IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF TEXAS
SHERMAN DIVISION

BRIAN HUDDLESTON, Plaintiff, v. FEDERAL BUREAU OF INVESTIGATION and UNITED STATES DEPARTMENT OF JUSTICE, Defendants.	CIVIL ACTION No. 4:20CV447 JUDGE AMOS MAZZANT

FBI'S SUR-REPLY TO PLAINTIFF'S REPLY IN SUPPORT OF MOTION FOR APPOINTMENT OF SPECIAL MASTER

The Plaintiff's Reply fails to cure the fundamental defect in his request for a special master. It continues to seek a special master to conduct extraordinary examination of the FBI's response to Plaintiff's FOIA requests without first establishing that the issues cannot be "effectively and timely addressed by an available district judge or magistrate judge." Fed. R. Civ. P. 53(a)(1)(C). Instead, Plaintiff attempts to manufacture a contradiction in Defendant's position, attributes the duration of this litigation to the inadequacy of ordinary judicial procedures, and proposes supposedly narrower alternative relief, which still requires a comprehensive re-examination of the FBI's response to his FOIA requests.

The Court has diligently managed this contentious litigation for more than six years, resolving numerous extensively briefed motions involving hundreds of pages of submissions. It

has done this while managing one of the busiest dockets in the nation.[1] The resulting volume of litigation does not demonstrate that the Court cannot efficiently address the issues presented. The case's history shows otherwise. Nor does it justify transferring a significant portion of this case to a special master. The motion should be denied.

I. The Reply confuses the Court's authority to use FOIA-specific tools with the necessity of doing so.

Throughout the Reply, Plaintiff argues that the Defendants have taken inconsistent positions by pointing to the Court's authority to order supplemental declarations, additional searches, or *in camera* review as a reason that a special master is not necessary, while opposing the exercise of those tools in the opposition to Plaintiff's motion for reconsideration. *See* Doc. 271, at 2 ("The response also contradicts the FBI's other filing of the same day."). Plaintiff characterizes the Defendants' position as an acknowledgement that the "Court has every tool that it needs and it should not use any of them." *Id.*

Plaintiff's attempt to manufacture a contradiction conflates the availability of judicial remedies with the necessity of exercising them. There is no inconsistency in recognizing that the Court has the authority to remedy a deficiency—in fact it possesses many tools that are far less drastic than the special master referral Plaintiff proposes—while simultaneously maintaining that the Plaintiff has failed to carry his burden to demonstrate any deficiency necessitating the Court utilize those remedies.

[1] Administrative Office of U.S. Courts, *Federal Court Management Statistics: U.S. District Court – Judicial Caseload Profile* (12-month period ending June 30, 2026) (reporting 915 weighted filings per judgeship, which ranks fourth nationally), *available at* https://www.uscourts.gov/sites/default/files/document/fcms_na_distprofile0630.2026.pdf (last visited November 19, 2026).

Defendant's position, in opposing both reconsideration appointment of a special master, is that Plaintiff has identified no deficiency warranting additional searches, declarations, discovery, or *in camera* review. Plaintiff certainly has not established the need for a special master. The Court could disagree with that position after considering the evidence and briefing. But the Court's ability to make that determination and then order tailored relief if necessary, shows why a special master is not necessary.

Plaintiff's argument also inverts the sequence in which the Court should consider the issue. The Court should first determine whether the FBI has carried its FOIA burden. If the Court finds a deficiency, then it can determine what additional proceedings are warranted, if any. Plaintiff seeks first to have a special master conduct an expansive investigation to determine whether there are any deficiencies that might require additional relief. Neither FOIA nor Rule 53 support that approach.

II. Plaintiff's alternative relief is neither necessary nor narrow.

Plaintiff, for the first time in his reply, proposes, as alternative relief, another comprehensive declaration addressing the FBI's searches, record systems, and special-access designations, together with an *in camera* examination of the investigative files and withheld records. Doc. 271, at 9. Plaintiff points out that the "FBI acknowledges" that these tools are "ordinary FOIA procedures within the Court's authority," and presents this as a reasonable alternative to his original request. Of course, when compared to the original request, anything will seem reasonable. But the extraordinary breadth of the original request does not make a substantially similar, but narrower, demand reasonable merely because it is offered as a fallback. The FBI does agree that these are tools that courts can use in FOIA cases. But again, Plaintiff conflates the availability of the tools with whether using the tools is reasonable or necessary.

