosed are copies of documents from FBI records. Excisions have been made to protect information exempt from disclosure pursuant to Title 5, United States Code, Section 552 and/or Section 552a. In addition, where excisions were made, the appropriate exempting subsections have been cited opposite the deletions. Where pages have been withheld in their entirety, a deleted page information sheet has been substituted showing the reasons or basis for the deletion. The subsections cited for withholding information from the enclosed documents are marked below:

Section 552

Section 552a

- | | | |
|--|---|--|
| <input checked="" type="checkbox"/> (b)(1) | <input type="checkbox"/> (b)(7)(A) | <input type="checkbox"/> (d)(5) |
| <input checked="" type="checkbox"/> (b)(2) | <input type="checkbox"/> (b)(7)(B) | <input type="checkbox"/> (j)(2) |
| <input type="checkbox"/> (b)(3) _____ | <input checked="" type="checkbox"/> (b)(7)(C) | <input type="checkbox"/> (k)(1) |
| _____ | <input type="checkbox"/> (b)(7)(D) | <input checked="" type="checkbox"/> (k)(2) |
| _____ | <input type="checkbox"/> (b)(7)(E) | <input type="checkbox"/> (k)(3) |
| <input type="checkbox"/> (b)(4) | <input type="checkbox"/> (b)(7)(F) | <input type="checkbox"/> (k)(4) |
| <input type="checkbox"/> (b)(5) | <input type="checkbox"/> (b)(8) | <input type="checkbox"/> (k)(5) |
| <input type="checkbox"/> (b)(6) | <input type="checkbox"/> (b)(9) | <input type="checkbox"/> (k)(6) |
| | | <input type="checkbox"/> (k)(7) |

(See Form 4-694a, enclosed, for an explanation of these exemptions.)

Pursuant to your request, 63 page(s) were reviewed and 62 page(s) are being released.

During the review of material pertinent to the subject of your request, documents were located which

- originated with another Government agency(ies).
These documents were referred to that agency(ies) for review and direct response to you.
- contain information furnished by another Government agency(ies). You will be advised by the FBI as to the releasability of this information following our consultation with the other agency(ies).

ATTACHMENT C

P

93 1701

FILED

AUG 17 1993

February 3, 1992

CLERK, U.S. DISTRICT COURT
DISTRICT OF COLUMBIA

Miss Dasha V. Talmy
10222 Royal Road
Silver Spring, Maryland 20903

Dear Miss Talmy:

This is to advise you of the status of your application with the FBI.

Your desire to become associated with this Bureau is appreciated. I regret to inform you, however, that we are unable to offer you an appointment.

FBI appointments are offered on a very selective basis due to the large number of applicants and the limited number of positions available. Each application, therefore, receives a thorough review and each candidate's qualifications are carefully weighed.

In reaching any decision, information from a variety of sources is considered. These sources include your application itself, comments obtained during the investigation and public source records. The choices between the many qualified candidates are difficult ones, and I regret that we are unable to offer you a more favorable decision.

Sincerely yours,

Steven L. Pomerantz
Deputy Assistant Director-
Personnel Officer
Administrative Services Division

- Dep. Dir. _____
- ADO Adm. _____
- ADO Inv. _____
- Asst. Dir.:
- Adm. Servs. _____
- Crim. Inv. _____
- Ident. _____
- Intell. _____
- Lab. _____
- Legal Coun. _____
- Plan. & Insp. _____
- Rec. Mgmt. _____
- Tech. Servs. _____
- Training _____
- Off. Cong. & Public Affs. _____
- Off. Liaison & Int. Affs. _____
- Off. of Public Affs. _____
- Telephone Rm. _____
- Director's Sec'y _____

1-BAC, WMFO (67D-HQ-958666)
[Redacted] (Room 3505-Russian)
[Redacted] (Room GR-2, TL 152)

67-948566 (6)
NOTE: No further consideration is being afforded the applicant as applicant will not be given a "Top Secret" security clearance.

