

UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLUMBIA

CHRISTOPHER EARL STRUNK,

Plaintiff,

v.

U.S. DEPARTMENT OF STATE,
U.S. DEPARTMENT OF HOMELAND
SECURITY,

Defendants.

Case No. 1:08-CV-02234 (RJL)

**DEFENDANTS' ANSWER
TO PLAINTIFF'S AMENDED COMPLAINT**

Defendants the United States Department of State ("DOS") and the United States Department of Homeland Security ("DHS") hereby answer Plaintiff's Amended Complaint [Dkt. #9] in the following numbered paragraphs, which correspond to the Amended Complaint's numbered paragraphs. Defendant denies each and every allegation contained in the Amended Complaint except as may be expressly admitted herein.

Jurisdiction and Venue

1. Paragraph 1 contains statements of legal conclusions, not factual allegations requiring a response, and on that basis, Defendants deny.
2. Paragraph 2 contains statements of legal conclusions, not factual allegations requiring a response, and on that basis, Defendants deny.
3. Admit that Plaintiff filed the Amended Complaint raising alleged claims under the FOIA. Admit that Plaintiff seeks an order requiring Defendants to comply with the FOIA and to release records related to the individuals named in paragraphs 3a and 3b of the Amended

Complaint. Admit that Stanley Ann Dunham (“Dunham”), born on or about November 29, 1942, is deceased. Deny that Defendants have failed to fulfill their obligations under the FOIA. To the extent Plaintiff makes allegations regarding Barack H. Obama (“President Obama”), such allegations are subject to a pending motion to dismiss, and on that basis, Defendants deny. Nonetheless admit that President Obama is a living natural person, born on August 4, 1961. Defendants are without knowledge or information sufficient to form a belief as to the truth of the remaining allegations in this paragraph.

4. Admit that Plaintiff filed FOIA requests for various documents. Defendants refer the Court to these requests for a complete and accurate representation of their contents.
5. Admit that plaintiff seeks relief under the FOIA and 28 U.S.C. § 1651. Defendants deny that Plaintiff is entitled to relief.
6. Admit that Plaintiff seeks compelled release of various records. Defendants deny that Plaintiff is entitled to relief.
7. Paragraph 7 contains preambular language to which no response is required. To the extent that a response is deemed required, Defendants incorporate by reference their answers to paragraphs 8-65, below.

The Parties

8. Admit that Plaintiff’s name is Christopher Earl Strunk. Defendants lack knowledge or information sufficient to form a belief about the truth of the remaining allegations in paragraph 8.
9. Admit.
10. DHS admits that it is a governmental agency. DHS denies it was created pursuant to the

USA Patriot Act and avers that it was created pursuant to the Homeland Security Act of 2002, Pub. L. No. 107-296. DHS denies that the Secretary of Homeland Security is Michael Chertoff. DHS avers that the current Secretary of Homeland Security is Janet Napolitano.

11. DHS admits that U.S. Customs and Border Protection (“CBP”) is an agency within DHS and admits that CBP is located at 799 Ninth St, NW at the Mint Annex, Washington, DC 20229. Defendants deny that CBP is titled the “Bureau of Customs and Border Control.” DHS denies that CBP was created pursuant to the USA Patriot Act and avers that it was created pursuant to the Homeland Security Act of 2002, Pub. L. No. 107-296. DOS lacks knowledge or information sufficient to form a belief about the truth of the allegations in this paragraph.

Facts

12. DOS admits that Plaintiff submitted to DOS a FOIA request, dated October 16, 2008. DOS refers the Court to that request for a complete and accurate representation of its contents. DOS admits that Plaintiff mailed the request on or about October 16, 2008, via United States Postal Service, certified mail, return receipt requested. DOS refers the Court to the document marked as Exhibit A to the Amended Complaint for a complete and accurate representation of its contents. DHS lacks knowledge or information sufficient to form a belief about the truth of the allegations in this paragraph.
13. DOS admits that Plaintiff submitted a FOIA request to DOS. DOS refers the Court to the documents referenced as Exhibits A and B for a complete and accurate representation of their contents. DOS lacks knowledge or information sufficient to form a belief about the

truth of the remaining allegations in this paragraph. DHS lacks knowledge or information sufficient to form a belief about the truth of the allegations in this paragraph.

