

IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF COLUMBIA

<b>LAURENCE A. JARVIK</b>	)	
	)	
<b>Plaintiff,</b>	)	<b>Civil Action No.: 08-1911 (RMU)</b>
	)	
<b>v.</b>	)	
	)	
<b>CENTRAL INTELLIGENCE AGENCY</b>	)	
	)	
<b>Defendant.</b>	)	
_____	)	

**PLAINTIFF'S MOTION TO EXTEND THE STAY OF THIS PROCEEDING**

COMES NOW, Plaintiff Laurence A. Jarvik, by and through his undersigned counsel, and hereby respectfully requests that this Court extend the stay of this proceeding to and including August 11, 2009 and states as follows in support<sup>1</sup>:

1. In 2006, Dr. Jarvik filed with a FOIA request with the CIA, seeking reports related to the violence in Andijan, Uzbekistan and its aftermath. He requested a fee waiver.
2. CIA denied Mr. Jarvik request for a fee waiver. He appealed denial of the fee waiver to this Court. This Court found that CIA denied Dr. Jarvik's fee waiver correctly. *See Jarvik v. CIA*, 495 F. Supp. 2d 67, 69 (D.D.C. 2007).
3. Dr. Jarvik accepted this Court's decision. The undersigned wrote numerous letters to various individuals at the CIA on Dr. Jarvik's behalf, informing the CIA that Dr. Jarvik decided to go ahead with his FOIA request and pay reasonable fees and requesting an invoice.
4. The CIA did not respond to any of these letters.

\_\_\_\_\_  
<sup>1</sup>This Motion and simultaneously filed Plaintiff's Motion for In Camera Review of the Purportedly Classified Documents are filed in the alternative to each other.

5. In October 2008, Dr. Jarvik filed this lawsuit seeking to compel the CIA to respond to his FOIA request.

6. On January 14, 2009, the Parties filed a Joint Motion to Stay this Proceedings, subsequently granted by this Court per their agreement. Under the Joint Motion, the case was stayed until May 11, 2009. CIA was to provide Dr. Jarvik with any and all responsive CIA records not subject to the FOIA statute exceptions. Dr. Jarvik was to dismiss this lawsuit within thirty (30) days of receiving the documents. The Parties were to bear their respective costs and fees. *See* Docket No. 4.

7. On March 24, 2009, the CIA sent a letter to Dr. Jarvik, attached hereto as “**Exhibit A.**” In this letter, CIA now claims that all responsive documents are classified and subject to one of the FOIA exemptions. This letter seems to be a sharp reversal from the CIA’s position in the prior litigation that there is no evidence of the United States government involvement in the Andijan events. Further, it strains credulity to assert that every scrap of responsive material is classified -- at least in Plaintiff’s eyes -- and casts doubt on the CIA’s good faith in connection with the joint motion.

8. Dr. Jarvik has by previous motion requested this Court to review the material in camera to evaluate the CIA’s good faith compliance with what purported to be an amicable resolution to this dispute. In the alternative to that motion, Dr. Jarvik will challenge the designation though the CIA and, then, if necessary seek further review of this Court.

9. Dr. Jarvik requests this Court to retain jurisdiction over this matter. The CIA demonstrated itself as completely unresponsive to Dr. Jarvik’s request in the absence of this Court’s oversight. The filing fee in the District Court for District of Columbia is \$400 and Dr. Jarvik had already incurred this expense twice in connection with his FOIA request. If the CIA procedure proves fruitless, Dr. Jarvik should be allowed

to amend the existing Complaint, instead of having to file another matter, incur additional charges and wait yet again sixty (60) days for the CIA's initial answer. Thus, Dr. Jarvik requests that this Court stay this case until August 11, 2009. A Proposed Order is attached.

Respectfully submitted,

\_\_\_\_\_/s/\_\_\_\_\_  
Matthew H. Simmons, Esq.  
DC Id. # MD14700  
Simmons & Associates, Chartered  
4833 Rugby Avenue, Suite 100  
Bethesda, MD 20814  
Phone: 301-986-8444  
Fax: 240-597-0749  
Attorney for Plaintiff

P:\Client Files\Jarvik\FOIA\Mandamus\Plaintiffs' Motion to Extend Stay.wpd

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

<b>LAURENCE A. JARVIK</b>	)	
	)	
<b>Plaintiff,</b>	)	<b>Civil Action No.: 08-1911 (RMU)</b>
	)	
<b>v.</b>	)	
	)	
<b>CENTRAL INTELLIGENCE AGENCY</b>	)	
	)	
<b>Defendant.</b>	)	
_____	)	

**[PROPOSED] ORDER**

Upon consideration of Plaintiff's Motion to Extend Stay of This Proceeding, any opposition thereto and upon good cause shown, it is this \_\_\_\_\_ day of \_\_\_\_\_, 2009, it is hereby ordered

- (1) Plaintiff's Motion is hereby GRANTED;
- (2) This Matter is hereby stayed to and including August 11, 2009.

\_\_\_\_\_  
Judge

cc: All Counsel (by ECF)



Washington, D.C. 20505

24 March 2009

Laurence A. Jarvik, Ph.D.  
3735 Jocelyn Street, N.W.  
Washington, D.C. 20015

Reference: F-2009-00252 (formerly F-2007-00055 & F-2006-00677)

Dear Dr. Jarvik:

This is a final response to your 15 February 2006 Freedom of Information Act (FOIA) request, as modified by your letter of 22 March 2006, for records pertaining to "CIA reports relating to the violence [in Andijan, Uzbekistan] of May 2005 and its aftermath, as well as subsequent trials and evacuation of refugees."

We processed your request in accordance with the FOIA, 5 U.S.C. § 552, as amended, and the CIA Information Act, 50 U.S.C. § 431, as amended. Our processing included a search for records as described in our 14 January 2009 acceptance letter (enclosed) existing through the date of that letter.

We completed a thorough search for records responsive to your request and located material which we determined is currently and properly classified and must be denied in its entirety on the basis of FOIA exemptions (b)(1) & (b)(3). An explanation of exemptions is enclosed.

CIA Information and Privacy Coordinator Delores M. Nelson made this decision, which you may appeal to the Agency Release Panel, in my care, within 45 days from the date of this letter. Please include the basis of your appeal.

Sincerely,

A handwritten signature in cursive script that reads "Delores M. Nelson".

Delores M. Nelson  
Information and Privacy Coordinator

Enclosures

MAR 31 2009

