

**U.S. District Court
Middle District of Florida (Tampa)
CIVIL DOCKET FOR CASE #: 8:21-cv-01291-SDM-AEP**

Smith v. United States Department of Justice
Assigned to: Judge Steven D. Merryday
Referred to: Magistrate Judge Anthony E. Porcelli
Cause: 05:0552 Freedom of Information Act

Date Filed: 05/27/2021
Date Terminated: 09/09/2024
Jury Demand: None
Nature of Suit: 895 Freedom of Information Act
Jurisdiction: U.S. Government Defendant

Plaintiff

Danielle Smith

represented by **Mark S. Zaid**
Mark S. Zaid, PC
1250 Connecticut Avenue, N.W.
Suite 700
Washington, DC 20036
202-454-2809
Email: Mark@MarkZaid.com
ATTORNEY TO BE NOTICED

Joshua Michael Entin
Entin Law Group, P.A.
1213 S.E. 3rd Avenue
Fort Lauderdale, FL 33316
954-761-7201
Email: josh@entinlaw.com
ATTORNEY TO BE NOTICED

V.

Defendant

United States Department of Justice

represented by **Erik Kenneth Stegeby**
US Attorney's Office – FLM
Suite 3200
400 N Tampa St
Tampa, FL 33602-4798
813/274-6000
Fax: 813/274-6200
Email: Kenneth.Stegeby@usdoj.gov
LEAD ATTORNEY

Lacy R. Harwell, Jr.
US Attorney's Office – FLM
Suite 3200
400 N Tampa St
Tampa, FL 33602-4798
813/274-6000
Fax: 813/274-6200
Email: randy.harwell@usdoj.gov
LEAD ATTORNEY
ATTORNEY TO BE NOTICED

Date Filed	#	Docket Text
05/27/2021	<u>1</u>	COMPLAINT against United States Department of Justice (Filing fee \$ 402 receipt number AFLMDC-18299668) filed by Danielle Smith. (Attachments: # <u>1</u> Civil Cover Sheet, # <u>2</u> Proposed Summons-AG, # <u>3</u> Proposed Summons-DOJ, # <u>4</u> Proposed Summons-USAO)(Entin, Joshua) Modified text on 5/27/2021 (MCB). (Entered: 05/27/2021)

