

# United States Court of Appeals

FOR THE DISTRICT OF COLUMBIA CIRCUIT

No. 03-5183

September Term, 2003

01cv01911

Filed On: May 26, 2004 [824126]

Robert Casad, Jr., Ph.D,  
Appellant

v.

U. S. Department of Health and Human Services, et al.,  
Appellees

## APPEAL FROM THE UNITED STATES DISTRICT COURT FOR THE DISTRICT OF COLUMBIA

**BEFORE:** Edwards, Sentelle, and Randolph, Circuit Judges

### J U D G M E N T

This appeal was considered on the record from the United States District Court for the District of Columbia and on the briefs filed by the parties. It is

**ORDERED AND ADJUDGED** that the district court's order, filed June 20, 2003, be affirmed. The notice of appeal addressed only the portion of the district court's order which granted summary judgment on count I of the complaint. See Schrecker v. U.S. Dep't of Justice, 349 F.3d 657, 661 (D.C. Cir. 2003) (de novo review of grant of summary judgment in FOIA case). Because the summary statements sought by appellant are pre-decisional and deliberative, they were properly withheld pursuant to Freedom of Information Act ("FOIA") exemption 5 (deliberative process privilege). See Jordan v. U.S. Dep't of Justice, 591 F.2d 753, 774 (D.C. Cir. 1978) (en banc); see also Casad v. U.S. Dep't of Health & Human Services, 301 F.3d 1247 (10<sup>th</sup> Cir. 2002).

Pursuant to D.C. Circuit Rule 36, this disposition will not be published. The Clerk is directed to withhold issuance of the mandate herein until seven days after resolution of any timely petition for rehearing or petition for rehearing en banc. See Fed. R. App. P. 41(b); D.C. Cir. Rule 41.

**Per Curiam**