

UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLUMBIA

-----X
)
Christopher-Earl: Strunk © in esse,)
593 Vanderbilt Ave. - 281 Brooklyn 11238)
)
Plaintiff,)
)
v.) Civil Action No.: 08-2234 (RJL)
)
U.S. DEPARTMENT OF STATE, et al.)
)
Defendants.)
-----X

AFFIDAVIT of Philip Hans Jacobsen

STATE OF CALIFORNIA)
) ss.
COUNTY OF SAN DIEGO)

I, **Philip Hans Jacobsen**, being duly sworn, depose and say under penalty of perjury:

1. I am over 18 years of age, not a party herein, and located for service at 1158 Thalia Street, San Diego, CA 92154; Phone (619) 424-3385.
2. Affiant is a Natural Born Citizen of the United States of America.
3. Affiant is a Private Investigator licensed by the State of California, California State License #PI15945, and has been so licensed since 1992.
4. Affiant is also a retired Senior Border Patrol Agent, Immigration &

Naturalization Service, U.S. Department of Justice.

5. Plaintiff requests that Affiant make this affidavit in response to the Reply Memorandum of Law in Support of Defendants' Motion for Summary Judgment by Brigham J. Bowen, United States Attorney, dated September 16, 2010.

6. Affiant believes as a sworn witness in this case and former sworn law enforcement officer of the United States that Affiant is duty bound if not legally required to bring to the immediate attention of the Court egregious bad faith conduct by Defendant in their Reply memorandum. Affiant also believes in the interest of Justice, the deception by Defendant's agents (hereinafter "Defendant") necessitates the clarification and further explanation of Affiant's previously submitted affidavit.

7. Defendant, referring to Plaintiff's own filing(s) and, more specifically citing this Affiant's previous Affidavit quotes @ ¶ 5:

"Jacobsen Aff. [Dkt. #41-2] at ¶ 20 (observing that State maintains "some passport application records created between 1962 and 1978")(emphasis added)."

8. Defendant(s), at the time this entry was made, knew, or should have known, that it was a misquote, and that it would result in a statement likely to mislead the court. Defendant(s) further had the hubris to add emphasis to the misquote. The quote correctly reads, in its entirety, the following:

“the State Department maintains an electronic index of all passport application records created since 1978, and some passport application records created between 1962 and 1978.”

9. The wording deleted from the beginning of the quotation completely changes the meaning of the quote and makes it appear that DOS has only some passport application records created between 1962 and 1978 when the full quote actually refers to the electronic index. Defendant’s agents should be looking at the actual paper records index, where the information for passports issued from 1909 to 1978, inclusive of the time period of the documents requested under this FOIA action, will reasonably be found.

10. Defendant further attempts to obfuscate the issue and the court by stating:

“It therefore should not surprise anyone that State might locate some, but not all, applications submitted by a single individual over the course of decades.”

11. In fact, in light of published U.S. Department of State Records Schedule, Chapter 13, Records Disposition Schedules and the DOS website as previously identified in the Jacobsen’s Affidavit dated August 5, 2010 @ ¶ 16, what actually is surprising is that the records sought cannot be found.

12. Defendant goes to great length to claim “numerous” searches were conducted in the PIERS system when defendant knew, or should have

known, that the PIERS system records retention began in 1978 and contains only “some” records from previous years. Therefore, PIERS would have been one of the least likely of all DOS records system(s) to produce any results for records prior to 1978.

13. Defendant also claims to have conducted “numerous searches of paper records” but fails to identify any of the records searched or even if any of the paper indices were searched.

14. In conflict with Defendant’s claim(s) of numerous searches of all records, it is known that Stanley Ann Dunham applied for and received a passport in 1965 yet according to Galovich’s Declaration ¶15 :

“No record of a 1965 passport application referenced in an application for amendment of passport in the name of Stanley Ann Dunham was located as noted in paragraph 12 above.”

According to DOS Records Schedule previously entered into evidence by Affiant and entitled Passport Authorization Sheets or Records further identified as,

“b. Index Cards. Arranged alphabetically. Master index to issuance’s 1909 through 1978 (paper records) Contains index cards with information on passport issuance, registration, consular reports of birth, and other information.”

An index record of a passport issued in 1965 would confirm the existence of an application around that time, so it is hard to believe that Mr. Galovich

would consider there to be "no record" of the application if he had seen index data for the 1965 passport itself. If the index record itself was missing, that should have led to further inquiry regarding why it was missing. Taken together with Mr. Galovich's failure to mention that he had looked in the index, it seems unlikely that he did. A passport application like my mother's applications includes the date of issue. Is that also not a record of a passport application? The absence of further description by Defendant is perplexing to say the least. Defendant does not claim to have searched any paper indices reasonably expected to expose the issuance of a 1965, or earlier, passport.

