

U.S. DISTRICT COURT
U.S. District Court, Western District of New York (Rochester)
CIVIL DOCKET FOR CASE #: 6:23-cv-06451-FPG-MWP

Everson v. United States Department of Justice et al
Assigned to: Hon. Frank P. Geraci, Jr.
Referred to: Hon. Marian W. Payson
Case in other court: New York Southern, 1:23-cv-01456
Cause: 05:552 Freedom of Information Act

Date Filed: 08/10/2023
Jury Demand: None
Nature of Suit: 895 Freedom of Information Act
Jurisdiction: U.S. Government Defendant

Plaintiff

Sabrina Everson

represented by **David B. Rankin**
Beldock, Levine and Hoffman LLP
99 Park Avenue
PH/ 26th Floor
New York, NY 10016
212 277-5825
Fax: 212 277-5880
Email: drankin@blhny.com
LEAD ATTORNEY
ATTORNEY TO BE NOTICED

Regina Powers
Beldock Levine & Hoffman LLP
99 Park Avenue PH/26th Floor
New York, NY 10016
212-277-5892
ATTORNEY TO BE NOTICED

V.

Defendant

United States Department of Justice

represented by **Amanda M Lee**
DOJ-USAO
86 Chambers St
New York, NY 10007
212-637-2781
LEAD ATTORNEY
ATTORNEY TO BE NOTICED

James E.B. Bobseine
Office of the United States Attorney
Western District of New York
138 Delaware Avenue
Buffalo, NY 14202
716-843-5824
Email: james.bobseine@usdoj.gov
LEAD ATTORNEY
ATTORNEY TO BE NOTICED

Defendant

United States Bureau of Prisons

represented by **Amanda M Lee**
(See above for address)
LEAD ATTORNEY
ATTORNEY TO BE NOTICED

James E.B. Bobseine
(See above for address)
LEAD ATTORNEY
ATTORNEY TO BE NOTICED

Date Filed	#	Docket Text
02/22/2023	<u>1</u>	COMPLAINT against United States Bureau of Prisons, United States Department of Justice. (Filing Fee \$ 402.00, Receipt Number ANYSDC-27373662) Document filed by Sabrina Everson. (Attachments: # <u>1</u> Exhibit A – FOIA req, # <u>2</u> Exhibit B – Ack Ltr, # <u>3</u> Exhibit C – F/U Email, # <u>4</u> Exhibit D – Resp to F/U Email, # <u>5</u> Exhibit E – 1st Adm Appeal, # <u>6</u> Exhibit F – Resp to 1st Adm Appeal, # <u>7</u> Exhibit G – Denial of 1st Adm Appeal, # <u>8</u> Exhibit H – 2nd Adm Appeal, # <u>9</u> Exhibit I – Denial of 2nd Adm Appeal).(Rankin, David) [Transferred from nysd on 8/10/2023.] (Entered: 02/22/2023)
02/22/2023	<u>2</u>	CIVIL COVER SHEET filed..(Rankin, David) [Transferred from nysd on 8/10/2023.] (Entered: 02/22/2023)
02/22/2023	<u>3</u>	REQUEST FOR ISSUANCE OF SUMMONS as to UNITED STATES DEPARTMENT OF JUSTICE, re: <u>1</u> Complaint,, Document filed by Sabrina Everson..(Rankin, David) [Transferred from nysd on 8/10/2023.] (Entered: 02/22/2023)
02/22/2023	<u>4</u>	REQUEST FOR ISSUANCE OF SUMMONS as to UNITED STATES BUREAU OF PRISONS, re: <u>1</u> Complaint,, Document filed by Sabrina Everson..(Rankin, David) [Transferred from nysd on 8/10/2023.] (Entered: 02/22/2023)
02/22/2023	<u>5</u>	NOTICE OF APPEARANCE by Regina Powers on behalf of Sabrina Everson..(Powers, Regina) [Transferred from nysd on 8/10/2023.] (Entered: 02/22/2023)
02/23/2023		***NOTICE TO ATTORNEY REGARDING CIVIL. CASE OPENING STATISTICAL ERROR CORRECTION: Notice to attorney David Bruce Rankin. The following case opening statistical information was erroneously selected/entered: Jurisdiction code 3 (Federal Question); County code New York. The following correction(s) have been made to your case entry: the Jurisdiction code has been modified to 2 (U.S. Government Defendant); the County code has been modified to Monroe. (vf) [Transferred from nysd on 8/10/2023.] (Entered: 02/23/2023)
02/23/2023		CASE OPENING INITIAL ASSIGNMENT NOTICE: The above–entitled action is assigned to Judge Jennifer H. Rearden. Please download and review the Individual Practices of the assigned District Judge, located at https://nysd.uscourts.gov/judges/district-judges . Attorneys are responsible for providing courtesy copies to judges where their Individual Practices require such. Please download and review the ECF Rules and Instructions, located at https://nysd.uscourts.gov/rules/ecf-related-instructions..(vf) [Transferred from nysd on 8/10/2023.] (Entered: 02/23/2023)
02/23/2023		Magistrate Judge Jennifer Willis is so designated. Pursuant to 28 U.S.C. Section 636(c) and Fed. R. Civ. P. 73(b)(1) parties are notified that they may consent to proceed before a United States Magistrate Judge. Parties who wish to consent may access the necessary form at the following link: https://nysd.uscourts.gov/sites/default/files/2018-06/AO-3.pdf . (vf) [Transferred from nysd on 8/10/2023.] (Entered: 02/23/2023)
02/23/2023		Case Designated ECF. (vf) [Transferred from nysd on 8/10/2023.] (Entered: 02/23/2023)
02/23/2023	<u>6</u>	ELECTRONIC SUMMONS ISSUED as to United States Department of Justice. (vf) [Transferred from nysd on 8/10/2023.] (Entered: 02/23/2023)
02/23/2023	<u>7</u>	ELECTRONIC SUMMONS ISSUED as to United States Bureau of Prisons. (vf) [Transferred from nysd on 8/10/2023.] (Entered: 02/23/2023)
03/16/2023	<u>8</u>	SUMMONS RETURNED EXECUTED. United States Department of Justice served on 3/16/2023, answer due 4/6/2023. Service was made by Mail. Document filed by Sabrina Everson..(Rankin, David) [Transferred from nysd on 8/10/2023.] (Entered: 03/16/2023)
03/16/2023	<u>9</u>	SUMMONS RETURNED EXECUTED. United States Bureau of Prisons served on 3/16/2023, answer due 4/6/2023. Service was made by Mail. Document filed by

