

LEON WILDES

ATTORNEY AT LAW

*515 Madison Avenue
New York, N.Y. 10022*

PLaza 3-3468

CABLE ADDRESS
"LEONWILDES," N. Y.

August 1, 1973

Immigration and Naturalization Service
U.S. Department of Justice
Central Office
119 "D" Street, N.E.
Washington, D.C. 20536
Attention: Mr. E.A. Loughran,
Associate Commissioner, Management

Re: Your File: CO 2.12-C
CO 979-C

Dear Mr. Loughran:

Thank you for your letter of July 16, 1973 and its attachments.

As you undoubtedly already know, the essence of my request for information is contained in items b(ii), b(iii) and b(iv), and the information furnished by you in reply to these questions, cannot, by any stretch of the imagination, be considered to satisfy these reasonable requests which have continuously been made of your office.

Your replies to these three questions do not state specifically whether or not such records are kept. It would appear from your replies, that "statistics are not compiled" as to the cases in which deportation proceedings are not instituted because of humanitarian reasons, but it does not appear whether records exist, regardless of whether they have been reduced to statistics. Likewise, your reply that "data is not compiled on non-priority cases" does not advise whether you have such data in your possession, regardless of whether or not such data is "compiled", whatever that term may mean. From your reply that "data is not maintained" on cases administratively deferred for temporary periods for humanitarian reasons, one may reasonably assume that data is maintained, though perhaps not "compiled" on non-priority cases. In short, I find that your responses with respect to the essential questions put to your office on a

1048

Lennon, 2

number of occasions, are unresponsive. Furthermore, the delay caused by the continued necessity to repeat the requests for this information has prevented me from documenting one of the essential elements in connection with my client's appeal to the Board of Immigration Appeals.

As I have stated previously, the denial of this information by the District Director has prevented me from offering this information as a potential defence in the deportation proceedings before the Immigration Judge in New York. Your office's continued failure to furnish this information has resulted in my client's inability to fully document the argument on appeal. I must, accordingly, respectfully request that this information be furnished promptly.

I might add that it has come to my attention that district directors are required by internal operating practice to file a written report on every non-priority case with your office and that I find your failure to furnish this information, which is submittedly a part of your records and not exempt from the scope of the Freedom of Information Act to be an improper deprivation of my client's due process rights to a full and fair hearing of his alleged deportability from the United States.

Very truly yours,


LEON WILDES

LW/ts

Year 19
UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

JOHN WINSTON ONO LENNON,

Plaintiff,

--against--

ELLIOT RICHARDSON, LEONARD
CHAPMAN, EDWARD LOUGHRAN,
SOCRATES ZOLATAS, and SOL
MARKS,

Defendants

SUMMONS & COMPLAINT

LEON WILDES

Attorney for PLAINTIFF

Office and Post Office Address, Telephone

515 Madison Avenue
New York, New York 10022
PL 3-3468

To

Attorney for

Service of a copy of the within

is hereby admitted.

Dated,

Attorney for

Yours, etc,

Attorney for
Office and Post Office Address

To
Attorney for

NOTICE OF SETTLEMENT

Sir: Please take notice that an order

of the within is a true copy will be presented
for settlement to the Hon.

one of the judges of the within named Court, at
on the day of 19
at M.
Dated, Yours, etc,

Attorney for
Office and Post Office Address

*Recd
10/25/73
W. Wildes*

1973 cont

United States District Court

FOR THE

Southern District of New York

JUDGE WARD

CIVIL ACTION FILE NO. 73 Civ 4476

JOHN WINSTON ONO LENNON

Plaintiff

DISTRICT DIRECTOR
RECEIVED

OCT 25 1973

New York, N. Y. 10007

SUMMONS

ELLIOT RICHARDSON, Attorney General of the United States; LEONARD CHAPMAN, Commissioner, Immigration and Naturalization; EDWARD A. LOUGRAN, Associate Commissioner, Immigration and Naturalization; SOCRATES ZOLATAS, Regional Commissioner, Northeastern Region, Immigration and Naturalization; SOL MARKS, District Director, District No. 3, Immigration and Naturalization, Defendants.

