Judicial Watch

Because no one is above the law!

May 9, 2002

BY FACSIMILE (219-662-6368) & FIRST CLASS MAIL

Mr. Robert G. Wright, Jr.
[redacted]

Dear Bob,

This letter confirms that, pursuant to your instructions, Judicial Watch, Inc. filed today a "Complaint For Declaratory And Injunctive Relief" in the U.S. District Court for the District of Columbia, styled: *Robert G. Wright, Jr. v. Federal Bureau of Investigation, et al.*

A copy of the filed complaint will be forwarded to you under separate cover.

Sincerely,

JUDICIAL WATCH, INC.

Larry Klayman
Chairman and General Counsel

501 School Street, SW • Suite 725 • Washington, DC 20024 • Tel: (202) 646-5172 • Fax: (202) 646-5199

For TAB 12

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLUMBIA

Filed May 9, 2002

ROBERT G. WRIGHT, JR.
219 South Dearborn
Chicago, IL 60604

Plaintiff,

v.

FEDERAL BUREAU OF INVESTIGATION,
935 Pennsylvania Avenue, N.W.,
Washington, DC 20535,

and

UNKNOWN OFFICIALS 1-5
of the Federal Bureau of Investigation,
in their personal capacities, c/o
935 Pennsylvania Avenue, N.W.,
Washington, DC 20535,

Defendants.

DRAFT

Civil Action No. _____

COMPLAINT FOR DECLARATORY AND INJUNCTIVE RELIEF

Plaintiff Special Agent Robert G. Wright, Jr., hereby files this complaint for declaratory and injunctive relief as a result of violations of his First Amendment rights. As grounds therefore, SA Wright respectfully alleges as follows:

JURISDICTION AND VENUE

1. This court has jurisdiction over this action pursuant to 28 U.S.C. §1331 because SA Wright's claim arises under the United States Constitution.

2. Venue is proper in this district pursuant to 28 U.S.C. §§ 1391(b) and (e) in that Defendants were acting under color of legal authority and the majority of acts and practices complained of occurred in this judicial district.

DRAFT

PARTIES

3. Plaintiff Robert G. Wright, Jr. is a citizen of the State of Indiana.

4. Defendant Federal Bureau of Investigation is a subagency of the U.S. Department of Justice, an agency of the executive branch of the U.S. Government, and is headquartered at 935 Pennsylvania Avenue, N.W., Washington, DC 20535.

5. Defendants Unknown Officials 1-5 are currently unknown U.S. Government officials at the Federal Bureau of Investigation, 935 Pennsylvania Avenue, N.W., Washington, DC 20535. They are being sued in their personal capacities.

PRELIMINARY STATEMENT

6. This is an action for injunctive and declaratory relief against as many as five (5) currently unknown officials of the U.S. Department of Justice, in their personal capacities, for depriving Plaintiff of rights secured by the First Amendment to the U.S. Constitution while acting under color of federal authority. Specifically, Plaintiff has submitted to Defendants several publications for prepublication review. Under the relevant regulations and case law, Defendants have thirty (30) days to complete the review. Defendants have failed to complete the review within the required time. As a result, Plaintiff has been deprived of his First Amendment rights.

STATEMENT OF FACTS

7. Plaintiff Robert G. Wright, Jr. ("SA Wright"), is a Special Agent of the Federal Bureau of Investigation ("FBI"). SA Wright has always been dedicated to the stated "mission" of the FBI. The stated mission of the FBI is to uphold the law through the investigation of violations of federal criminal law; to protect the United States from foreign intelligence and

terrorist activities; to provide leadership and law enforcement assistance to federal, state, local, and international agencies; and to perform these responsibilities in a manner that is responsive to the needs of the public and is faithful to the Constitution of the United States. During SA Wright's FBI career (1990 to the present), however, he has identified serious conduct by FBI personnel, including management officials, that is not only contrary to the "FBI mission," but amounts to mismanagement, abuse of authority, and a substantial danger to the public health and safety.

