

UNITED STATES DISTRICT COURT
DISTRICT OF MAINE

DAVID J. WIDI, JR.,)
)
 Plaintiff,)
)
 v.) 2:12-cv-00188-JAW
)
 PAUL MCNEIL, et al.,)
)
 Defendants.)

**ORDER ON PLAINTIFF’S MOTION TO STAY PROCEEDINGS AND
MOTION TO APPLY THE MAILBOX RULE**

On August 2, 2012, David J. Widi, Jr. filed an Amended Complaint to include a Freedom of Information Act (FOIA) count. *Am. Compl.* (ECF No. 15) (Count XIV). Later Mr. Widi successfully amended the Amended Complaint, shifting the FOIA count to Count XVIII. *Second Am. Compl.* (ECF No. 191). The Government did not prepare a *Vaughn* index until March 2015 and did not file a motion for summary judgment until June 29 and 30, 2015. *Mot. for Summ. J. on Count XVIII* (ECF No. 302); *Statement of Undisputed Material Facts* (ECF No. 305).

The delay largely—though not entirely—caused by the Government succeeded in making this case the fourth oldest case of this judge’s docket. Mr. Widi’s response to the motion for summary judgment was due on July 20, 2015. However, on July 24, 2015, Mr. Widi moved to extend the time within which he was required to respond to the Government’s motion. *Mot. to Enlarge Time to File Opp’n to the Mot. for Summ. J. on Count XVIII* (ECF No. 306). Mr. Widi did not ask for a specific amount of time

in the motion and in an attempt to expedite the resolution of this count, the Court issued an order on August 3, 2015, setting August 31, 2015 as the filing date for Mr. Widi's response to the pending motion for summary judgment. *Order* (ECF No. 307). In the Order, the Court observed that it was aware of the mailbox rule in *Houston v. Lack*, 487 U.S. 266 (1988), but that it expected Mr. Widi to actually file his response by August 31, 2015. *Id.* This Order gave Mr. Widi a full two months to prepare and file a response to the pending motion for summary judgment.

On August 7, 2015, Mr. Widi, ever vigilant, protested the Court's supposed abrogation of the mailbox rule and demanded that the Court stay the proceedings while an upcoming prisoner transfer was completed. *Mot. to Stay Proceedings* (ECF No. 312); *Mot. to Allow Mailbox Rule to Govern Filings* (ECF No. 313). He need not have worried. In an unusual move, on August 4, 2015, the Government, acting on Mr. Widi's behalf, moved to extend the time within which he was required to file a response to its motion for summary judgment to October 30, 2015. *Def.'s Resp. to Pl.'s Mot. to Enlarge Time to File Opp'n to the Mot. for Summ. J. on Count XVIII* (ECF No. 308). On August 5, 2015, with extreme reluctance given the glacial pace of progress on this case and its unenviable spot on the Court's docket, the Court granted the Government's motion and extended Mr. Widi's time for response to October 30, 2015. *Order on Mot. to Extend Time* (ECF No. 310).

In his motion to stay, Mr. Widi asked for a stay of ninety days. The Court's August 5, 2015 Order essentially grants Mr. Widi the relief he has requested, extending the time for his response to nearly three months from early August 2015

to the end of October 2015, a total response time of over four months. Accordingly, the Court dismisses the motion to stay as moot.

Regarding the mailbox rule, the Court's August 5, 2015 Order did not mention the mailbox rule and therefore the mailbox rule automatically applies to the October 30, 2015 filing under *Houston v. Lack*. Therefore, the Court dismisses the motion to apply the mailbox rule as moot. The Court's one reference to the mailbox rule was in the August 3, 2015 Order, a vain attempt to edge this case to resolution. That Order did not abrogate the mailbox rule for purposes of other filings in this case and was eclipsed by the Court's August 5, 2015 Order. The Court's August 3, 2015 reference to the mailbox rule was a fruitless attempt to gain control of this case and move it to completion.

The Court DISMISSES as moot Plaintiff David J. Widi, Jr.'s Motion to Stay Proceedings (ECF No. 312) and Motion to Allow Mailbox Rule to Govern Filings (ECF No. 313).

SO ORDERED.

/s/ John A. Woodcock, Jr.
JOHN A. WOODCOCK, JR.
UNITED STATES DISTRICT JUDGE

Dated this 10th day of September, 2015

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