To the above named Defendant :

You are hereby summoned and required to serve upon

LEON WILDES

Plaintiff's attorney , whose address is

515 Madison Avenue
New York, N.Y. 10022

an answer to the complaint which is herewith served upon you, within 60 days after service of this summons upon you, exclusive of the day of service. If you fail to do so, judgment by default will be taken against you for the relief demanded in the complaint.

/s/ Raymond F Burahardt
Clerk of Court.
/s/ E. A. Becker
Deputy Clerk.

Date: October 18, 1973

[Seal of Court]

Note:—This summons is issued pursuant to Rule 4 of the Federal Rules of Civil Procedure.

RETURN ON SERVICE OF WRIT

I hereby certify and return, that on the _____ day of _____ 19____

I received this summons and served it together with the complaint herein as follows:

IN SENATE JANUARY 1919
HOUSE OF REPRESENTATIVES
COMMISSIONERS OF THE GENERAL LAND OFFICE
UNITED STATES DEPARTMENT OF THE INTERIOR
WASHINGTON, D. C.

RETURN SERVICE FOR PROCEEDING QUANTUM IN RE COMPLAINT

UNITED STATES MARSHAL'S FEES

Travel \$ _____
Service _____
By _____
Deputy United States Marshal.

Subscribed and sworn to before me, a _____
day of _____, 19____

[SEAL]

Note:—Affidavit required only if service is made by a person other than a United States Marshal or his Deputy.

No. _____
United States District Court
FOR THE
Southern District of New York

JOHN WINSTON ONO LENNON,
Plaintiff,

v.
ELLIOT RICHARDSON, LEONARD
CHAPMAN, EDWARD A. LOUGHRAN,
SOL MARKS, SOCRATES ZOLATAS,
and IMMIGRATION AND NATURAL-
IZATION, Defendants.

SUMMONS IN CIVIL ACTION

Returnable not later than _____ days
after service.

LEON WILDES
Attorney for Plaintiff

CIVIL ACTION FILE NO. _____

4. Defendant LEONARD CHAPMAN, is Commissioner of the Immigration and Naturalization Service, with offices in Washington, D.C.

5. Defendant SOCRATES ZOLATA, is the Regional Commissioner of the Northeastern Region of the Immigration and Naturalization Service.

6. Defendant EDWARD A LOUGHRAN, is Associate Commissioner of the Immigration and Naturalization Service, with offices in Washington, D.C.

7. Defendant SOL MARKS is District Director of District No. 3 of the Immigration and Naturalization Service, with offices in the City of New York, State of New York.

JURISDICTION

8. This Court has jurisdiction in accordance with 5 U.S.C. §552(a)(3) over the subject matter of this complaint; insofar as the remedy provided be considered to be an injunction in the nature of Mandamus, this Court has jurisdiction over the subject matter of the Complaint pursuant to the provisions of both 28 U.S.C. §1361 and 5 U.S.C. §552(a)(3).

VENUE

9. As a cause of action under the Freedom of Information Act, venue is proper in the Southern District of New York, since the plaintiff (complainant) resides within said district; insofar as the Complaint presents an issue of mandamus, venue is proper in compliance with 28 U.S.C. §1391(e), in that the Defendants are public officials sued in their official capacity.

4. Defendant LEONARD CHAPMAN, is Commissioner of the Immigration and Naturalization Service, with offices in Washington, D.C.

5. Defendant SOCRATES ZOLATA, is the Regional Commissioner of the Northeastern Region of the Immigration and Naturalization Service.

6. Defendant EDWARD A LOUGHRAN, is Associate Commissioner of the Immigration and Naturalization Service, with offices in Washington, D.C.

7. Defendant SOL MARKS is District Director of District No. 3 of the Immigration and Naturalization Service, with offices in the City of New York, State of New York.

