

UNITED STATES DISTRICT COURT
DISTRICT OF MAINE

DAVID J. WIDI, JR.,)	
)	
Plaintiff,)	
)	
v.)	2:12-cv-00188-JAW
)	
PAUL MCNEIL, et al.,)	
)	
Defendants.)	

ORDER ON MOTION FOR COSTS OF SUIT

On August 17, 2017, David J. Widi, Jr. moved this Court for his costs of suit in his Freedom of Information Act (FOIA) claim against the United States Attorney's Office (USAO) and the Bureau of Alcohol, Tobacco, Firearms and Explosives (ATF). *Opp'n to the U.S. Att'y's Office's Mot. to Compel Payment of Unpaid Filing Fees and Revoke Pl.'s IFP Status with Accompanying Mot. for Award of Costs of Suit* (ECF No. 481, 482) (*Pl.'s Mot.*). On August 29, 2017, the Defendants objected to Mr. Widi's motion. *EOUSA's and ATF's Resp. to Pl.'s Mot. for Costs* (ECF No. 482) (ECF No. 484) (*Defs.' Opp'n*). Mr. Widi's reply was due by September 12, 2017, but he did not file a reply.

In his motion, Mr. Widi alleges that he prevailed against the USAO and against the ATF in his FOIA claim and therefore he maintains that he should be entitled to an award of costs. *Pl.'s Mot.* at 3-4. Without conceding the merits of Mr. Widi's motion, USAO and ATF respond that Mr. Widi's motion is premature. *Defs.' Opp'n* at 1-2.

The Court agrees with USAO and ATF that the motion for bill of costs is premature. Local Rule 54.3, Bill of Costs, reads in part:

Bills of Cost shall be prepared on forms available from the Clerk's Office or on a filing substantially similar and shall be filed with supporting memoranda and documentation within thirty (30) days of the expiration of the time for filing a timely appeal if no notice of appeal has been filed or within 30 days of the filing of the appellate mandate providing for final disposition of any appeal to the Court of Appeals.

D. ME. LOC. R. 54.3. Preliminarily, Mr. Widi has not complied with the part of Local Rule 54.3 that requires the Bill of Costs to be submitted on a form "available from the Clerk's Office or on a filing substantially similar." *Id.* But, more significantly, on September 20, 2017, Mr. Widi filed an appeal of the Court's judgment on the FOIA count and therefore, he must await "the filing of the appellate mandate providing for final disposition of any appeal to the Court of Appeals" before filing his Bill of Costs. *Id.* Assuming that he is entitled to costs at the end of his appeal, the Court reminds Mr. Widi that he should file his motion on the form available from the Clerk's Office or on a filing substantially similar.

The Court DISMISSES without prejudice David J. Widi, Jr.'s Opposition to the United States Attorney's Office's Motion to Compel Payment of Unpaid Filing Fees and Revoke Plaintiff's IFP Status with Accompanying Motion for Award of Costs of Suit (ECF No. 481, 482) but only insofar as Mr. Widi moved for an award of costs of suit. This Order does not affect his opposition to the Government's motion to compel payment.

SO ORDERED.

/s/ John A. Woodcock, Jr.
JOHN A. WOODCOCK, JR.
UNITED STATES DISTRICT JUDGE

Dated this 15th day of November, 2017