

UNPUBLISHED

UNITED STATES COURT OF APPEALS

FOR THE FOURTH CIRCUIT

DAVID E. HENDERSON,

Plaintiff-Appellant.

v.

WARREN CHRISTOPHER, Secretary of
State, United States Department of
State; JOHN DEUTCH, Director, The
Central Intelligence Agency; DAN
GLICKMAN, Secretary, The United
States Department of Agriculture;

No. 96-1048

JANET RENO, Attorney General of
the United States; ROBERT RUBIN,
Secretary of the Treasury; WILLIAM
PERRY, SECRETARY OF DEFENSE; KARL
SPRICK, Executive Secretary Foreign
Service Grievance Board; ANTHONY
LAKE, National Security Advisor;
LOUIS FREEH, Director, Federal
Bureau of Investigation,
Defendants-Appellees.

DAVID E. HENDERSON,
Plaintiff-Appellant.

v.

WARREN CHRISTOPHER, Secretary of
State, United States Department of
State; JOHN DEUTCH, Director, The
Central Intelligence Agency; DAN
GLICKMAN, Secretary, The United
States Department of Agriculture;

No. 96-1362

JANET RENO, Attorney General of
the United States; ROBERT RUBIN,
Secretary of the Treasury; WILLIAM
PERRY, SECRETARY OF DEFENSE; KARL
SPRICK, Executive Secretary Foreign
Service Grievance Board; ANTHONY
LAKE, National Security Advisor;
LOUIS FREEH, Director, Federal
Bureau of Investigation,
Defendants-Appellees.

Appeals from the United States District Court
for the Eastern District of Virginia, at Alexandria.
Albert V. Bryan, Jr., Senior District Judge.
(CA-95-1291-A)

Submitted: December 26, 1996

Decided: January 22, 1997

Before WILKINS, LUTTIG, and MOTZ, Circuit Judges.

Affirmed as modified by unpublished per curiam opinion.

COUNSEL

David E. Henderson, Appellant Pro Se. Jeri Kaylene Somers,
OFFICE OF THE UNITED STATES ATTORNEY, Alexandria, Vir-
ginia, for Appellees.

Unpublished opinions are not binding precedent in this circuit. See
Local Rule 36(c).

OPINION

PER CURIAM:

Appellant appeals from the district court's orders granting the Defendants' motion to dismiss on his tort and employment claims¹ and granting the Defendants' motion for summary judgment regarding his Privacy Act (PA) and Freedom of Information Act (FOIA) claims.² We affirm.

We have reviewed the record and the district court's opinion and find no reversible error as to the dismissal of "Counts" I, II, and V-X as being either vague and conclusory, barred by the applicable statute of limitations, or barred by res judicata. To the extent that Count IV states only a tort claim, we would affirm its dismissal as well. Accordingly, we affirm on the reasoning of the district court. Henderson v. Christopher, No. CA-95-1291-A (E.D. Va. Dec. 11, 1995).

To the extent that Count IV may be construed as a claim for correction under the PA, we review it with Count III. As there is no evidence that Count IV, as a claim for correction, was ever submitted to the appropriate agency, we modify the district court's dismissal to reflect that it is without prejudice for failure to exhaust. Turning to

¹ Labelled by Appellant as "Counts" I, II and IV-X. No. 96-1048.

² Labelled by Appellant as "Count IV." No. 96-1362.

Count III, we find that according to the record and the parties' supplemental briefs, the Defendants conducted an adequate search and that all requested, identifiable information has now either been released to the Appellant or properly withheld under FOIA exceptions. Accordingly, we affirm the district court's grant of summary judgment as to Count III. We dispense with oral argument because the facts and legal contentions are adequately presented in the materials before the court and argument would not aid the decisional process.

AFFIRMED AS MODIFIED