8. Specifically, in early 1994, SA Wright recognized and reported to his superiors that many of the terrorist suspects in the Chicago area were actively involved in well-organized criminal activities. SA Wright learned, among other things, that not-for-profit organizations were being used by the U.S.-based HAMAS terrorist group as front organizations in the United States to recruit, organize, train and support HAMAS terrorist operatives and to plan and carry out terrorist attacks. Indeed, many of the terrorist subjects were business owners and/or leaders of HAMAS not-for-profit organizations. Logically, then, as concluded by SA Wright in 1995, following the money trail and seizing terrorists' assets would be the means of neutralizing this terrorist threat.

9. However, criminal investigations of known and suspected terrorists residing in the United States, such as the aforementioned HAMAS operatives, were not desired by the FBI's International Terrorism Unit.[1] Indeed, there existed a concerted effort on the part of agents

[1] There are two types of investigations that the FBI pursues, that is, intelligence investigations and criminal investigations. The purpose of an intelligence investigation is to gather information for information's sake. The purpose of a criminal investigation is to gather information so as to facilitate the prosecution of the subjects under the laws of the United States and, as a result, halt and prevent criminal activity.

conducting counterterrorism intelligence investigations to insulate the subjects of their investigations from criminal investigation and prosecution. The motive for this conduct is simple and quite disturbing. By preventing the current subjects of their intelligence cases from being investigated and prosecuted for known criminal activities, some of which involved international terrorism, these intelligence agents avoided the new and additional work that would be required to open and pursue criminal cases. Indeed, once these agents opened an intelligence case, they would "milk it" for years, not taking on any additional work. These intelligence agents regarded SA Wright and others who agreed that criminal cases should be opened to halt the criminal activity that threatened the American public's health and safety as a threat to their "job security."

10. There was virtually no effort by the International Terrorism Unit to neutralize known and suspected terrorists residing in the United States. The result was that, at great risk to the American public, the FBI allowed foreign-born terrorist operatives, such as the perpetrators of the September 11th attacks, to engage in illegal activities in the United States while FBI intelligence agents gathered information about these operatives, purportedly for analysis and future action in the event that a terrorist act ever occurred. Indeed, in 1994, when SA Wright complained to his supervisor that the FBI was merely gathering intelligence so they would know who to arrest when a terrorist attack occurred, his supervisor surprisingly agreed that this was true.

11. The FBI's conscious failure to undertake criminal investigations of suspected terrorists in the United States was further shown when managers from the FBI headquarter's ("FBIHQ") Counterterrorism Division met with the Joint Terrorism Task Force ("JTTF") in

Chicago and admitted to SA Wright that no one at FBIHQ reviewed or attempted to link all the reports filed by the FBI field offices regarding terrorist activities in the United States. It was further conceded that the field office reports merely were filed and maintained at FBIHQ for future retrieval in the event that an act of terrorism occurred. Regrettably, the largest obstacles to SA Wright's criminal investigation efforts of the HAMAS enterprise in the United States were the management of the Chicago field office and the FBIHQ Counterterrorism Divsion in Washington, D.C.

12. Nonetheless, in 1995, SA Wright initiated corollary "Act of Terrorism" criminal investigations, against FBI management wishes. Through his investigations, SA Wright uncovered information that the aforementioned not-for-profit organizations were being used to recruit and train terrorists and fund terrorist activities in the United States and abroad, including the extortion, kidnaping and murder of Israeli citizens.

13. SA Wright's successful investigation, code name VULGAR BETRAYAL, led to the June 9, 1998 seizure of $1.4 million of funds destined for terrorist activities. This seizure was the first occasion that the U.S. Government utilized the civil forfeiture laws to seize terrorist assets in the United States The seized funds were linked directly to Saudi businessman Yassin Kadi. On October 12, 2001, Yassin Kadi, a.k.a. Yassin Al-Qadi, was designated by the U.S. Government as a financial supporter of Osama Bin Laden. According to a U.S. Government source, Kadi provided $3 million to Bin Laden and his al-Qaida organization.

14. Despite the unqualified success of SA Wright's investigation of these terrorists, FBI management failed to take seriously the threat of terrorism in the United States FBI management intentionally and repeatedly thwarted and obstructed SA Wright's attempts to

launch a more comprehensive investigation that would identify terrorists, their sources and methods of funding before they attacked additional U.S. interests, killing more U.S. citizens. The FBI's lack of support for SA Wright's Vulgar Betrayal investigation was obvious to his new supervisor in April 1998 when he wrote, "Agent Wright has spearheaded this effort despite an embarrassing lack of investigative resources available to the case such as computers, financial link analysis software, and a team of financial analysts. Although far from being concluded, the success of this investigation so far has been entirely due to the foresight and perseverance of Agent Wright." Indeed, in 1999, SA Wright purchased some of the much needed equipment and software from his personal funds because he was unable to obtain the necessary funding and support from the FBI.

