

UNITED STATES DISTRICT COURT
DISTRICT OF MAINE

AMERICAN CIVIL LIBERTIES)
UNION OF MAINE FOUNDATION,)

Plaintiff,)

2:20-cv-00422-JAW

v.)

U.S. CITIZENSHIP AND)
IMMIGRATION SERVICES,)

Defendant.)

**ORDER AFFIRMING
RECOMMENDED DECISION**

The United States Magistrate Judge filed with the Court on May 31, 2022 his Recommended Decision. *Report and Recommended Decision on Mot. for Summ. J.* (ECF No. 57) (*Recommended Decision*). In his Recommended Decision, the United States Magistrate Judge “directed Defendant to submit documents for an in camera review” before issuing a supplemental recommendation following the review. *Recommended Decision* at 45. On June 6, 2022, the Defendant filed the documents listed by the Magistrate Judge for an in camera inspection. *Def.’s Status Update Regarding Def.’s In Camera Review* (ECF No. 58). On June 30, 2022, following his in camera review, the Magistrate Judge filed with the Court his Supplemental Recommended Decision. *Suppl. Report and Recommended Decision* (ECF No. 59).

On July 14, 2022, the American Civil Liberties Union of Maine Foundation (ACLU) filed its objection to the Recommended Decision. *Pl.’s Obj. to Recommended*

Decision on Mot. for Summ. J. (ECF No. 60) (*Pl.’s Obj.*). The U.S. Citizenship and Immigration Services filed its response to the Plaintiff’s objection on July 28, 2022. *Def.’s Resp. to Pl.’s Obj. to Report and Recommendation* (ECF No. 61) (*Def.’s Resp.*). The Defendant did not object to those portions of the Magistrate Judge’s Recommended Decision and Supplemental Recommended Decision that ordered the Defendant to make certain disclosures.

The Court reviewed and considered the Magistrate Judge’s Recommended Decision and his Supplemental Decision, together with the entire record, and the Court made a de novo determination of all matters adjudicated by the Magistrate Judge’s Recommended Decision and Supplemental Decision; and the Court concurs with the recommendations of the United States Magistrate Judge for the reasons set forth in his Recommended Decision and Supplemental Recommended Decision and determines that no further proceeding is necessary. The Court writes briefly, however, to address the ACLU’s objection to the Magistrate Judge’s Recommended Decision.

In its July 14, 2022 objection, the ACLU submitted a “limited Objection to the Magistrate Judge’s May 31, 2022 Recommended Decision,” focusing only on a “single issue: whether Defendant should be required to search for and produce notices created by the Boston Asylum Office informing asylum seekers whether their applications have been denied or referred.” *Pl.’s Obj.* at 1. Before the Magistrate Judge, the parties disagreed whether the denial and referral notices are “final decisions” and subject to disclosure under the FOIA electronic reading room

provision at 5 U.S.C. § 552(a)(2)(A).

In his May 31, 2022 Recommended Decision, the Magistrate Judge discussed this issue and ruled that Congress did not intend “all postdecisional documents to be construed as ‘final opinions . . . made in the adjudication of cases’ requiring automatic electronic publishing.” *Recommended Decision* at 18. The Magistrate Judge also concluded that because the ACLU failed to plead or exhaust this specific claim, the ACLU could not pursue it. *Id.* at 18-19. Lastly, the Magistrate Judge found that the Defendant’s decision not to search the so-called A-Files “for the denial and referral notices was reasonable and that its search was otherwise adequate.” *Id.* at 19.

In performing its de novo review, the Court considered the ACLU’s objection to the Magistrate Judge’s recommendation that the Defendant should not be “required to search for and produce notices created by the Boston Asylum Office informing asylum seekers whether their applications have been denied or referred.” *Pl.’s Obj.* at 1. The Court concludes that the Defendant has the better argument precisely for the reasons the Magistrate Judge described in his May 31, 2022 Recommended Decision. The Court reviewed the contents of the Magistrate Judge’s Recommended Decision and Supplemental Recommended Decision, together with the entire record, and has concluded that the Magistrate Judge fully addressed the objection in his Recommended Decision and, therefore, no further judicial explanation is necessary.

The Court AFFIRMS the Recommended Decision (ECF No. 57) and the

Supplemental Recommended Decision (ECF No. 59) of the Magistrate Judge. The Court GRANTS in part and DENIES in part Plaintiff's Cross-Motion for Summary Judgment (ECF No. 35). Consistent with this order, the Court ORDERS the Defendant to disclose:

- the information it withheld pursuant to Exemption 6 except for email addresses, phone numbers, applicant names, addresses, names of relatives, addresses of relatives, school addresses, dates of significance related to important events within the applicant's personal history, churches attended, and other family and/or personal history, and
- the information it withheld pursuant to 5 U.S.C. § 552(b)(7)(E) on pages 4105-11, 4113, 4939-45, 4947, 4319, 4680-83, 5868-69, 5876-77, 5880-81, 5905-07, 5959, 6053, and 6065-67;

In addition, the Court ORDERS the Defendant to disclose Exemption 7(E) withholdings on pages 4319, 5707, and 5709. The Court otherwise DENIES Plaintiff's Cross-Motion for Summary Judgment (ECF No. 32). Finally, the Court GRANTS the Defendant's Motion for Summary Judgment (ECF No. 35) on all remaining issues and disputed pages and on the 5 U.S.C. § 552(b)(7)(E) redactions on pages 3765, 3940-43, 3944-45, 4669, 4677-79, and 4684-87.

SO ORDERED.

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

Dated this 19th day of September, 2022