MAILED 2
FEB 05 1992
FBI
b7C
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169
b7C

ATTACHMENT D

E

Mr. Steven L. Pomerantz
Deputy Assistant Director-
Personnel Officer
Administrative Services Division
Federal Bureau of Investigation
Washington, D.C. 20535

22 February 1993

FILED
AUG 17 1993
CLERK, U.S. DISTRICT COURT
DISTRICT OF COLUMBIA

Dear Mr. Pomerantz:

I have finally received from the FOIAP Section my file pertaining to my application for a Language Specialist position at the FBI. In the time since I requested the relevant information (12 February 1992) and my receipt of it (January 1993) I had a change of status, name and address: On 14 November 1992 I married Peter C. Cohen, changed my name from Dasha V. Talmy to Dasha T. Cohen, and moved to our new address at 4857 Sweetbirch Drive, Rockville, MD 20853.

I have reviewed the file with interest in an effort to pinpoint the reason for being rejected. A study of the released documents suggests that I was rejected not because of my qualifications but, as an overprint on a copy of your letter to me dated February 3, 1992, states, because "No further consideration is being afforded the applicant as applicant will not be given a 'Top Secret' security clearance."

My question is: Why would I not qualify for a "Top Secret" security clearance? After going through the file I found just three "negatives" from the point of view of a security bureaucrat:

1. As declared in my Preliminary Application for Special Agent Position, dated 12/3/90, I was born in Moscow, USSR. However, I do not see how the fact of having been born in the former USSR, which I left at age 14, should make me a security risk, especially as I have no relatives in Russia (or anywhere else outside the United States) and no correspondence with anyone outside of this country.

2. As further declared in my Application, I had tried smoking marijuana at parties on three occasions several years ago. Regarding this transgression, it has by now been recognized that almost anyone who attended college since the 1960s or 70s has tried one drug or another (including even President Clinton, although he "did not inhale").

3. The file includes a copy of a newspaper clipping with a "Call-in Guest List" of a C-SPAN broadcast analyzing "developments of Soviet coup." Highlighted in the list is one "Andrei Todika, Soviet entrepreneur." The list is accompanied by a note dated 9/17/91 with the comment, "You may want to inform A-3 of the

attached info!" The information was apparently deemed interesting enough, because Andrei Todika was an executive officer of Soyuz Transworld Corporation, where I worked from 6/91 until 1/92. My association and contacts with him were strictly business. Soyuz Transworld was a private corporation with, to the best of my knowledge, no affiliations or relations with the Russian or any other foreign government and its sole purpose was to take advantage of the opening Russian market.

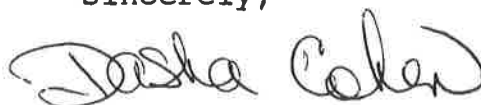
If there is any other "incriminating" information against me, it does not appear in the file I received. As regards the foregoing, I think that at the very least I should have been questioned about these or any other circumstances which might have been deemed as making me a security risk.

I would like to add that at the time I applied for the position of Language Specialist I had an interview with Mr. Bryce Christensen, Mrs. Marijke Walker and Mrs. Olga Navarrete. In subsequent conversations with Mrs. Walker and Mrs. Navarrete they invariably indicated that they felt I was both eminently qualified for a Language Specialist position and could in fact be an asset to the FBI Language Services. When I contacted them after receiving your letter of rejection they both expressed surprise since my high scores in the foreign language test indicated that I was in fact qualified for the position.

I am still interested in the position, and as I see no valid reason - at least in the portions of the file disclosed to me - for being turned down, I request that my application be reviewed, and if I am again found to be some kind of security risk for the FBI, that the reasons be plainly explained in so many words.

Thank you.

Sincerely,

A handwritten signature in cursive script that reads "Dasha Cohen".

Dasha T. Cohen

Enclosure: Copy of FOIPA File No. 358,784.

A handwritten mark or signature, possibly the letter 'F', is centered on the page. It consists of a vertical stroke on the left, a horizontal stroke crossing it, and a curved line extending from the top of the vertical stroke to the right.



