

39 F. Supp. 2d 960: Torres v. CIA

Illinois Northern District Court - 39 F. Supp. 2d 960

March 12, 1999

39 F.Supp.2d 960 (1999)

Maria de los Angeles TORRES, Plaintiff,
v.
CENTRAL INTELLIGENCE AGENCY, Defendants.

No. 98 C 149.

United States District Court, N.D. Illinois, Eastern Division.

March 12, 1999.

*961 Mathew J. Piers of Gessler, Hughes & Socol, Chicago, IL, for plaintiff.

Carole J. Ryczek of U.S. Attorney's Office, Chicago, IL, for defendant.

MEMORANDUM OPINION AND ORDER

SHADUR, Senior District Judge.

Maria de los Angeles Torres ("Torres") filed this Freedom of Information Act ("FOIA")^[1] action over a year ago, seeking "to compel the Central Intelligence Agency ("CIA") to produce any and all records relating to the genesis, exodus and outcome of the program for evacuating unaccompanied children from Cuba, also referred to as the 'visa waiver' program, 'Operation Peter Pan,' or 'Operation Exodus,' between 1960 and 1965" (Complaint ¶ 1). Associate Professor Torres of DePaul University's Department of Political Science had been one of what she describes as "14,000 unaccompanied children evacuated from Cuba to the United States as part of the program which is the subject of the FOIA request at issue in this lawsuit" (Complaint ¶ 4), and for over 11 years she has engaged in research looking toward the production of a book on the subject (*id.*).

According to Complaint ¶ 6, Torres' FOIA efforts with CIA began fully five years before she filed suit here, having gone through several stages at the administrative level (*id.* ¶¶ 7-10). Ultimately CIA agreed to backdate Torres' April 3, 1996 amended appeal of its denial of her FOIA request to her original appeal date in early 1993 (*id.* ¶ 10), but CIA then rejected that amended appeal on the ground that "a thorough search ... conducted of those records which could reasonably be expected to contain documents responsive to Professor de los Angeles Torres' request ... has identified no records responsive to her request" (*id.* ¶ 11). Because Torres disbelieved that response, she brought the matter to this federal court.

At the beginning of April 1998 CIA moved for summary judgment under Fed. R.Civ.P. ("Rule") 56, supplementing its motion with a supporting Memorandum and with documentation conforming to this District Court's General Rule ("GR") 12(M), which has been adopted to facilitate the identification of any genuine issues of material fact (or the absence of any such issues). What followed was protracted discovery activity by Torres' counsel on her behalf, this Court having provided her *962 counsel — over vigorous objections from CIA's counsel — with substantially more leeway (and time) than would ordinarily be appropriate under Rule 56(f).^[2] In addition to pursuing the special and unusual measure referred to in n. 2, this Court granted Torres leave to conduct an extended deposition of Lee Strickland ("Strickland"), CIA's Information and Privacy Coordinator and the Chief of its Information Review Group, Office of Information Management. Strickland is the CIA person who had been responsible for overseeing all of the searches undertaken by CIA personnel in an effort to be responsive to Torres' request.

At long last — more than 10 months after the filing of CIA's Rule 56 motion — Torres has in turn filed her Memorandum in Opposition, together with her GR 12(N)(3) Response and supporting materials. Although Torres would have it that there are material factual issues such as to preclude the entry of summary judgment, this Court disagrees entirely. It therefore grants CIA's motion and dismisses this action on the merits.^[3]

It should be said at the outset that it would be unjust to penalize CIA for its efforts to be more than forthcoming to Torres — efforts that it implemented by following Torres' further suggestions for possible leads (both out of a superabundance of caution and in an attempt to be as helpful as possible). In that regard there is considerable irony, for example, in Torres' often-repeated criticism of CIA for its having conducted a cryptonym search for "Peter Pan" — Torres complains that the label was a media name rather than a technical one, so that any searching under that rubric was totally unlikely to turn up any documents (as recently as Torres' current