

NOT FOR PUBLICATION

FILED

UNITED STATES COURT OF APPEALS

JUL 3 2017

FOR THE NINTH CIRCUIT

MOLLY C. DWYER, CLERK
U.S. COURT OF APPEALS

SUSAN MAE POLK,

Plaintiff-Appellant,

v.

FEDERAL BUREAU OF
INVESTIGATION,

Defendant-Appellee.

No. 16-15206

D.C. No. 4:14-cv-04667-PJH

MEMORANDUM*

Appeal from the United States District Court
for the Northern District of California
Phyllis J. Hamilton, Chief Judge, Presiding

Submitted June 26, 2017**

Before: PAEZ, BEA, and MURGUIA, Circuit Judges.

Susan Mae Polk, a California state prisoner, appeals pro se from the district court's summary judgment in her Freedom of Information Act ("FOIA") action arising out of her request for documents relating to an investigation of her and a particular case file number. We have jurisdiction under 28 U.S.C. § 1291. We

* This disposition is not appropriate for publication and is not precedent except as provided by Ninth Circuit Rule 36-3.

** The panel unanimously concludes this case is suitable for decision without oral argument. *See* Fed. R. App. P. 34(a)(2).

review de novo. *Animal Legal Def. Fund v. U.S. Food & Drug Admin.*, 836 F.3d 987, 990 (9th Cir. 2016) (en banc). We affirm.

The district court properly granted summary judgment because Polk failed to raise a genuine dispute of material fact as to whether the Federal Bureau of Investigation did not conduct a reasonable search for all responsive documents. *See Hamdan v. U.S. Dep't of Justice*, 797 F.3d 759, 770-71 (9th Cir. 2015) (setting forth requirements for demonstrating adequacy of search for documents).

Contrary to Polk's contentions, the district court did not abuse its discretion in denying Polk's motions to strike. *See Nurse v. United States*, 226 F.3d 996, 1000 (9th Cir. 2000) (standard of review for district court's decision to strike under Fed. R. Civ. P. 12(f)).

The district court did not abuse its discretion in denying costs to Polk, because the district court properly determined that Polk was not eligible for costs. *See 5 U.S.C. § 552(a)(4)(E); Hiken v. Dep't of Def.*, 836 F.3d 1037, 1042-44 (9th Cir. 2016) (setting forth standard of review and requirements for fees and costs in a FOIA action).

Polk's fifth motion for an extension of time to file her reply brief (Docket Entry No. 41) is denied.

AFFIRMED.