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9 **UNITED STATES DISTRICT COURT**  
10 **DISTRICT OF NEVADA**

11 JED MARGOLIN, )  
12 ) 3:09-CV-00421-LRH-VPC  
13 Plaintiff, )  
14 v. )  
15 CHARLES F. BOLDEN, Administrator, )  
16 National Aeronautics and Space Administration, ) **MOTION TO DISMISS**  
17 Defendant. )

18 **I. ARGUMENT**

19 **A. This action should be dismissed because individual agency officials are not proper**  
20 **defendants in actions under the Freedom of Information Act ("FOIA").**

21 Plaintiff Jed Margolin has sued Charles F. Bolden, Administrator of the National  
22 Aeronautics and Space Administration ("NASA"), for failure to provide certain documents  
23 requested under FOIA. But individual agency employees are not proper party defendants in  
24 FOIA actions. *Johnson v. Commissioner of Internal Revenue*, 2002 WL 31934162 (W.D. Wash.  
25 2002); *see also* 5 U.S.C. § 552(a)(4)(B) ("[T]he district court of the United States \* \* \* has  
26 jurisdiction to enjoin the *agency* from withholding agency records and to order the production of  
27  
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1 any agency records improperly withheld from the complainant[.]” (emphasis added); *Hardy v.*  
2 *Daniels*, 2006 WL 176531 (D. Or. 2006) (“[T]he general consensus is that only a federal *agency*,  
3 and not federal officials, can be sued under FOIA.”) (emphasis in original). Because plaintiff’s  
4 complaint names only the NASA Administrator as a defendant, dismissal is warranted.  
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6 **II. CONCLUSION**

7 For the foregoing reasons, this action should be dismissed.

8 Respectfully submitted,

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10 GREGORY A. BROWER  
11 United States Attorney

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13 /s/ Holly A. Vance  
14 HOLLY A. VANCE  
15 Assistant United States Attorney  
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**CERTIFICATE OF SERVICE**

1			
2			
3	JED MARGOLIN,	)	
4	Plaintiff,	)	3:09-CV-00421-LRH-VPC
5		)	
6	v.	)	
7	CHARLES F. BOLDEN, Administrator,	)	
8	National Aeronautics and Space Administration,	)	
9	Defendant.	)	

10 The undersigned hereby certifies that service of the foregoing **MOTION TO DISMISS**  
11 has been made by electronic notification through the Court's electronic filing system or, as  
12 appropriate, by sending a copy by first-class mail to the following addressee(s) on September 11,  
13 2009:

14  
15 JED MARGOLIN  
16 1981 Empire Road  
17 Virginia City Highlands, NV 89521-7430

18 /s/ Holly A. Vance

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