

United States District Court
Eastern District of Michigan

Dean R. Kibbe,

Plaintiff,

Civil No. 17-12288

v.

Honorable Victoria A. Roberts
Mag. Judge Stephanie Dawkins

United States of America, et al.,

Defendant.

**Defendant United States' Ex Parte Motion for
Extension of Time to Answer**

Pursuant to Federal Rule of Civil Procedure 6(b)(1)(A), Defendant United States requests an enlargement of time to answer, move, or otherwise plead, of sixty (60) days for good cause as demonstrated by the following:

1. Plaintiff filed this suit, *pro se*, against the United States under the Freedom of Information Act (FOIA), 5 U.S.C. § 552. (*See* Dkt. 1, Compl., PgID 64) (civil cover sheet identifies “Cause of Action” as “5 U.S.C. section 552 Freedom of Information Act.”).
2. The deadline for a defendant’s first responsive pleading under FOIA is thirty (30) days. *See* 5 U.S.C. § 552(a)(4)(C).
3. Defendant was served with plaintiff’s suit on July 18, 2017.

4. Therefore, defendant's first responsive pleading is due on August 17, 2017.

5. Plaintiff's Complaint under FOIA presents a meandering narrative about matters ranging from an alleged CIA "method of assassination" to plaintiff's "first ambush with Delta Company" that resulted in the loss of "what remaining fear of death [he] had." (Dkt. 1, Compl., PgID 7–8).

6. Plaintiff does not allege that he has exhausted the administrative process required by FOIA, which is a necessary prerequisite to obtaining federal court jurisdiction. (*See* Dkt. 1); *Lamb v. I.R.S.*, 871 F. Supp. 301, 303 (E.D. Mich. 1994) ("The Freedom of Information Act requires that an individual exhaust his administrative remedies prior to filing a judicial action.").

7. Defendant requests an extension of the time for it to answer in order to review its files so that it may determine whether plaintiff has exhausted his administrative remedies.

8. Pursuant to Loc. Civ. R. 7.1, defendant states that plaintiff is *pro se* and, at this time, the docket does not contain a phone number or email address at which plaintiff may be reached; therefore, obtaining concurrence in this motion would not be practicable.

Respectfully submitted,

Daniel L. Lemisch
Acting United States Attorney

/s/ Zak Toomey
Zak Toomey (MO61618)
Assistant United States Attorney
211 W. Fort Street, Suite 2001
Detroit, Michigan 48226
(313) 226-9617
Zak.Toomey@usdoj.gov

Dated: August 16, 2017

Certification of Service

I certify that on August 16, 2017, I have mailed by U.S. mail the foregoing paper to the following:

Dean R. Kibbe
1223 Union Street
Port Huron, MI 48060

/s/ Zak Toomey

Zak Toomey (MO61618)
Assistant United States Attorney
211 W. Fort Street, Suite 2001
Detroit, Michigan 48226
(313) 226-9617
Zak.Toomey@usdoj.gov

9

**UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF MICHIGAN
SOUTHERN DIVISION**

DEAN R. KIBBE,

17-12288

Case No. ~~17-1288~~

Plaintiff,

vs.

Judge Victoria A. Roberts

THE UNITED STATES, et al,

Defendants.

FILED
AUG 22 2017
CLERK'S OFFICE
U.S. DISTRICT COURT

**Plaintiff's Response to Defendant's Ex Parte Motion
for Extension of Time to Answer**

**NOW COMES Dean R. Kibbe, Plaintiff, in pro per, and as a Response to
Defendant's Ex Parte Motion for Extension of Time to Answer states as follows:**

In answer to each of the defendant's numbered paragraphs:

- 1. Plaintiff does not dispute the statements in this paragraph.**
- 2. Plaintiff does not dispute the statements in this paragraph.**
- 3. Plaintiff does not dispute the statements in this paragraph.**

4. Plaintiff does not dispute the statements in this paragraph.

5. The defendant states in this paragraph: "Plaintiff's Complaint under FOIA presents a meandering narrative...". According to the English Oxford Living Dictionaries, "meandering", used as an adjective, is defined as: (1) Following a winding course; and, (1.1) Proceeding in a convoluted or undirected fashion. The Cambridge Academic Content Dictionary defines "convoluted" as: (esp. of expression in speech or writing) having a complicated structure and therefore difficult to understand: a convoluted story/speech/plot. Merriam Webster defines "complicated" as: (1) consisting of parts intricately combined (2) difficult to analyze, understand, or explain. The Cambridge Dictionary defines "narrative" as: a story or a description. This paragraph is a nonglittering generality which cites no statutes, precedents, and/or Federal Rules of Civil Procedure which would establish any vector paradigms and/or parameters for narratives in a Complaint in a federal court action. Therefore, the statement made in this paragraph is frivolous and devoid of any recognizable algorithm for narrative vector analysis of the relevant background facts elaborated in the Complaint and Exhibits, which will all become relevant if the defendant attempts to invoke any type of secrecy acts as a defense.

