

**UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLUMBIA**

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| MATTHEW J. SHERVEN, |) | |
| |) | |
| Plaintiff, |) | |
| |) | |
| v. |) | |
| |) | Case No. 22-cv-2412 (APM) |
| PRIVACY AND CIVIL LIBERTIES |) | |
| OVERSIGHT BOARD, |) | |
| |) | |
| Defendant. |) | |
| _____ |) | |

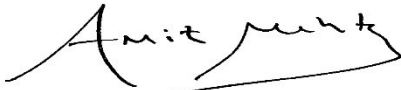
MEMORANDUM OPINION

In this action brought under the Freedom of Information Act (“FOIA”), Defendant Privacy and Civil Liberties Oversight Board moves to dismiss on the ground that pro se Plaintiff Matthew Sherven failed to exhaust administrative remedies. Def.’s Mot. to Dismiss, ECF No. 10. Despite receiving notice from the court, see Order, ECF No. 11, Plaintiff did not respond to the motion.

The court has reviewed Defendant’s motion de novo and agrees that this matter must be dismissed because Plaintiff did not exhaust administrative remedies. “[A] requester under FOIA must file an administrative appeal within the time limit specified in an agency’s FOIA regulations or face dismissal of any lawsuit complaining about the agency’s response.” *Wilbur v. Cent. Intel. Agency*, 355 F.3d 675, 676 (D.C. Cir. 2004) (internal quotation marks omitted). Here, Plaintiff received a final determination on his FOIA request on August 8, 2022. Compl., ECF No. 1, at 1. Defendant’s regulations provide that an administrative appeal must be filed “within 90 calendar days after the date of the letter denying [the] request.” 6 C.F.R. § 1001.7(b) (2017). Plaintiff, however, bypassed an administrative appeal and filed suit on August 13, 2022. *See* Compl. This matter is therefore dismissed for failure to exhaust administrative remedies.

For the foregoing reasons, Defendant's Motion to Dismiss, ECF No. 10, is granted. A separate, final order accompanies this Memorandum Opinion.

Dated: January 31, 2023



Amit P. Mehta
United States District Court Judge