

Slip Op. 03-146

UNITED STATES COURT OF INTERNATIONAL TRADE

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SOLOMON UPSHAW,	:	
	:	
Plaintiffs,	:	
v.	:	Court No. 03-00424
	:	
THE UNITED STATES,	:	
	:	
Defendant.	:	

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[Motion to dismiss granted.]

Dated: October 30, 2003

Solomon Upshaw, Pro Se, for Plaintiff.

Peter D. Keisler, Assistant Attorney General, John J. Mahon, Acting Attorney in Charge, International Trade Field Office, Commercial Litigation Branch, Civil Division, United States Department of Justice (Harry A. Valetk), Ann Sullivan, Office of the Associate Chief Counsel, United States Department of Homeland Security, Customs and Border Protection, of counsel, for defendant.

**OPINION**

**RESTANI, Judge:**

This Customs broker’s license matter is before the court on defendant’s motion to dismiss for failure to state a claim, and plaintiff Solomon Upshaw’s cross-motion for judgment on the agency record. The court has jurisdiction pursuant to 28 U.S.C. § 1581 (g)(1).

Plaintiff has not specified in his motion papers what relief he seeks on the agency record, although in his complaint he asked that the court award him a Customs broker’s license. The court cannot grant him a Customs broker’s license or order the relevant Government agency to

do so because he has not established that he passed the Customs broker's license examination. It is also unclear what relief he seeks with regard to his contention that he was unreasonably not permitted to take the October 2002 exam because his application was allegedly untimely. That examination has taken place. The court cannot order that he be allowed to take part. Further, another exam was given in April 2003, and there is no allegation that Mr. Upshaw was unreasonably barred from taking that examination. As there is no relief which the court can grant Mr. Upshaw on this record, his motion for judgment on the agency record is denied. The Government's motion to dismiss is granted.

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Jane A. Restani  
Judge

Dated: New York, New York.

This 30th day of October, 2003.