14. Defendants lack knowledge or information sufficient to form a belief about the truth of the allegations in paragraph 14. To the extent this paragraph refers to a document, Defendants refer the Court to the document referenced as Exhibit C for a complete and accurate representation of its contents.
15. Defendants lack knowledge or information sufficient to form a belief about the truth of the allegations in paragraph 15. To the extent this paragraph refers to a document, Defendants refer the Court to the document referenced as Exhibit D for a complete and accurate representation of its contents.
16. DOS admits that Plaintiff did not receive a response from DOS on or before November 7, 2008, regarding records relating to the individual described in paragraph 3a of the Amended Complaint. DOS lacks knowledge or information sufficient to form a belief about the truth of the other allegations in this paragraph. DHS lacks knowledge or information sufficient to form a belief about the truth of the allegations in this paragraph.
17. DOS admits that Plaintiff filed a FOIA request on or about November 22, 2008 and refers the Court to the request for a complete and accurate representation of its contents. DHS lacks knowledge or information sufficient to form a belief about the allegations in this paragraph.
18. DOS refers the Court to the request identified in Paragraph 17 of the Amended Complaint for a complete and accurate representation of its contents. DHS lacks knowledge or information sufficient to form a belief about the truth of the allegations in

this paragraph.

19. Defendants lack knowledge or information sufficient to form a belief about the truth of the allegations in paragraph 19. To the extent this paragraph refers to a document, Defendants refer the Court to the document referenced as Exhibit G for a complete and accurate representation of its contents.
20. Allegations concerning President Obama are subject to a pending motion to dismiss, and no response is therefore required. To the extent this paragraph refers to a document, Defendants refer the Court to the document referenced as Exhibit H for a complete and accurate representation of its contents. To the extent this paragraph alleges that President Obama may be an illegal alien or that President Obama is or ever was a citizen of Indonesia, those allegations are denied.
21. Defendants lack knowledge or information sufficient to form a belief about the truth of the allegations in paragraph 21.
22. DHS denies that plaintiff submitted a FOIA request with U.S. Customs and Border Protection dated December 26, 2008, and avers that it received a letter dated December 25, 2008, from Plaintiff. DHS refers the Court to the letter for a complete and accurate representation of its contents. DOS lacks knowledge or information sufficient to form a belief about the truth of the allegations in this paragraph.
23. Paragraph 23 contains conclusions of law, not factual allegations requiring a response, and on that basis, Defendants deny.
24. Paragraph 24 contains conclusions of law, not factual allegations requiring a response, and on that basis, Defendants deny.

25. Defendants lack knowledge or information sufficient to form a belief about the truth of the allegations in this paragraph concerning the Plaintiff's state of mind. Deny the remaining allegations in this paragraph.
26. Allegations concerning President Obama are subject to a pending motion to dismiss, and no response is therefore required. Further, Paragraph 26 contains conclusions of law, not factual allegations requiring a response and on that basis, Defendants deny. Nonetheless, admit that President Obama was elected President of the United States on November 4, 2008.
27. Denied.
28. Denied.
29. Allegations concerning President Obama are subject to a pending motion to dismiss, and no response is therefore required. To the extent this paragraph alleges that President Obama is not a natural-born citizen of the United States, that allegation is denied. Further, Paragraph 29 contains conclusions of law, not factual allegations requiring a response, and on that basis, Defendants deny.
30. Paragraph 30 contains conclusions of law, not factual allegations requiring a response, and on that basis, Defendants deny.
31. Paragraph 31 contains conclusions of law, not factual allegations requiring a response, and on that basis, Defendants deny.
32. Allegations concerning President Obama are subject to a pending motion to dismiss, and no response is therefore required. To the extent this paragraph alleges that President Obama is not a natural-born citizen of the United States, the allegation is denied. The

second sentence in this paragraph contains conclusions of law, not factual allegations requiring a response, and on that basis, Defendants deny.

