

EXHIBIT D

UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLUMBIA

PETER BISTRAN,

Plaintiff,

v.

FEDERAL BUREAU OF
INVESTIGATION,

Defendant.

Civil Action No. 21-1086 (RDM)

JOINT STATUS REPORT

Pursuant to the Court’s May 7, 2021, and May 15, 2021, Minute Orders, the parties, by and through undersigned counsel, hereby submit the following joint status report to update the Court on the parties’ discussions regarding a proposed schedule in this Freedom of Information Act (“FOIA”) litigation. The parties report as follows:

1. Following the scheduling conference held before the Court on May 7, 2021, counsel for the parties met and conferred on May 11, 14, 20, 21, 24, and 25, 2021, to address whether— notwithstanding Defendant’s statute of limitations defense—the parties could reach an agreement on a joint proposed processing and production schedule with respect to Plaintiff’s January 5, 2015, FOIA request.

2. Having now concluded their discussions, the parties’ jointly propose the following:
(1) Defendant’s deadline to respond to the Complaint in this matter should be held in abeyance;¹

¹ Because FOIA actions are exempt from the requirements of Local Civil Rule 16.3(b) and the analogous Federal Rules of Civil Procedure, “an answer does little to advance the proceedings.” See Nov. 2, 2020 Min. Order, *Cardona v. Dep’t of Justice*, Civ. A. No. 19-1783 (EGS) (D.D.C.).

(2) Defendant agrees to waive its statute of limitations defense in exchange for Plaintiff's agreement to waive his claim for attorneys' fees and costs;² (3) Plaintiff agrees to limit and restrict the scope of his January 5, 2015, FOIA request to the period 2005-2015, to include the results of the FBI's already-concluded main file search³ and its ongoing cross-reference file search; (4) Defendant will process a minimum of 500 pages of potentially responsive records per month, and make interim monthly productions of any non-exempt portions of those records to Plaintiff, with the first production to be made on or before July 16, 2021; (5) 60 days after the conclusion of Defendant's productions of records responsive to the now-limited FOIA request, Defendant will provide Plaintiff with a *Vaughn* index and the parties will meet and confer to determine whether there are any issues remaining in the litigation.

3. The parties respectfully propose that the Court adopt the parties' joint proposal, and that the parties be ordered to file a further joint status report on or before August 25, 2021, and every 90 days thereafter until processing and production is complete in this matter.

* * *

² Plaintiff's waiver of his claim to attorney's fees and costs does not extend to a request for fees incurred in connection with challenging (if necessary) Defendant's redactions or claims that certain documents are subject to FOIA exemptions.

³ The FBI has previously reported to Plaintiff that it located approximately 8,680 pages of "main-file" records responsive to Plaintiff's January 5, 2015, FOIA request, approximately 2,123 pages of which are from the period 2005 to 2015. The FBI reports that it is in the process of finalizing its search of cross-reference files, and that the volume of responsive records is not yet known.

Dated: May 25, 2021

s/ John R. Sandweg

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Respectfully submitted,

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