

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

JUDICIAL WATCH, INC.,)	
)	
Plaintiff,)	Civil Action No. 17-CV-00421 (RDM)
)	
v.)	
)	
U.S. DEPARTMENT OF JUSTICE,)	
)	
Defendant.)	
)	

**PLAINTIFF’S MOTION TO WITHDRAW ITS NON-OPPOSITION
TO DEFENDANT’S MOTION FOR SUMMARY JUDGMENT**

Since May 2017, this case has been closely connected to *American Center for Law & Justice v. Department of Justice*, Civil Action No. 16-cv-2188. In fact, the parties agreed that all records produced by Defendant U.S. Department of Justice to American Center for Law & Justice in that case would also be produced to Plaintiff Judicial Watch in this case. Plaintiff decided not to challenge the adequacy of the Justice Department’s search and therefore did not oppose the Justice Department’s motion for summary judgment after being informed that ACLJ did not intend to challenge the adequacy of the Justice Department’s search. Judicial Watch has now learned that ACLJ is, in fact, challenging the adequacy of the Justice Department’s search.

In light of this recent development, Plaintiff Judicial Watch, Inc., by counsel, respectfully submits this motion to withdraw its December 1, 2017 non-opposition to Defendant U.S. Department of Justice’s Motion for Summary Judgment. Plaintiff also moves for this court to stay its resolution of the pending motion for summary judgment until the adequacy-of-the-search issue is resolved in the ACLJ case. The Justice Department does not oppose this motion. As grounds therefor, Plaintiff states as follows:

MEMORANDUM OF POINTS AND AUTHORITIES

1. This case concerns Plaintiff's FOIA request to the Justice Department seeking:

- A. Any and all records and/or transcripts of a meeting held between Attorney General Loretta Lynch and former President Bill Clinton on June 28, 2016.
- B. Any and all records of communication sent to or from officials in the Office of the Attorney General regarding the meeting held between Attorney General Loretta Lynch and former President Bill Clinton on June 28, 2016.
- C. Any and all records of communication sent to or from officials in the Office of the Deputy Attorney General regarding the meeting held between Attorney General Loretta Lynch and former President Bill Clinton on June 28, 2016.
- D. Any and all references to the meeting held between Attorney General Loretta Lynch and former President Bill Clinton contained in day planners, calendars and schedules in the Office of the Attorney General.

2. In their May 15, 2017 Joint Status Report, the parties informed the Court:

The parties have agreed that in response to Plaintiff Judicial Watch, Inc.'s Freedom of Information Act ("FOIA") request at issue in this case, Defendant United States Department of Justice ("the Department") will produce to Plaintiff all nonexempt, responsive records that it produces in response to the FOIA request at issue in *American Center for Law & Justice v. Department of Justice*, Civil Action No. 16-cv-2188.

3. After the Justice Department concluded producing records to ACLJ and Plaintiff, this Court set a summary judgment briefing schedule. On October 26, 2017, the Justice Department sought a two-week extension of time to file its Motion for Summary Judgment. As one of its reasons for requesting the extension, the Justice Department explained:

As discussed in the parties' Joint Status Report dated May 15, 2017, ECF No. 8, the parties previously agreed that in response to Plaintiff's FOIA request, the Department would produce to

Plaintiff all nonexempt, responsive records that it produced in response to the FOIA request at issue in *American Center for Law & Justice v. Department of Justice*, Civil Action No. 16-cv-2188. Following the Department's completion of production in the two cases, counsel for the American Center for Law & Justice ("ACLJ") communicated to counsel for the Department that ACLJ did not intend to challenge the adequacy of the Department's search.

4. The Justice Department subsequently filed its Motion for Summary Judgment on November 10, 2017.

5. Plaintiff's opposition was due on December 1, 2017. At that time, it was Plaintiff's understanding that the ACLJ did not intend to challenge the adequacy of the search. Since the parties agreed that Plaintiff would receive all nonexempt, responsive records that the Justice Department produced to ACLJ, Plaintiff too decided not to challenge the adequacy of the search. Plaintiff therefore filed a statement of non-opposition on December 1, 2017.

6. Subsequently, on December 8, 2017, the Justice Department informed Plaintiff that on December 4, 2017 ACLJ filed an opposition in its case. In its brief, it challenged the adequacy of the Justice Department's search. The Justice Department also informed Plaintiff that the department did not know until December 4, 2017 that ACLJ had changed its position.

7. Plaintiff also has reason to believe a transcript of the meeting between President Clinton and then-Attorney General Lynch exists. Such a record would be responsive to the first part of Plaintiff's request.

8. In light of the recent development in *American Center for Law & Justice v. Department of Justice*, Civil Action No. 16-cv-2188, Plaintiff Watch respectfully requests the Court withdraw its non-opposition to the Justice Department's motion for summary judgment.

9. In addition, the resolution of the ACLJ case will also impact Plaintiff. If the Justice Department conducts a supplemental search (either voluntarily or because of a court order) and new records are located and produced, Plaintiff will also have a right to those records. To avoid any judicial inefficiencies or a request for the case to be reopened, Plaintiff also requests the Court stay its resolution of the pending motion for summary judgment until the adequacy-of-the-search issue is resolved in the ACLJ case.

10. The Justice Department does not oppose this motion.

WHEREFORE, Plaintiff respectfully requests that the Court withdraw Plaintiff's December 1, 2017 non-opposition to Defendant U.S. Department of Justice's Motion for Summary Judgment and that the Court stay its resolution of the pending motion for summary judgment until the adequacy-of-the-search issue is resolved in the ACLJ case.

Dated: December 12, 2017

Respectfully submitted,

/s/ Michael Bekesha
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