05/27/2021	2	NEW CASE ASSIGNED to Judge Steven D. Merryday and Magistrate Judge Anthony E. Porcelli. New case number: 8:21-cv-1291-SDM-AEP. (SJB) (Entered: 05/27/2021)
05/27/2021	<u>3</u>	SUMMONS issued as to United States Department of Justice, U.S. Attorney and U.S. Attorney General. (MCB) (Entered: 05/27/2021)
05/27/2021	4	ORDER and NOTICE: COMPLIANCE WITH LOCAL RULE 1.08. Signed by Judge Steven D. Merryday on 2/5/2021. (BK) (Entered: 05/27/2021)
05/28/2021	5	NOTICE of Local Rule 1.07(c) and Local Rule 3.02(a)(2): – Local Rule 1.07(c) requires lead counsel to <i>promptly</i> file a Notice of a Related Action that identifies and describes any related action pending in the Middle District. – Local Rule 3.02(a)(2) requires the parties in every civil proceeding, except those described in subsection (d), to file a case management report (CMR) using the uniform form at www.flmd.uscourts.gov . The CMR must be filed (1) within forty days after any defendant appears in an action originating in this court, (2) within forty days after the docketing of an action removed or transferred to this court, or (3) within seventy days after service on the United States attorney in an action against the United States, its agencies or employees. Judges may have a special CMR form for certain types of cases. These forms can be found at www.flmd.uscourts.gov under the Forms tab for each judge. (Signed by Deputy Clerk). (GSO) (Entered: 05/28/2021)
06/25/2021	<u>6</u>	NOTICE by Danielle Smith re <u>1</u> <i>Complaint of Filing Certified Mail receipts demonstrating service on United States</i> (Attachments: # <u>1</u> Exhibit A. Certified Mail receipt, # <u>2</u> Exhibit B. Certified Mail receipt)(Entin, Joshua) (Entered: 06/25/2021)
07/03/2021	<u>7</u>	ANSWER to <u>1</u> Complaint by United States Department of Justice.(Stegeby, Erik) (Entered: 07/03/2021)
07/08/2021	<u>8</u>	NOTICE informing the parties that they may consent to the jurisdiction of a United States magistrate judge by filing Form AO 85 Notice, Consent, and Reference of a Civil Action to a Magistrate Judge using the event Consent to Jurisdiction of US Magistrate Judge . (Signed by Deputy Clerk). (GSO) (Entered: 07/08/2021)
07/08/2021	<u>9</u>	MOTION for Mark S. Zaid to appear pro hac vice, Special Admission fee paid, Receipt No. AFLMDC-18453382 for \$150 by Danielle Smith. (Attachments: # <u>1</u> Affidavit Declaration of Mark Zaid)(Entin, Joshua) Motions referred to Magistrate Judge Anthony E. Porcelli. (Entered: 07/08/2021)
07/09/2021	10	ENDORSED ORDER granting <u>9</u> Motion to Appear Pro Hac Vice. Attorney Mark S. Zaid may appear pro hac vice on behalf of Plaintiff. Within twenty-one (21) days of the date of this order, counsel shall comply with the electronic filing requirements and file a notice of compliance with said requirements. Signed by Magistrate Judge Anthony E. Porcelli on 7/9/2021. (JMF) (Entered: 07/09/2021)
07/14/2021	<u>11</u>	NOTICE of compliance re 10 Order on Motion to Appear Pro Hac Vice by Danielle Smith (Zaid, Mark) (Entered: 07/14/2021)
08/12/2021	<u>12</u>	CASE MANAGEMENT REPORT. (Stegeby, Erik) (Entered: 08/12/2021)
09/02/2021	<u>13</u>	CASE MANAGEMENT AND SCHEDULING ORDER: Dispositive motions due 12/30/2021. Signed by Judge Steven D. Merryday on 9/2/2021. (GG) (Entered: 09/02/2021)
09/09/2021	<u>14</u>	ORDER appointing Jonathan C. Koch as mediator; designating Erik Stegeby as lead counsel; directing lead counsel to coordinate the date and time of mediation and to file a notice of mediation within seven days after this order; directing the parties to mediate by 12/14/2021. Signed by Judge Steven D. Merryday on 9/9/2021. (GG) (Entered: 09/09/2021)
09/09/2021	<u>15</u>	ORDER re <u>14</u>--mediation order; permitting the parties to appear by video with the mediator's approval. Signed by Judge Steven D. Merryday on 9/9/2021. (GG) (Entered: 09/09/2021)