15. Worse yet, it appears that FBI agents in the Chicago filed office intentionally withheld information vital to SA Wright's investigation. One such incident involved a relief supervisor who was one of the most outspoken critics regarding opening criminal investigations on terrorist subjects. Specifically, in 1997, SA Wright began an investigation of two known HAMAS terrorists residing in the Chicago area named Shareef Alwan and Razick Saleh Abdel Razick. SA Wright asked this particular relief supervisor whether he had any information concerning the two terrorists. The relief supervisor replied that he did not. SA Wright then spent several weeks investigating the whereabouts of these terrorists. One afternoon, SA Wright and another FBI agent were in the office discussing whether to contact someone who could help locate the terrorists. Overhearing who they were going to contact, the relief supervisor realized SA Wright was going to discover that he had lied and withheld vital information about the terrorists from SA Wright for years. The relief supervisor then disclosed that he knew one of the

terrorists had been arrested overseas in 1995 as a result of his terrorist activities. The relief supervisor then admitted that he had placed the copy of the arrested terrorist's 1995 statement in a obscure file where no one would find it.

16. Ultimately, on August 4, 1999, FBI management removed SA Wright from the Vulgar Betrayal criminal investigation. Shortly thereafter, the FBI closed the investigation.

17. In August 1999, SA Wright began writing a manuscript which outlined his efforts to investigate known terrorist threats against U.S. national security and the FBI's efforts to thwart this investigation. SA Wright finished the final three pages of the 500-plus page manuscript titled, "Fatal Betrayals of the Intelligence Mission," two days after the September 11th attacks.

18. When SA Wright became an FBI agent, he signed an "Employment Agreement" that expressly requires FBI employees to never divulge, publish or reveal information from investigatory files of the FBI or any information relating to material contained in the files, or disclose any information or produce any material acquired as a part of the employee's official duties or because of the employee's official status without the written permission of the FBI Director.

19. However, FBI employees may utilize the FBI's prepublication review program to seek permission to publish material, even material critical of the FBI. Indeed, no objection to disclosure or publication by a current or former employee is to be interposed solely because a work is critical or disparaging of the FBI, the Government or its officers and employees. In addition, no objection is to be interposed solely because of errors in the work. The reviewers' major concern while reviewing the work should be the protection of the substance of information which could be expected to damage national security if disclosed.

20. The FBI employees work must be submitted to the Office of Public and Congressional Affairs ("OPCA") for the Director's consideration at least 30 business days in advance of the proposed disclosure. OPCA coordinates the prepublication review process for the Director. OPCA is required to prepare the FBI's response to each request for prepublication review not later than thirty (30) business days after the request and all related materials are received by the FBI. The thirty (30) business day time limit is a result of case law that states that any longer period of time would unreasonably restrain the employees First Amendment rights to free speech. *See U.S. v. Marchetti*, 466 F.2d 1309, 1317 (4th Cir. 1972), *cert. denied*, 409 U.S. 1063 (1972).

21. The Department of Justice has since adopted and imposed the thirty (30) business day rule as a standard in the Code of Federal Regulations at 28 C.F.R. § 17.144. The thirty (30) business day time limit begins to run on the work day after a work is received by OPCA and stops on the work day that the FBI responds to a request for prepublication review.

22. On or about October 3, 2001, SA Wright shipped his manuscript to OPCA.

23. On or about November 3, 2001, OPCA advised SA Wright that it had not yet received the manuscript due to the delay in the U.S. Mail as a result of the anthrax terror attacks.

24. On or about November 5, 2001, SA Wright forwarded another copy of his manuscript, along with public source documentation, to OPCA.

25. On or about November 19, 2001, OPCA notified SA Wright that it had received the manuscript and documentation and that it was in the process of reviewing his work.

26. On January 2, 2002, OPCA issued a letter to SA Wright, identifying issues with approximately eighteen percent (18%) of the manuscript's text. Thus, approximately eighty-two

percent (82%) of the manuscript was approved for publication.

