

7/11/13 I adopt the report and recommendations without opposition and dismiss the action.

Paul J. Sorokin

UNITED STATES DISTRICT COURT
DISTRICT OF MASSACHUSETTS

_____)
THERESA H. LUKE,)
)
Plaintiff,)
)
v.)
)
U.S. DEPARTMENT OF JUSTICE,)
)
Defendant.)
_____)

Civil No. 12-11903-PBS

REPORT AND RECOMMENDATION ON
DEFENDANT'S MOTION TO DISMISS

May 17, 2013

SOROKIN, C.M.J.

The plaintiff, Theresa Luke, sued the Department of Justice ("DOJ") under 5 U.S.C. § 552(a)(4)(B) after her Freedom of Information Act ("FOIA") request for access to certain United States Marshals Service records was administratively denied. See Doc. Nos. 1, 1-1. The DOJ has moved to dismiss the complaint for failure to state a claim or, in the alternative, for summary judgment. Doc. No. 14. Luke opposed the motion, Doc. Nos. 16, 17, and requested a hearing, Doc. No. 18. The Court held a hearing on May 16, 2013, at which the plaintiff and counsel for the DOJ appeared. Because the information Luke seeks is exempt from the FOIA, I recommend that the DOJ's motion to dismiss be ALLOWED.¹

¹It is not necessary to consider the declaration submitted by the DOJ with its motion, as the DOJ is entitled to judgment as a matter of law based on the facts as Luke has presented them in her complaint. Therefore, the Court need not treat the DOJ's motion as one for summary judgment.