

**UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF LOUISIANA**

RAFAEL ELLWANGER DASILVA

CIVIL ACTION

VERSUS

No. 13-13

U.S. ATTORNEY GENERAL ET AL.

SECTION I

ORDER

The only remaining claim in this case arises under the Freedom of Information Act. The claim for injunctive relief in the form of a permanent resident card is moot, and the Court has dismissed the claims premised on violations of the “Mandatory Access Law” and procedural due process. The Court concludes that while the parties have briefed issues surrounding this claim, the issues have not been presented in a way that would facilitate their resolution. For example, plaintiff’s pending motion¹ for partial summary judgment does not specifically identify objections to defendants’ response to the FOIA request, but such objections can be found elsewhere in plaintiff’s opposition² to defendants’ motion to dismiss and in plaintiff’s motion³ for judicial notice of redacted documents. While defendants have asked⁴ that the Court grant them summary judgment, there is no formal cross-motion pending. Moreover, the parties may agree that certain arguments or requests presented in the pending motions are now moot. Rather than risk assigning incorrect procedural labels to the parties’ filings by, for example, construing the motion for judicial notice as a reply in support of plaintiff’s motion for partial summary judgment, the Court has determined that the best

¹R. Doc. No. 27.

²R. Doc. No. 29-2, at 13.

³R. Doc. No. 31.

⁴R. Doc. No. 33, at 9.

course is for the parties to file cross motions for summary judgment that consolidate their remaining disputes.


Accordingly,

IT IS ORDERED that the motion for partial summary judgment and the motion for judicial notice are **DISMISSED WITHOUT PREJUDICE**.

IT IS FURTHER ORDERED that the parties shall submit cross motions for summary judgment on or before **Wednesday, May 1, 2013**. To the extent the parties intend the Court to consider assertions or arguments made in other pleadings, including prior motions or oppositions, the parties should present these assertions or arguments in the May 1 motions.

IT IS FURTHER ORDERED that these motions shall be taken under advisement on **Wednesday, May 15, 2013**, without oral argument.

New Orleans, Louisiana, April 19, 2013.



LANCE M. AFRICK
UNITED STATES DISTRICT JUDGE