The FBI has already provided extensive declarations and pleadings addressing the same subjects that Plaintiff now seeks to revisit in requesting alternative relief. Over the last six years, the FBI has provided a multitude of declarations and pleadings explaining its searches and withholding determinations. There simply is no basis for another comprehensive accounting before the Court determines that the existing record is deficient. To the contrary, the Court has repeatedly found that the FBI satisfied its burden under the FOIA to conduct a reasonable search for documents responsive to Plaintiff's FOIA request.

Nor does the alternative proposal explain how another round of accounting would advance resolution of the litigation. Nothing would prevent yet another round of accusations, demands for additional searches, and requests for further discovery. The history of this case provides little reason to believe that another comprehensive declaration would bring the litigation closer to resolution.

Plaintiff cannot transform an unjustified request for an extraordinary special master referral into an appropriate one by proposing a *somewhat* less expansive alternative in his reply. The Motion should be denied.

III. The Reply's remaining arguments do not justify an independent investigation.

As in his reply in support of his motion for reconsideration, Plaintiff characterizes the Corcoran Declaration as "conced[ing]" that the FBI never searched for records response to part of Item 4 of his FOIA request. Doc. 271, at 4. This is not a new revelation. In 2022, the FBI explained that Item 4's reference to "any other person or persons" involving transferring DNC information to Wikileaks was not sufficiently specific to permit a reasonable search under 28 C.F.R. § 16.3(b). Doc. 54-1 (Fifth Seidel Declaration), ¶ 18. Plaintiff challenged this explanation more than four

years ago. Doc. 65, at 13–14. Corcoran's reiteration of the FBI's long-standing position,[2] does not establish a newly discovered deficiency, let alone the need for a special master.

Plaintiff also accuses Defendant of altering language in his FOIA request, observing that the FBI's response to his motion to reconsider uses the word "investigations" despite the fact his request uses the word "individuals." Doc. 271, at 5. As explained in the sur-reply to the motion to reconsider, the discrepancy is a transcription error, not an attempt to mislead the Court. The FBI does not dispute the correct wording, which is properly quoted elsewhere in the filing and in the Corcoran Declaration. *See* Doc. 265, at 20; Doc. 265-1, ¶ 13. The FBI's position does not depend on the mistaken word. Plaintiff's suggestion that this isolated error demonstrates dishonesty or undermines the reliability of the FBI's sworn declarations is not warranted.

Plaintiff's remaining allegations regarding particular investigative files and search methodologies are addressed in the Parties' reconsideration briefing. They present familiar questions regarding the adequacy of agency searches and supporting declaration. Even if the Court identifies a deficiency requiring clarification, that will not justify the sweeping investigation the Plaintiff proposes.

IV. Plaintiff's proposal would impose a substantial expense without a demonstrated need.

Plaintiff's proposed reference would entail substantial expense, including additional examination of records, potential discovery, recommendations, objections, and judicial review. Fed. R. Civ. P. 53(a)(3), (g)(3). Rule 53 requires the Court to consider the fairness of imposing those expenses and to protect against unreasonable expense or delay. *Id.* Plaintiff's assertion that the FBI should bear those costs rests on the same disputed allegations of the underlying Motion.

[2] The Plaintiff raised the issue again in 2023 in his motion for summary judgment. Doc. 112. The Court subsequently denied that motion. Doc. 174.

Those allegations themselves cannot justify imposing the expense of an extraordinary investigation on the FBI.

Moreover, Plaintiff's proposal fails to address who would bear the costs if they are not shifted to the FBI. Mr. Huddleston assigned his interest in this litigation to Mr. Miller, but he has not been substituted as plaintiff. The procedural history raises practical question concerning Plaintiff's allocation of expenses, particularly when the potential costs are staggering. Those uncertainties provide an additional reason to be skeptical of the sweeping proposal Plaintiff requests, not a basis to require FBI to finance Plaintiff's desired investigation.

CONCLUSION

The Court has effectively and timely managed this litigation since its inception in 2020. Plaintiff has not established that the Court cannot continue to effectively and timely resolve the matters before it. His proposed alternative relief would merely initiate another comprehensive round of proceedings without any demonstrated need or reasonable prospect of bringing this litigation closer to resolution. The Court possesses the authority to order targeted relief if it identifies a specific deficiency. Nothing in Plaintiff's reply warrants appointment of a special master or the additional relief he now requests. Defendants respectfully request that the Court deny Plaintiff's Motion for Appointment of a Special Master.

Respectfully submitted,

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CERTIFICATE OF SERVICE

I hereby certify that on November 19, 2026, a true and correct copy of the foregoing document was filed electronically with the court and has been sent to counsel of record via the court's electronic filing system.