

**UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF INDIANA**

BRUCE MARJENHOFF,)
)
Plaintiff,)
)
vs.) 1:12-cv-252-JMS-TAB
)
DENNIS PARSLEY, Chief of Police)
Bedford, Indiana,)
)
Defendant.)

Entry and Order Dismissing Action

I.

The plaintiff's motion to supplement [8] is **granted**. This motion is the plaintiff's response to directions in Part II of the Entry issued on May 14, 2012.

II.

The action is brought pursuant to the Freedom of Information Act, 5 U.S.C. § 552 ("FOIA"). The plaintiff seeks records from the Bloomington, Indiana Police Department ("BPD").

As explained in the Entry of May 14, 2012, the FOIA confers jurisdiction on the district courts "to enjoin the agency from withholding agency records and to order the production of any agency records improperly withheld." 5 U.S.C. § 552(a)(4)(B); *see U.S. Dep't of Justice v. Tax Analysts*, 492 U.S. 136, 142 (1989). By its own terms, "agency" under FOIA means "each authority of the Government of the United States, whether or not it is within or subject to review by another agency." 5 U.S.C. § 551(1).

Because FOIA applies only to federal and not to state agencies, the plaintiff was given a period of time in which to supplement his complaint by setting forth a basis for the exercise of jurisdiction over his claim. He has responded by explaining why he requests the records he has sought, but has not explained how the FOIA could be used in federal court to achieve that purpose and has not altered his claim or identified any other basis on which he could be awarded the relief he seeks.

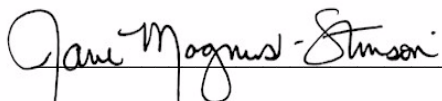
III.

Jurisdiction is authority to decide a case. When it is absent, a court's only course is to announce that fact and dismiss the action. *Steel Co. v. Citizens for a Better Env't*, 523 U.S. 83, 94 (1998); see also *University of S. Ala. v. Am. Tobacco Co.*, 168 F.3d 405, 410 (11th Cir. 1999)("[O]nce a federal court determines that it is without subject matter jurisdiction, the court is powerless to continue.>").

For the reasons explained in Part II of this Entry, therefore, this action is dismissed for lack of jurisdiction. Judgment consistent with this Entry shall now issue.

IT IS SO ORDERED.

Date: 05/25/2012



Hon. Jane Magnus-Stinson, Judge
United States District Court
Southern District of Indiana

Distribution:

Bruce Marjenhoff
16 Geer Road
Sandia Park, NM 87047