

IN THE UNITED STATES DISTRICT COURT  
FOR THE EASTERN DISTRICT OF PENNSYLVANIA

UNITED STATES OF AMERICA : CRIMINAL NO. 96-00271-01  
 :  
 v. :  
 :  
 HENRY FORD :  
 :

MEMORANDUM ORDER

**J.M. KELLY, J.**

**OCTOBER 21, 1998**

Henry Ford ("Ford"), Defendant in this action, has forwarded a document entitled "Motion in Request for Information Under Freedom of Information Act Title 5 USCA §552a" to the Clerk of Court. The Clerk of Court filed this document as a motion in Ford's criminal case at Document No. 158.

Upon reviewing the document that Ford has filed, it appears that Ford is requesting that the Clerk of Court make available a document pursuant to the Freedom of Information Act, 5 U.S.C. § 552 (1994) ("FOIA"). As this document requires no action by the Court and was improvidently docketed as a motion, it is DISMISSED.

FOIA allows an individual to request an agency to make reasonably described records promptly available to the individual. Id. § 552(3)(A). An agency includes "establishment[s] in the executive branch of the Government . . . or any independent regulatory agency." Id. § 552(f)(1). The Clerk of Court, as part of the judicial branch, is not an agency as defined by FOIA. Therefore, the Clerk of Court has no further obligation regarding the document filed by Ford.

If Ford wishes to continue his search for the identified document through FOIA, the appropriate agency appears to be the office of the United States Attorney for the Eastern District of Pennsylvania. The document that Ford has identified is a "Petition for Removal" pursuant to Fed. R. Crim. P. 40.1 (rule disapproved by Pub. L. 95-78, § 2(d), July 30, 1977). Rule 40.1 would have provided a mechanism for the removal of state criminal proceedings to the United States District Court. As Rule 40.1 was specifically disapproved by Congress, it appears extremely unlikely that this document would exist. The Court requests the United States Attorney inform Ford whether or not this document exists.

BY THE COURT:

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JAMES MCGIRR KELLY, J.