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VENUE

9. As a cause of action under the Freedom of Information Act, venue is proper in the Southern District of New York, since the plaintiff (complainant) resides within said district; insofar as the Complaint presents an issue of mandamus, venue is proper in compliance with 28 U.S.C. §1391(e), in that the Defendants are public officials sued in their official capacity.

PRELIMINARY FACTS

10. On August 13, 1971 the Plaintiff was admitted to the United States as a non-immigrant visitor for pleasure, and was authorized to remain in the United States until February 29, 1972.

11. On March 1, 1972, a letter from defendant MARKS was written granting plaintiff permission to remain in the United States until March 15, 1972, and on March 3, 1972 Plaintiff filed a petition for status as an outstanding artist.

12. Three days later, on March 6, 1972 and again on March 7, 1972, Orders to Show Cause in deportation proceedings were issued against plaintiff by defendant MARKS charging Plaintiff with overstaying in the United States and with failing to comply with the conditions of his status, making Plaintiff the respondent in a deportation proceeding of the defendants.

13. Precipitated by an action against defendant MARKS commenced in this Court entitled JOHN WINSTON ONO LENNON and ano. against SOL MARKS, Civil Action No. 72 C 1784, resulting in a temporary restraining order, defendant MARKS granted plaintiff's application for third-preference status as an outstanding artist, but nevertheless proceeded with the deportation hearing, which hearing had been adjourned to May 2, 1972.

THE RECORDS

14. Pursuant to Title 5, U.S.C. §552, the Plaintiff, by his attorney, LEON WILDES, demanded various records and information from the defendant MARKS, as District Director of the Immigration and Naturalization Service, on May 1, 1972, which

were deemed necessary to prepare a proper defense to the deportation proceedings. [The demand is attached hereto and made a part hereof as Exhibit "A".]

15. The records therein and herein concerned are records kept by the defendants, in the ordinary course of their duties relating to the administration of the immigration laws, and concern various records and statistics about (a) aliens apprehended who are excludable or deportable and the various legal grounds under which they are deported or excluded; (b) aliens against whom formal deportation proceedings were actually commenced; and aliens whose cases were administratively considered "non-priority" cases, against whom deportation proceedings were not commenced as well as the basis or criteria for determinations made by the defendants not to commence proceedings in their cases; and (c) the standards for classification of cases as "non priority." These are the basic records which are the subject of this action, and the requested records are in the exclusive control of the defendants, are not accessible to the public, and the procedures for their classification, though of general applicability in the cases of all aliens subject to the U.S. Immigration laws, are not the subject of published regulations available to the public or interested individuals.

THE REQUESTS AND DENIALS

16. As described, supra, Plaintiff, by his attorney, demanded the records described in paragraph #15 of the within complaint on May 1, 1972 from defendant MARKS, both formally (See Exhibit "A") and informally, by way of a motion to terminate the deportation proceedings.

17. Prior to May 23, 1972, no reply whatsoever was forthcoming from the defendant MARKS.

18. On May 23, 1972, Plaintiff's attorney telephoned Vincent A. Schiano, Esq., the trial attorney for the defendant MARKS, who informed plaintiff's attorney that no reply would be forthcoming.

19. On June 5, 1972, Plaintiff's attorney informed defendant MARKS of this fact by letter dated June 5, 1972 (attached hereto as Exhibit "B"), advising defendant MARKS that the Special Inquiry Officer (now called Immigration Judge) had granted Plaintiff until July 1, 1972 to file a brief in support of plaintiff's motion to terminate the deportation proceedings based upon the information which was anticipated to be forthcoming pursuant to the May 1, 1972 demand under 5 U.S.C. §552.

20. By letter dated June 14, 1972, defendant MARKS advised Mr. Wildes that the defendant maintained a public reading room in which certain materials were available for use, which materials, however, did not furnish the Plaintiff with any of the information requested, and for such matters, defendant MARKS referred Plaintiff to the Statistical Branch of the Immigration and Naturalization Service, at its Central Office located in Washington, D.C. (See Exhibit "C" attached hereto.)

