

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

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SHENG-WEN CHENG,	:	
	:	23 Civ. 3983 (AT) (GS)
Plaintiff,	:	
	:	<u>ORDER</u>
- against -	:	
	:	
DEPARTMENT OF JUSTICE and	:	
FEDERAL BUREAU OF INVESTIGATION,	:	
	:	
Defendants.	:	
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GARY STEIN, United States Magistrate Judge:

Plaintiff Sheng-Wen Cheng (“Plaintiff” or “Cheng”), proceeding *pro se*, filed the present action seeking relief under the Freedom of Information Act (“FOIA”) and the Administrative Procedure Act. (Dkt. No. 1 (“Complaint”)). On September 7, 2023, Judge Gorenstein approved the Government’s proposal to move for summary judgment on the issue of whether the records sought by Plaintiff were exempt from FOIA pursuant to Exemption 7(A). (Dkt. No. 23).

Thereafter, Plaintiff moved to stay the instant case pending resolution of a criminal proceeding in the Southern District of Florida (Dkt. Nos. 28-30), and the Court suspended the briefing schedule for Defendants’ proposed summary judgment motion (Dkt. No. 32). On October 9, 2023, the Government filed a memorandum of law in support of its opposition to Plaintiff’s motion to stay (Dkt. No. 34) and a cross-motion to dismiss the Complaint as moot (Dkt. Nos. 33 & 34).¹

¹ Both the Government’s cross-motion to dismiss and Plaintiff’s motion to stay were referred to the undersigned for a report and recommendation on October 11, 2023. (Dkt. No. 37).

Plaintiff wrote to the Court on October 31, 2023 “withdrawing [his] motion to stay” and requesting that the court “reset a briefing schedule” for summary judgment on the FOIA exemption issue. (Dkt. No. 39). The Government opposed this request, asking the Court to hold summary judgment briefing in abeyance until a decision was rendered on its motion to dismiss. (Dkt. No. 40).

The Court denies Plaintiff’s request for the Court to reset a summary judgment briefing schedule. Summary judgment motion practice will be held in abeyance until the Government’s motion to dismiss, which is now fully briefed (Dkt. Nos. 38 & 41), is resolved.

Furthermore, in light of Plaintiff’s representation that he is withdrawing his motion to stay this proceeding, **the Clerk of Court is respectfully requested to terminate the motion at Docket No. 28 as withdrawn.**

The Clerk of Court is further requested to send a copy of this Order to the *pro se* Plaintiff.

SO ORDERED.

DATED: New York, New York
January 24, 2024



GARY STEIN
United States Magistrate Judge