

II. JURISDICTION

2. This Court has jurisdiction over this action pursuant to 5 U.S.C. § 552(a)(4)(B) (FOIA citizen suit provision) and 28 U.S.C. § 1331 (federal question).

III. VENUE

3. Venue in this Court is proper pursuant to 5 U.S.C. § 552(a)(4)(B).

IV. PARTIES

4. Plaintiff, Daniel DeFraia, is an individual that, at all times relevant herein, has resided in Boston, Massachusetts.

5. Defendant Central Intelligence Agency is a federal agency of the United States, and as such, is subject to FOIA, pursuant to 5 U.S.C. § 552(f).

V. LEGAL FRAMEWORK OF FOIA

6. FOIA requires, *inter alia*, that all federal agencies must promptly provide copies of all non-exempt agency records to those persons who make a request for records that reasonably describes the nature of the records sought, and which conform with agency regulations and procedures in requesting such records. 5 U.S.C. § 552(a)(3)(A).

7. FOIA requires federal agencies to make a final determination on all FOIA requests that it receives within twenty days (excepting Saturdays, Sundays, and legal public holidays) after the receipt of such request, unless the agency expressly provides notice to the requester of “unusual circumstances” meriting additional time for responding to a FOIA request. 5 U.S.C. § 552(a)(6)(A)(I).

8. FOIA also requires federal agencies to make a final determination on FOIA administrative appeals that it receives within twenty days (excepting Saturdays, Sundays, and legal public holidays) after the receipt of such appeal, unless the agency expressly provides notice to the requester of “unusual circumstances” meriting additional time for responding to a FOIA request. 5 U.S.C. § 552(a)(6)(A)(ii).

9. FOIA expressly provides that a person shall be deemed to have constructively exhausted their administrative remedies if the agency fails to comply with the applicable time limitations provided by 5 U.S.C. § 552(a)(6)(A)(I) - (ii). *See* 5 U.S.C. § 552(a)(6)C).

10. FOIA provides that any person who has not been provided the records requested pursuant to FOIA, after exhausting their administrative remedies, may seek legal redress from the Federal District Court to enjoin the agency from withholding agency records and to order the production of any agency records improperly withheld from the complainant.

11. Under FOIA, the federal agency has the burden to sustain its actions. 5 U.S.C. § 552(a)(4)(B).

12. Pursuant to FOIA, this Court may assess attorney fees and litigation costs against the United States if the Plaintiff prevails in this action. 5 U.S.C. § 552(a)(4)(E).

VI. FACTUAL ALLEGATIONS

13. On or about June 12, 2019, Plaintiff sent a FOIA request to the Central Intelligence Agency (CIA), seeking access to and copies of CIA records that discuss or

describe journalists' relationship with the CIA referenced in the Carl Bernstein article, "The CIA and the Media," published in Rolling Stone Magazine in 1977.

14. On or about July 19, 2019, the CIA sent Plaintiff a letter confirming receipt of Plaintiff's June 12, 2019, FOIA request and assigning it reference number F-2019-02002.

15. On or about August 26, 2019, Plaintiff telephoned the CIA, requesting an estimated date of completion for his June 12, 2019, FOIA request.

16. On or about August 29, 2019, the CIA sent a letter to Plaintiff acknowledging Plaintiff's August 26, 2019, telephone call and stating that the agency was processing Plaintiff's request.

17. On or about December 12, 2019, Plaintiff telephoned the CIA again, requesting the status of his June 12, 2019, FOIA request.

18. On or about January 12, 2020, Plaintiff sent a letter to the CIA inquiring as to the status of his FOIA request.

19. On or about January 22, 2020, the CIA sent a letter to Plaintiff acknowledging receipt his December 12, 2019, telephone call and January 12, 2019, letter, and informing Plaintiff that the estimated completion date for his June 12, 2019, FOIA request was July 13, 2021.

20. As of the date of the filing of this action Plaintiff has not received a final decision, nor any of the records he requested in his June 12, 2019, FOIA request.

VII. CLAIMS FOR RELIEF

21. Plaintiff realleges, as if fully set forth herein, paragraphs 1-20 previously set forth herein.

22. Defendant CIA has violated FOIA by failing to provide Plaintiff with all non-exempt responsive records for his June 12, 2019, FOIA request, and by failing to complete an adequate search which was reasonably calculated to locate all responsive records to his FOIA request.

23. By failing to provide Plaintiff with all non-exempt responsive record to his June 12, 2019, FOIA request as described in paragraph 13, and by failing to perform an adequate search for responsive records, Defendant CIA has denied Plaintiff's right to this information as provided by the law under the Freedom of Information Act.

24. Defendant CIA has violated FOIA by failing to perform an adequate search reasonably calculated to locate all responsive records to Plaintiff's June 12, 2019, FOIA request.

25. By failing to perform an adequate search reasonably calculated to locate all responsive records to Plaintiff's June 12, 2019, FOIA request, Defendant CIA has denied Plaintiff's right to this information as provided by law under the Freedom of Information Act.

26. Unless enjoined by this Court, Defendant CIA will continue to violate Plaintiff's legal rights to be provided with copies of the records which he has requested in

his FOIA request described in paragraph 13 above.

27. Plaintiff is directly and adversely affected and aggrieved by Defendant CIA's failure to provide responsive records to his FOIA request described above.

28. Plaintiff has been required to expend costs and to obtain the services of a law firm, consisting of attorneys, law clerks, and legal assistants, to prosecute this action.

29. Plaintiff is entitled to reasonable costs of litigation, including attorney fees pursuant to FOIA 5 U.S.C. § 552(a)(4)(E).

REQUEST FOR RELIEF

WHEREFORE, Plaintiff respectfully requests that this Court enter Judgment for Plaintiff providing the following relief:

1. Declare Defendant Central Intelligence Agency has violated FOIA by failing to provide Plaintiff with all non-exempt records responsive to his June 12, 2019, FOIA request.

2. Declare Defendant Central Intelligence Agency has violated FOIA by failing to complete an adequate search for records responsive to Plaintiff's June 12, 2019, FOIA request.

3. Direct by injunction that Defendant Central Intelligence Agency perform an adequate search for records responsive to his June 12, 2019, FOIA request and provide Plaintiff with all non-exempt responsive records to Plaintiff's June 12, 2019, FOIA request.

4. Grant Plaintiff's costs of litigation, including reasonable attorney fees, as provided by FOIA, 5 U.S.C. § 552(a)(4)(E); and,

5. Provide such other relief as the Court deems just and proper.

DATED: This 13th day of February, 2020.

Respectfully submitted,

/s/

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