6. The defendant cites Lamb v. I.R.S., noting that the Freedom of Information Act requires that an individual exhaust his administrative remedies

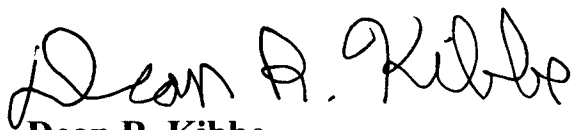
prior to filing a judicial action. The act specifically provides, however, that administrative remedies will be deemed exhausted if the agency fails to comply with the statutory time limitations for making a determination. 5 U.S.C. section 552(a)(6)(C). Constructive exhaustion occurs when the agency fails to comply with the applicable time limit provisions of 5 U.S.C. section 552(a)(6)(C). In paragraph 16. of the Complaint I state that I have exhausted all available remedies in connection with my FOIA request. That statement is verified in Exhibit C, page 1, Pg ID 61, which points out the first FOIA request I made online, (which was labeled as closed, even though the only information I received was the casualty report in Exhibit C, page 2, Pg ID 62), and the second FOIA request I made online, which is the object of the instant FOIA case, which, as pointed out at the top of the page by an arrow, was still not even assigned yet at the time of the filing of the instant case. Non-text images, and images with text in a format other than the non-meandering double-spaced narrative commonly used by humans programmed as lawyers, are a common means of communication nowadays, found displayed in many areas, such as that referred to as a "graphical user interface", used with computers, and even telephones, which are now available in a form which requires no connecting wires.

7. In the interest of fairness, I will grant the defendant an extra sixty(60) days. This will give me a chance for a vacation.

8. Plaintiff's phone line is compromised in various ways, and is not secure enough for concurrence in court matters. I have even had spoofed phone calls which registered my own phone number on the caller ID for the phone receiving said call. However, for communication of court matters, the following should be added as my email address: angels@saintvibiana.com

WHEREFORE Dean R. Kibbe, Plaintiff, in pro per, submits the above as a Response to Defendant's Ex Parte Motion for Extension of Time to Answer.

Dated: August 18, 2017

A handwritten signature in black ink that reads "Dean R. Kibbe". The signature is written in a cursive, flowing style.

**Dean R. Kibbe
Plaintiff, in pro per
1223 Union Street
Port Huron, MI 48060
email: angels@saintvibiana.com**

**UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF MICHIGAN
SOUTHERN DIVISION**

DEAN R. KIBBE,

Plaintiff,

vs.

THE UNITED STATES, et al,

Defendants.

Case No. 17-1288

Judge Victoria A. Roberts



BRIEF IN SUPPORT OF RESPONSE

NOW COMES Dean R. Kibbe, Plaintiff, in pro per, and as a Brief in Support of Response states as follows:

Plaintiff does not dispute the statements made in paragraphs 1-4 in the defendant's Motion at the present time. The statements made in paragraphs 5. and 6. are frivolous, and seem to be the defendant's desperate attempt to compensate for a complete lack of defense by making a feeble implication at the possibility of a routine Motion to Dismiss, without actually taking the risk of

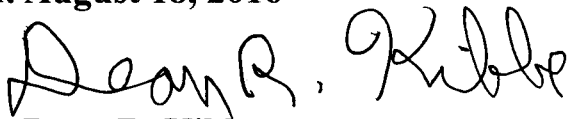
humiliation; like a barking Chihuahua. In the interest of fairness, and as a gesture of peace on Earth and good will towards men and women, I hereby grant the defendant an extra sixty(60) days to reflect on the errors of their ways.

I am adding the following email address for communication of court matters:

angels@saintvibiana.com

WHEREFORE Dean R. Kibbe, Plaintiff, in pro per, submits the above as a Brief in Support of Response.

Dated: August 18, 2016

A handwritten signature in black ink that reads "Dean R. Kibbe". The signature is written in a cursive, flowing style.

**Dean R. Kibbe
Plaintiff, in pro per
1223 Union Street
Port Huron, MI 48060
email: angels@saintvibiana.com**

**UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF MICHIGAN
SOUTHERN DIVISION**

DEAN R. KIBBE,

Plaintiff,

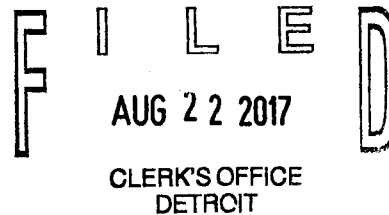
vs.

THE UNITED STATES, et al,

Defendants.

Case No. 17-1288

Judge Victoria A. Roberts



CERTIFICATE OF SERVICE

This is to certify that Plaintiff's Response to Defendant's Ex Parte Motion for Extension of Time to Answer, and Brief in Support of Response for the above captioned case were served on the defendant, Zak Toomey, Assistant U.S. Attorney, 211 W. Fort Street, Suite 2001, Detroit, MI 48226, by depositing the same in the U.S. mail on August 19, 2017.

A handwritten signature in cursive script that reads "Dean R. Kibbe".

**Dean R. Kibbe
Plaintiff, in pro per
1223 Union Street
Port Huron, MI 48060
email: angels@saintvibiana.com**

DEAN R. KIRBE
1223 UNION STREET
PORT HURON, MI
48060



8/19/17 DP

RECEIVED
AUG 22 2017
CLERK OFFICE
DETROIT

UNITED STATES DISTRICT COURT
OFFICE OF THE CLERK
231 W. LAFAYETTE
5TH FLOOR
DETROIT, MI 48226

