

United States Court of Appeals

FOR THE DISTRICT OF COLUMBIA CIRCUIT

No. 06-5292

September Term, 2006

05cv01095

Filed On: June 20, 2007 [1048234]

Steven Ivey,
Appellant

v.

Henry M. Paulson, Jr., Secretary, U.S. Department of
Treasury and Department of Treasury,
Appellees

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

BEFORE: Henderson, Garland, and Griffith, 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 judgment of the district court be affirmed. As the district court held, appellant's claims under the Freedom of Information Act (FOIA) were barred by his failure to exhaust administrative remedies. Although the administrative exhaustion requirement is not jurisdictional, failure to exhaust nevertheless precludes judicial review where, as in this case, the purposes of administrative exhaustion and the particular administrative scheme support such a bar. See Oglesby v. United States Dep't of the Army, 920 F.2d 57, 61 (D.C. Cir. 1990). Some of appellant's FOIA requests were never submitted to appellees as required by statute. See 5 U.S.C. § 552. By responding to appellant's remaining FOIA requests before the instant suit was filed, appellees cured their failure to timely respond to these requests. See Oglesby, 920 F.2d at 63.

Pursuant to D.C. Circuit Rule 36, this disposition will not be published.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