

UNITED STATES DISTRICT COURT FOR THE DISTRICT OF COLUMBIA

Ezeah v. Executive Office for United States Attorneys

Ezeah · No. Civil Action No. 1:24-cv-00077 (TNM) · Decided February 17, 2026

SUMMARY

The District Court for the District of Columbia denies Ken Ezeah’s motion for reconsideration and grants summary judgment in full to the Executive Office for United States Attorneys in a Freedom of Information Act case. The court holds that the agency’s search was adequate and that the supplemental declaration corrected the record by identifying the two-item FOIA request actually submitted to EOUSA. The court concludes that the agency located no responsive records and that the plaintiff’s speculation regarding archived emails did not justify reconsideration.

CASE DETAILS

COURT	United States District Court for the District of Columbia
WRITING FOR THE COURT	Trevor N. McFadden
JURISDICTION	United States District Court for the District of Columbia
DECIDED	February 17, 2026
DOCKET	Civil Action No. 1:24-cv-00077 (TNM)
DISPOSITION	other
PROCEDURAL POSTURE	Plaintiff moved for reconsideration of an interlocutory order granting the defendant partial summary judgment in a Freedom of Information Act action. After the agency submitted a supplemental declaration correcting the record and explaining its search, the court denied reconsideration and granted the agency summary judgment in full.
STANDARD OF REVIEW	A motion to reconsider an interlocutory order is generally granted only upon an intervening change in law, newly discovered evidence previously unavailable, or clear error, although reconsideration remains within the court's discretion for other good reasons. On summary judgment in a FOIA case, the agency must demonstrate that it conducted an adequate search; speculation about unconfirmed or unavailable records is insufficient to create doubt about the adequacy of the search.
PRECEDENTIAL VALUE	Published

TOPICS

public records

summary judgment

judicial review of agency action

administrative law

PRACTICE AREAS

Administrative law

Freedom of Information Act

Civil procedure

QUESTIONS PRESENTED

1. Whether Ezeah established grounds for reconsideration of the court's prior interlocutory grant of partial summary judgment to EOUSA.
2. Whether EOUSA demonstrated that it conducted an adequate FOIA search for the two categories of communications in the actual request.
3. Whether the corrected record warranted granting summary judgment to EOUSA in full.

HOLDINGS

1. Reconsideration was unwarranted because Ezeah showed neither clear error nor a sufficient basis to question the adequacy of EOUSA's search; his speculation that records might exist on unconfirmed servers did not satisfy the standard for reconsideration.
2. EOUSA's search was adequate as to the two categories of communications in Ezeah's actual FOIA request.
3. EOUSA was entitled to full summary judgment because the actual FOIA request contained only the two items for which the agency's search was adequate.

KEY QUOTATIONS

“Ezeah’s speculation about records in unconfirmed servers thus does not cast doubt on EOUSA’s search—much less justify reconsideration.” (at 3)

“Based on the corrected record, the Court thus grants summary judgment in full to EOUSA.” (at 4)

FACTUAL BACKGROUND

Ezeah, who is incarcerated following a wire-fraud-conspiracy conviction, submitted a FOIA request to EOUSA seeking communications concerning his prosecution between Assistant United States Attorney Tim Ogilvie and defense attorney Bob Wyatt, and between Ogilvie and FBI agent Tim Schmitz. EOUSA's search located no responsive records, and the agency explained that emails from 2016 and 2017 would have been permanently deleted under the Department of Justice's three-year record-retention policy by the time it received the request in March 2023. The court previously relied on a different five-item document that Ezeah had submitted, but EOUSA later provided the actual two-item request it received and processed.

PROCEDURAL HISTORY

Ezeah submitted a FOIA request to EOUSA seeking communications concerning his prosecution. After EOUSA reported that its search located no responsive records, Ezeah sued and EOUSA moved for summary judgment.

The court previously granted partial summary judgment to EOUSA, denied summary judgment as to three items based on an erroneous version of the request, and directed a supplemental declaration. EOUSA supplied the actual request and additional explanation, after which the court denied Ezeah's motion for reconsideration and granted full summary judgment to EOUSA.

DISPOSITION

other

CASES CITED

- Stewart v. Panetta, 826 F. Supp. 2d 176, 177 (D.D.C.)
- Reps. Comm. for Freedom of the Press v. FBI, 754 F. Supp. 3d 56, 64 (D.D.C.)

OPINION

Ezeah v. Executive Office of the United States Attorneys

PER CURIAM.

UNITED STATES DISTRICT COURT

FOR THE DISTRICT OF COLUMBIA

KEN EZEAH,

Plaintiff, v. Case No. 1:24-cv-00077 (TNM)

EXECUTIVE OFFICE FOR UNITED

STATES ATTORNEYS,

Defendant.

MEMORANDUM OPINION

Ken Ezeah submitted a Freedom of Information Act request to the Executive Office for United States Attorneys (“EOUSA”). He sued the agency after its search yielded no responsive records. In July 2025, the Court granted in part and denied in part EOUSA’s motion for summary judgment. It also directed the agency to submit a supplemental declaration regarding its response to Ezeah’s FOIA request. EOUSA has done so. Ezeah also moved for the Court to reconsider its grant of partial summary judgment to EOUSA. The Court denies Ezeah’s motion. And it grants full summary judgment to the agency. I. Ezeah is incarcerated on a wire fraud conspiracy conviction. Mem. Op., ECF No. 26, at 1. In early 2023, he sent EOUSA a FOIA request asking for records regarding his prosecution in the Western District of Oklahoma. Supp. Finney Decl., ECF No. 30-1, Attach. A. 1 EOUSA failed to attach a copy of Ezeah’s FOIA request to its summary judgment motion. Supp. Finney Decl. ¶ 5; see also Def.’s Opp. & Resp., ECF No. 30, at 1 (“Defendant acknowledges an error in its summary judgment submission.”). The agency instead provided only its final no-records response to Ezeah’s request. Mem. Op. at 2 n.2. Due to this omission, the Court treated Ezeah’s attachment at ECF No. 11-1 as his FOIA request. See id. In its supplemental declaration, EOUSA now states that it “did not receive the request” Ezeah attached EOUSA’s