33. Allegations concerning President Obama are subject to a pending motion to dismiss, and no response is therefore required. To the extent this paragraph alleges that President Obama's birth certificate has not been released to the public, that allegation is denied. To the extent this paragraph alleges that the birth certificate released to the public at the direction of President Obama is not a valid birth certificate or that such certificate is not sufficient proof of U.S. citizenship, those allegations are denied.
34. Allegations concerning President Obama are subject to a pending motion to dismiss, and no response is therefore required. To the extent this paragraph alleges that the birth certificate released to the public at the direction of President Obama is not a valid birth certificate or that such certificate is not sufficient proof of U.S. citizenship, those allegations are denied. To the extent this paragraph alleges that President Obama is not a natural-born citizen of the United States, the allegation is denied. Further, paragraph 34 contains conclusions of law, not factual allegations requiring a response, and on that basis, Defendants deny.
35. Allegations concerning President Obama are subject to a pending motion to dismiss, and no response is therefore required. To the extent this paragraph alleges that the birth certificate released to the public at the direction of President Obama is not a valid birth certificate or that such certificate is not sufficient proof of U.S. citizenship, those allegations are denied. To the extent this paragraph alleges that President Obama is not a natural-born citizen of the United States, the allegation is denied. Further, paragraph 35

contains conclusions of law, not factual allegations requiring a response, and on that basis, Defendants deny.

36. Allegations concerning President Obama are subject to a pending motion to dismiss, and no response is therefore required. To the extent this paragraph alleges that President Obama is not a natural-born citizen of the United States, that allegation is denied. Specifically, Defendants deny that President Obama was born in Kenya or anywhere outside the state of Hawaii. Further, paragraph 36 contains conjecture as to possible facts and conclusions of law, not factual allegations requiring a response, and on that basis, Defendants deny.
37. Allegations concerning President Obama are subject to a pending motion to dismiss, and no response is therefore required. To the extent this paragraph refers to a document, Defendants refer the Court to the document for a complete and accurate representation of its contents. To the extent this paragraph alleges that President Obama is not a natural-born citizen of the United States or that President Obama is or ever was a citizen of Indonesia, those allegations are denied.
38. Allegations concerning President Obama are subject to a pending motion to dismiss, and no response is therefore required. To the extent this paragraph refers to a document, Defendants refer the Court to the document for a complete and accurate representation of its contents. To the extent this paragraph alleges that Lolo Soetoro is or ever was President Obama's father by birth or adoption, that allegation is denied. To the extent this paragraph alleges that President Obama is or ever was a practicing Muslim, that allegation is denied.

39. Allegations concerning President Obama are subject to a pending motion to dismiss, and no response is therefore required. To the extent this paragraph alleges that President Obama is or ever was an Indonesian citizen, that allegation is denied.
40. Allegations concerning President Obama are subject to a pending motion to dismiss, and no response is therefore required. To the extent this paragraph alleges that President Obama is or ever was an Indonesian citizen, that allegation is denied.
41. Denied.
42. Paragraph 42 contains conclusions of law, not factual allegations requiring a response, and on that basis, Defendants deny.
43. Paragraph 43 contains conclusions of law, not factual allegations requiring a response, and on that basis, Defendants deny.
44. Allegations concerning President Obama are subject to a pending motion to dismiss, and no response is therefore required. To the extent this paragraph alleges that Lolo Soetoro is or ever was President Obama's father by birth or adoption, that allegation is denied. Further, paragraph 44 contains conclusions of law, not factual allegations requiring a response, and on that basis, Defendants deny.
45. Paragraph 45 contains conclusions of law, not factual allegations requiring a response, and on that basis, Defendants deny.
46. Paragraph 46 contains conclusions of law, not factual allegations requiring a response, and on that basis, Defendants deny.
47. Paragraph 47 contains conclusions of law, not factual allegations requiring a response, and on that basis, Defendants deny.

48. Allegations concerning President Obama are subject to a pending motion to dismiss, and no response is therefore required. To the extent this paragraph alleges that President Obama is not a natural-born citizen of the United States or that President Obama is or ever was a citizen of Indonesia, those allegations are denied. Further, paragraph 48 contains conclusions of law, not factual allegations requiring a response, and on that basis, Defendants deny.
49. Paragraph 49 contains conclusions of law, not factual allegations requiring a response, and on that basis, Defendants deny.
50. Allegations concerning President Obama are subject to a pending motion to dismiss, and no response is therefore required. To the extent this paragraph alleges that President Obama is not a natural-born citizen of the United States or that President Obama is or ever was a citizen of Indonesia, those allegations are denied. Further, paragraph 50 contains conclusions of law, not factual allegations requiring a response, and on that basis, Defendants deny.
51. Allegations concerning President Obama are subject to a pending motion to dismiss, and no response is therefore required. To the extent this paragraph alleges that President Obama is not a natural-born citizen of the United States or that President Obama is or ever was a citizen of Indonesia, those allegations are denied. Further, paragraph 51 contains conclusions of law, not factual allegations requiring a response, and on that basis, Defendants deny.
52. Paragraph 52 contains conclusions of law, not factual allegations requiring a response, and on that basis, Defendants deny.

