

United States Court of Appeals
FOR THE DISTRICT OF COLUMBIA CIRCUIT

No. 06-5119

September Term, 2006

FILED ON: FEBRUARY 23, 2007

[1024536]

HARRY C. PIPER, III,

APPELLANT

v.

DEPARTMENT OF JUSTICE AND
FEDERAL BUREAU OF INVESTIGATION,
APPELLEES

Appeal from the United States District Court
for the District of Columbia
(No. 98cv01161)

Before: SENTELLE, RANDOLPH and BROWN, *Circuit Judges*.

J U D G M E N T

This cause was considered on the record from the United States District Court for the District of Columbia, and was briefed and argued by counsel. It is

ORDERED AND ADJUDGED that the judgment of the District Court be affirmed for the reasons stated by the district court in its memorandum opinions filed April 12, 2006 and December 1, 2003. See *Piper v. U.S. Dep't of Justice*, 428 F. Supp. 2d 1 (D.D.C. 2006); *Piper v. U.S. Dep't of Justice*, 294 F. Supp. 2d 16 (D.D.C. 2003) ("*Piper I*"). The District Court correctly concluded that Appellees' withholding and redacting of the disputed documents was reasonable under Exemptions 7(C)–(E) of the Freedom of Information Act (FOIA), 5 U.S.C. § 552(b)(7). The District Court also correctly concluded that Appellees' search for documents in response to Appellant's FOIA request was adequate, *Piper I*, 294 F. Supp. 2d at 21-24, and that the allegation that documents were destroyed *before* Appellant's FOIA request is immaterial as to whether the agencies have met their burden under FOIA; "FOIA does not impose a document retention requirement on government agencies," *id.* at 22. Nothing in *National Archives & Records Administration v. Favish*, 541 U.S. 157 (2004), undermines the District Court's

analysis.

Pursuant to D.C. Circuit Rule 36, this disposition will not be published.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 the resolution of any timely petition for rehearing or rehearing en banc. *See* FED. R. APP. P. 41(b); D.C. CIR. R. 41.

Per Curiam

FOR THE COURT:
Mark J. Langer, Clerk

BY:

Deputy Clerk