

[ORAL ARGUMENT NOT SCHEDULED]

IN THE UNITED STATES COURT OF APPEALS
FOR THE DISTRICT OF COLUMBIA CIRCUIT

SAI,

Petitioner,

v.

UNITED STATES POSTAL SERVICE,

Respondent.

No. 12-1110

**RESPONDENT’S MOTION TO DISMISS FOR
LACK OF JURISDICTION**

Petitioner, Sai,¹ seeks review in this Court of a decision dated December 12, 2013, of the United States Postal Service concerning a request for documents under the Freedom of Information Act (FOIA), 5 U.S.C. §§ 552 *et seq.* The challenged decision, which is attached to Sai’s petition, denied Sai’s request for expedited processing (under 5 U.S.C. § 552(a)(4)(E) and 39 C.F.R. § 265.7(g)) for failure to demonstrate a “compelling need” for such processing, and denied Sai’s request for a “public interest” waiver of fees (under 5 U.S.C. § 552(a)(4)(A)(iii) and 39 C.F.R. § 265.9(g)(3)) for failure to demonstrate that the release of the records would serve the public interest rather than his own private interest. *See generally* USPS letter

¹ Petitioner represents that Sai is the petitioner’s full legal name.

of December 12, 2013, attached to Petition for Review filed on Jan. 7, 2014. The letter provided that it is the “final decision of the Postal Service” on those two requests, and stated that Sai could seek judicial review “by bringing suit for that purpose in the United States District Court for the district in which you reside or have your principal place of business, the district where the alleged records are located, or the District of Columbia.” *Id.* at 3.

Rather than file suit in district court, Sai filed the instant petition in this Court. This Court, however, lacks jurisdiction over Sai’s claims. FOIA is very clear – it provides district courts with jurisdiction to review agency determinations withholding requested documents. *See* 5 U.S.C. § 552(a)(4)(B) (“On complaint the district court of the United States in the district where the complainant resides . . . has jurisdiction to enjoin the agency from withholding agency records and to order the production of any agency records improperly withheld from the complainant.”). It also provides district courts with jurisdiction to review denials of requests for expedited processing, *id.* § 552(a)(6)(E)(iii), and for decisions concerning the waiver of fees, *id.* § 552(a)(4)(A)(vii). It does not, however, provide this Court with original jurisdiction over such claims. Accordingly, the instant petition should be dismissed.

Because this Court lacks jurisdiction over the case, the Postal Service further requests that Sai's Motion for Declaration and Order to Compel, filed in this Court on February 25, 2014, be denied as moot.

Respectfully submitted,

/s/ David C. Belt

David C. Belt

Office of the General Counsel

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CERTIFICATE OF SERVICE

I hereby certify that on February 25, 2014, I electronically filed Respondent's Motion to Dismiss for Lack of Jurisdiction with the U.S. Court of Appeals for the District of Columbia Circuit by using the CM/ECF system. The petitioner is registered as an ECF filer, and will be served by the CM/ECF system.

/s/ David C. Belt

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