IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLUMBIA

CITIZENS FOR RESPONSIBILITY AND ETHICS IN WASHINGTON,
[redacted]

Plaintiff,

v.

U.S. DEPARTMENT OF JUSTICE,
950 Pennsylvania Avenue NW
Washington, DC 20305,

Defendant.

Civil Action No.

COMPLAINT FOR INJUNCTIVE AND DECLARATORY RELIEF

1. Plaintiff Citizens for Responsibility and Ethics in Washington ("CREW") brings this action under the Freedom of Information Act ("FOIA"), 5 U.S.C. § 552, against Defendant U.S. Department of Justice ("DOJ") seeking all opinions, memoranda, or analyses issued by the Office of Legal Counsel ("OLC") concerning Section 3 of the Fourteenth Amendment.

2. CREW seeks declaratory relief that the DOJ is in violation of FOIA. CREW further seeks injunctive relief requiring the DOJ to immediately process and release the requested records.

Jurisdiction and Venue

3. This Court has subject-matter jurisdiction and personal jurisdiction under 5 U.S.C. §§ 552(a)(4)(B) and 552(a)(6)(C)(i). The Court also has jurisdiction over this action pursuant to 28 U.S.C. §§ 1331, 2201(a), and 2202.

4. Venue lies in this district under 5 U.S.C. § 552(a)(4)(B).

Parties

5. Plaintiff CREW is a non-profit, non-partisan organization organized under section 501(c)(3) of the Internal Revenue Code. CREW is committed to protecting the rights of citizens to be informed about the activities of government officials and agencies, and to ensuring the integrity of government officials and agencies. CREW seeks to empower citizens to have an influential voice in government decisions and in the government decision-making process through the dissemination of information about public officials and their actions. To advance its mission, CREW uses a combination of research, litigation, and advocacy. As part of those efforts, CREW uses government records it obtains under FOIA.

6. Defendant DOJ is an agency within the meaning of 5 U.S.C. § 552(f)(1). OLC is a component of the DOJ. The DOJ has possession, custody, and control of the requested records.

Legal Framework

7. FOIA, 5 U.S.C. § 552, requires federal agencies to release requested records to the public unless one or more specific statutory exemptions apply.

8. An agency must respond to a party making a FOIA request within 20 working days, notifying that party of at least the agency's determination of which the requested records it will release, which it will withhold and why, and the requester's right to appeal the determination to the agency head. 5 U.S.C. § 552(a)(6)(A)(i).

9. An agency's failure to make this determination within 20 days is subject to judicial review without exhausting administrative remedies. 5 U.S.C. § 552(a)(6)(C)(i).

Factual Background

CREW's FOIA Request

10. In the aftermath of the January 6, 2021 insurrection at the U.S. Capitol, substantial questions have arisen about whether government officials who played a role in the attack—including former President Donald Trump—are disqualified from public office under Section 3 of the Fourteenth Amendment.

11. Now that former President Trump is the presumptive 2024 Republican Party presidential nominee, the question of whether Section 3 disqualifies him from office has even greater importance. The Colorado Supreme Court, the Secretary of State of Maine and an Illinois District Court each ruled that Trump was disqualified from serving as president based on his incitement of the January 6 insurrection. Although the United States Supreme Court overturned the Colorado Supreme Court's decision and found that states cannot enforce Section 3 against federal office seekers without a congressionally-prescribed procedure for doing so, the Court left undisturbed the lower courts' findings that Trump was an oath-breaking insurrectionist.

12. As the DOJ office charged with providing legal advice to the President and all executive branch agencies, OLC's views on this subject carry great weight..

13. On January 25, 2023, CREW submitted a FOIA request to DOJ seeking all opinions, memoranda, or analyses issued by the Office of Legal Counsel ("OLC") concerning Section 3 of the Fourteenth Amendment.

14. CREW's FOIA request explained that the records sought would "shed light on the extent to which DOJ has been engaged in this issue and understands the role it should play in determining former President Trump's fitness and eligibility for federal office." Exhibit A.

15. CREW's request sought a fee waiver. *Id.*

16. By letter dated February 15, 2023, OLC acknowledged receipt of CREW's FOIA request No. FY23-035.

17. To date, CREW has received no other communications from Defendant regarding its January 25, 2023 FOIA request.

PLAINTIFF'S CLAIMS FOR RELIEF

DOJ's Wrongful Withholding of Records Responsive to CREW's FOIA Request

18. CREW repeats and re-alleges the foregoing paragraphs.

19. In its January 25, 2023 FOIA request, CREW properly asked for records within the possession, custody, and control of the DOJ.

20. DOJ is wrongfully withholding records responsive to CREW's request.

21. DOJ has failed to conduct an adequate search in response to CREW's FOIA request.

22. By failing to timely release all requested records in full to CREW, the DOJ is in violation of FOIA.

23. CREW has constructively exhausted its administrative remedies.

24. CREW is therefore entitled to injunctive and declaratory relief requiring immediate processing and disclosure of the requested records.

Requested Relief

WHEREFORE, Plaintiff respectfully requests that this Court:

(1) Order Defendant to immediately and fully process CREW's FOIA request and disclose all non-exempt records to CREW;

(2) Declare that CREW is entitled to immediate processing and disclosure of the requested records;

(3) Provide for expeditious proceedings in this action;

(4) Retain jurisdiction of this action to ensure no agency records are wrongfully withheld and ensure compliance with this Court's orders;

(5) Award CREW its costs and reasonable attorneys' fees in this action; and

(6) Grant such other relief as the Court may deem just and proper.

Date: June 13, 2024

Respectfully Submitted,

/s/ Laura Iheanachor
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