21. By letter dated June 27, 1972, Plaintiff, by his attorney, moved before the Immigration Judge for permission to take the testimony of government witnesses in support of the Plaintiff's motion to terminate the deportation proceedings, repeating Plaintiff's allegation that the defendants had violated their own established practice and policy in commencing deportation proceedings against Plaintiff, which practice would be demonstrated by the disclosure of the information in full demanded in the May 1, 1972 requests (See Exhibit "A") and further advising the Immigration Judge of the occurrences to date. [See Exhibit "D" attached hereto.]

22. That motion, as a part of his decision, was denied by the Immigration Judge in his opinion which issued March 23, 1973.

23. On April 13, 1973, Plaintiff, by his attorney, made a demand identical to the May 1, 1972 demand, from the Central Office of the Immigration and Naturalization Service. [See Exhibit "E" attached hereto.]

24. By letter dated May 16, 1973, defendant LOUGHRAN, Associate Commissioner of the Immigration and Naturalization Service, advised Plaintiff's attorney to meet with defendant MARKS to discuss the various requests made. [See Exhibit "F" attached hereto.]

25. By letter dated May 21, 1973, Plaintiff, by his attorney, advised defendant LOUGHRAN that unless the information was received within thirty (30) days of his letter, he would commence legal proceedings to secure the information which had not yet been disclosed, although more than one year had passed. [See Exhibit "G" attached hereto.]

26. By letter dated May 31, 1973, defendant LOUGHRAN advised Plaintiff's attorney that although the agency's [Immigration and Naturalization Service] form [Form N-585] had not been filed, he was sending the agency's Annual Report for 1972 which contained "some" of the information sought by Plaintiff's counsel, but that as to the other information, the Form N-585 was necessary, along with the requisite filing fee. [See Exhibit "H" attached hereto.]

27. By letter dated June 5, 1973, Plaintiff, by his attorney, supplied defendant LOUGHRAN with the requisite form [Form N-585], which, though it did not lend itself to the type of request being made in behalf of Plaintiff, was completed and forwarded to defendant LOUGHRAN, advising defendant LOUGHRAN that the request was being made primarily as to decisions

made not to commence or maintain deportation proceedings against certain aliens, decisions concerning "non-priority" cases, a class of aliens, it is alleged, which should have included the Plaintiff. [See Exhibit "I" attached hereto.]

28. By an undated letter, defendant LOUGHRAN advised Plaintiff's attorney that a fee of three(\$3.00)dollars should have accompanied the application [See Exhibit "J"] which was sent to defendant LOUGHRAN on June 19, 1973 [See Exhibit "K"].

29. By letter dated July 16, 1973, defendant LOUGHRAN disclosed some, and did not disclose other, information requested in behalf of the Plaintiff, on May 1, 1972, almost fifteen (15) months earlier; however, by his letter, defendant LOUGHRAN advised that: (a) statistics were not compiled on the number of cases in which proceedings were not commenced because of humanitarian reasons; (b) data is not compiled on "non-priority cases," (cases which the government decides not to commence deportation proceedings); (c) data is not compiled on cases administratively "deferred" for temporary periods or "delayed" for humanitarian reasons; however, defendant did define what a "non-priority" case was, in that it "is one in which the Service in the exercise of discretion determines that adverse action would be unconscionable because of appealing humanitarian factors," such cases being "identified at an early stage in Service processing and are not put under deportation proceedings;" the factors considered, as explained by defendant LOUGHRAN, were (1) significantly adverse impact on subsisting and close family relationships; (2) age of the alien; (3) length of residence in the United States; (4) physical and mental health of the alien. [See Exhibit "L" attached hereto.]

