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UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA
San Francisco Division

VINTON P. FROST,
Plaintiff,
v.
MONTY WILKINSON,
Defendant.

Case No. 17-cv-01587-LB

ORDER DISMISSING CASE

On July 5, 2017, the court granted the defendant's motion to dismiss the complaint. (ECF No. 49.) The court gave the plaintiff until August 2, 2017, to name a proper defendant and to otherwise show that his claim under the federal Freedom of Information Act is viable. (*Id.*, *passim*.) The plaintiff has not filed an amended complaint. Instead, on August 2nd, the plaintiff filed "Objections" to the "Statement" section of the court's dismissal. (ECF No. 56.) The plaintiff appears to take issue with the court's narrative recital of the events lying beneath his complaint. At all lengths, the plaintiff writes: "Plaintiff does not object to dismissal of his claim[] without prejudice." (*Id.* at 1) (emphasis in original).

The handwritten caption on the plaintiff's "Objections" includes the "U.S. Dept. of Justice" as a defendant. The DOJ has never been named as a defendant in this suit. The original complaint named only Mr. Wilkinson; and, again, the plaintiff has not filed a subsequent pleading — including one that added new parties.

1 Because the plaintiff has not amended his complaint by the deadline, the court dismisses this
2 case. This dismissal is without leave to amend. The FOIA claim against Mr. Wilkinson is
3 fundamentally ill-premised: as the court has already explained, Mr. Wilkinson is not a proper
4 FOIA defendant. With respect to Mr. Wilkinson, the plaintiff's FOIA claim is dismissed with
5 prejudice. Given the leniency with which the Ninth Circuit treats pro se plaintiffs, and from an
6 abundance of caution, the dismissal is otherwise without prejudice. Which is to say, apart from
7 Mr. Wilkinson's status as an improper party, the court does not finally dispose of the plaintiff's
8 FOIA claims on the merits. The clerk of court will close this file.

9 **IT IS SO ORDERED.**

10 Dated: August 3, 2017



LAUREL BEELER
United States Magistrate Judge

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