

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

DEMOCRATIC NATIONAL COMMITTEE )  
430 S. Capitol Street, S.E. )  
Washington, D.C. 20003, )

Plaintiff,

v.

UNITED STATES DEPARTMENT OF JUSTICE )  
950 Pennsylvania Avenue, N.W. )  
Washington, D.C. 20530 )

Defendant

Case: 1:07-cv-00712  
Assigned To : Huvelle, Ellen S.  
Assign. Date : 4/19/2007  
Description: DNC V USDOJ

**COMPLAINT FOR DECLARATORY AND  
INJUNCTIVE RELIEF**

Plaintiff Democratic National Committee (“DNC”) files this complaint under the Freedom of Information Act, 5 U.S.C. § 552 (“FOIA”) for declaratory and injunctive relief, seeking the disclosure and release of agency records improperly withheld from plaintiffs by defendant United States Department of Justice (“DOJ”). As grounds, therefore, plaintiff alleges as follows:

**JURISDICTION AND VENUE**

1. This Court has jurisdiction over this action pursuant to 28 U.S.C. §1331 and 5 U.S.C. §552(a)(4)(B)(FOIA).

2. Venue is proper in this district pursuant to 5 U.S.C. §552(a)(4)(B) and 28 U.S.C. §1391(e).

### **PARTIES**

3. Plaintiff DNC is an unincorporated association which serves as the governing body of the Democratic Party of the United States and which is the national committee of the Democratic Party within the meaning of the Federal Election Campaign Act of 1971 as amended, 2 U.S.C. §431(14). The DNC's principal place of business is located at 430 S. Capitol Street, S.E., Washington, D.C. 20003.

4. Defendant DOJ is a department of the Executive Branch of the United States Government. Defendant DOJ's principal place of business is located at 950 Pennsylvania Avenue, N.W., Washington, D.C. 20530.

5. Defendant DOJ has possession, custody and control of the records sought by plaintiff pursuant to FOIA.

### **FACTUAL ALLEGATIONS**

6. On March 19, 2007, the DNC sent to Melanie Ann Pustay, Acting Director of the DOJ Office of Information and Privacy, a letter signed by the DNC's Chairman, Governor Howard Dean, and co-signed by a number of other citizens, requesting, pursuant to FOIA:

“(a) all documents in the possession, custody or control of the Office of Attorney General, Office of the Deputy Attorney General and Office of the Associate Attorney General, prepared on or after November 1, 2004, constituting, reflecting or referring to communications to or from or to any officer or employee of the Republican National Committee or any state or local Republican Party committee, referring, relating to or discussing (1) any prospective or ongoing investigation or prosecution; (2) initiating any investigation or prosecution; or (3) the appointment or termination of any United State Attorney; or (4) the

performance, work or activity of any United States Attorney or Office of United States Attorney; and

(b) all e-mail messages in the possession, custody or control of the Office of Attorney General, Office of the Deputy Attorney General and Office of the Associate Attorney General, sent on or after November 1, 2004, to or from any e-mail address including the domain name 'GWB43.com.'”

7. In its FOIA request, the DNC stated that it would pay any fees for searching or copying the requested records in accordance with the DOJ's FOIA fee regulations, 28 C.F.R. §16.11 (2006).

8. As of April 18, 2007 Defendant DOJ has failed to acknowledge receipt of the DNC FOIA request.

9. As of April 18, 2007 Defendant DOJ has failed to act on the DNC FOIA request and has failed to produce any of the requested records or to assert that the requested records are being withheld pursuant to any lawful FOIA exemption.

### COUNT I

10. The allegations of paragraphs 1 through 11 hereof are incorporated herein by reference as if set forth in full.

11. Pursuant to FOIA, 5 U.S.C. §552(a)(6)(A)(i), the response of defendant DOJ to the DNC's March 19, 2007 FOIA request was due within twenty (20) working days of DOJ's receipt of the request. Such response was therefore due on or before April 16, 2007. Within that time period, DOJ was required to determine whether to comply with the request and notify the DNC of that determination, the reasons therefore and the right to appeal any adverse determination.

12. Defendant DOJ has failed to comply with the time limit set forth in FOIA, 5 U.S.C. §552(a)(6)(A)(i), for making a determination on the DNC's FOIA request, and has also failed to provide to the DNC any written notice of any extension of that time limit pursuant to 5 U.S.C. §552(a)(6)(B). Defendant DOJ has also failed to acknowledge the DNC's FOIA request and provide an assigned request number as is customary under DOJ FOIA regulations. 28 C.F.R. § 16.6(a).

13. By reason of DOJ's failure to comply with the applicable time limit as set forth in paragraph 11 hereof, the DNC is deemed, pursuant to 5 U.S.C. §552(a)(6)(C)(i), to have exhausted its administrative remedies with respect to its March 19, 2007 FOIA request.

14. The requested records cannot lawfully be withheld from the DNC pursuant to any of the exemptions set forth in FOIA, 5 U.S.C. §552(b).

15. Pursuant to FOIA, 5 U.S.C. §552(a)(3), the DNC has a right of timely access to all of the documents requested in its March 19, 2007 FOIA request, and defendant DOJ has no legal basis for refusing to disclose to the DNC the documents requested by the DNC.

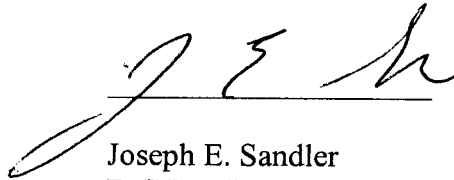
16. DOJ has, in violation of FOIA, wrongfully withheld the records requested by the DNC in its March 19, 2007 FOIA request and continues to refuse to disclose such records to the DNC, all in violation of FOIA.

WHEREFORE, plaintiff DNC requests that the Court:

1. Declare that defendant DOJ's refusal to disclose the documents requested by plaintiff is unlawful;

2. Enjoin defendant DOJ from withholding those requested agency records from plaintiff;
3. Order defendant DOJ to make the requested documents available to plaintiff;
5. Award plaintiff DNC its costs and attorneys' fees; and
6. Grant such other and further relief as is just and proper.

Respectfully submitted,



Joseph E. Sandler  
D.C Bar # 255919  
Sandler Reiff & Young, P.C.  
50 E Street, S.E. #300  
Washington, D.C 20003  
Tel: (202) 479-1111  
Fax: (202) 479-1115

Amanda S. La Forge  
D.C. Bar #491909  
Chief Counsel  
Democratic National Committee  
430 S. Capitol St SE  
Washington DC 20003  
Tel (202) 863-8000  
Fax (202) 479-6162

Attorneys for Plaintiff  
Democratic National Committee

Dated: April 19, 2007