U.S. Department of Justice

93 1701

Federal Bureau of Investigation

Washington, D. C. 20535

April 14, 1993

FILED

AUG 17 1993

CLERK, U.S. DISTRICT COURT
DISTRICT OF COLUMBIA

Mrs. Dasha T. Cohen
4857 Sweetbirch Drive
Rockville, Maryland 20853

Dear Mrs. Cohen:

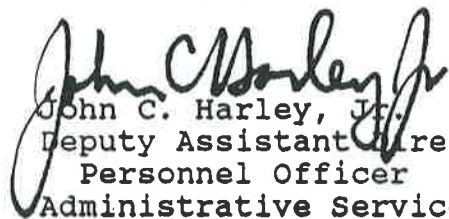
Your letter dated February 26, 1993 to Mr. Pomerantz has been referred to me for response.

Your file has again been reviewed and careful consideration given to your employment request. Your continued interest in employment with this agency is appreciated. I must advise, however, that our previous decision not to offer you an appointment remains the same.

The decision not to offer you employment with the FBI was based on information received from protected sources; therefore, I am not in a position to provide this information to you. Executive Order 10450, entitled "Security Requirements for Government Employment," requires each Executive Branch agency to have an effective program to ensure the employment of any civilian officer or employee is clearly consistent with the interest of national security. It requires all Federal employees be reliable, trustworthy, of good conduct and character, and of complete and unswerving loyalty to the United States. It enumerates the security factors which must be considered in determining if conduct indicates employment of a person would pose a risk of damage to the national security.

I know that this decision will be disappointing to you, but trust that you will understand the FBI's position.

Sincerely yours,


John C. Harley, Jr.
Deputy Assistant Director -
Personnel Officer
Administrative Services Division

ATTACHMENT F

6

93 1701

4857 Sweetbirch Drive
Rockville, MD 20853
(301) 924-4393

CERTIFIED MAIL -- RETURN
RECEIPT REQUESTED

Mr. Richard Huff
Office of Information and Privacy
Room 7238
U.S. Department of Justice
10th Street and Constitution Avenue
Washington, DC 20530

FILED
AUG 17 1993
CLERK, U.S. DISTRICT COURT
DISTRICT OF COLUMBIA

Re: Freedom of Information Appeal
FOIPA No. 358,784
Dasha T. Cohen

Dear Mr. Huff:

I wish to appeal the refusal by the Federal Bureau of Investigation ("FBI") to provide me with certain information that I believe I am entitled to under the Freedom of Information and Privacy Act ("FOIPA"). I am bringing this appeal directly to your attention because the FBI has recently called into question my integrity and loyalty as a citizen of this country, and has apparently concluded, based on the suppressed information, that I would somehow be a threat to the national security if I were to receive a security clearance as one of its employees. Because the FBI is refusing to provide me with the information that it claims supports these erroneous and offensive conclusions, I am asking for your assistance in obtaining the release of this information so that I may know what was said about me and clear my record and name of any untruthful information.

By letter dated February 3, 1992, I was informed by Steven L. Pomerantz, Deputy Assistant Director for the FBI's Administrative Services Division, that the FBI was "unable to offer" me the position of Russian Language Specialist on the basis of what he referred to as a "variety of sources" which included "comments obtained during the [background] investigation and public source records." See Attachment A. In his letter, Mr. Pomerantz failed to specify the substance or the source(s) of the "comments" he alluded to, or even whether the "comments" were about me personally or bore upon my qualifications for the position. Nor did Mr. Pomerantz identify or provide copies of the "public source records" that he referred to, or explain why, if they existed in the public domain, such documents could not be identified and made available to me.

ATTACHMENT G

Mr. Richard Huff
May 3, 1993
Page 2

By letter dated February 12, 1992, I exercised my rights under FOIPA and requested Mr. Pomerantz to provide me with (1) the actual reasons for the agency's decision to decline my application and (2) the information gathered from the so-called "variety of sources" that he alluded to without further explanation in his February 3 letter. See Attachment B. Responding to my second request, Mr. Pomerantz wrote back indicating that, in order for the agency to process my FOIPA request, I needed to send it to the FBI's FOIPA Section, which I did. See Attachments C and D respectively. Neither Mr. Pomerantz nor any one else from the FBI ever responded to my first request.