30. By letter dated August 1, 1973, Plaintiff's attorney on behalf of the Plaintiff advised defendant LOUGHRAN that the essence of the request was for the information which defendant LOUGHRAN stated that "data was not compiled." [See Exhibit "M"] and that although data may not be "compiled," clearly records were kept of such decisions not to commence non-priority deportation proceedings, that these records were or should be available to Plaintiff pursuant to the Freedom of Information Act and again demanding information as to said records, since, upon information and belief, district directors of the Service are required by internal operating practice to prepare a written report on every non-priority case stating the grounds and facts upon which the decision is made to delay deportation proceedings in each case, and file copies of same with the appropriate Regional Commissioner and with the office of the defendant LOUGHRAN.

31. Plaintiff has, by his attorney, exhausted whatever administrative remedies were provided and whatever administrative remedies defendants advised Plaintiff that he had, and there has been no response whatsoever to the last request dated August 1, 1973, a period of over two and one-half months.

32. The records requested are not exempt from public disclosure, either by the Freedom of Information Act, or by any other appropriate statute.

33. The procedures and criteria for determinations as to whether cases are to be considered in the "non-priority" category are of general applicability and should be available to the public.

34. Defendants, jointly or severally, are obligated to furnish the Plaintiff with the records requested, promptly, which they have failed or neglected to do and which they continue to fail or neglect to disclose.

WHEREFORE, Plaintiff prays that this Court:

1. Issue a preliminary and final injunction directing defendants to cease from withholding from plaintiff the records kept by defendants as to the cases in which the defendants decide not to commence deportation proceedings or decide to defer commencement of deportation proceedings (records as to "non-priority cases" and "special deferred cases"), together with any evidence, criteria and standards considered by the defendants in making such decisions and determinations;

2. Order defendants to make available to plaintiff the records described in paragraph #1 of this prayer for relief, and more fully described in the complaint herein;

3. In lieu thereof, supply to plaintiff a statement of the reasons for the decision and determination of all "non-priority" and "special deferred" cases and a summary of the evidence which was before the defendants when they so decided in each of the cases; and

4. Grant such other and further relief as to the Court seems just and proper under the circumstances.

DATED: OCTOBER 17, 1973
NEW YORK, NEW YORK

Leon Wildes

LEON WILDES
Attorney for Plaintiff
Office and PO. Address
515 Madison Avenue
New York, N.Y. 10022
(212) 753-3468

Pursuant to Title 5, U.S.C., 552, the undersigned hereby demands that you make the following information available forthwith to the undersigned:

(J) State the following separately, nationally and for the geographic area covered by the New York, N.Y. Office of the Immigration and Naturalization Service, for Sol Marks, District Director during each of the past (five) 5 Immigration & Naturalization Service 20 West Broadway New York, N.Y. 10007

Dear Mr. Marks: Pursuant to Title 5, U.S.C., Para. 552, the undersigned hereby demands that you make the attached information available to him forthwith. This information is an absolute necessity in connection with preparing defenses to the government's action against my clients, John Winston Ono Lennon and Yoko Ono Lennon.

In view of the fact that the Service has decided to press deportation proceedings against Mr. and Mrs. John Lennon, the undersigned hereby demands that you supply the answers to the attached questions in order for the Lennons to properly defend the deportation proceedings.

lwrs
(Signature)

- (i) the number of such cases in each category and the number of such cases in each category which are being reviewed by the Service;
- (ii) the number of such cases administratively considered "low-priority" cases in each such category and for each area and the specific criterion or standards for such classification and the name of the officer or officers who made such classification;
- (iii) the number of such cases in each category which have been administratively deferred for temporary periods of time or delayed during the period of review of such cases as a result of initial review;
- (iv) the number of cases for each of the categories specified in which the undersigned has been advised that the Service is currently reviewing such cases.