09/13/2021	<u>16</u>	NOTICE of mediation conference/hearing to be held on December 9, 2021, starting at 1:00pm before Jonathan C. Koch. (Stegeby, Erik) (Entered: 09/13/2021)
09/20/2021	<u>17</u>	NOTICE of a related action per Local Rule 1.07(c) by Danielle Smith. Related case(s): No (Zaid, Mark) (Entered: 09/20/2021)
12/07/2021	<u>18</u>	Joint MOTION for Miscellaneous Relief, specifically Excused from Mediation by Danielle Smith. (Entin, Joshua) (Entered: 12/07/2021)
12/09/2021	<u>19</u>	ORDER granting <u>18</u>--motion for relief from obligation to mediate. Signed by Judge Steven D. Merryday on 12/9/2021. (GG) (Entered: 12/09/2021)
12/29/2021	<u>20</u>	MOTION for Extension of Time to File Dispositive Motions by All Defendants. (Attachments: # <u>1</u> Exhibit A, # <u>2</u> Exhibit B)(Stegeby, Erik) (Entered: 12/29/2021)
01/03/2022	<u>21</u>	ORDER granting <u>20</u>--motion for an extension of time; extending through 1/31/2022 the time within which to submit a dispositive motion. Signed by Judge Steven D. Merryday on 1/3/2022. (GG) (Entered: 01/03/2022)
02/01/2022	<u>22</u>	MOTION for Summary Judgment by All Defendants. (Attachments: # <u>1</u> Exhibit A)(Stegeby, Erik) (Entered: 02/01/2022)
02/18/2022	<u>23</u>	Consent MOTION to File Excess Pages and MOTION for Extension of Time of Three Days by Danielle Smith. (Zaid, Mark) . Added MOTION for Extension of Time to File Response/Reply on 2/18/2022 (MCB). (Entered: 02/18/2022)
02/22/2022	<u>24</u>	ORDER granting <u>23</u>--motion for an extension of time; extending through 2/25/2022 the time within which the plaintiff must respond to the motion for summary judgment; permitting the plaintiff to submit a response not exceeding thirty pages. Signed by Judge Steven D. Merryday on 2/22/2022. (GG) (Entered: 02/22/2022)
02/25/2022	<u>25</u>	MEMORANDUM in opposition re <u>22</u> Motion for Summary Judgment filed by Danielle Smith. (Attachments: # <u>1</u> Exhibit 1 – Zaid Declaration, # <u>2</u> Exhibit 1B – Stauffer Complaint, # <u>3</u> Exhibit 1C – FBI Affidavit, # <u>4</u> Exhibit 1D – FBI Affidavit, # <u>5</u> Exhibit 1E – Ferrante Declaration)(Zaid, Mark) (Entered: 02/25/2022)
02/25/2022	<u>26</u>	NOTICE by Danielle Smith re <u>25</u> Memorandum in opposition of <i>Filing of Missing Exhibit</i> (Attachments: # <u>1</u> Exhibit 1A – Redacted Memorandum Opinion)(Zaid, Mark) (Entered: 02/25/2022)
09/08/2022	<u>27</u>	ORDER denying without prejudice <u>22</u>--motion for summary judgment; permitting the DOJ to renew the motion not later than 10/23/2022. Signed by Judge Steven D. Merryday on 9/8/2022. (KRM) (Entered: 09/08/2022)
10/23/2022	<u>28</u>	MOTION for Extension of Time to File Renewed Motion for Summary Judgment by United States Department of Justice. (Stegeby, Erik) (Entered: 10/23/2022)
10/24/2022	<u>29</u>	ENDORSED ORDER: The defendant's motion (Doc. <u>28</u>) to extend the time within which to file a renewed motion for summary judgment is GRANTED. Not later than NOVEMBER 7, 2022, the defendant must file the renewed motion. Signed by Judge Steven D. Merryday on 10/24/2022. (WBW) (Entered: 10/24/2022)
11/08/2022	<u>30</u>	Second MOTION for Summary Judgment (<i>Renewed</i>) by All Defendants. (Attachments: # <u>1</u> Exhibit A, # <u>2</u> Exhibit A for Exh. A, # <u>3</u> Exhibit B for Exh. A, # <u>4</u> Exhibit C for Exh. A, # <u>5</u> Exhibit D for Exh. A, # <u>6</u> Exhibit B)(Stegeby, Erik) Modified text on 11/8/2022 (MCB). (Entered: 11/08/2022)
11/29/2022	<u>31</u>	RESPONSE in Opposition re <u>30</u> Second MOTION for Summary Judgment (<i>Renewed</i>) filed by Danielle Smith. (Attachments: # <u>1</u> Exhibit A. Declaration of Mark Zaid, # <u>2</u> Exhibit B. Declaration of Michael Seidel)(Entin, Joshua) (Entered: 11/29/2022)
12/28/2022	<u>32</u>	MOTION for Extension of Time to File Response/Reply as to <u>31</u> Response in Opposition to Motion, <u>30</u> Second MOTION for Summary Judgment (<i>Renewed</i>) by United States Department of Justice. (Stegeby, Erik) (Entered: 12/28/2022)
01/18/2023	<u>33</u>	ORDER resolving <u>32</u>--motion for extension. Signed by Judge Steven D. Merryday on 1/18/2023. (WBW) (Entered: 01/18/2023)

