

United States Court of Appeals
FOR THE DISTRICT OF COLUMBIA CIRCUIT

No. 13-5369**September Term, 2013****1:10-cv-00196-BAH****Filed On: July 31, 2014**

Electronic Privacy Information Center,

Appellant

v.

National Security Agency,

Appellee

BEFORE: Rogers and Kavanaugh, Circuit Judges, and Ginsburg, Senior
Circuit Judge

ORDER

Upon consideration of the joint motion to dismiss as moot, vacate district court decision in part, and remand to address any claim for fees, it is

ORDERED that the joint motion be granted. As the agency has now released the document appellant sought, the appeal no longer presents a live controversy. See Center for Science in the Public Interest v. Regan, 727 F.2d 1161, 1170 (D.C. Cir. 1984). We therefore vacate that part of the district court's October 21, 2013 order holding that a Presidential Directive in the possession of a federal agency is not an agency record subject to the Freedom of Information Act (FOIA). See UtahAmerican Energy, Inc. v. Dep't of Labor, 685 F.3d 118, 1122 (D.C. Cir. 2012) (where appeal is moot with respect to application of particular FOIA exemption, "we will vacate that part of the district court's decision"). We remand the case to the district court for further proceedings. See id. at 1125.

Pursuant to D.C. Circuit Rule 36, this disposition will not be published. The Clerk is directed to issue forthwith to the district court a certified copy of this order in lieu of formal mandate.

Per Curiam