

**U.S. District Court**  
**District of Columbia (Washington, DC)**  
**CIVIL DOCKET FOR CASE #: 1:20-cv-01291-TJK**

WORTHINGTON v. U.S. DEPARTMENT OF JUSTICE  
Assigned to: Judge Timothy J. Kelly  
Cause: 05:552 Freedom of Information Act

Date Filed: 05/14/2020  
Date Terminated: 10/13/2021  
Jury Demand: None  
Nature of Suit: 895 Freedom of Information Act  
Jurisdiction: U.S. Government Defendant

**Plaintiff****JOHN WORTHINGTON**

represented by **JOHN WORTHINGTON**  
90 S. Rhodefer Rd.  
E-101  
Sequim, WA 98382  
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PRO SE

V.

**Defendant****U.S. DEPARTMENT OF JUSTICE**

represented by **John Cuong Truong**  
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**LEAD ATTORNEY**  
**ATTORNEY TO BE NOTICED**

Date Filed	#	Docket Text
05/14/2020	<u>1</u>	COMPLAINT against U.S. DEPARTMENT OF JUSTICE ( Filing fee \$ 400, receipt number 4616103115) filed by JOHN WORTHINGTON. (Attachments: # <u>1</u> Civil Cover Sheet)(zjf) (Entered: 05/18/2020)
05/14/2020		Summons (1) Issued as to U.S. DEPARTMENT OF JUSTICE. (zjf) (Entered: 05/18/2020)
05/14/2020	<u>2</u>	NOTICE OF RELATED CASE by JOHN WORTHINGTON. Case related to Case No. 19cv81. (zjf) (Entered: 05/18/2020)
05/20/2020		MINUTE ORDER. Plaintiff has designated this case as related to Civil Action Number 19-0081, Worthington v. ONDCP (hereinafter, "ONDCP"). "The general rule governing all new cases filed in this courthouse is that they are to be randomly assigned." Tripp v. Exec. Office of the President, 196 F.R.D. 201, 202 (D.D.C. 2000). Local Civil Rule 40.5(a)(3) provides an exception to that rule: "Civil, including miscellaneous, cases are deemed related when the earliest is still pending on the merits in the District Court and they (i) relate to common property, or (ii) involve common issues of fact, or (iii) grow out of the same event or transaction or (iv) involve the validity or infringement of the same patent. Notwithstanding the foregoing, a case filed by a pro se litigant with a prior case pending shall be deemed related and assigned to the judge having the earliest case." ONDCP is no longer pending on the merits because it was dismissed and the case was terminated on March 30, 2020. Thus, Rule 40.5(a)(3) does not apply. Where a case has been dismissed, Rule 40.5(a)(4) applies: "Additionally, cases whether criminal or civil, including miscellaneous, shall be deemed related where a case is dismissed, with prejudice or without, and a second case is filed involving the same parties and relating to the same subject matter." The instant