05/10/2023	<u>34</u>	ORDER denying 30—motion for summary judgment. Signed by Judge Steven D. Merryday on 5/10/2023. (WBW) (Entered: 05/10/2023)
08/04/2023	<u>35</u>	MOTION for Miscellaneous Relief, Specifically Status Conference or Alternative Setting of Schedule for Processing and Release of Responsive Records and Notice of Filing of Related Decision by Danielle Smith. (Attachments: # <u>1</u> Exhibit 1 – D.Md Decision)(Zaid, Mark) Modified on 8/7/2023 to correct improper punctuation. (LD). (Entered: 08/04/2023)
12/27/2023	36	ENDORSED ORDER granting <u>35</u> Motion to schedule status conference. Notice of scheduling of status conference to be sent. Signed by Magistrate Judge Anthony E. Porcelli on 12/27/2023. (LV) (Entered: 12/27/2023)
12/27/2023	37	NOTICE of hearing: Status Conference set for 1/16/2024 at 10:00 AM VIA ZOOM before Magistrate Judge Anthony E. Porcelli. Zoom information to be sent via email to counsel of record.(LV) (Entered: 12/27/2023)
01/16/2024	<u>38</u>	Minute Entry. Virtual Proceedings held before Magistrate Judge Anthony E. Porcelli: STATUS CONFERENCE held on 1/16/2024. (digital) (LV) (Entered: 01/16/2024)
01/16/2024	40	NOTICE of hearing: Status Conference set for 1/26/2024 at 03:00 PM VIA ZOOM before Magistrate Judge Anthony E. Porcelli. (LV) (Entered: 01/16/2024)
01/22/2024	<u>41</u>	Second MOTION for Summary Judgment by United States Department of Justice. (Attachments: # <u>1</u> Exhibit A)(Stegeby, Erik) Modified on 1/23/2024 to edit docket text (EAM). (Entered: 01/22/2024)
01/26/2024	<u>42</u>	Minute Entry. Virtual Proceedings held before Magistrate Judge Anthony E. Porcelli: STATUS CONFERENCE held on 1/26/2024. (digital) (LV) (Entered: 01/26/2024)
01/29/2024	44	NOTICE of hearing: Show Cause Hearing set for 2/8/2024 at 03:00 PM in Tampa Courtroom 10 A before Magistrate Judge Anthony E. Porcelli (IN PERSON). (LV) (Entered: 01/29/2024)
01/29/2024	<u>45</u>	ORDER TO SHOW CAUSE as to United States Department of Justice. A show cause hearing is scheduled for February 8, 2024, at 3:00 PM, in Courtroom 10A at the Sam M. Gibbons United States Courthouse, 801 North Florida Avenue, Tampa, Florida, at which Government Counsel Mr. Erik Stegeby must appear in person to show cause as to why sanctions should not be imposed for his lack of preparedness for the January 16, 2024 status conference and for his failure to appear at the January 26, 2024 status conference. Further, Mr. Stegeby must be accompanied by a supervisor in person at the show cause hearing. See Order for further details. Signed by Magistrate Judge Anthony E. Porcelli on 1/29/2024. (SEC) (Entered: 01/29/2024)
01/30/2024	<u>46</u>	NOTICE of Appearance by Lacy R. Harwell, Jr on behalf of United States Department of Justice (Harwell, Lacy) (Entered: 01/30/2024)
02/08/2024	<u>47</u>	Minute Entry. In Person Proceedings held before Magistrate Judge Anthony E. Porcelli: SHOW CAUSE HEARING held on 2/8/2024. (digital) (LV) (Entered: 02/08/2024)
02/11/2024	<u>49</u>	MEMORANDUM in opposition re <u>41</u> Motion for Summary Judgment filed by Danielle Smith. (Zaid, Mark) (Entered: 02/11/2024)
02/26/2024	<u>50</u>	Unopposed MOTION for Extension of Time to File Response/Reply as to <u>49</u> Memorandum in opposition, <u>41</u> Second MOTION for Summary Judgment by United States Department of Justice. (Stegeby, Erik) (Entered: 02/26/2024)
02/27/2024	51	ENDORSED ORDER: The defendant's unopposed motion (Doc. <u>50</u>) to extend the time within which to reply in support of the pending motion for summary judgment is GRANTED. No later than MARCH 11, 2024, the defendant must reply. Signed by Judge Steven D. Merryday on 2/27/2024. (WBW) (Entered: 02/27/2024)
03/11/2024	<u>52</u>	REPLY to Response to Motion re <u>41</u> Second MOTION for Summary Judgment filed by United States Department of Justice. (Harwell, Lacy) (Entered: 03/11/2024)