		Sabrina Everson..(Rankin, David) [Transferred from nysd on 8/10/2023.] (Entered: 03/16/2023)
04/17/2023	<u>10</u>	NOTICE OF APPEARANCE by Amanda M Lee on behalf of United States Bureau of Prisons, United States Department of Justice..(Lee, Amanda) [Transferred from nysd on 8/10/2023.] (Entered: 04/17/2023)
04/17/2023	<u>11</u>	LETTER MOTION for Extension of Time <i>to respond to the complaint</i> addressed to Judge Jennifer H. Rearden from Amanda Lee dated 04/17/2023. Document filed by United States Bureau of Prisons, United States Department of Justice..(Lee, Amanda) [Transferred from nysd on 8/10/2023.] (Entered: 04/17/2023)
04/18/2023	<u>12</u>	ORDER granting <u>11</u> Letter Motion for Extension of Time. The Government's request on consent to extend its deadline to respond to the Complaint is GRANTED. SO ORDERED.. (Signed by Judge Jennifer H. Rearden on 4/18/2023) (kv) [Transferred from nysd on 8/10/2023.] (Entered: 04/18/2023)
04/18/2023		Set/Reset Deadlines: United States Bureau of Prisons answer due 5/19/2023; United States Department of Justice answer due 5/19/2023. (kv) [Transferred from nysd on 8/10/2023.] (Entered: 04/18/2023)
05/15/2023	<u>13</u>	SECOND LETTER MOTION for Extension of Time addressed to Judge Jennifer H. Rearden from Amanda Lee dated 05/15/2023. Document filed by United States Bureau of Prisons, United States Department of Justice..(Lee, Amanda) [Transferred from nysd on 8/10/2023.] (Entered: 05/15/2023)
05/16/2023	<u>14</u>	ORDER granting <u>13</u> Letter Motion for Extension of Time. SO ORDERED. (Signed by Judge Jennifer H. Rearden on 5/16/2023) (tg) [Transferred from nysd on 8/10/2023.] (Entered: 05/16/2023)
05/16/2023		Set/Reset Deadlines: United States Bureau of Prisons answer due 7/18/2023; United States Department of Justice answer due 7/18/2023. (tg) [Transferred from nysd on 8/10/2023.] (Entered: 05/16/2023)
07/17/2023	<u>15</u>	CONSENT LETTER MOTION for Extension of Time to File Answer addressed to Judge Jennifer H. Rearden from David B. Rankin dated July 17, 2023. Document filed by Sabrina Everson..(Rankin, David) [Transferred from nysd on 8/10/2023.] (Entered: 07/17/2023)
07/17/2023	<u>16</u>	ORDER granting <u>15</u> Letter Motion for Extension of Time to Answer re <u>15</u> CONSENT LETTER MOTION for Extension of Time to File Answer addressed to Judge Jennifer H. Rearden from David B. Rankin dated July 17, 2023. Application GRANTED. This deadline will not be further extended absent good cause. SO ORDERED. United States Bureau of Prisons answer due 8/1/2023; United States Department of Justice answer due 8/1/2023. (Signed by Judge Jennifer H. Rearden on 7/17/2023) (jca) [Transferred from nysd on 8/10/2023.] (Entered: 07/17/2023)
08/01/2023	<u>17</u>	LETTER MOTION for Extension of Time <i>to respond to complaint, sine die</i> addressed to Judge Jennifer H. Rearden from Amanda Lee dated 08/01/2023. Document filed by United States Bureau of Prisons, United States Department of Justice..(Lee, Amanda) [Transferred from nysd on 8/10/2023.] (Entered: 08/01/2023)
08/02/2023	<u>18</u>	ORDER granting <u>17</u> Letter Motion for Extension of Time. Application GRANTED. By August 8, 2023, the parties shall submit a proposed consent order transferring this case to the Western District of New York. SO ORDERED. (Signed by Judge Jennifer H. Rearden on 8/2/2023) (jca) [Transferred from nysd on 8/10/2023.] (Entered: 08/02/2023)
08/08/2023	<u>19</u>	PROPOSED STIPULATION AND ORDER. Document filed by United States Bureau of Prisons, United States Department of Justice..(Lee, Amanda) [Transferred from nysd on 8/10/2023.] (Entered: 08/08/2023)
08/10/2023	<u>20</u>	STIPULATION AND ORDER TO TRANSFER VENUE: NOW, THEREFORE, upon the parties' agreement, IT IS HEREBY ORDERED that: This case shall be transferred, pursuant to 28 U.S.C. § 1404(a), to the United States District Court for the Western District of New York. This Stipulation and Order to Transfer Venue shall not be construed as addressing the merits of this action. This Stipulation and Order to Transfer Venue contains the entire agreement between the parties, and no statements,