I received a response to my FOIPA request almost a year later, on January 26, 1993. A file was sent to me containing documents which appear to have been compiled during the FBI's standard background check that was undertaken as part of the agency's consideration of my employment application. The cover sheet indicated that, in processing my FOIPA request, some undisclosed person(s) in the FOIPA Section reviewed "63 pages," and, as a result of that review, decided that I was only entitled to receive 62 of those pages. It was not made clear whether the "63 pages" comprised my entire file or whether my "file" consists of other additional pages that were not included among the documents that were produced to me. As for the one missing page that was withheld, my husband, who is an attorney, and I reviewed the statutory provisions identified on the cover sheet as the basis for the Section's refusal to produce that page, none of which, as far as I am aware, has any application to me. Moreover, there was nothing that I saw in the 62 pages that disqualified me for the Language Specialist position.

Nevertheless, the file contained a different copy of the letter which Mr. Pomerantz had sent to me dated February 3, 1992, on which the following words appeared at the bottom which did not appear on the letter sent to me: "NOTE: No further consideration is being afforded the applicant as applicant will not be given a 'Top Secret' security clearance." See Attachment E. When I read this notation, it confirmed my belief that my application was declined not for reasons of qualifications but because of information that the FBI claims it received from the "variety of sources" alluded to in Mr. Pomerantz's February 3 letter.

By letter dated February 22, 1993, I asked Mr. Pomerantz to explain how the FBI could arrive at the conclusion that I was unfit to receive a security clearance for a position that I appeared to be otherwise well qualified for. See Attachment F. I was

Mr. Richard Huff
May 3, 1993
Page 3

especially confused by the notation which appeared in the February 3 letter because during the 1985-1987 time period I had received a "Secret" security clearance from the State Department in connection with my work for the Department at that time. I also noted in my February 22 letter to Mr. Pomerantz that the FBI did not provide me with all of the pages contained in the file that it produced to me in response to my FOIPA request. I asked him to review again my application and file and to provide me with the information that the agency had apparently relied on in reaching the conclusion that I would be a security risk if I was accepted for the position.

Mr. Pomerantz never responded to my February 26 letter. Instead, on April 17, 1993, I received a letter from John C. Harley, Jr., who also identified himself as Deputy Assistant Director for the FBI's Administrative Services Division. See Attachment G. In his letter, Mr. Harley stated that, despite a second review of my application and file, the agency's "previous decision not to offer [me] an appointment remains the same." Unlike Mr. Pomerantz's letters, which led me to believe that the FBI's decision was based in part upon public information, Mr. Harley indicated that the agency's decision was based solely on "information received from protected sources." Without providing any context or a word of explanation, Mr. Harley then juxtaposed a reference to Executive Order 10450 and intimated that the decision to decline my application was based on Executive Order 10450, which Mr. Harley paraphrased as follows:

[E]ach Executive Branch agency [shall] have an effective program to ensure the employment of any civilian officer or employee is clearly consistent with the interest of national security. It requires all Federal employees be reliable, trustworthy, of good conduct and character, and of complete and unswerving loyalty to the United States. It enumerates the security factors which must be considered in determining if conduct indicates employment of a person would pose a risk of damage to the national security.

Mr. Harley's unexplained citation and recitation of Executive Order 10450 has provided me with the only glimpse to date of the likely general nature of the "comments" that the FBI says it gathered from a "variety of sources" and upon which it apparently based its decision to decline my application. Although it is not stated explicitly in his letter, the clear, unmistakable and insidious innuendo lurking within Mr. Harley's letter is that I have been found by my government to be disloyal to my country, to

Mr. Richard Huff
May 3, 1993
Page 4

have questionable integrity, and to pose a risk to the national security -- all of which is untrue and appalling given my love for this country, and made especially appalling by the fact that the FBI never questioned me about the so-called "comments" before it made its decision, and is even now refusing to inform me about the substance of these "comments" that it acknowledges having relied on in arriving at these offensive conclusions. I consider what Mr. Harley wrote to be a direct accusation by my government that I am "un-American," and it is an accusation that I take very seriously and will not allow to fester at the expense of my good name, reputation and citizenship.