Pursuant to Title 5, U.S.C., §552, the undersigned hereby demands that you make the following information available forthwith to the undersigned:

(I) State the following separately, nationally and for the geographic area covered by the New York District Office of the Immigration and Nationalization Service, for specific annual periods during each of the past (five) 5 years:

(a) The number of aliens apprehended who are statutorily excludible or deportable and a breakdown as to the grounds for their deportability, and specifically governing, inter alia, excludibility under §212(a)(23) of the I.N.A., and deportability under I.N.A. §§241(a)(2) and 241(a)(9), and 241(a)(11).

(b) For same time periods and geographic areas and with the same breakdown as to each ground for excludibility and deportability as in (I)(a) above, state:

- (i) The number of such aliens in whose cases formal deportation proceedings were actually instituted;
- (ii) The number of such cases in which proceedings were not instituted because of humanitarian reasons, including age, illness, close family relationships, etc., stating the number under each separate category of humanitarian classification, including, but not limited to age, infirmity, relationship to U.S. citizen child, relationship to U.S. resident spouse, compelling national interest, pendency of third preference petitions or because aliens were professionals or members of the arts or sciences of third preference level;
- (iii) The number of such cases administratively considered "non-priority" cases in each such category and for each such period; the specific criterion or standards for such classification, and the range of periods of time for which such classification exists.
- (iv) The number of such cases in each category and for each such period for which proceedings were administratively deferred for temporary periods of time or delayed during the temporary pendency of such factors as are stated in I(b)(ii) above.
- (v) The number of cases for each time period and geographic area specified in which the removal

of aliens was stayed during the pendency of private immigration legislation in the Congress and, with respect to any case not stayed, if any, the reasons specified for nondeferral of all such cases.

(c) State the standards applied for classification of a case as "non priority" or other classification by reason of which an alien statutorily deportable is

(i) not made the subject of deportation proceedings; or

(ii) if processed for deportation, granted indefinite voluntary departure; or

(iii) extended periods of voluntary departure.

If separate standards exist for each such category, please state them; state whether they are embodied in written instructions, regulations, or operating manuals, and if so, furnish a copy of all such standards stating their respective effective dates and geographic jurisdictional areas of applicability.

Yours, etc.

LEON WILDES,
515 Madison Avenue
New York, N.Y. 10022
212-753-3468

Attorney for John Winston Ono Lennon
and Yoko Ono Lennon

EXHIBIT "A"

LEON WILDES
ATTORNEY AT LAW
515 MADISON AVENUE
NEW YORK, NEW YORK 10022
—
(212) 753-3460

CABLE ADDRESS
"LEONWILDES," N.Y.

STEVEN L. WEINBERG

June 5, 1972

Hon. Sol Marks, District Director
Immigration & Naturalization Service
20 West Broadway
New York, New York 10007

Re: LENNON, John Winston Cno
LENNON, Yoko Ono
A17 597 321

[REDACTED] (b)(6)

Dear Mr. Marks:

As you know, I presented a request to you by hand on May 1, 1972 for certain information under the Freedom of Information Act, Title 5, U.S.C., Para. 552. No reply has been received with respect to this request.

On May 23, 1972, I telephoned and spoke with Mr. Vincent A. Schiano, the Trial Attorney in the above proceedings, who informed me that your office would not reply to the request made. My further request that the refusal to comply with my request be stated in writing was likewise refused.

Under the circumstances, and in view of the fact that over a month has passed since the presentation of my request, unless I receive your immediate communication to the contrary, I shall consider Mr. Schiano's reply to be the official policy of the New York District Office of the Immigration & Naturalization Service.

The refusal to comply with my request is prejudicial to my motion, made in the deportation proceedings in the above matters, to terminate the proceedings on the basis of discriminatory prosecution in these cases. As you know, the Special Inquiry Officer has granted me to July 1, 1972

LEON WILDES

ATTORNEY AT LAW

515 MADISON AVENUE

NEW YORK, NEW YORK 10022

within which to file my brief in support of my motion.
Unless I receive the information requested, I will not
be in a position to file the brief on time.

CABLE ADDRESS
"LEONWILDES," N.Y.

STEVEN L. WEINBERG

I respectfully appreciate your immediate attention
to this request.

