

UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLUMBIA

MARVIN LEON HOLT)	
)	
)	
Plaintiff,)	
)	
v.)	Civil Action No. 09-01515 (RBW)
)	
)	
UNITED STATES DEPARTMENT OF)	
JUSTICE, et al.)	
)	
)	
Defendants.)	
_____)	

DEFENDANTS' MOTION FOR SUMMARY JUDGMENT

In August 2009, Plaintiff Marvin Leon Holt ("Plaintiff"), an incarcerated prisoner, brought this action against the United States Department of Justice ("Defendant") pursuant to the Freedom of Information Act ("FOIA") and the Privacy Act ("PA") to obtain records in the possession of the Executive Office for United States Attorneys ("EOUSA") and the Federal Bureau of Investigation ("FBI") relating to his criminal case number F-8896. In March 2002, Plaintiff submitted a FOIA/PA request to the EOUSA for a copy of his entire file relating to his criminal prosecution. In this request, Plaintiff also sought access to the files and notes of third party individuals. In January 2009, Plaintiff submitted a FOIA/PA request to the FBI seeking access to all records pertaining to himself in connection with a homicide that occurred on or about May 14, 1992. As is demonstrated in the attached Memorandum of Points and Authorities

Submitted by the Defendants in Support of Defendants' Motion for Summary Judgment, as well as in the declarations submitted in support thereof, the EOUSA and the FBI have satisfied their obligations with respect to the FOIA/PA requests that Plaintiff submitted to them. Thus, Defendants respectfully move this Court, pursuant to Federal Rule of Civil Procedure 56, for summary judgment as to any and all claims in this action that relate to the Defendants' responses to the FOIA/PA requests that were submitted to them.

Wherefore, Defendants respectfully request that this Court enter judgment in their favor with respect to any and all claims in this FOIA/PA case that relate to the EOUSA and the FBI.¹

¹ In accordance with the Court of Appeals for the District of Columbia Circuit guidance in Neal v. Kelly, 963 F.2d 453 (D.C. Cir. 1992), defendant reminds this pro se litigant that his failure to respond to or to contest defendant USCIS's motion may lead to an entry of adverse judgment against him. Plaintiff should take notice that any factual assertions contained in the attachments in support of this motion may be accepted by the Court as true unless the plaintiff submits his own affidavit or other documentary evidence contradicting the assertions in the attachments. See Neal, 963, F.2d at 456-57. Federal Rule of Civil Procedure 56(e) provides:

Supporting and opposing affidavits shall be made on personal knowledge, shall set forth such facts as would be admissible in evidence, and shall show affirmatively that the affiant is competent to testify to the matters stated therein. Sworn or certified copies of all papers or parts thereof referred to in an affidavit shall be attached thereto or served therewith. The court may permit affidavits to be supplemented or opposed by depositions, answers to interrogatories, or further affidavits. When a motion for summary judgment is made and supported as provided in this rule, an adverse party may not rest upon the mere allegations or denials of the adverse party's pleading, but the adverse party's response, set forth specific facts showing that there is a genuine

Dated: November 23, 2009

Respectfully submitted,

/s/

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/s/

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issue for trial. If the adverse party does not so respond, summary judgment, if appropriate, shall be entered against the adverse party.

Fed.R.Civ.P. 56(e). In Fox v. Strickland, 837 F.2d 507 (D.C. Cir. 1988), the Court noted that a pro se party may lose if he fails to respond to a dispositive motion. Failure to respond to defendant's motion for summary judgment may result in the district court granting the motion for summary judgment.