		representations, promises, agreements, or negotiations, oral or otherwise, between the parties or their counsel that are not included herein shall be of any force or effect. Upon transfer, this case shall be terminated on the docket. All forthcoming deadlines and hearings are hereby vacated. Plaintiff shall promptly serve copies of this Stipulation and Order of Transfer and the Complaint upon the United States Attorney's Office for the Western District of New York. The Clerk of Court is directed to transfer this action forthwith to the United States District Court for the Western District of New York. SO ORDERED. (Signed by Judge Jennifer H. Rearden on 8/10/2023) (ama) [Transferred from nysd on 8/10/2023.] (Entered: 08/10/2023)
08/10/2023		CASE TRANSFERRED OUT ELECTRONICALLY from the U.S.D.C. Southern District of New York to the United States District Court – District of Western District of New York.(ama) [Transferred from nysd on 8/10/2023.] (Entered: 08/10/2023)
08/10/2023	<u>21</u>	Case transferred in from District of New York Southern; Case Number 1:23-cv-01456. (Entered: 08/10/2023)
08/10/2023		AUTOMATIC REFERRAL to Mediation The ADR Plan is available for download at http://www.nywd.uscourts.gov/alternative-dispute-resolution .(CGJ) (Entered: 08/10/2023)
08/10/2023		Notice of Availability of Magistrate Judge: A United States Magistrate of this Court is available to conduct all proceedings in this civil action in accordance with 28 U.S.C. 636c and FRCP 73. The Notice, Consent, and Reference of a Civil Action to a Magistrate Judge form (AO-85) is available for download at http://www.uscourts.gov/services-forms/forms . (CGJ) (Entered: 08/10/2023)
08/14/2023	22	TEXT ORDER: By August 23, 2023, the parties shall file a <i>joint</i> letter summarizing the current status of, as well as any pending deadlines related to, this action. SO ORDERED. Signed by Hon. Frank P. Geraci, Jr. on 8/14/2023. (MFM) (Entered: 08/14/2023)
08/14/2023	<u>23</u>	NOTICE of Appearance by James E.B. Bobseine on behalf of United States Bureau of Prisons, United States Department of Justice (Bobseine, James) (Entered: 08/14/2023)
08/23/2023	<u>24</u>	STATUS REPORT by United States Bureau of Prisons, United States Department of Justice. (Bobseine, James) (Entered: 08/23/2023)
08/24/2023	25	TEXT ORDER re: <u>24</u> STATUS REPORT by United States Bureau of Prisons, United States Department of Justice. The Court has reviewed the parties' joint status report. In accordance with the parties' agreement, Defendants shall respond to the complaint by September 22, 2023. SO ORDERED. Signed by Hon. Frank P. Geraci, Jr. on 8/24/2023. (MFM) (Entered: 08/24/2023)
09/22/2023	<u>26</u>	ANSWER to <u>1</u> Complaint,, by United States Bureau of Prisons, United States Department of Justice.(Bobseine, James) (Entered: 09/22/2023)
09/25/2023	27	TEXT ORDER REFERRING CASE to Hon. Marian W. Payson, United States Magistrate Judge, for all pretrial matters excluding dispositive motions. The parties are encouraged to consider consenting to Magistrate Judge jurisdiction pursuant to 28 U.S.C. § 636(c). Consent forms are available from the chambers of the Magistrate Judge or the office of the Clerk of Court. The parties may give consent to a Magistrate Judge to conduct all proceedings and enter a final order dispositive of each motion; or such consent may be given for a limited purpose such as the disposition of a particular motion that would otherwise be before the District Judge in the absence of such consent. SO ORDERED. Signed by Hon. Frank P. Geraci, Jr. on 9/25/2023. (MFM) (Entered: 09/25/2023)
09/25/2023		ADR Plan electronically forwarded to attorneys. The ADR Plan is available for download at http://www.nywd.uscourts.gov/alternative-dispute-resolution .(TF) (Entered: 09/25/2023)
09/26/2023	<u>28</u>	ORDER (Telephone Scheduling Conference set for 10/19/2023 at 11:30 AM before Hon. Marian W. Payson. <i>Counsel will be provided dial-in instructions by email prior to the conference.</i>) Signed by Hon. Marian W. Payson on 9/26/2023. (KAH) (Entered: 09/26/2023)

