

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLUMBIA**

Carter PAGE,	)	
	)	
Plaintiff,	)	
	)	
v.	)	
	)	Case No. 1:19-CV-03149-KBJ
UNITED STATES DEPARTMENT OF JUSTICE,	)	
	)	
Defendant.	)	
	)	

**DEFENDANT’S MOTION FOR AN EXTENSION OF TIME
TO RESPOND TO THE COMPLAINT**

Defendant Department of Justice, through undersigned counsel, respectfully requests an extension of time in which to respond to the Complaint, up through and including December 23, 2019.

Plaintiff served the Complaint on the U.S. Attorney’s Office on October 26, 2019. Count I purports to raise a claim under both the Freedom of Information Act and the Privacy Act related to denial of access to records. Counts II and III purport to raise Privacy Act claims related to alleged improper dissemination of records.

Pursuant to Federal Rule of Civil Procedure 12(a)(2), Defendant Department of Justice has 60 days, or up through and including December 27, 2019, in which to respond to the Privacy Act claims raised in the Complaint. *See* Fed. R. Civ. P. 12(a)(2) (federal government’s answer is due 60 days after service on the United States attorney). In Freedom of Information Act lawsuits, however, this timeframe is shortened to 30 days. *See* 5 U.S.C. § 552(a)(4)(C) (shortening a defendant’s response period in FOIA lawsuits to 30 days “unless the court otherwise directs for good cause shown”). Accordingly, a response to the Freedom of Information Act claim in Count I would be due November 27, 2019.

Defendant therefore respectfully requests a brief extension in which to respond to the Complaint up through and including December 23, 2019. This request is supported by good cause. First, it would be most efficient for the Court and the parties for Defendant to respond to the Complaint as a whole, rather than bifurcating the overlapping FOIA and Privacy Act claims. Defendants' proposal shortens the amount of time in which Defendant will respond to the Privacy Act claims, allowing Defendants to respond to the entire Complaint at once. Second, the Complaint potentially raises complex factual and legal issues. Undersigned counsel is still in the process of tracking down Mr. Page's relevant requests to the Department, and may move to dismiss some of the claims. Finally, undersigned counsel needs additional time to prepare the response in light of the press of other business and counsel's planned vacation, including Thanksgiving holiday plans.

Undersigned counsel consulted with Mr. Page, who indicated that he opposes this motion "as of now" but "might change [his] mind." On November 21, 2019, undersigned counsel also conferred with an attorney who indicated that he was now representing Mr. Page in connection with Mr. Page's Privacy Act litigation and his request to OIG (mentioned in Paragraphs 9-11 of the Complaint, although not clearly raised in Counts I through III). Counsel conferred about this specific extension request, but Mr. Page later contacted undersigned counsel and informed counsel that he remains unrepresented in this matter, although that too "might change."

Dated: November 25, 2019

Respectfully Submitted,

ETHAN P. DAVIS
Principal Deputy Assistant Attorney General

MARCIA BERMAN
Assistant Director, Federal Programs Branch

/s/Amy E. Powell

AMY E. POWELL
Trial Attorney, Federal Programs Branch
Civil Division, Department of Justice
c/o U.S. Attorney's Office
150 Fayetteville St., Suite 2100
Raleigh, NC 27601
Phone: 919-856-4013
Email: amy.powell@usdoj.gov

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CARTER PAGE,

Plaintiff,

v.

U.S. DEPARTMENT OF JUSTICE,

Defendant.

Civil Action No.: 19-cv-03149 (KBJ)

**PLAINTIFF’S OPPOSITION TO DEFENDANT’S
MOTION FOR AN EXTENSION OF TIME**

1. Plaintiff Dr. Carter Page, *pro se*, objects to the motion by the Department of Justice (“DOJ”) for an extension of time (ECF, No. 6) to respond to the Complaint (ECF, No. 1). Whereas DOJ plans imminent further violations of Plaintiff’s legal and Constitutional rights including the Privacy Act of 1974 over the interim period¹ and prior to completion of any prerequisite 5 U.S.C. § 552a(d)(2) reviews (*Id.*, Compl., at ¶ 10), Defendant’s motion should be denied.

2. The original causes of action for this litigation stemmed in part from DOJ’s illegal dissemination of the Defendant’s fraudulent FISA affidavits to the *New York Times* in July 2018 against the Plaintiff’s consent (Compl., ECF No. 1, at ¶¶ 7, 22, 26, et al). Rather than remedy this alleged criminal activity [5 U.S.C. § 552a(i)(1)], associates of the Defendant over recent days have against the Plaintiff’s consent now illegally leaked to this same newspaper alleged details surrounding the draft DOJ Inspector General FISA Abuse report² – a historic forthcoming

¹ Charles Creitz, “Graham: DOJ watchdog’s FISA report will be released Dec. 9,” Fox News, November 20, 2019.

