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8 UNITED STATES DISTRICT COURT  
9 NORTHERN DISTRICT OF CALIFORNIA  
10 OAKLAND DIVISION

11  
12 VICTORIA LAW,

13 Plaintiff,

14 v.

15 FEDERAL BUREAU OF PRISONS,

16 Defendant.

) Case No. 3:24-CV-06628-YGR

) **[PROPOSED] ORDER DENYING PLAINTIFF'S**  
) **MOTION FOR JUDGMENT ON THE**  
) **PLEADINGS AND FOR DECLARATORY**  
) **JUDGMENT**

) Date: September 30, 2025

) Time: 2:00 p.m.

) Courtroom: 1

1 The Court denies Plaintiff’s motion for judgment on the pleadings and for a declaratory  
2 judgment for the following reasons.

3 The Court referred the parties to Magistrate Judge Tse “for discovery including document  
4 production issues.” ECF No. 29. The parties filed discovery letter briefs about the monthly release  
5 schedule and about the format of the documents released by BOP. ECF Nos. 33 & 34. Judge Tse held  
6 two hearing to address the two letter briefs. ECF NO. 37 & 41. On May 30, 2025, Judge Tse issued a  
7 discovery order regarding the two letter briefs. ECF No. 42. Judge Tse ordered Defendant to process  
8 1,000 pages per month, and to make a release at the end of each month beginning on June 30, 2025. *Id.*  
9 As to Plaintiff’s argument that Defendant should release records in their native format with metadata  
10 preserved, Judge Tse found that the issue was not ripe for decision. *Id.* Judge Tse held that “the parties  
11 are ordered to meet and confer further on this issue as processing and production continue. If disputes  
12 remain after thorough meet and confer efforts, then the parties may again raise this issue for the Court in  
13 a joint discovery letter.” *Id.*

14 Plaintiff failed to follow the process for seeking review of Judge Tse’s discovery order. Civil  
15 Local Rule 72-2, titled “Motion for Relief from Nondispositive Pretrial Order of Magistrate Judge”  
16 provides that “[a]ny objection filed pursuant to Fed. R. Civ. P. 72(a) and 28 U.S.C. § 636(b)(1)(A) must  
17 be made as a “Motion for Relief from Nondispositive Pretrial Order of Magistrate Judge.”” Plaintiff  
18 cannot ask this Court to revisit issues decided by Judge Tse by means of the motion Plaintiff filed.

19 To have timely objected to Judge Tse’s May 30, 2025 discovery order, Plaintiff would have had  
20 to file objections by June 13, 2025. Plaintiff did not do so, and that failure forecloses relief  
21 under Rule 72(a). *See* Fed. R. Civ. P. 72(a) (“A party may not assign as error a defect in the  
22 order not timely objected to.”); *Baker v. Ensign*, No. 11-CV-2060-BAS WVG, 2014 WL 4055353, at \*6  
23 (S.D. Cal. Aug. 14, 2014) (holding an untimely Rule 72(a) objection did not entitle the objecting party to  
24 relief under a Rule 60(b) motion and also relief was not warranted on the merits).

25 In particular, the following arguments made in Plaintiff’s Brief are within the scope of the  
26 Court’s reference of discovery matters to Judge Tse and that were addressed by his discovery order: (1)  
27 all of the arguments about the pace of the release of records and (2) allegations about the format of the  
28 releases in respect to native format and metadata.

1 Plaintiff is not entitled to judgment on the pleadings because Defendant’s Answer denies  
2 Plaintiff’s allegations and thus Plaintiff’s motion is denied. *McGlinchy v. Shell Chem. Co.*, 845 F.2d  
3 802, 810 (9th Cir. 1988) (“[a]ll allegations of fact by the party opposing the motion are accepted as  
4 true.”).

5 Plaintiff is not entitled to relief under the Declaratory Judgment Act. Under the Act, a district  
6 court has the “unique and substantial discretion” to decide whether to issue a declaratory judgment.  
7 *Wilton v. Seven Falls Co.*, 515 U.S. 277, 286 (1995). The Act states that “courts *may* declare the rights  
8 and other legal relations of any interested party seeking such declaration.” 28 U.S.C. § 2201(a)  
9 (emphasis added). Therefore, a district court is under no compulsion to exercise its jurisdiction.  
10 *Brillhart v. Excess Ins. Co. of America*, 316 U.S. 491, 494 (1942). Given that Plaintiff’s complaint is  
11 about the alleged withholding of records, the “comprehensiveness of FOIA” forecloses any claims  
12 purportedly brought also under the Declaratory Judgment Act. *Isiwela v. United States Dep’t of Health*  
13 *& Hum. Servs.*, 85 F. Supp. 3d 337, 352 (D.D.C. 2015) (granting motion to dismiss Declaratory  
14 Judgment Act cause of action, among others, in a FOIA case). The Court thus declines to exercise  
15 jurisdiction over this claim by Plaintiff.

16  
17 **IT IS SO ORDERED.**

18  
19 Dated: \_\_\_\_\_

\_\_\_\_\_  
Hon. Yvonne Gonzalez Rogers  
United States District Judge