Very truly yours,

LEON WILDES

LW/ba
delivered by hand

EXHIBIT "B"

UNITED STATES DEPARTMENT OF JUSTICE
IMMIGRATION AND NATURALIZATION SERVICE
20 WEST BROADWAY
NEW YORK, NEW YORK 10007

June 14, 1972

A17 597 321
[REDACTED]

(b)(6)

Leon Wildes
Attorney at Law
515 Madison Avenue
New York, New York 10022

Dear Sir:

Reference is made to your letters of May 1 and June 5, 1972, in which you demand that certain statistical data be made available to you pursuant to Title 5, U.S.C., Para. 552, for use in preparing your defense of clients in deportation proceedings.

You are advised that this office maintains a public reading room on the twelfth floor where the following materials are available for your use:

1. Copies of the Annual Reports of the Immigration and Naturalization Service for the years 1965 through 1971.
2. Administrative Decisions under the Immigration and Nationality Laws of the United States, with cumulative indices.
3. Unpublished Service and Board decisions relating to proceedings in which the initial decision was made in the New York District office.
4. Statements of policy, interpretations, and those manuals and instructions to staff (or portions thereof) affecting the public, with an accompanying index of any material issued after July 4, 1967.
5. Copies of Immigration and Nationality Laws, of Title 8 of the United States Code Annotated, Title 8 of the Code of Federal Regulations--Chapter I, and the Department of State Foreign Affairs Manual, Volume 9 - Visas.

You are invited to research these materials and to obtain copies of any of the statistical tables which you find useful. If you desire statistics which are not covered in the annual reports of the Service, you may communicate with the Statistical Branch, Central Office, Washington, D. C. to ascertain the availability and cost of special statistical tabulations. Any question concerning Service policy or instructions which are not within the purview of 8 C.F.R. 103.9 (d) must be addressed to the Central Office.

Sincerely,

Sol Marks

SOL MARKS
District Director
New York District

EXHIBIT "C"

policy denies these aliens their due process rights under the U.S. Constitution and causes them irreparable harm. The Special Inquiry Officer granted the respondents' counsel until July 1, 1972 to file a brief in support of this proposition.

In order to secure the material necessary to brief the issue, respondents' counsel filed with the District Director on May 1, 1972 a request for the necessary information, specifying in detail the information required. A copy of this request is attached as Exhibit 1.

On May 23, 1972 the respondents' counsel telephoned the government's Trial Attorney, further requesting the said information. The government's Trial Attorney refused to comply with the request and further stated that the information would not be furnished. A further request dated June 5, 1972 was presented to the District Director, a copy of which is attached as Exhibit 2. The reply of the District Director dated June 14, 1972 is attached as Exhibit 3, inviting that all further questions with respect to "Service policy or instructions" ... must be addressed to the Central Office".

It is apparent that the information contained in the reading room of the New York District Office of the Immigration and Naturalization Service does not contain the information requested by respondents, and that the evidence must be obtained from the Central Office of the Immigration and Naturalization Service in Washington D.C. Accordingly, it is respectfully requested that the Special Inquiry Officer issue a subpoena to the Commissioner of the Immigration and Naturalization Service or such other designated representative who may have custody of the information needed by respondents. It is further requested that the Special Inquiry Officer defer the consideration of this point in the respondents' brief until after any available information has been secured from the Central Office of the Immigration Service.

WHEREFORE respondents respectfully request that the Special Inquiry Officer enter an order issuing a subpoena to the Central Office of the Immigration and Naturalization

Service to appear, together with relevant books, records and other data, at an appropriate office of the Immigration and Naturalization Service to give testimony with respect to the matters stated in the request for information dated May 1, 1972, deferring consideration of the pertinent point in respondents' brief, and granting such other and further relief as may be just in the premises.

Respectfully submitted,

LEON WILDES
Attorney for the respondents
515 Madison Avenue
New York, New York 10022

LW:ba
ENCLS.