15. In Defendant's moving papers a document, most recently described as a "cable," was referenced. This unsigned document is of unknown provenance and, to the best of Affiant's knowledge, has never been authenticated.

16. In reviewing Mr. Galovich's Declaration, Affiant has strong questions and concerns about its contents. Mr. Galovich is the Acting Director of the IPS which processes FOIA's, and has been employed by DOS since 1974. If the "destruction" is to be believed, surely he must have run into or been aware of numerous similar requests where documents were not located that necessitated DOS standardized "boiler plate" responses claiming like

or similar destruction numbering in the hundreds, if not thousands, over the years. From my reading of the GAO 1981 review of DOS Passport Services, I have estimated that the number of requests for passport applications older than 5 years was approximately 5,000 per year (15% of 34,000) in 1979. Therefore, DOS, before implementing this "project," knew they would have hundreds if not thousands of requests each year for destroyed records. It is unconscionable that they did not put in place both a mechanism to prevent ordering the records and have in place a proper response when a request was received for such destroyed records. In Defendant's effort to show that they made a reasonable search for records, they located one 1980's document, which purports to describe an "unnamed" project, which had over 40 employees, was located away from main offices, likely cost hundreds of thousands of dollars and resulted in the separation of millions of files and destruction of potentially millions of passport applications.

17. DOS wants Plaintiff, this court and millions of Americans to believe that they instituted an "unnamed" project of this magnitude and importance and there is only one scrap of unsigned paper and no witnesses willing to memorialize and testify to this historic "purge".

18. A closer look at Mr. Galovich's Declaration (p12) makes it appear to

me that Defendant is sidestepping the “cable” and disowns any knowledge of it through his failure to authenticate it. He merely states,

“Plaintiff was advised in that letter (Rolbin letter of 7/29/2010 - Exhibit 6) that Passport Services did not locate a 1965 passport application referenced in an application for amendment of passport. The Department concluded it was likely destroyed as part of a records disposition project in the 1980’s in which routine passport applications and other non-vital records from 1925-1968 were destroyed in accordance with continued requests from the General Services Administration to reduce the amount of space used to store routine passport records and other non-vital records (exhibit 7).”

19. It appears that neither Galovich nor Rolbin are willing to verify the authenticity of this “cable” and appear to be tossing it back and forth like a “hot potato.”

20. Defendant alleges that many documents were destroyed by the purported purge, yet they found two documents that appear to me as the type that should have been destroyed during that purge. They were somehow miraculously able to produce them. DOS’s own evidence proves that the records were not destroyed. Those two documents are: the 1967 amendment of passport application by Stanley Ann Dunham; and the 1968 renewal of passport by Stanley Ann Dunham Soetoro. It brings one to wonder how these two documents escaped destruction and were able to be found, but as claimed by Defendant, the more important 1965 Passport

Application was somehow destroyed.

21. Based upon Affiant's knowledge, experience and time employed by the federal government Affiant finds it irreconcilable that such a large and significant project is and has remained obscure, unnamed, undocumented and unknown until this instant FOIA request. DOS has had over a month since Plaintiff asked DOS for documentation of the alleged passport records destruction, (8/9/2010). Surely, Defendant has had time to get someone, anyone, out of a pool of over 20,000 current employees and tens of thousands of retired employees to testify about the project. And, if this is not enough, not one SF-115 (Disposition of Federal Records) or SF-135's (Records Transmittal and Receipt) has been produced by the defense in this case.

//

//

//

//

//

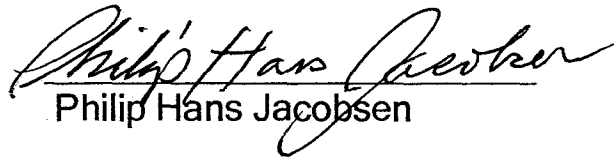
//

//


//

22. Defendant's silence on all pertinent matters is deafening, and based upon my knowledge and experience and the totality of circumstances it appears that DOS has chosen to cherry-pick the documents.

23. I do solemnly swear under penalty of perjury of the State of California this date September 21, 2010 in the County of San Diego, State of California that the facts and circumstances described above are true and correct to the best of my knowledge.


Philip Hans Jacobsen

Sworn to before me
This 21 day of September 2010


Notary Public