		case does not involve the same parties as ONDCP. While plaintiff Worthington filed both cases, there were seven defendants in ONDCP, while in this case, DOJ is the lone defendant. In addition, the cases are not related to the same subject matter. While both cases involve an entity called WestNET, ONDCP involved a number of APA, constitutional, and RICO violations. The instant case, in contrast, is a FOIA action involving redactions in certain documents that were produced to plaintiff. Thus, plaintiff has not established that the cases are related. <i>Comm. on Judiciary v. McGahn</i> , 391 F. Supp. 3d 116, 118 (D.D.C. 2019) (noting that the party asserting an exception to the general rule that cases be randomly assigned bears the heavy burden of showing relatedness). Accordingly, it is ORDERED that this case shall be sent to the Calendar and Case Management Committee for random reassignment. SO ORDERED. Signed by Judge Amy Berman Jackson on 5/20/2020. (lcabj2) (Entered: 05/20/2020)
05/20/2020	<u>3</u>	Case randomly reassigned to Judge Timothy J. Kelly as the case is not related to an earlier case. Judge Amy Berman Jackson is no longer assigned to the case. (rj) (Entered: 05/20/2020)
06/03/2020	<u>4</u>	ENTERED IN ERROR.....MOTION for CM/ECF Password by JOHN WORTHINGTON. (ztth) Modified on 6/5/2020 (zjf). (Entered: 06/03/2020)
06/03/2020	<u>5</u>	AMENDED MOTION for CM/ECF Password by JOHN WORTHINGTON. (ztth) (Entered: 06/04/2020)
06/05/2020		NOTICE OF CORRECTED DOCKET ENTRY: Document No. re <u>4</u> MOTION for CM/ECF Password was entered in error and resubmitted by plaintiff with a corrected version. (See Docket Entry <u>5</u> to view document) (zjf) (Entered: 06/05/2020)
06/16/2020	<u>6</u>	AMENDED COMPLAINT against U.S. DEPARTMENT OF JUSTICE filed by JOHN WORTHINGTON. (ztth) (Entered: 06/17/2020)
06/29/2020	<u>7</u>	RETURN OF SERVICE/AFFIDAVIT of Summons and Complaint Executed. U.S. DEPARTMENT OF JUSTICE served on 6/15/2020. (ztth) (Entered: 07/01/2020)
07/20/2020	<u>8</u>	MOTION for Preliminary Injunction by JOHN WORTHINGTON (Attachments: # <u>1</u> Exhibit, # <u>2</u> Text of Proposed Order) (ztth) (Entered: 07/21/2020)
07/21/2020		MINUTE ORDER: The Court notes that the docket in this case reflects that service is not complete. Plaintiff is advised that, pursuant to Federal Rule of Civil Procedure 4(b), it is his responsibility to present any required summonses to the Clerk of the Court for signature and seal. The plaintiff may obtain copies of the relevant summonses from the Court's website under the tab "pro se help." The summons for a FOIA case is available at <a href="https://www.dcd.uscourts.gov/sites/dcd/files/Summons-FOIA_2013_FILL.pdf">https://www.dcd.uscourts.gov/sites/dcd/files/Summons-FOIA_2013_FILL.pdf</a> . Plaintiff is further advised that service of summonses and the complaint must be accomplished consistent with Federal Rule of Civil Procedure 4(i), which applies to service on the "United States and its Agencies, Corporations, Officers, or Employees." Here, the docket indicates that Plaintiff served only the Department of Justice, not the United States Attorney for the District of Columbia and the United States Attorney General as required by Rule 4(i). Plaintiff is further advised that, pursuant to Federal Rule of Civil Procedure 4(m), he must serve Defendant within 90 days of filing the complaint or show good cause for an extension. Failure to serve Defendant within 90 days—here, by August 12, 2020—or show good cause for an extension will result in a mandatory dismissal of this action. Finally, Plaintiff is advised that he must comply with the proof of service requirement of Federal Rule of Civil procedure 4(l)(1). Accordingly, it is hereby ORDERED that, in order to avoid a mandatory dismissal of this action, by August 12, 2020, Plaintiff shall either (1) cause process to be served upon Defendant and file proof of service with the Court, or (2) file a motion to enlarge time to serve process and show good cause, if any, for failure to serve process in a timely fashion. Signed by Judge Timothy J. Kelly on 7/21/2020. (lctjk3) (Entered: 07/21/2020)
07/23/2020	<u>9</u>	ORDER denying Plaintiff's <u>8</u> Motion for Preliminary Injunction. See Order for details. Signed by Judge Timothy J. Kelly on 7/23/2020. (lctjk3) (Entered: 07/23/2020)
07/30/2020	<u>10</u>	MOTION to Recuse by JOHN WORTHINGTON. (ztth) (Entered: 08/03/2020)

