

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

ROBERTO ANGEL CARDONA,

Plaintiff,

v.

DEPARTMENT OF JUSTICE *et al.*,

Defendants.

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Civil Action No. 19-1783 (EGS)

MEMORANDUM OPINION

On June 17, 2019, Plaintiff filed this action *pro se* under the Freedom of Information Act (FOIA) to obtain records from the Federal Bureau of Investigation (FBI) and the Executive Office for U.S. Attorneys. At that time, Plaintiff alleged that he had received no substantive responses to his requests for records concerning himself and the investigation and prosecution of the Barrio Azteca Organization. Subsequently, on September 15, 2020, Defendants released to Plaintiff in whole or in part 101 responsive pages from the FBI, which constituted the first 100 pages to which Plaintiff was entitled free of charge. Defs.’ Stmt. of Material Facts ¶¶ 19, 24-25 ECF No. 22-4; *see id.* ¶ 19 (noting the FBI’s locating of “approximately 37,950 pages and 95 digital media potentially responsive to the subject of [Plaintiff’s] request”). Defendants invoked multiple FOIA exemptions to justify the withheld information. *Id.* ¶ 25. On January 15, 2021, Defendants moved for summary judgment. For the following reasons, Defendants’ motion will be denied, and this case will be dismissed instead.

On February 1, 2021, the Court advised Plaintiff about his obligation to respond to Defendants’ dispositive motion by March 15, 2021, and the likely adverse consequences if he

failed to comply. *See* Order, ECF No. 23. Plaintiff has neither complied with the order nor requested additional time to do so. Therefore, the Court will dismiss this action because no actual controversy exists. *See Bayala v. United States Dep't of Homeland Sec., Off. of Gen. Couns.*, 827 F.3d 31, 34 (D.C. Cir. 2016) (“Article III's limitation of federal-court jurisdiction to cases and controversies requires that “an actual controversy . . . be extant at all stages of review, not merely at the time the complaint is filed.”) (citation omitted) (alteration in original)); *Shapiro v. United States Dept of Justice.*, 239 F. Supp. 3d 100, 106, n.1 (D.D.C. 2017) (“To the extent the FOIA requester does not seek to compel the release of the withheld information, . . ., the Court need not—and should not—enter summary judgment in favor of the government. Rather, . . . there is simply no dispute to resolve.”) (distinguishing *Winston & Strawn, LLP v. McLean*, 843 F.3d 503, 505 (D.C. Cir. 2016)). A separate order accompanies this Memorandum Opinion.

SIGNED: EMMET G. SULLIVAN
UNITED STATES DISTRICT JUDGE

Date: September 22, 2021