

UNITED STATES DISTRICT COURT  
SOUTHERN DISCRICT OF NEW YORK

Richard Tarzia	)	
	)	Second Amended
Plaintiff,	)	Complaint for Declaratory
v.	)	and Injunctive Relief
Hillary Clinton, U.S. Secretary of	)	
State, and United States Department	)	
Of State	)	Docket: 10-CV-5654
Defendants.	)	Judge Koeltl

Plaintiff, attorney, Richard Tarzia, hereby alleges, upon information and belief as follows:

I. Introduction

1. This is a civil action brought by the Plaintiff to compel the Defendants and those acting under them to take action on the pending FOIA requests dated, May 14, 2010, May 26, 2010, and June 1, 2010. (Exhibit 1)

II. Jurisdiction

2. This Court has jurisdiction over the present action pursuant to the Freedom of Information Act ("FOIA") 5 U.S.C. § 552, for injunctive and other appropriate relief, and seeking the release of records concerning the preparation of the State Department country report and the asylum profile for the PRC. The Court also has jurisdiction under 28 USC § 1331, (federal

subject matter jurisdiction) in conjunction with 28 USC § 1361 (mandamus), the Administrative Procedure Act (“APA”) (5 USC § 555(b).

3. This Court has both subject matter jurisdiction over this action and personal jurisdiction over the parties pursuant to 5 U.S.C. § 552 (a)(4)(B). There is also jurisdiction under 28 USC § 1331.

6. Venue of this action is proper under 5 U.S.C. § 552 (a)(4)(B). The Plaintiff’s principal place of business is in this district.

### III. Parties

7. Plaintiff an attorney at law made a lawful FOIA request to challenge the allegations in the State Department reports in support of pending Asylum cases where clients are being unreasonably ordered removed to a country where they will likely face persecution. Defendant had 20 days to respond and failed to do so.

8. To date, USDOS has unreasonably failed to complete this request.

10. Plaintiff has made several attempts to follow up on this application. (Exhibit 2).

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#### IV. Request for Relief

11. The allegations contained in paragraphs 1-10 are above repeated and realleged as though fully set forth herein.

13. Plaintiff has complied with all of the requirements for seeking relief.

14. The Defendant has willfully and unreasonably delayed and has refused to process this request.

15. The delay in adjudicating the application is not attributable to Plaintiff.

16. The Defendant owes Plaintiff a duty to process this case.

17. The delay is unreasonable per se.

18. The delay is unreasonable in light of the fact that Plaintiff requires this information for ongoing pending Asylum case's.

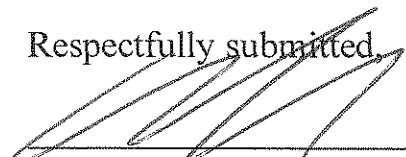
WHEREFORE, and in light of the foregoing, Plaintiff, prays that the Court:

A. Assume jurisdiction herein;

- B. Compel the Defendant and those acting under him to perform their duty,
- C. Grant such other and further relief, as the Court deems appropriate and just;
- D. Grant attorney's fees and costs of court.

Dated: New York, NY  
September 29, 2010

Respectfully submitted,



Richard Tarzia, Esq.  
Law office of Richard Tarzia  
22 East Broadway, 2<sup>nd</sup> Fl.  
New York, NY 10002  
(212) 226-6865

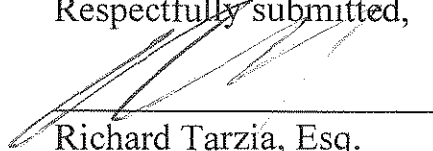
Verification

Richard Tarzia under penalty of perjury, states the following:

1. I am an attorney at law admitted to practice before this Court. I am the attorney of record in this matter and am fully familiar with the facts regarding this complaint.
2. I affirm the truth of the contents of the foregoing complaint upon information and belief. I personally made the within FOIA requests and I have not had a response from Defendant.

Dated: New York, NY  
September 29, 2010

Respectfully submitted,



Richard Tarzia, Esq.  
Law office of Richard Tarzia  
22 East Broadway, 2<sup>nd</sup> Fl.  
New York, NY 10002  
(212) 226-6865

***RICHARD TARZIA***  
*Attorney at Law*  
*PO Box 489*  
*Belle Mead, New Jersey 08502*  
*(908) 874-7299 fax (908) 428-6092*

*May 14, 2010*

Office of Information Programs and Services  
A/GIS/IPS/RL  
U. S. Department of State  
Washington, D. C. 20522-8100

Re: FOIA Request

Dear FOIA Officer:

This is a request filed under the Freedom of Information Act.

Date range of request: January 1, 2004 through May 30, 2007

Description of Request:

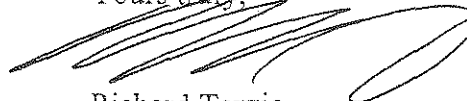
1. Please search the records of the Bureau of Democracy, Human Rights and Labor Files for all documents, research notes, papers, etc., regarding the research, investigation, preparation and publication of Part IV (and all of its subsections) entitled: CLAIMS BASED ON POPULATION POLICIES, of the May 2007, CHINA: PROFILE OF ASLYUM CLAIMS AND COUNTRY CONDITIONS.

2. Included in the search of records in request above, please include the names and titles of the person or persons who is or was responsible and/or assisted in the research, investigation and publication of Part IV (and all of its subsections) entitled: CLAIMS BASED ON POPULATION POLICIES, of the May 2007 CHINA: PROFILE OF ASLYUM CLAIMS AND COUNTRY CONDITIONS.

I am willing to pay up to \$250 for the processing of this request. Please inform me if the estimated fees will exceed this limit before processing my request.

I am seeking information for personal use and not for commercial use.

Yours truly,



Richard Tarzia