

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

GRANT F. SMITH, <i>PRO SE</i>	)	
	)	
Plaintiff,	)	
v.	)	Civil No. 1:15-cv-00224 (TSC)
	)	
CENTRAL INTELLIGENCE AGENCY,	)	
	)	
Defendant.	)	
_____	)	

**JOINT STATUS REPORT**

Pursuant to the Court’s Minute Order of May 20, 2015, in this Freedom of Information Act case concerning Grant F. Smith’s request to the CIA for documents relating to “uranium diversion from the Nuclear Materials and Equipment Corporation (NUMEC) to Israel,” the parties hereby submit a Second Joint Status Report.

**Defendant’s Statement:**

Defendant is close to finishing its litigation review, and will likely produce additional documents to Plaintiff. However, because of the nature of the documents, Defendant must confer with seven different governmental entities with equities in those documents before any information from them can be produced to Plaintiff. Defendant is still waiting to hear back from some of those entities and cannot release the documents until it does. Defendant anticipates that it will be able complete those consults and produce any additional non-exempt, responsive documents within 30 days. Defendant proposes that the parties thereafter will meet and confer, and propose to file, on or before September 30, 2015, a Third Joint Status report proposing a schedule to resolve the remaining issues in the case.

It is premature to ask for, much less order, *in camera* review. As the D.C. Circuit explained, “In 1974, Congress Amended FOIA in order to provide district courts with the explicit authority to conduct *in camera* review of agency files to determine the applicability of the claimed exemptions. The Conference Report on the authorizing amendment states . . . ‘Before the court orders *in camera* inspection, the Government should be given the opportunity to establish by means of testimony or detailed affidavits that the documents are clearly exempt from disclosure.’” *Quinton v. F.B.I.*, 86 F.3d 1222, 1227 (D.C. Cir. 1996). Since Defendant has not even produced the documents, much less had a chance to provide a *Vaughn Index* and supporting declarations justifying the exemptions, it is premature to order the *in camera* review of documents.

**Plaintiff's Statement:**

The Plaintiff submitted a FOIA to the CIA 1,925 days ago in order to obtain information clarifying the public representations of two high CIA officials that the Israeli government illegally obtained weapons-grade uranium from a shoddily run government contractor in Pennsylvania in the 1960's. The Plaintiff pursued administrative FOIA appeals processes that lasted far in excess of statutory limits. For decades the Defendant has fought such FOIA clarifications of its function of government and only directly emitted bureaucratic internal memos rather than anything of substance about the so-called "NUMEC Affair" even as higher declassification authorities such as the ISCAP have overruled CIA claims that documents were "exempt" and released them directly to the public. At no time in the FOIA administrative process were outside equity entities ever identified by the CIA, as is commonplace during such processes. The NUMEC diversion continues to be an unresolved issue in current news reports about Middle East nuclear proliferation.<sup>1</sup>

In pursuit of his nonprofit research mandate the Plaintiff wishes to obtain widespread release and write about the illegal diversion (and why nothing was ever done about it) before the September 9, 2015 vote in Congress on the Iran nuclear deal. The Plaintiff has already agreed to an additional, generous 90 day litigation review period, which has now expired. The Defendant counsel verbally estimated that the total amount of information under release consideration is 127 pages of material in 16 documents. This is miniscule in comparison to the thousands of CIA NUMEC documents publicly known to exist. The Defendant also refuses to disclose what entities are claiming review

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<sup>1</sup> See "Why is Israel's nuclear arsenal not mentioned in Iran deal debate?" McClatchy, August 18, 2015

rights, which would have given additional context and weight to its request for additional time.

Given the Defendant's demonstrated past bad faith, the Plaintiff proposes that the Defendant be given no more than 15 days of additional time. Given the extreme public interest exigencies and tiny amount of material allegedly under outside review, the Plaintiff urges the Court to uphold his rights by conducting its own parallel *in camera* review of the unredacted files beginning immediately so as to be well-informed of their value in proper context *vis a vis* the Plaintiff's public interest motives, and to ready itself to respond quickly and in an informed manner to any further issues identified by the Plaintiff in his quest for a full accounting and Defendant-generated release objections. A proposed order so mandating this 15-day time limit and request for *in camera* review is attached by the Plaintiff.

Dated: August 20, 2015

Respectfully submitted,

BENJAMIN C. MIZER  
Acting Assistant Attorney General

VINCENT H. COHEN, JR.  
Acting United States Attorney

ELIZABETH J. SHAPIRO  
Deputy Branch Director

/s/ Zachary J. Corey  
Zachary J. Corey  
D.C. Bar #1013001  
Trial Attorney  
United States Department of Justice  
Civil Division, Federal Programs  
Branch  
Tel.: (202) 616-0042  
Fax: (202) 616-8470  
Email: Zachary.J.Corey@usdoj.gov

Mailing Address:

Post Office Box 883  
Washington, D.C. 20044

Courier Address:

20 Massachusetts Avenue N.W.  
Washington, D.C. 20001

*Counsel for Defendant*

Grant F. Smith, *Pro Se*  
4101 Davis PL NW #2  
Washington, DC 20007  
(202) 640-3709