I therefore ask that you overturn the FBI's decision to deny me access to the information that it relied on in assessing my loyalty and devotion to this country.¹ Specifically, I ask that the FBI (1) provide me with a copy of the one page that was omitted from the file that was sent to me, as well as (2) all other documents and information that the FBI has failed to produce to date and upon which the FBI relied in making its decision to decline my employment application.

For me, this is no longer simply an issue of having been turned down for a position that I was qualified for. I seek to clear my name and my reputation of an insidious accusation made by the government, and I demand to know why the government thinks that I am disloyal, a threat, and not to be trusted.

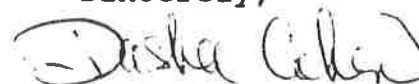
My home telephone number is (301) 924-4393. I would be glad to provide you with any additional information which you may need

¹ Although you are receiving this letter more than 30 days after the receipt of my file from the FBI, I ask that you act on my appeal in light of the fact that I did protest the FBI's inadequate response to my FOIPA request in my February 22, 1993 letter to Mr. Pomerantz (see Attachment F), which was made within the 30 day period. Moreover, it was not possible for me to send you this letter any earlier because it was not until April 17, 1993 (when I received Mr. Harley's April 14, 1993 letter, see Attachment G) that I first became aware that the FBI had apparently denied my employment application on the basis of Executive Order 10450 and had raised questions about my loyalty and trustworthiness on the basis of the suppressed information. Even if this appeal is technically late under the rules, I ask that you exercise whatever discretion you have and act on this appeal in light of the circumstances described in this letter.

Mr. Richard Huff
May 3, 1993
Page 5

in resolving this matter. I thank you for reviewing this letter and for helping me to get to the bottom of a matter that has disturbed me greatly.

Sincerely,

A handwritten signature in cursive script that reads "Dasha Cohen". The signature is written in dark ink and is positioned above the printed name.

Dasha T. Cohen

Attachments

cc: Mr. John C. Harley, Jr.



U.S. Department of Justice

Federal Bureau of Investigation -

Washington, D. C. 20535

February 3, 1992

Miss Dasha V. Talmy
10222 Royal Road
Silver Spring, Maryland 20903

Dear Miss Talmy:


This is to advise you of the status of your application with the FBI.

Your desire to become associated with this Bureau is appreciated. I regret to inform you, however, that we are unable to offer you an appointment.

FBI appointments are offered on a very selective basis due to the large number of applicants and the limited number of positions available. Each application, therefore, receives a thorough review and each candidate's qualifications are carefully weighed.

In reaching any decision, information from a variety of sources is considered. These sources include your application itself, comments obtained during the investigation and public source records. The choices between the many qualified candidates are difficult ones, and I regret that we are unable to offer you a more favorable decision.

Sincerely yours,


Steven L. Pomerantz
Deputy Assistant Director-
Personnel Officer
Administrative Services Division

Dasha V Talmy B
10222 Royal Road
Silver Spring, MD 20903
(301)445-6531

Mr. Steven L. Pomerantz
Deputy Assistant Director-
Personnel Officer
Administrative Services Division
Federal Bureau of Investigation
9th St. & Pennsylvania Ave., N.W.
Washington, D.C. 20535

12 February 1992

Dear Mr. Pomerantz:

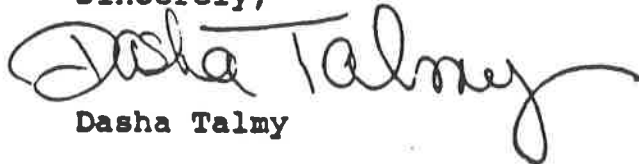
I was very disappointed to receive your letter of 3 Feb 92 (copy attached) informing me that you "are unable to offer [me] an appointment" at the FBI. As you write, "FBI appointments are offered on a very selective basis" and "In reaching any decision information from a variety of sources is considered. These sources include your application itself, comments obtained during the investigation and public source records."

As you probably know, in the process of reviewing my application, I was interviewed with regard to my Russian and English language qualifications. I know that my language proficiency was graded 5 in Russian and 4 in English. It therefore seems most likely that my application was denied not for reasons of qualification but because of information from the "variety of sources" mentioned in your letter.

