

UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLUMBIA

CITIZENS FOR RESPONSIBILITY AND
ETHICS IN WASHINGTON,

Plaintiff,

v.

U.S. DEPARTMENT OF DEFENSE,

Defendant.

Civil Action No. 21-0424 (KBJ)

**DEFENDANT’S RESPONSE TO THE COURT’S JUNE 15, 2021 ORDER AND
UNOPPOSED MOTION FOR EXTENSION OF TIME**

Pursuant to Federal Rule of Civil Procedure 6(b)(1) and in response to the Court’s June 15, 2021, Minute Order, Defendant the United States Department of Defense, hereby moves *nunc pro tunc* for an extension of time up to and including July 6, 2021, in which to respond to Plaintiff’s Complaint in this Freedom of Information Act (“FOIA”) litigation. Pursuant to Local Civil Rule 7(m), Plaintiff, through counsel, consents to the requested extension. In support of this motion, Defendant states as follows.

On February 18, 2021, Plaintiff Citizens for Responsibility and Ethics in Washington (“CREW”) filed a Complaint against the Department alleging violation of the Freedom of Information Act. On March 22, 2021, Plaintiff filed the return of service affidavit, indicating that on March 22, 2021, Plaintiff’s counsel sent a copy of the complaint via certified mail to the Acting United States Attorney for the District of Columbia, Channing D. Phillips. *See* ECF No. 5. As such, the Department’s response to the Complaint would have been due on or before April 14, 2021. Although the return of service indicates proper service, it appears that the service package and copy of the Complaint did not make it from the mail room to the Civil Division of the U.S.

Attorney's Office, which would handle a FOIA complaint such as the one at issue in this case. As such, the Civil Division was only made aware of this litigation after the entry of the Court's June 15, 2021, Minute Order, and promptly assigned undersigned counsel to this matter. Defendant regrets that the time to respond to the complaint elapsed without response from the agency. Thus, Defendant respectfully requests that the Court grant an extension of time up to and including July 6, 2021, in which to file its response to Plaintiff's Complaint, so that undersigned may be able to confer with the agency and review the administrative record as it pertains to the underlying FOIA request to determine the best way to proceed. Counsel for Plaintiff has graciously consented to this requested relief.

Wherefore, Defendant's request is not to delay proceedings, no other deadlines will be impacted, and Plaintiff will not be prejudiced.

June 24, 2021

Respectfully submitted,

CHANNING D. PHILIPS, D.C. Bar No. 415793
Acting United States Attorney

BRIAN P. HUDAK
Acting Chief, Civil Division

By: /s/ Brenda González Horowitz
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[PROPOSED] ORDER

In light of Defendant's Unopposed Motion for Extension of Time *Nunc Pro Tunc*, it is hereby ORDERED that Defendant's motion is GRANTED.

It is FURTHER ORDERED that Defendant shall file its response to Plaintiff's complaint in this Freedom of Information Act litigation on or before July 6, 2021.

SO ORDERED.

Dated

UNITED STATES DISTRICT JUDGE