

RESUBMIT HLD-011

NOT PRECEDENTIAL

UNITED STATES COURT OF APPEALS
FOR THE THIRD CIRCUIT

No. 14-1477

IN RE: DARREL RIVIERE,
Petitioner

On a Petition for Writ of Mandamus from
the District Court of the Virgin Islands
(Related to D.C. Civ. No. 3-12-cv-00050)

Submitted Pursuant to Fed. R. App. Pro. 21
October 1, 2014

Before: MCKEE, Chief Judge, GARTH and SCIRICA, Circuit Judges

(Opinion filed: December 9, 2014)

OPINION

PER CURIAM

In April 2012, Petitioner Darrel Riviere sent a request under the Freedom of Information Act (FOIA), 5 U.S.C. § 552, to the Director of the Virgin Islands High Intensity Drug Trafficking Area (HIDTA) Task Force, a division of the Department of Justice (DOJ), seeking documents related to an alleged informant in his criminal case. Having received no response, Riviere filed suit in July 2012, in the District Court of the Virgin Islands, seeking an order compelling the agency to produce the documents.

Subsequently, on September 28, 2012, the DOJ denied the FOIA request, citing certain exemptions related to records concerning a third party. In November 2012, Riviere appealed the denial of the FOIA request to the Office of Information Policy (OIP). The OIP promptly responded that it was unclear which action Riviere was appealing, and requested he provide further documentation regarding it. In December 2012, Riviere allegedly complied with the directive and forwarded all pertinent information, including his initial FOIA request, to the OIP.

The OIP failed to respond to Riviere's appeal; in response, in September 2013, and again in March 2014, Riviere filed motions with the District Court requesting it use its injunctive powers to order production of the documents. In February 2014, absent action in the District Court on his complaint, Riviere filed a petition for a writ of mandamus pursuant to 28 U.S.C. § 1651 with this Court. In his petition, Riviere sought an order directing the District Court to use its injunctive powers to order the DOJ to comply with his FOIA request. Subsequently, in an order entered on June 20, 2014, the District Court dismissed Riviere's complaint for failure to either pay the filing fee or to file a request to proceed in forma pauperis. Accordingly, because Riviere's action is no longer pending in the District Court, the mandamus petition will be denied as moot.