

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

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SUNDEEP KISHORE,)	
)	
Plaintiff,)	
)	
v.)	Civil Action No. 07-1299 (RMC)
)	
U.S. DEPARTMENT OF JUSTICE, et al.,)	
)	
Defendants.)	
)	

MEMORANDUM OPINION

By Order of September 8, 2008 [Dkt. # 31], the Court granted judgment to the Defendants on all issues presented in this Freedom of Information Act (“FOIA”) case except the withholding of 12 pages of responsive records in their entirety by the Federal Bureau of Investigation. *See* Memorandum Opinion (“Mem. Op.”) of September 8, 2008 at 18-19 (finding insufficient evidence to address record segregability) [Dkt. # 30]. The Defendants were provided additional time for the FBI to “supplement its declaration by identifying the 12 pages of responsive records withheld in their entirety and the applicable exemptions.” Sept. 8, 2008 Order. On October 8, 2008, the Defendants proffered the Supplemental Declaration of David M. Hardy (“Hardy Suppl. Decl.”). *See* Dkt. # 32. Upon consideration of Mr. Hardy’s supplemental declaration and the accompanying exhibit consisting of the 12 pages at issue (Exhibit A), the Court is satisfied that the Defendants disclosed all reasonably segregable records responsive to Mr. Kishore’s FOIA requests.

Mr. Hardy clarifies that the 12 pages at issue were withheld from the FBI’s initial release of responsive records on November 19, 2007, *see* Mem. Op. at 3, because they were identified as “duplicates of other pages released to plaintiff.” Hardy Suppl. Decl. ¶ 5. However, in

preparing his first declaration supporting the Defendants' initial motion for summary judgment, Mr. Hardy "determined that seven [] pages out of the 12 pages originally thought to be duplicates were not true duplicates in that they contain marginalia, and were consequently a separate record, which should be reviewed for release to plaintiff." *Id.* ¶ 6. Thus, seven of the 12 pages "were processed and released to plaintiff as part of Exhibit 30 to the [first] Hardy Declaration[;] five pages were withheld as 'true duplicates' of released records." *Id.*

The FBI's withholding of duplicates of five released pages is immaterial to the FOIA claim because "once all requested records are surrendered, federal courts have no further statutory function to perform." *Perry v. Block*, 684 F.2d 121, 125 (D.C. Cir. 1982). A review of the remaining seven pages that were released to Mr. Kishore confirms that the FBI redacted third-party information pursuant to FOIA Exemptions 6 and 7(C). The Court previously approved the FBI's withholding of such information under Exemption 7(C). *See Mem. Op.* at 13-15.

In the absence of any evidence that the Defendants improperly withheld records responsive to Mr. Kishore's FOIA requests, the Court concludes that the Defendants are entitled to judgment as a matter of law. A separate final Order accompanies this Memorandum Opinion.

Date: November 10, 2008

/s/
ROSEMARY M. COLLYER
United States District Judge