

UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLUMBIA

JAMES CALHOUN-EL,

Plaintiff,

v.

MURIEL BOWSER *et al.*,

Defendants.

Civil Action No. 19-1983 (TJK)

MEMORANDUM OPINION

Before the Court is Defendants' Motion to Dismiss, ECF No. 9. Because Plaintiff has failed to respond, despite the Court's order directing him to do so or risk dismissal of the case, the Court will grant Defendants' motion as conceded pursuant to Local Civil Rule 7(b).

James Calhoun-El, proceeding *pro se*, filed this action in D.C. Superior Court on April 5, 2019, and Defendants removed it to this Court on July 2, 2019. ECF No. 1 at 2. Calhoun-El seeks \$180,000,000 for the alleged wrongful death of his nephew in a halfway house and destruction of records pertaining to his death. *Id.*; ECF No. 1-2 at 9–21. On October 8, 2019, Defendants filed their motion to dismiss for lack of jurisdiction under Federal Rule of Civil Procedure 12(b)(1). ECF No. 9-1. Pursuant to *Fox v. Strickland*, 837 F.2d 507 (D.C. Cir. 1988) (per curiam), the Court ordered Calhoun-El to respond to Defendants' motion to dismiss by November 25, 2019, and warned him that if he did not, the Court might treat the motion as conceded and dismiss the case. ECF No. 10. Calhoun-El requested an extension of time to respond until December 23, 2019, which the Court granted. Minute Order of December 5, 2019. Calhoun-El has not responded to Defendants' motion to dismiss, nor has he made any other filings in this case since his extension request on December 2, 2019.

Under Local Rule 7(b), if a party does not respond to a motion to dismiss within the prescribed time, “the Court may treat the motion as conceded.” *See Washington v. United States*, 248 F. Supp. 3d 185 (D.D.C. 2017). The D.C. Circuit has permitted this practice. *See Cohen v. Bd. of Trs. of the Univ. of D.C.*, 819 F.3d 476, 480 (D.C. Cir. 2016); *Fox v. Am. Airlines, Inc.*, 389 F.3d 1291, 1293–94 (D.C. Cir. 2004).

This case presents a “straightforward” application of Local Rule 7(b). *See, e.g., Cohen*, 819 F.3d at 480. Calhoun-El has entirely failed to submit an opposition to Defendants’ motion, despite an order from this Court to do so and an extension of time. His opposition has now been overdue for over a month, and it has been over two months since he has made any filings in this case. Therefore, pursuant to Local Rule 7(b), the Court will treat Defendants’ motion as conceded and grant it. *See, e.g., Fleming v. Cherokee Nation*, Civil Action No. 18-2041 (TFH), 2019 WL 2103160, at *3 (D.D.C. May 14, 2019) (dismissing a case under Rule 7(b) where the plaintiffs failed to oppose a motion to dismiss after their extension was granted); *Pisciottano v. United States*, Civil Action No. 17-1138 (DLF), 2018 WL 834237, at *1 (D.D.C. January 29, 2018) (granting a 12(b)(1) motion to dismiss for lack of jurisdiction as conceded).

For the foregoing reasons, Defendants’ Motion to Dismiss, ECF No. 9, will be granted as conceded. Plaintiff’s complaint and this case will be dismissed without prejudice. A separate order will issue.

/s/ Timothy J. Kelly
TIMOTHY J. KELLY
United States District Judge

Date: February 7, 2020