53. Paragraph 53 contains conclusions of law, not factual allegations requiring a response, and on that basis, Defendants deny.
54. Allegations concerning President Obama are subject to a pending motion to dismiss, and no response is therefore required. To the extent this paragraph alleges that President Obama is not a natural-born citizen of the United States or that President Obama is or ever was a citizen of Indonesia, those allegations are denied. Further, paragraph 54 contains conclusions of law, not factual allegations requiring a response, and on that basis, Defendants deny.
55. Allegations concerning President Obama are subject to a pending motion to dismiss, and no response is therefore required. To the extent this paragraph alleges that President Obama is not a natural-born citizen of the United States or that President Obama is or ever was a citizen of Indonesia, those allegations are denied. Further, paragraph 55 contains conclusions of law, not factual allegations requiring a response, and on that basis, Defendants deny.

Arguments in Support of Relief

56. Paragraph 56 contains conclusions of law, not factual allegations requiring a response, and on that basis, Defendants deny.
57. Paragraph 57 contains conclusions of law, not factual allegations requiring a response, and on that basis, Defendants deny.
58. Paragraph 58 contains conclusions of law, not factual allegations requiring a response, and on that basis, Defendants deny.
59. Allegations concerning President Obama are subject to a pending motion to dismiss, and

no response is therefore required. Further, paragraph 59 contains conclusions of law, not factual allegations requiring a response, and on that basis, Defendants deny.

60. Paragraph 60 contains conclusions of law, not factual allegations requiring a response, and on that basis, Defendants deny.
61. Paragraph 61 contains conclusions of law, not factual allegations requiring a response, and on that basis, Defendants deny.
62. Allegations concerning President Obama are subject to a pending motion to dismiss, and no response is therefore required. To the extent this paragraph alleges that President Obama is not a natural-born citizen of the United States, that allegation is denied. Further, paragraph 62 contains conclusions of law, not factual allegations requiring a response, and on that basis, Defendants deny.
63. Allegations concerning President Obama are subject to a pending motion to dismiss, and no response is therefore required. To the extent this paragraph alleges that President Obama is not a natural-born citizen of the United States or is otherwise ineligible to serve as President of the United States, that allegation is denied. Further, paragraph 63 contains conclusions of law, not factual allegations requiring a response, and on that basis, Defendants deny.
64. Paragraph 64 contains conclusions of law, not factual allegations requiring a response, and on that basis, Defendants deny.
65. Paragraph 65 contains conclusions of law, not factual allegations requiring a response, and on that basis, Defendants deny.

AFFIRMATIVE DEFENSES

1. Plaintiff has failed to exhaust his administrative remedies.
2. Records at issue are exempt or excluded from disclosure under the Freedom of Information Act.
3. Plaintiff's claims against DHS are moot.
4. The Amended Complaint fails to state a claim for which relief can be granted.
5. Defendant DHS has not been properly served with process.

PRAYER FOR RELIEF

WHEREFORE, Defendants pray that the Court dismiss Plaintiff's suit with prejudice, render judgment that Plaintiff take nothing, assess costs against Plaintiff, and award Defendants all other relief to which they are entitled.

Dated: April 23, 2009

Respectfully submitted,

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Deputy Branch Director

/s/ Brigham J. Bowen
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CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on this 23rd day of April, 2009, a true and correct copy of the foregoing Answer was served upon Plaintiff by first class United States mail, postage prepaid marked for delivery to:

**Christopher E. Strunk
593 Vanderbilt Ave., #281
Brooklyn, NY 11238**

 /s/ Brigham J. Bowen
Brigham J. Bowen