

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

CLINTON C. BARLOW,

Petitioner,

v.

U.S. FEDERAL GOVERNMENT *et al.*,

Respondents.

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Civ. Action No. 09-0177 (RMC)

MEMORANDUM OPINION

This action for a writ of mandamus is before the Court on the federal respondents' motion for summary judgment [Dkt. # 15]. By Order of June 30, 2009 [Dkt. # 16], the Court directed Mr. Barlow to respond to Respondents' motion by July 31, 2009, and advised of the consequences if he did not. Mr. Barlow has neither responded nor sought additional time to do so. The Court therefore will grant Respondents' motion as conceded. *See In re Miller*, 2004 WL 963819, 1 (D.C. Cir., May 4, 2004) (In managing its docket under the circumstances presented, "the court may choose to . . . resolve the motion for summary judgment on the merits without an opposition . . . or [] treat summary judgment as conceded.").

Mr. Barlow also seeks issuance of the writ against the Florida Department of Education, but the extraordinary writ of mandamus is available to compel only an "officer or employee of the United States or any agency thereof to perform a duty owed to plaintiff." 28 U.S.C. § 1361. Lacking subject matter jurisdiction over the remaining respondent, the Court will dismiss the case. A separate Order accompanies this Memorandum Opinion.

Date: September 1, 2009

/s/
ROSEMARY M. COLLYER
United States District Judge