It is my understanding that the Freedom of Information Act entitles me to be informed of the actual reasons for my application being rejected. I would appreciate receiving such information at the earliest possible date.

Thank you.

Sincerely,


Dasha Talmy

b7c
3

168

February 20, 1992

Miss Dasha V. Talmy
10222 Royal Road
Silver Spring, Maryland 20903

Dear Miss Talmy:

This is to acknowledge receipt of your letter dated February 12, 1992, regarding our decision not to offer you an appointment to the Language Specialist position with the FBI.

You may request specific information from your file under the provisions of the Freedom of Information/Privacy Acts (FOIPA) by submitting a written request, which should include your full name, date and place of birth, present address, and your notarized signature. This information should be forwarded to the Federal Bureau of Investigation, Attention: FOIPA Section, Ninth Street and Pennsylvania Avenue, Northwest, Washington, D.C. 20535. This procedure is necessary to ensure that information is furnished only to the person having a right of access thereto.

Sincerely yours,

Steven L. Pomerantz
Deputy Assistant Director -
Personnel Officer
Administrative Services Division

MAILED 2
FEB 24 1992
FBI

b7C 1-SAC, WMFO (67D-HQ-948566)-Enclosure
1 [redacted] (detached)
67-948566

- Dep. Dir. _____
- ADD Adm. _____
- ADD Inv. _____
- Asst. Dir.:
- Adm. Servs. _____
- Crim. Inv. _____
- Ident. _____
- Insp. _____
- Intell. _____
- Lab. _____
- Legal Coun. _____
- Tech. Servs. _____
- Training _____
- Cong. Affs. Off. _____
- Off. of EEO _____
- Off. Liaison & Int. Affs. _____
- Off. of Public Affs. _____
- Telephone Rm. _____
- Director's Office _____

b7C

WLB [redacted] b7C

10222 Royal Road
Silver Spring, MD 20903
(301)445-6531

March 10, 1992

Federal Bureau of Investigation
Attention: FOIPA Section
9th Street & Pennsylvania Avenue, NW
Washington, DC 20535

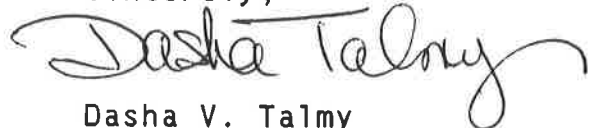
Dear Sir or Madam:

My name is Dasha V. Talmy; I was born in Moscow, Russia on August 9, 1965; my current address is at the upper right hand corner of this letter.

On February 3, 1992 I received a letter from Mr. Steven L. Pomerantz, Deputy Assistant Director-Personnel Officer, Administration Services Division, informing me that my application for a Russian Language Specialist has been rejected. Mr. Pomerantz stated that "variety of sources" are considered in reaching a decision about the qualifications of the applicant. I took an exam in Russian, receiving the highest grade possible - 5 (an educated native speaker), and an exam in English, receiving a grade of 4. Thus I am assuming that my rejection was not due my professional qualifications. Under the Freedom of Information Act, I would very much like to find out why I was rejected for the position for which I am obviously qualified.

Your response would be very much appreciated.

Sincerely,

A handwritten signature in cursive script that reads "Dasha Talmy". The signature is written in black ink and is positioned above the typed name.

Dasha V. Talmy

February 3, 1992

Miss Dasha V. Talmy
10222 Royal Road
Silver Spring, Maryland 20903

Dear Miss Talmy:

This is to advise you of the status of your application with the FBI.

Your desire to become associated with this Bureau is appreciated. I regret to inform you, however, that we are unable to offer you an appointment.

FBI appointments are offered on a very selective basis due to the large number of applicants and the limited number of positions available. Each application, therefore, receives a thorough review and each candidate's qualifications are carefully weighed.

In reaching any decision, information from a variety of sources is considered. These sources include your application itself, comments obtained during the investigation and public source records. The choices between the many qualified candidates are difficult ones, and I regret that we are unable to offer you a more favorable decision.

