

UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLUMBIA

JOSEPH P. CARSON,

Petitioner,

v.

U.S. OFFICE OF SPECIAL COUNSEL,

Respondent.

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Civil Action No. 07-0649 (PLF)

MEMORANDUM OPINION

Pro se petitioner Joseph Carson brings this lawsuit against the United States Office of Special Counsel (“OSC”) seeking a writ of mandamus “ordering OSC to: 1) report its statutory [sic] required PPP [prohibited personnel practice] determination, per 5 USC 1214(a)(1)(A) and (b)(2)(A), ‘whether there are reasonable grounds to believe a PPP has occurred, exists or is to be taken,’ and 2) provide the petitioner the information described in the ‘termination statement’ of 5 USC 1214[.]” with respect to his OSC file nos. MA-04-1018, 04-1886, and 04-1886/2444. See Petition at 2.

This matter is before the Court on respondent’s motion to dismiss the petition for a writ of mandamus (“Mot.”), petitioner’s opposition to respondent’s motion to dismiss the petition and motion to suspend proceedings in this case (“Opp.”), respondent’s reply to petitioner’s opposition to the motion to dismiss and opposition to the motion to suspend proceedings (“Rep.”), and petitioner’s reply to the opposition to his motion to suspend proceedings (“Suspend Rep.”). For the following reasons, the Court will deny petitioner’s

motion to suspend proceedings and will grant respondent's motion to dismiss the petition.

The undersigned has previously resolved several of petitioner's lawsuits. See, e.g., Carson v. U.S. Office of Special Counsel, Civil Action No. 04-0315, 2006 WL 785292, (D.D.C. March 27, 2006) ("Carson I"); Carson v. U.S. Office of Special Counsel, Civil Action No. 05-0537, 2006 WL 5085253, (D.D.C. Oct. 30, 2006) ("Carson II"), *aff'd and remanded on one unaddressed issue*, No. 06-5364 (D.C. Cir. Nov. 28, 2007); Carson v. U.S. Office of Special Counsel, 514 F. Supp. 2d 54 (D.D.C. 2007) ("Carson III"). As petitioner himself points out, between this case and Carson III, "the issues of law are almost identical[.]" Petition at 3.¹ The Court has previously described the relevant statutory framework, the power of this Court to issue writs of mandamus, and the standards for issuing a writ of mandamus.

Petitioner has filed numerous grievances with the OSC, several of which are at issue in this case. The two actions that he would like this Court to order OSC to take are: (1) to include in its preliminary determination notices "whether there are reasonable grounds to believe a PPP has occurred, exists or to be taken," and (2) to include in its termination letters the statement that petitioner asserts is required by 5 U.S.C. § 1214 (appendix). See Petition at 7. Petitioner characterizes the asserted omissions as "essentially ministerial in nature[.]" Id.

As petitioner points out in his petition, these arguments are exactly the same as those at issue in Civil Action 06-1833, another lawsuit brought by Mr. Carson against the Office of Special Counsel. See Petition at 3. On September 27, 2007, the undersigned issued an

¹ Petitioner mis-cites Carson III as Civil Action No. 07-1833; Carson III was Civil Action No. 06-1833. Petitioner agrees. See Opp. at 13. The case currently under consideration was filed before the Court issued its Opinion in Civil Action No. 06-1833 on September 27, 2007.

Opinion dismissing that case – and rejecting the exact same arguments petitioner raises here. See Carson III at 59 (“Petitioner asserts: (1) that the OSC did not use the statutorily required language in its pre-determination letters; [and] (2) that the OSC did not include the statutorily required termination statement in the termination letters[.]”). Accordingly, the Court will dismiss this petition for precisely the reasons explained in that Opinion. See Carson III at 59-61. Petitioner’s motion to suspend these proceedings is denied.

An Order consistent with this Memorandum Opinion will be issued this same day.

_____/s/_____
PAUL L. FRIEDMAN
United States District Judge

DATE: February 19, 2008