

**IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF KANSAS**

<b>UNITED STATES OF AMERICA,</b>	)	
	)	
<b>Plaintiff,</b>	)	<b>CRIMINAL ACTION</b>
	)	
<b>v.</b>	)	<b>No. 11-20085-01-KHV</b>
	)	
<b>RODNEY O. MCINTOSH,</b>	)	
	)	
<b>Defendant.</b>	)	
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**ORDER**

This matter is before the Court on defendant’s Request For Assistance In The Investigation Of Crimes Involving Government Officers And Employees Pursuant To 28 U.S.C. § 535(b) (Doc. #317) filed March 4, 2019. Defendant seeks to compel the Federal Bureau of Investigations (“FBI”) to investigate alleged threats of harm against him “by the federal government.” Section 535(a) provides in relevant part that the “Attorney General and the [FBI] may investigate any violation of Federal criminal law involving Government officers and employees.” 28 U.S.C. § 535(a). Under the statute, the Attorney General and the FBI have discretion to investigate a complaint of criminal wrongdoing. Defendant requests to consult with the FBI under 28 U.S.C. § 535(b), which states as follows:

(b) Any information, allegation, matter, or complaint witnessed, discovered, or received in a department or agency of the executive branch of the Government relating to violations of Federal criminal law involving Government officers and employees shall be expeditiously reported to the Attorney General by the head of the department or agency, or the witness, discoverer, or recipient, as appropriate, unless--

(1) the responsibility to perform an investigation with respect thereto is specifically assigned otherwise by another provision of law; or

(2) as to any department or agency of the Government, the Attorney General directs otherwise with respect to a specified class of information, allegation, or complaint.

28 U.S.C. § 535(b). Because the decision to investigate under subsection (a) is discretionary, the Court lacks authority to compel the Attorney General or the FBI to initiate an investigation or to specifically consult with defendant. See Parker v. Cain, 266 F. App'x 359, 359-60 (5th Cir. 2008); see also Anderson v. United States, 48 F. App'x 794 (D.C. Cir. 2002) (Attorney General's discretionary authority to investigate complaints presumptively not subject to judicial review). The Court therefore overrules defendant's motion. **Even so, to the extent that government counsel has not done so already, the Court directs counsel to forward defendant's letter to the FBI.**

**IT IS THEREFORE ORDERED** that defendant's Request For Assistance In The Investigation Of Crimes Involving Government Officers And Employees Pursuant To 28 U.S.C. § 535(b) (Doc. #317) filed March 4, 2019 is **OVERRULED**. **To the extent that government counsel has not done so already, the Court directs counsel to forward defendant's letter to the FBI.**

Dated this 25<sup>th</sup> day of June, 2019 at Kansas City, Kansas.

s/ Kathryn H. Vratil  
KATHRYN H. VRATIL  
United States District Judge