² Adam Goldman and Charlie Savage, “Report Is Said To Clear F.B.I. Of Bias Claims,” *New York Times*, November 23, 2019, page A1. Adam Goldman, “Review of Russia Inquiry Is Expected to Say F.B.I. Did Not Spy on Trump,” *New York Times*, November 28, 2019, A19. See

document encompassing a system of records regarding the Plaintiff [5 U.S.C. § 552a(a)(5)] which represented another initial cause of action for this litigation (Compl., at ¶¶ 8-11, 26, et al).

3. Over recent weeks, Plaintiff has been in correspondence with the U.S. Senate Judiciary Committee and in negotiations with the Defendant in a final attempt to find an interim solution which minimizes further damage to Dr. Page and protects him against subsequent violations of his rights while still allowing essential disclosures about the Defendant's crimes. Underscoring the broader implications of this matter, Judge Emmet G. Sullivan on Wednesday granted a Joint Motion to modify the schedule for a case related to these highly anticipated disclosures surrounding the underlying FISA abuse against Dr. Page (*U.S.A. v. Michael T. Flynn*, 17-cr-00232-EGS, D.D.C., granting ECF No. 140). To the extent that an amicable solution is not reached by early the week of December 2, 2019, Plaintiff intends to file an emergency injunction motion to help mitigate the impact of further criminal activity by the Defendant.

4. On Monday, this Court confirmed that Article II authorities: "do not have subjects, bound by loyalty or blood, whose destiny they are entitled to control." (*Committee on the Judiciary v. McGahn*, 19-cv-02379-KBJ, D.D.C., ECF No. 46, p. 116). But characteristic of the Defendant's Orwellian overreach, DOJ has instead continued to exercise an even greater level of absolute control entailing life-threatening damages against the Plaintiff, stemming from the United States Government's incessant violations of the Privacy Act of 1974 and other alleged criminal activity. Denial of the Defendant's request for any such further unnecessary delays (ECF, No. 6) may represent an initial step towards restoring the rule of law.

Dated: November 29, 2019

Very respectfully,
By: /s/ Carter Page
Carter Page, Ph.D.

also Katherine Rodriguez, "Jason Chaffetz: NYT Pre-Spinning of Inspector General Report 'True to Script' for Democrats," Breitbart, November 28, 2019.

c/o Global Natural Gas Ventures LLC
101 Park Ave., Suite 1300
Oklahoma City, OK 73102
Phone (405) 825-0172

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**REPLY MEMORANDUM IN SUPPORT OF
DEFENDANT’S MOTION FOR AN EXTENSION OF TIME
TO RESPOND TO THE COMPLAINT**

Defendant Department of Justice respectfully submits this reply memorandum to respond to a few points raised by Plaintiff’s opposition to the motion for an extension of time.

First, Plaintiff notes that he “intends to file an emergency injunction motion” as soon as this week. Although the opposition is unclear as to the purpose of such a motion, Plaintiff has communicated to undersigned counsel his possible intention to seek emergency relief in this action that would prohibit the release of the forthcoming DOJ Office of Inspector General (“OIG”) report, until such time as Mr. Page can review the draft (which is still being finalized).¹ An extension of time in which to respond to the Complaint would not prejudice his ability to seek emergency relief. And the Government has proposed to *shorten* the time in which it would respond to his Privacy Act claims – the supposed basis for his emergency motion. (If anything,

¹ The Office of Inspector General is currently finalizing the report regarding its investigation “examining the Department’s and the FBI’s compliance with legal requirements, and with applicable DOJ and FBI policies and procedures, in applications filed with the U.S. Foreign Intelligence Surveillance Court (FISC) relating to a certain U.S. person,” *see* DOJ OIG Ongoing Work, <https://oig.justice.gov/ongoing/all.html>, and has previously informed Plaintiff that the Government anticipates release on or about December 9, 2019.

the time spent responding to an emergency motion may ultimately require the Government to seek yet additional time to respond to the Complaint, thus further delaying the ultimate resolution of his claims.)

Finally, to the extent the Court denies the requested motion for an extension, and directs the Government to respond to the FOIA claims in the Complaint before the deadline for responding to the Privacy Act claims, Defendant respectfully requests at least one week from the date the Court rules in which to file the partial answer (to the FOIA claims).

Dated: December 2, 2019

Respectfully Submitted,

ETHAN P. DAVIS
Principal Deputy Assistant Attorney General

MARCIA BERMAN
Assistant Director, Federal Programs Branch

/s/Amy E. Powell
AMY E. POWELL
Trial Attorney, Federal Programs Branch
Civil Division, Department of Justice
c/o U.S. Attorney's Office
150 Fayetteville St., Suite 2100
Raleigh, NC 27601
Phone: 919-856-4013
Email: amy.powell@usdoj.gov