

**United States Court of Appeals**  
FOR THE DISTRICT OF COLUMBIA CIRCUIT

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**No. 13-1025****September Term, 2013****DOJ-1/18/13 Letter****Filed On:** November 12, 2013

Michael A. Leon,

Petitioner

v.

United States Department of Justice,

Respondent

**BEFORE:** Rogers and Tatel, Circuit Judges; Ginsburg, Senior Circuit Judge

**ORDER**

Upon consideration of the motion for leave to proceed in forma pauperis, the motion to set a briefing schedule and to expedite and the response thereto, the motion to dismiss and the response thereto, and petitioner's brief with appendix, it is

**ORDERED** that the motion for leave to proceed in forma pauperis be granted. It is

**FURTHER ORDERED** that the motion to dismiss be granted. Petitioner has not met his burden of demonstrating that this court has subject matter jurisdiction over his petition for review. See Khadr v. United States, 529 F.3d 1112, 1115 (D.C. Cir. 2008). The agency's decision not to initiate an investigation based on petitioner's complaint of discrimination is a decision "committed to agency discretion by law" and thus unreviewable under the Administrative Procedure Act, 5 U.S.C. § 701(a). See Heckler v. Chaney, 470 U.S. 821, 831-33 (1985) (an agency's decision not to take enforcement action is presumed to be immune from judicial review unless the relevant statute provides meaningful standards for the agency to follow in exercising its enforcement powers); Nondiscrimination on the Basis of Disability in State and Local Government Services, 75 Fed. Reg. 56164, 56228 (Sept. 15, 2010) (noting that upon an agency's review of a complaint under Title II of the Americans With Disabilities Act, the "agency's decision to conduct a full investigation requires a complicated balancing of a number of factors that are particularly within its expertise"). It is

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**FURTHER ORDERED** that the motion to set a briefing schedule and to expedite be dismissed as moot.

Pursuant to D.C. Circuit Rule 36, this disposition will not be published. The Clerk is directed to withhold issuance of the mandate herein until seven days after resolution of any timely petition for rehearing or petition for rehearing en banc. See Fed. R. App. P. 41(b); D.C. Cir. Rule 41.

**Per Curiam**