Sincerely yours,

S
Steven L. Pomerantz
Deputy Assistant Director-
Personnel Officer
Administrative Services Division

1-BAC, WMFO (67D-HQ-958666)
[Redacted] (Room 3505-Russian)
[Redacted] (Room GR-2, TL 152)
[Redacted] (detached)
67-948566 [Redacted] (6)
NOTE: No further consideration is being afforded the applicant as applicant will not be given a "Top Secret" security clearance.

MAILED 2
FEB 05 1992
FBI
Dep. Dir. _____
ADD Adm. _____
ADD Inv. _____
Asst. Dir. _____
Adm. Servs. _____
Crim. Inv. _____
Ident. _____
Intell. _____
Lab. _____
Legal Coun. _____
Plan. & Insp. _____
Rec. Mgmt. _____
Tech. Servs. _____
Training _____
Cong. & Public Affs. _____
Off. of EEO _____
Off. of Liaison & Int. Affs. _____
Off. of Public Affs. _____
Telephone Rm. _____
Director's Sec'y _____

b7C
b7C
169 WDD b7C

Mr. Steven L. Pomerantz
Deputy Assistant Director-
Personnel Officer
Administrative Services Division
Federal Bureau of Investigation
Washington, D.C. 20535

22 February 1993

Dear Mr. Pomerantz:

I have finally received from the FOIAP Section my file pertaining to my application for a Language Specialist position at the FBI. In the time since I requested the relevant information (12 February 1992) and my receipt of it (January 1993) I had a change of status, name and address: On 14 November 1992 I married Peter C. Cohen, changed my name from Dasha V. Talmy to Dasha T. Cohen, and moved to our new address at 4857 Sweetbirch Drive, Rockville, MD 20853.

I have reviewed the file with interest in an effort to pinpoint the reason for being rejected. A study of the released documents suggests that I was rejected not because of my qualifications but, as an overprint on a copy of your letter to me dated February 3, 1992, states, because "No further consideration is being afforded the applicant as applicant will not be given a 'Top Secret' security clearance."

My question is: Why would I not qualify for a "Top Secret" security clearance? After going through the file I found just three "negatives" from the point of view of a security bureaucrat:

1. As declared in my Preliminary Application for Special Agent Position, dated 12/3/90, I was born in Moscow, USSR. However, I do not see how the fact of having been born in the former USSR, which I left at age 14, should make me a security risk, especially as I have no relatives in Russia (or anywhere else outside the United States) and no correspondence with anyone outside of this country.

2. As further declared in my Application, I had tried smoking marijuana at parties on three occasions several years ago. Regarding this transgression, it has by now been recognized that almost anyone who attended college since the 1960s or 70s has tried one drug or another (including even President Clinton, although he "did not inhale").

3. The file includes a copy of a newspaper clipping with a "Call-in Guest List" of a C-SPAN broadcast analyzing "developments of Soviet coup." Highlighted in the list is one "Andrei Todika, Soviet entrepreneur." The list is accompanied by a note dated 9/17/91 with the comment, "You may want to inform A-3 of the

attached info!" The information was apparently deemed interesting enough, because Andrei Todika was an executive officer of Soyuz Transworld Corporation, where I worked from 6/91 until 1/92. My association and contacts with him were strictly business. Soyuz Transworld was a private corporation with, to the best of my knowledge, no affiliations or relations with the Russian or any other foreign government and its sole purpose was to take advantage of the opening Russian market.

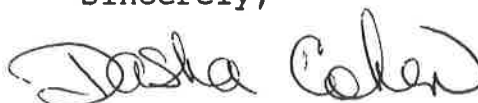
If there is any other "incriminating" information against me, it does not appear in the file I received. As regards the foregoing, I think that at the very least I should have been questioned about these or any other circumstances which might have been deemed as making me a security risk.

I would like to add that at the time I applied for the position of Language Specialist I had an interview with Mr. Bryce Christensen, Mrs. Marijke Walker and Mrs. Olga Navarrete. In subsequent conversations with Mrs. Walker and Mrs. Navarrete they invariably indicated that they felt I was both eminently qualified for a Language Specialist position and could in fact be an asset to the FBI Language Services. When I contacted them after receiving your letter of rejection they both expressed surprise since my high scores in the foreign language test indicated that I was in fact qualified for the position.