10/17/2023	<u>29</u>	DISCOVERY PLAN by United States Bureau of Prisons, United States Department of Justice.(Bobseine, James) (Entered: 10/17/2023)
10/19/2023	<u>30</u>	SCHEDULING ORDER (Please Note: This docket text may <u>not</u> contain the entire contents of the attached Order. It is your responsibility to read the attached Order and download it for future reference. Direct any questions to the Chambers of the Judge who entered this Order.) (1) Motions to Join Parties/Amend Pleadings due by 11/16/2023; (2) Defendants shall conduct searches for documents responsive to Plaintiff's Freedom of Information Act ("FOIA") requests on a rolling basis and review and process at least 300 pages of records per month; (3) Defendants shall produce any non-exempt, responsive records on the first weekday of each month, to begin not fewer than 30 days from this Order, and production shall continue until production is complete; (4) Defendants shall file their motion for summary judgment, together with agency declarations and <i>Vaughn</i> Index, within 60 days of making their final production; (5) Plaintiff shall file her response, if any, to Defendants' motion within 30 days of the filing of Defendants' motion; and (6) Defendants' reply to Plaintiffs opposition, if any, shall be filed within 15 days of the filing of Plaintiffs response. Signed by Hon. Marian W. Payson on 10/19/2023. (KAH) (Entered: 10/20/2023)
10/19/2023	31	Minute Entry for proceedings held before Hon. Marian W. Payson: Telephone Scheduling Conference held on 10/19/2023. The Court to issue a Scheduling Order. Appearances: David B. Rankin, Esq. for plaintiff; James E.B. Bobseine, AUSA for defendants. (KAH) (Entered: 10/20/2023)
07/16/2024	32	TEXT ORDER By no later than July 26, 2024 , counsel for the parties shall filed a joint written status report as to the posture of the matter. IT IS SO ORDERED. Signed by Hon. Marian W. Payson on 7/16/2024. (KAH) (Entered: 07/16/2024)
07/25/2024	<u>33</u>	Letter filed by United States Bureau of Prisons, United States Department of Justice <i>Joint Status Letter Per Court's July 16 Order</i> . (Bobseine, James) (Entered: 07/25/2024)
07/26/2024	<u>34</u>	LETTER ORDER The joint request is granted. Defendants must submit a Vaughn index to plaintiff on or before September 3, 2024 . By no later than October 1, 2024 , counsel shall submit to the Court a joint status report indicating whether dispositive briefing will be necessary, and if so, provide a proposed briefing schedule. Signed by Hon. Marian W. Payson on 7/26/2024. (KAH) (Entered: 07/26/2024)