08/06/2020	<u>11</u>	<b>VACATED PURSUANT TO MINUTE ORDER FILED 9/15/2020.....</b> STANDING ORDER. See Order for details. Signed by Judge Timothy J. Kelly on 8/6/2020. (lctjk3) Modified on 9/15/2020 (zkh). (Entered: 08/06/2020)
08/06/2020	<u>13</u>	MOTION for Extension of Time to Serve Defendants by JOHN WORTHINGTON. (ztth) (Main Document 13 replaced on 8/10/2020) (ztth). (Entered: 08/10/2020)
08/10/2020	<u>12</u>	SUMMONS (2) Issued Electronically as to U.S. DEPARTMENT OF JUSTICE., U.S. Attorney. (Attachment: # <u>1</u> Notice and Consent) (ztth) (Entered: 08/10/2020)
08/10/2020		MINUTE ORDER denying Plaintiff's <u>10</u> Motion to Recuse. Plaintiff argues that the undersigned "is clearly a narcotics task force misconduct enabler and cannot render a fair judgment and must recuse" under 28 U.S.C. § 455. ECF No. 10 at 3. "28 U.S.C. § 455(a) permits a litigant to seek recusal of a federal judge 'in any proceeding in which his impartiality might reasonably be questioned,'" <i>Klayman v. Judicial Watch, Inc.</i> , 278 F. Supp. 3d 252, 255 (D.D.C. 2017), and 28 U.S.C. § 455(b) provides for recusal when, among other things, the judge has a personal bias or prejudice concerning a party or has acted as a lawyer in the proceeding. "In assessing section 455(a) motions, the D.C. Circuit has applied an 'objective' standard: 'Recusal is required when a reasonable and informed observer would question the judge's impartiality.'" <i>Klayman</i> , 278 F. Supp. 3d at 255 (quoting <i>SEC v. Loving Spirit Found. Inc.</i> , 392 F.3d 486, 493 (D.C. Cir. 2004)). "[B]ald allegations of bias or prejudice" will not suffice. <i>Karim-Panahi v. U.S. Cong., Senate &amp; House of Representatives</i> , 105 F. App'x 270, 275 (D.C. Cir. 2004). Here, Worthington accuses the Court of bias because: (1) the undersigned denied Plaintiff's motion for a preliminary injunction without briefing from Defendant, which had not yet appeared; and (2) the undersigned used to work for the Department of Justice "in a capacity that dealt with drug narcotics agencies." ECF No. 10 at 3. But neither theory warrants the Court's recusal under § 455. As for (1), to trigger disqualification under § 455(a), "the appearance of bias or prejudice must stem from an extrajudicial source," <i>Klayman</i> , 278 F. Supp. 3d at 255 (quoting <i>United States v. Barry</i> , 961 F.2d 260, 263 (D.C. Cir. 1992)), and "unfavorable judicial rulings alone almost never constitute a valid basis for reassignment," <i>United States v. Hite</i> , 763 F.3d 1154, 1172 (D.C. Cir. 2014). Nothing in the Court's denial of Plaintiff's motion for failure to show irreparable harm displays "deep-seated favoritism or antagonism that would make fair judgment impossible." <i>Liteky v. United States</i> , 510 U.S. 540, 555 (1994). And the Court's denial of Plaintiff's motion for a preliminary injunction without the assistance of briefing from Defendant does not constitute "acting as a lawyer in the proceeding" in violation of 28 U.S.C. § 455(b)(5)(ii). As for (2), the undersigned's prior employment with the Department of Justice is not a basis for recusal when the undersigned had "no involvement of any kind with this case or the predicate facts." <i>McKee v. United States Department of Justice</i> , 253 F. Supp. 3d 78, 81 (D.D.C. 2017). Therefore, it is hereby ORDERED that Plaintiff's <u>10</u> Motion to Recuse is DENIED. Signed by Judge Timothy J. Kelly on 8/10/2020. (lctjk3) (Entered: 08/10/2020)
08/10/2020		MINUTE ORDER granting Plaintiff's <u>13</u> Motion for Extension of Time. It is hereby ORDERED that, for good cause shown, Plaintiff's <u>13</u> Motion for Extension of Time is GRANTED. It is further ORDERED that Plaintiff shall serve Defendant and provide proof of service as required by Federal Rule of Civil Procedure 4(l)(1) by August 22, 2020. Signed by Judge Timothy J. Kelly on 8/10/2020. (lctjk3) (Entered: 08/10/2020)
08/24/2020	<u>14</u>	RETURN OF SERVICE/AFFIDAVIT of Summons and Complaint Executed as to the United States Attorney. Date of Service Upon United States Attorney on 8/11/2020. ( Answer due for ALL FEDERAL DEFENDANTS by 9/10/2020.), RETURN OF SERVICE/AFFIDAVIT of Summons and Complaint Executed. U.S. DEPARTMENT OF JUSTICE served on 8/17/2020 (eg) (Entered: 08/27/2020)
09/01/2020	<u>15</u>	NOTICE of Appearance by John Cuong Truong on behalf of U.S. DEPARTMENT OF JUSTICE (Truong, John) (Entered: 09/01/2020)
09/10/2020	<u>16</u>	ANSWER to <u>6</u> Amended Complaint by U.S. DEPARTMENT OF JUSTICE.(Truong, John) (Entered: 09/10/2020)
09/15/2020		MINUTE ORDER: Before the Court in this FOIA case are a complaint and an answer. It is hereby ORDERED that the parties shall meet, confer, and file a joint proposed schedule for briefing or disclosure by October 12, 2020. It is further ORDERED that the Court's <u>11</u> Standing Order is VACATED, as the standing order is not intended to