27. On February 10, 2002, SA Wright resubmitted the entire text of his manuscript with the eighteen percent (18%) corrected or deleted.

25. However, as of May 8, 2002, in excess of sixty (60) business days from the time that SA Wright resubmitted his work, OPCA has not completed its prepublication review.

26. On November 13, 2001, SA Wright submitted two additional documents to OPCA for prepublication review. The first document is a copy of a thirty-eight (38) page complaint filed by SA Wright with the U.S. Department of Justice, Office of Inspector General, subject: "Dereliction of Duty by the Federal Bureau of Investigation in Failing to Investigate and Prosecute Terrorism and Obstruction of Justice in Retaliating Against Special Agent Robert G. Wright, Jr." The second document is a 113 page complaint to be filed at a later date with the U.S. Department of Justice, Office of Inspector General, subject: "Whistleblowing Retaliation by the Federal Bureau of Investigation Against Special Agent Robert Wright, Jr."

27. On November 28, 2001, OPCA advised SA Wright that it had received the documents and were in the process of reviewing them.

28. On January 7, 2002, OPCA issued a letter to SA Wright, identifying issues with the text of approximately four percent (4%) of the first document and six percent (6%) of the second document. Thus, approximately ninety-six percent (96%) of the first document and ninety-four percent (94%) of the second document were approved for publication.

29. On or about January 18, 2002, SA Wright resubmitted the entire text of both documents with the four percent (4%) of the first document and six percent (6%) of the second document corrected or deleted.

30. On January 24, 2002, OPCA advised SA Wright that these documents had been received and were being reviewed.

31. However, as of May 8, 2002, in excess of sixty (60) business days from the time that SA Wright resubmitted his work, OPCA has not completed its prepublication review.

COUNT

(Violation of FBI Regulations, Policy and Procedure, and First Amendment Rights)

32. SA Wright hereby realleges and incorporates by reference Paragraphs 1 through 31 herein.

33. SA Wright enjoys the right of freedom of speech, as guaranteed by the First Amendment to the U.S. Constitution. This right includes the right to publish his manuscript and any other documents that do not threaten national security.

34. The FBI and several Unknown Officials, acting under the color of federal authority, individually and in concert with the other Defendants, have and are continuing, to intentionally, wilfully and maliciously, violate SA Wright's First Amendment right to freedom of speech by failing to complete the prepublication review of the documents submitted by him within thirty (30) business days as required by 28 C.F.R. § 17.144 and FBI policy and procedure.

35. SA Wright has suffered and shall continue to suffer irreparable harm and injury as a result of such acts, for which he has no adequate remedy at law or otherwise.

WHEREFORE, SA Wright prays that this Court: (1) declare Defendants' delay in reviewing SA Wright's manuscript and other documents submitted by him unlawful in violation of 28 C.F.R. § 17.144 and FBI policy and procedure; (2) order Defendants to make the requested manuscript and documents available to SA Wright for publication; (3) award SA Wright his

costs and reasonable attorneys' fees in this action; and (4) grant such other and further relief as the Court may deem just and proper.

Respectfully submitted,

JUDICIAL WATCH, INC.

DRAFT

Larry Klayman, Esq.
D.C. Bar No. 334581
501 School Street, S.W., Suite 725
Washington, DC 20024
(202) 646-5172

Attorneys for Plaintiff

DRAFT

David P. Schippers, Esq.
Schippers & Bailey
20 N. Clark Street
Chicago, IL 60602
(312) 263-1200
Not A Member of the D.C. Bar

Attorneys for Plaintiff

ATTESTATION

I, Robert G. Wright, Jr., hereby declare and affirm that the foregoing "Complaint For Declaratory And Injunctive Relief" is true and correct to the best of my knowledge and belief.

Robert G. Wright, Jr.

STATE OF ILLINOIS)
) ss:
COUNTY OF Cook)

Subscribed and sworn before me by Robert G. Wright, Jr., this 9th day of May, 2002.

SEAL

"OFFICIAL SEAL"
TRACY NEMEC
NOTARY PUBLIC, STATE OF ILLINOIS
MY COMMISSION EXPIRES 08/17/05

Notary Public