search uncovered no responsive documents. Mem. Op. at 2. Ezeah sued, and EOUSA moved for summary judgment. Id. Ezeah failed to respond to EOUSA's motion even after the Court gave him a 30-day extension. Id. at 2–3. The Court granted partial summary judgment to the agency. Id. at 6. It ruled that EOUSA's search was adequate with respect to the two items (numbers 2 and 4) that its briefing discussed. See id. at 5. By contrast, the Court found that the agency had not addressed the other three items in what the Court took to be Ezeah's FOIA request. See id. It thus denied summary judgment on those items and warned EOUSA "that it intend[ed] to grant summary judgment to Ezeah" if the agency did not further explain itself in a supplemental filing. Id. Ezeah now asks the Court to reconsider its partial grant of summary judgment to EOUSA. Mot. Recons., ECF No. 28. The agency has filed an opposition to that motion coupled with a supplemental declaration. Def.'s Opp. & Resp., ECF No. 30; Supp. Finney Decl. ¶¶ 1–12. II. Rule 54 provides that "any order or other decision . . . that adjudicates fewer than all the claims . . . may be revised at any time before the entry of a judgment adjudicating all the claims and all the parties' rights and liabilities." Fed. R. Civ. P. 54(b). "In general, a court will grant a motion for reconsideration of an interlocutory order only when the movant demonstrates: (1) an intervening change in the law; (2) the discovery of new evidence not previously available; or (3) a clear error in the first order." *Stewart v. Panetta*, 826 F. Supp. 2d 176, 177 (D.D.C. 2011) (cleaned up). "But because the decision whether to reconsider its interlocutory rulings is within the Court's discretion[,] the Court may nevertheless elect to grant a motion for reconsideration if at ECF No. 11-1. Supp. Finney Decl. ¶ 6. The agency suggests that "ECF No. 11-1 is a request Plaintiff submitted to the FBI"—not EOUSA. Id. ¶ 7. Most importantly, the agency has now attached the FOIA request (No. 2023-001525) it received from Ezeah. See id. Attach. A. 2 there are other good reasons for doing so." *Reps. Comm. for Freedom of the Press v. FBI*, 754 F. Supp. 3d 56, 64 (D.D.C. 2024) (cleaned up). Considering Ezeah's explanation for his tardy filing, the Court considers his arguments on the merits. III. The Court first considers Ezeah's bid for reconsideration and then addresses EOUSA's supplemental declaration. A. Ezeah asserts that the Court erred in holding that EOUSA's search was adequate with respect to two items: those that requested communications between the federal prosecutor on Ezeah's case and his defense attorney, as well as between the prosecutor and an FBI agent. See Mem. Op. at 1–2, 4–5. He contends that "the government's claimed inability to access emails from a retired Assistant U.S. Attorney . . . fails to meet the legal standard for an adequate search under FOIA." Mot. Recons. at 1. After all, Ezeah posits, federal agencies "routinely retain emails of former employees through centralized and archived servers," so there was no excuse for EOUSA's inability to locate the retired prosecutor's emails. See id. at 2. EOUSA's response shows why Ezeah's argument falls flat. The agency explains that by the time it received the FOIA request in March 2023, the requested emails from 2016 and 2017 would have been "permanently" deleted under the Department of Justice's three-year record retention policy. See Supp. Finney Decl. ¶ 11. Ezeah's speculation about records in unconfirmed servers thus does not cast doubt on EOUSA's search—much less

justify reconsideration. See Stewart, 826 F. Supp. 2d at 177. The Court therefore denies Ezeah's motion to reconsider the partial grant of summary judgment. 3 B. In its supplemental declaration, EOUSA also corrects the record. The agency admits its failure to attach Ezeah's FOIA request to its summary judgment briefing. See Def.'s Opp. & Resp. at 1. It also clarifies that Ezeah's five-item request at ECF No. 11-1 "is not the request that was sent to EOUSA, assigned tracking number" 2023-001525, and "processed by EOUSA." Supp. Finney Decl. ¶ 7. Ezeah's actual request—which the agency has now provided—sought only two items: [A]ll recorded communications, emails, text messages, phone calls or letters pertaining [to his] prosecution between AUSA Tim Ogilvie and trial attorney Bob Wyatt, during the period of [his] prosecution between January of 2016 and November of 2017. [C]opies of all recorded communications, emails, text messages, phone calls or letters between AUSA Tim Ogilvie and FBI agent Tim Schmitz pertaining [to his] prosecution between January of 2016 and December of 2017. Id. Attach. A. Those categories are essentially the same items on which the Court granted summary judgment to EOUSA due to its demonstrably adequate search. See Mem. Op. at 4–5. In the six months since the agency filed this claim, Ezeah has not disputed that Attachment A is his true FOIA request. Based on the corrected record, the Court thus grants summary judgment in full to EOUSA. See Reps. Comm., 754 F. Supp. 3d at 64. A separate Order will issue. 2026.02.17 11:52:33 -05'00' Dated: February 17, 2026 TREVOR N. McFADDEN United States District Judge

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