		govern FOIA cases. Signed by Judge Timothy J. Kelly on 9/15/2020. (lctjk3) (Entered: 09/15/2020)
09/28/2020	<u>17</u>	NOTICE of Change of Address by JOHN WORTHINGTON (zrdj) (Entered: 10/01/2020)
10/12/2020	<u>18</u>	Joint STATUS REPORT by U.S. DEPARTMENT OF JUSTICE. (Truong, John) (Entered: 10/12/2020)
10/13/2020		MINUTE ORDER: Upon consideration of the parties' <u>18</u> Joint Status Report, it is hereby ORDERED that Defendant shall file its motion for summary judgment by December 1, 2020; Plaintiff shall file his opposition to Defendant's motion for summary judgment and cross-motion for summary judgment by January 4, 2021; Defendant shall file its reply in support of its motion for summary judgment and opposition to Plaintiff's cross-motion for summary judgment by February 4, 2021; and Plaintiff shall file his reply in support of his cross-motion for summary judgment by February 18, 2021. Signed by Judge Timothy J. Kelly on 10/13/2020. (lctjk3) (Entered: 10/13/2020)
11/30/2020	<u>19</u>	Consent MOTION to Modify <i>October 13, 2020 Briefing Schedule</i> by U.S. DEPARTMENT OF JUSTICE (Truong, John) (Entered: 11/30/2020)
12/01/2020		MINUTE ORDER granting Defendant's <u>19</u> Consent Motion to Modify October 13, 2020 Briefing Schedule. It is hereby ORDERED that Defendant shall file its motion for summary judgment by December 8, 2020; Plaintiff shall file his opposition to Defendant's motion for summary judgment and cross-motion for summary judgment by January 11, 2021; Defendant shall file its reply in support of its motion for summary judgment and opposition to Plaintiff's cross-motion for summary judgment by February 11, 2021; and Plaintiff shall file his reply in support of his cross-motion for summary judgment by February 25, 2021. Signed by Judge Timothy J. Kelly on 12/01/2020. (lctjk3) (Entered: 12/01/2020)
12/01/2020		Set/Reset Deadlines: Cross Motion due by 1/11/2021. Response to Cross Motion due by 2/11/2021. Reply to Cross Motion due by 2/25/2021. (zkh) (Entered: 12/01/2020)
12/04/2020		MINUTE ORDER denying Plaintiff's <u>5</u> Amended Motion for CM/ECF Password. Per Local Rule 7(m), Plaintiff has not included in his motion a statement that he has conferred with Defendant to determine whether there is any opposition to the relief sought. Accordingly, it is hereby ORDERED that Plaintiff's motion is DENIED without prejudice to filing a motion that complies with the Local Rules. Signed by Judge Timothy J. Kelly on 12/04/2020. (lctjk3) (Entered: 12/04/2020)
12/08/2020	<u>20</u>	MOTION for Summary Judgment by U.S. DEPARTMENT OF JUSTICE (Attachments: # <u>1</u> Statement of Facts, # <u>2</u> Memorandum in Support, # <u>3</u> Declaration of Karen McFadden, # <u>4</u> Declaration of Peter Maxey, # <u>5</u> Vaughn Index, # <u>6</u> Exhibit A to H, # <u>7</u> Exhibit I to K)(Truong, John) (Entered: 12/08/2020)
12/16/2020	<u>21</u>	RESPONSE re <u>20</u> MOTION for Summary Judgment filed by JOHN WORTHINGTON. (zth) (Entered: 12/17/2020)
02/11/2021	<u>22</u>	REPLY to opposition to motion re <u>20</u> MOTION for Summary Judgment filed by U.S. DEPARTMENT OF JUSTICE. (Truong, John) (Entered: 02/11/2021)
03/02/2021	<u>23</u>	MOTION for Leave to File by JOHN WORTHINGTON. (Attachment: # <u>1</u> Exhibit – Surreply) (zth) (Entered: 03/05/2021)
03/21/2021		MINUTE ORDER granting Plaintiff's <u>23</u> Motion for Leave to File. It is hereby ORDERED that Plaintiff's <u>23</u> Motion is GRANTED. The Clerk of Court shall docket [23-1] as Plaintiff's operative sur-reply. Signed by Judge Timothy J. Kelly on 03/21/2021. (lctjk3) (Entered: 03/21/2021)
03/21/2021	<u>24</u>	SURREPLY to <u>22</u> Reply to opposition to Motion filed by JOHN WORTHINGTON. (zth) (Entered: 03/22/2021)
09/30/2021	<u>25</u>	ORDER granting in part and denying in part Defendant's <u>20</u> Motion for Summary Judgment. See Order for details. Signed by Judge Timothy J. Kelly on 9/30/21. (lctjk2) (Entered: 09/30/2021)

10/12/2021		Minute Entry for proceedings held before Judge Timothy J. Kelly: VTC Status Conference held on 10/12/2021, explaining the reasons for the court's decision in its <u>25</u> Order dated 9/30/2021. Joint Proposed Briefing Schedule due by 10/19/2021. (Court Reporter: Timothy Miller) (zkh) (Entered: 10/12/2021)
10/12/2021	<u>26</u>	STIPULATION of Dismissal ( <i>Joint</i> ) by U.S. DEPARTMENT OF JUSTICE. (Truong, John) (Entered: 10/12/2021)
10/12/2021	<u>27</u>	STIPULATION of Dismissal <i>Joint (Corrected)</i> by U.S. DEPARTMENT OF JUSTICE. (Truong, John) (Entered: 10/12/2021)