

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLUMBIA**

KEVIN POULSEN)
 520 Third Street, Suite 305)
 San Francisco, CA 94107,)
)
 Plaintiff,)
)
 v.)
)
DEPARTMENT OF HOMELAND SECURITY)
 Washington, DC 20528,)
)
 Defendant.)

Civil Action

COMPLAINT FOR INJUNCTIVE AND DECLARATORY RELIEF

1. This is an action under the Freedom of Information Act (“FOIA”), 5 U.S.C. § 552; and the Federal Declaratory Judgment Act, 28 U.S.C. §§ 2201, 2202. Plaintiff seeks injunctive and declaratory relief to compel defendant Department of Homeland Security to disclose requested records.

Jurisdiction and Venue

2. This court has both subject matter jurisdiction over this action and personal jurisdiction over the parties pursuant to 5 U.S.C. § 552(a)(4)(B). This court also has jurisdiction over this action pursuant to 28 U.S.C. § 1331 and 28 U.S.C. §§ 2201(a) & 2202. Venue lies in this district under 5 U.S.C. § 552(a)(4)(B).

The Parties

3. Plaintiff Kevin Poulsen is a professional, full-time journalist. Plaintiff is a resident of the State of California.

4. Defendant Department of Homeland Security (“DHS”) is a department of the Executive Branch of the government of the United States. DHS is an “agency” within the

meaning of 5 U.S.C. § 552(f). The United States Secret Service is a component of defendant DHS.

Plaintiff's FOIA Request and Defendant's Response

5. By letter to the Secret Service dated January 14, 2013, plaintiff requested under the FOIA copies of agency records. Specifically, plaintiff requested “any documents held by the U.S. Secret Service concerning Aaron Swartz.” Plaintiff noted that “Mr. Swartz passed away on January 11, 2013,” and attached to the request a copy of Mr. Swartz’s newspaper obituary, which appeared in the Chicago Tribune on January 13, 2013.

6. By letter to plaintiff dated February 26, 2013, the Secret Service issued its initial determination to deny plaintiff’s FOIA request. The Secret Service stated that “[p]ursuant to 5 U.S.C. 552(B)(7)(A),” the information plaintiff requested “is being exempted since disclosure could reasonably be expected to interfere with enforcement proceedings.” The Secret Service advised plaintiff of his right to submit an administrative appeal of the agency’s determination.

7. By letter to the Secret Service dated March 1, 2013, plaintiff appealed the agency’s initial determination to deny his request. To date, the Secret Service has not responded to plaintiff’s administrative appeal.

8. Defendant DHS has failed to issue a decision on plaintiff’s appeal within the statutory time limit and plaintiff has exhausted the applicable administrative remedies with respect to its FOIA request to the Secret Service.

CAUSE OF ACTION

**Violation of the Freedom of Information Act for
Wrongful Withholding of Agency Records**

9. Plaintiff repeats and realleges paragraphs 1-8.

10. Plaintiff has exhausted the applicable and available administrative remedies with respect to the Secret Service's determination of his FOIA request.

11. Defendant DHS and its component, the Secret Service, have wrongfully withheld the requested records from plaintiff by failing to comply with the statutory time limit for rendering a decision on plaintiff's appeal of the Secret Service's response to plaintiff's FOIA request.

12. Plaintiff is entitled to injunctive and declaratory relief with respect to the release and disclosure of the requested documents.

Requested Relief

WHEREFORE, plaintiff prays that this Court:

- A. Order defendant DHS and its component the Secret Service to disclose in their entireties all records responsive to plaintiff's FOIA request submitted to the Secret Service, immediately;
 - B. Issue a declaration that plaintiff is entitled to disclosure of the requested records;
 - C. Provide for expeditious proceedings in this action;
 - D. Award plaintiff its costs and reasonable attorneys fees incurred in this action;
- and
- E. Grant such other relief as the Court may deem just and proper.

Respectfully submitted,

A handwritten signature in black ink, appearing to read "David L. Sobel", written over a horizontal line.

DAVID L. SOBEL, D.C. Bar No. 360418

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