03/14/2024	53	ENDORSED ORDER REFERRING MOTION: The defendant's third motion (Doc. 41) for summary judgment is REFERRED to the magistrate judge to conduct any necessary hearing and to prepare a report and recommendation. Signed by Judge Steven D. Merryday on 3/14/2024. (WBW) Motions referred to Magistrate Judge Anthony E. Porcelli. (Entered: 03/14/2024)
03/25/2024	<u>54</u>	NOTICE of filing of relevant court decision by Danielle Smith (Attachments: # <u>1</u> Exhibit 1 – 4th Circuit Decision)(Zaid, Mark) Modified to edit docket text on 3/26/2024 (RLK). (Entered: 03/25/2024)
05/20/2024	<u>55</u>	Unopposed MOTION for E. Kenneth Stegeby to Withdraw as Attorney by United States Department of Justice. (Stegeby, Erik) (Entered: 05/20/2024)
05/22/2024	56	ENDORSED ORDER: E. Kenneth Stegeby's motion (Doc. 55) to withdraw as counsel for the defendant is GRANTED. Stegeby is WITHDRAWN as counsel. The clerk must terminate Stegeby from the service list. Signed by Judge Steven D. Merryday on 5/22/2024. (WBW) (Entered: 05/22/2024)
07/11/2024	57	NOTICE of hearing on motion re <u>41</u> Second MOTION for Summary Judgment . Motion Hearing set for 7/19/2024 at 11:30 AM VIA ZOOM before Magistrate Judge Anthony E. Porcelli. Zoom information to be sent via email to counsel of record. (LV) (Entered: 07/11/2024)
07/15/2024	<u>58</u>	Consent MOTION for Hearing re 57 Notice of Hearing on Motion by All Plaintiffs. (Zaid, Mark) (Entered: 07/15/2024)
07/17/2024	59	ENDORSED ORDER granting <u>58</u> Motion for (rescheduling) Hearing / Conference. Signed by Magistrate Judge Anthony E. Porcelli on 7/17/2024. (LV) (Entered: 07/17/2024)
07/17/2024	60	NOTICE OF RESCHEDULING HEARING: The Motion hearing hearing previously scheduled for July 19, 2024 is rescheduled. New scheduling date and time: Motion Hearing set for 8/7/2024 at 01:00 PM VIA ZOOM before Magistrate Judge Anthony E. Porcelli. (LV) (Entered: 07/17/2024)
08/02/2024	61	NOTICE OF RESCHEDULING HEARING: The Motion hearing hearing previously scheduled for 8/7/2024 is rescheduled. New scheduling date and time: Motion Hearing set for 8/6/2024 at 03:30 PM in VIA ZOOM before Magistrate Judge Anthony E. Porcelli. (LV) (Entered: 08/02/2024)
08/05/2024	<u>62</u>	NOTICE of compliance <i>in Connection with Request for In Camera Review</i> by United States Department of Justice (Harwell, Lacy) (Entered: 08/05/2024)
08/06/2024	<u>63</u>	Minute Entry. Virtual Proceedings held before Magistrate Judge Anthony E. Porcelli: MOTION HEARING held on 8/6/2024 re <u>41</u> Second MOTION for Summary Judgment filed by United States Department of Justice. (digital) (LV) (Entered: 08/06/2024)
08/13/2024	<u>65</u>	REPORT AND RECOMMENDATION re <u>41</u> Second MOTION for Summary Judgment filed by United States Department of Justice. For the reasons stated herein, it is recommended that the Motion be granted. See Report for further details. Signed by Magistrate Judge Anthony E. Porcelli on 8/13/2024. (KBP) (Entered: 08/13/2024)
08/21/2024	<u>66</u>	OBJECTION re <u>65</u> REPORT AND RECOMMENDATIONS re <u>41</u> Second MOTION for Summary Judgment filed by United States Department of Justice. . (Zaid, Mark) (Entered: 08/21/2024)
09/06/2024	<u>67</u>	ORDER adopting <u>65</u>--report and recommendations; overruling <u>66</u>--objections; granting <u>41</u>--motion for summary judgment; directing the clerk to enter judgment for the Department of Justice; directing the clerk to close the case. Signed by Judge Steven D. Merryday on 9/6/2024. (DJL) (Entered: 09/06/2024)
09/09/2024	<u>68</u>	JUDGMENT entered for DOJ and against Smith (Signed by Deputy Clerk) (ARL) (Entered: 09/09/2024)
09/09/2024	69	NOTICE of Local Rule 1.11(e), which provides that, unless an order states another time, a seal under Rule 1.11 expires ninety days after a case is closed and all appeals are exhausted. To prevent the content of a sealed item from appearing on the docket

		after the seal expires, a party or interested non-party must move for relief before the seal expires. (Signed by Deputy Clerk). (ARL) (Entered: 09/09/2024)
--	--	---