

UNITED STATES DISTRICT COURT  
NORTHERN DISTRICT OF CALIFORNIA

VICTORIA LAW,  
Plaintiff,  
v.  
FEDERAL BUREAU OF PRISONS,  
Defendant.

Case No. [24-cv-06628-YGR](#) (AGT)

**DISCOVERY ORDER**

Re: Dkt. No. 31

Plaintiff Victoria Law (Law)<sup>1</sup> seeks either a disclosure order or discovery order, instructing defendant Federal Bureau of Prisons (BOP) to release materials in connection with a Freedom of Information Act (FOIA) request. Dkt. 31 at 2.<sup>2</sup> Specifically, Law asks for documents in their native format; for at least 5,000 pages every four weeks; for monthly status reports on withholdings and BOP's justifications for those withholdings; for expedited proceedings; and for a *Vaughn v. Rosen*, 484 F.2d 820 (D.C. Cir. 1973), index. Dkt. 31 at 2. BOP opposes. *See id.* at 4–6. The Court now denies Law's requests.<sup>3</sup>

First, BOP argues in opposition that the Court should not permit any discovery at this stage in the case, emphasizing that discovery in FOIA cases arises only after the government

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<sup>1</sup> Law's case is related to *M.R. v. Federal Correctional Institution "FCI" Dublin*, No. 22-cv-05137, and other related cases filed on behalf of individuals formerly incarcerated at FCI Dublin. Law is a journalist and does not allege that she was ever incarcerated at FCI Dublin. *See* dkt. 31 at 2.

<sup>2</sup> Page numbers refer to the Electronic Case Filing pagination at the top of each page.

<sup>3</sup> This matter was referred to the undersigned for discovery purposes. Dkt. 29.

moves for summary judgment. *See id.* at 6. Law argues that discovery should be permitted into whether BOP is acting expeditiously, whether BOP has met its burden to show its search is sufficient, and whether BOP is acting in bad faith. *Id.* at 2 & 4.

Generally, “in FOIA . . . cases discovery is limited because the underlying case revolves around the propriety of revealing certain documents.” *Lane v. Dep’t of Interior*, 523 F.3d 1128, 1134 (9th Cir. 2008) (citing *Wiener v. FBI*, 943 F.2d 972, 977 (9th Cir.1991)). Accordingly, when discovery is permitted in FOIA cases, it focuses on factual disputes, for example, “whether the agency engaged in a good-faith search for all materials, whether the agency indexed all documents, and whether the agency did, in fact, classify documents it seeks to withhold on national security grounds.” *Murphy v. F.B.I.*, 490 F. Supp. 1134, 1136 (D.D.C. 1980). *See also Lawyers’ Comm. for C.R. of San Francisco Bay Area v. U.S. Dep’t of the Treasury*, 534 F. Supp. 2d 1126, 1132 (N.D. Cal. 2008) (observing that discovery in FOIA cases “is most often limited to investigating the scope of the agency search for responsive documents, the agency’s indexing procedures, and the like.”) (internal quotations and citations omitted). When such discovery is permitted in a FOIA case, it typically takes place after summary judgment motions are filed. *See Lane*, 523 F.3d at 1134 (“Courts routinely delay discovery until after summary judgment in [FOIA] cases.”). Whether to permit discovery lies within the discretion of the district court. *See id.*

The Court declines to exercise its discretion to permit discovery here and now because this request is premature. BOP has not filed a motion for summary judgment, nor has it filed any affidavits or claimed any exemptions. As such, “[w]hether the instant case warrants discovery is a question of fact that can only be determined after the defendants file their dispositive motion and accompanying affidavits. . . . The plaintiff cannot know at this time

whether discovery is necessary; [s]he cannot know whether the government’s papers and affidavits will suggest an inadequate search or factual discrepancy.” *Murphy*, 490 F. Supp. at 1136.

Second, Law seeks relief now in the form of an order to produce records, status updates on the timing of said production, and a *Vaughn* index. Dkt. 31 at 2. Law thus seeks in this discovery dispute the same records requested in her FOIA request. *See id.* at 2–4. Law may ultimately be entitled to this relief under the FOIA, but this is not interim relief available in discovery under the FOIA. Granting Law her requested relief now, before BOP files a motion for summary judgment, would essentially provide the relief that Law seeks through this lawsuit.

Law’s cited cases are inapposite. *See* dkt. 31 at 3. Three of the cited decisions occurred on motions for summary judgment or later in the case, which as noted is not the procedural posture in this case. *See Scudder v. Cent. Intel. Agency*, 25 F. Supp. 3d 19 (D.D.C. 2014); *Spurlock v. F.B.I.*, 69 F.3d 1010 (9th Cir. 1995); *TPS, Inc. v. U.S. Dep’t of Def.*, 330 F.3d 1191 (9th Cir. 2003). One decided a “Motion for an Order Requiring Prompt Review and Release of All Responsive Records,” not at issue here. *See Clemente v. Fed. Bureau of Investigation*, 71 F. Supp. 3d 262 (D.D.C. 2014). And the last decided a motion for a preliminary injunction, again not the posture here. *See Elec. Priv. Info. Ctr. v. Dep’t of Just.*, 416 F. Supp. 2d 30 (D.D.C. 2006).

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This order dispenses with dkt. 31.

**IT IS SO ORDERED.**

Dated: March 11, 2025



Alex G. Tse  
United States Magistrate Judge