I am still interested in the position, and as I see no valid reason - at least in the portions of the file disclosed to me - for being turned down, I request that my application be reviewed, and if I am again found to be some kind of security risk for the FBI, that the reasons be plainly explained in so many words.

Thank you.

Sincerely,

A handwritten signature in cursive script that reads "Dasha Cohen".

Dasha T. Cohen

Enclosure: Copy of FOIPA File No. 358,784.



U.S. Department of Justice

Federal Bureau of Investigation

Washington, D. C. 20535

April 14, 1993

Mrs. Dasha T. Cohen
4857 Sweetbirch Drive
Rockville, Maryland 20853

Dear Mrs. Cohen:

Your letter dated February 26, 1993 to Mr. Pomerantz has been referred to me for response.

Your file has again been reviewed and careful consideration given to your employment request. Your continued interest in employment with this agency is appreciated. I must advise, however, that our previous decision not to offer you an appointment remains the same.

The decision not to offer you employment with the FBI was based on information received from protected sources; therefore, I am not in a position to provide this information to you. Executive Order 10450, entitled "Security Requirements for Government Employment," requires each Executive Branch agency to have an effective program to ensure the employment of any civilian officer or employee is clearly consistent with the interest of national security. It requires all Federal employees be reliable, trustworthy, of good conduct and character, and of complete and unswerving loyalty to the United States. It enumerates the security factors which must be considered in determining if conduct indicates employment of a person would pose a risk of damage to the national security.

I know that this decision will be disappointing to you, but trust that you will understand the FBI's position.

Sincerely yours,

A handwritten signature in dark ink, appearing to read "John C. Harley, Jr.", is written over the typed name and title. The signature is fluid and cursive.

John C. Harley, Jr.
Deputy Assistant Director -
Personnel Officer
Administrative Services Division

H



93 1701

Washington, D.C. 20530

JUL 27 1993

Ms. Dasha T. Cohen
4857 Sweetbirch Drive
Rockville, MD 20853

Re: Appeal No. 93-1315
RLH:MAP:SME

FILED

AUG 17 1993

CLERK, U.S. DISTRICT COURT
DISTRICT OF COLUMBIA

Dear Ms. Cohen:

You appealed from the action of the Federal Bureau of Investigation on your request for access to records pertaining to yourself.

After careful consideration of your appeal, I have decided to affirm the initial action in this case. The documents responsive to your request are exempt from the access provision of the Privacy Act of 1974 pursuant to 5 U.S.C. § 552a(k)(2). See 28 C.F.R. § 16.96(a) (1992). Accordingly, your access rights are limited to those provided by the Freedom of Information Act.

You are the subject of one Headquarters main file entitled Personnel. Certain of the material within the scope of your request is classified and I am affirming the denial of access to it on the basis of 5 U.S.C. § 552(b)(1). This material is being referred to the Department Review Committee for its review and a determination whether it warrants continued classification under Executive Order No. 12356. You will be notified if the Committee's final decision results in the declassification of any information. Other material was properly withheld from you pursuant to 5 U.S.C. § 552(b)(2) and (7)(C). These provisions pertain to purely internal agency practices and to records or information compiled for law enforcement purposes, the release of which could reasonably be expected to constitute an unwarranted invasion of the personal privacy of third parties. Names of FBI agents and employees were among the items excised on the basis of 5 U.S.C. § 552(b)(7)(C). This material is not appropriate for discretionary release.

Please be advised that in response to your letter dated January 22, 1993, the FBI located approximately 90 pages of additional documents responsive to your request. The FBI has processed these records and will make a supplemental release to you shortly. If you are dissatisfied with the FBI's action on these records, you may appeal again to this Office.

Judicial review of my action on this appeal is available to you in the United States District Court for the judicial district

- 2 -

in which you reside or have your principal place of business, or in the District of Columbia, which is also where the records you seek are located.

Sincerely,

A handwritten signature in cursive script, appearing to read "Richard L. Huff".

Richard L. Huff, Co-Director
Office of Information and Privacy