

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLUMBIA

GRANT F. SMITH, *PRO SE*)

Plaintiff,)

vs.)

UNITED STATES)

DEPARTMENT OF TREASURY) Case: 17-1796

UNITED STATES)

OFFICE OF PERSONNEL MANAGEMENT)

Defendants.)

MOTION FOR ISSUANCE OF A WRITTEN RULING

Close to a year following Plaintiff's request that this case be dismissed without prejudice or declared the equivalent of a mistrial, chambers through email proposes that parties appear via Zoom to receive a ruling from the bench with no opportunity for oral argument. (See Exhibit 1). Parties are asked to confer and select from a number of dates to appear as passive recipients of the oral ruling.

Given the importance of this case to the broader FOIA community of investigative reporters, activists and accountability organizations who frequently confer and share information, Plaintiff believes that an oral ruling issued via one-way transmission, with Plaintiff and Defendants presumably on mute, is not in alignment with proper court procedure. Such a procedure would compel the Plaintiff to order an official court transcript

in order to have a proper documentary record of the justifications behind whatever ruling the court issues.

Such a transcript would cause the plaintiff to incur court reporting costs in addition to the not insubstantial sunk costs of a decade of attempting to extract basic information about the functions of government from agencies committed to undue secrecy and FOIA obstruction, which commenced in 2012.

It would deprive the Plaintiff of timely access to points of law and legal precedent behind the order needed to successfully appeal any adverse ruling. It would also deprive news outlets such as *Courthouse News* the opportunity to timely report on the decision and justifications for the pending ruling.

Plaintiff therefore respectfully asks that this Court resume its contacts via proper filings through the ECF system, which is a highly public record, rather than undocketed emails from chambers, which are not. Plaintiff requests a written order with full citations be issued through the ECF system, rather than one-way oral rulings with no meaningful opportunity for rebuttal. Plaintiff asks that the written order be issued before the one-year anniversary of his last motion, to avoid a second judicial complaint filing over undue delays and failure to substantiate rulings.



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Exhibit 1

2/23/2022 Undocketed chambers email on proposed bench ruling

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From Chutkan Chambers <Chutkan_Chambers@dcd.uscourts.gov> ☆

Subject **17-cv-1796, Smith v. Treasury - Oral Ruling**

2/23/2022, 11:01 AM

To Me <gsmith@irmep.org> ☆, Sean.tepe@usdoj.gov <Sean.tepe@usdoj.gov> ☆

Hello,

The court would like to set a motion hearing in 17-cv-1796, *Smith v. U.S. Dep't of Treasury*. Having considered the briefing in Defendants' *Renewed Motion for Summary Judgment*, ECF No. 44, and Plaintiff's *Motion for Declaration of Mistrial or Dismissal without Prejudice*, ECF No. 45, the court will issue a ruling from the bench without need for oral argument.

Please confer and jointly reply to this email no later than the end of the business day tomorrow (2/24) with three proposed dates and times for a virtual hearing in the next two weeks. The court sits on Monday, Wednesday, and Friday.

Thank you,

Chambers of Hon. Tanya S. Chutkan
U.S. District Court for the District of Columbia
(202) 354-3000