

U.S. District Court
Southern District of New York (Foley Square)
CIVIL DOCKET FOR CASE #: 1:23-cv-01593-JPC-OTW

Lowe v. U.S. Department of Justice
Assigned to: Judge John P. Cronan
Referred to: Magistrate Judge Ona T. Wang
Cause: 05:552 Freedom of Information Act

Date Filed: 02/24/2023
Jury Demand: None
Nature of Suit: 540 Mandamus & Other
Jurisdiction: U.S. Government Defendant

Plaintiff**Kevin Lowe**

represented by **Kevin Lowe**
67 Chateau Drive
Melville, NY 11747
516-916-0296
Email: Klamontingeorgetown@gmail.com
PRO SE

V.

Defendant

U.S. Department of Justice
Office of Information Policy

represented by **Alexander Kristofcak**
DOJ-USAO
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ATTORNEY TO BE NOTICED

Date Filed	#	Docket Text
02/24/2023	<u>1</u>	COMPLAINT against U.S. Department of Justice. Document filed by Kevin Lowe. (sac) (Entered: 02/27/2023)
02/24/2023		Case Designated ECF. (sac) (Entered: 02/27/2023)
02/27/2023		NOTICE OF CASE REASSIGNMENT – SUA SPONTE to Judge Laura Taylor Swain. Judge Unassigned is no longer assigned to the case. (sac) (Entered: 02/27/2023)
02/27/2023	<u>2</u>	ORDER DIRECTING PAYMENT OF FEE OR IFP APPLICATION: Plaintiff is directed to render payment of the filing fee or submit an IFP application to this Court's Pro Se Office within thirty (30) days of the date of this Order. The Court certifies, pursuant to 28 U.S.C. § 1915(a)(3), that any appeal from this Order would not be taken in good faith, and therefore in forma pauperis status is denied for the purpose of an appeal. See Coppedge v. United States, 369 U.S. 438, 444-45 (1962). Filing Fee due by 3/29/2023. In Forma Pauperis (IFP) Application due by 3/29/2023. (Signed by Judge Laura Taylor Swain on 2/27/2023) (sha) (Entered: 02/27/2023)

02/28/2023		MAILING RECEIPT: Document No: 2. Mailed to: Kevin Lowe 67 Chateau Drive Melville, NY 11747. (kh) (Entered: 02/28/2023)
03/08/2023	<u>3</u>	APPLICATION TO PROCEED WITHOUT PREPAYING FEES OR COSTS. Document filed by Kevin Lowe.(sc) (Entered: 03/08/2023)
03/21/2023		NOTICE OF CASE REASSIGNMENT to Judge John P. Cronan. Judge Laura Taylor Swain is no longer assigned to the case. (laq) (Entered: 03/21/2023)
03/21/2023		Magistrate Judge Ona T. Wang 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 . (laq) (Entered: 03/21/2023)
03/21/2023	<u>5</u>	ORDER GRANTING IFP APPLICATION: Leave to proceed in this Court without prepayment of fees is authorized. 28 U.S.C. § 1915. (Signed by Judge Laura Taylor Swain on 3/21/2023) (vn) (Entered: 03/21/2023)
03/24/2023	<u>6</u>	ORDER OF SERVICE: The Clerk of Court is instructed to fill out a USM-285 form for Defendant U.S. Department of Justice, Office of Information Policy. The Clerk of Court is further instructed to: (1) mark the box on the USM-285 form labeled "Check for service on U.S.A."; and (2) issue a summons and deliver to the Marshals Service a copy of this order and all other paperwork necessary for the Marshals Service to effect service on the United States. The Court certifies under 28 U.S.C. § 1915(a)(3) that any appeal from this order would not be taken in good faith, and therefore in forma pauperis status is denied for the purpose of an appeal. Cf. Coppedge v. United States, 369 U.S. 438, 444-45 (1962) (holding that an appellant demonstrates good faith when he seeks review of a nonfrivolous issue). SO ORDERED. (Signed by Judge John P. Cronan on 3/24/2023) (jca) (Entered: 03/24/2023)
03/24/2023		Transmission to Pro Se Assistants. Transmitted re: <u>6</u> Order of Service,,, to the Pro Se Assistants for processing..(jca) (Entered: 03/24/2023)
03/27/2023		MAILING RECEIPT: Document No: 5,6. Mailed to: Kevin Lowe 67 Chateau Drive Melville, NY 11747. (ok) (Entered: 03/27/2023)
03/28/2023	<u>7</u>	SUMMONS ISSUED as to U.S. Department of Justice, Office of Information Policy. (sha) (Entered: 03/28/2023)
03/28/2023		FRCP 4 SERVICE PACKAGE HAND DELIVERED TO U.S.M.: on 3/28/2023 Re: Judge John P. Cronan <u>6</u> Order of Service. The following document(s) were enclosed in the Service Package: Complaint, Summons, IFP, Order of Service, Completed U.S.M. form(s) for defendant(s) U.S. Department of Justice, Office of Information Policy. (sha) (Entered: 03/28/2023)
03/28/2023	<u>8</u>	INFORMATION PACKAGE MAILED to Kevin Lowe, at 67 Chateau Drive, Melville, NY 11747, on 3/28/2023 Re: <u>6</u> Order of Service. The following document(s) were enclosed in the Service Package: a copy of the order of service or order to answer and other orders entered to date, the individual practices of the district judge and magistrate judge assigned to your case, Instructions for Litigants Who Do Not Have Attorneys, Notice Regarding Privacy and Public Access to Electronic Case Files, a flyer about the free legal assistance clinic located in the Thurgood Marshall Courthouse (only in non prisoner cases), a Motions guide, a notice that the Pro Se Manual has been discontinued, a Notice of Change of Address form to use if your contact information changes, a handout explaining matters handled by magistrate judges and consent form to complete if all parties agree to proceed for all purposes before the magistrate judge, a form for you to complete if you consent to receive filings electronically (only in nonprisoner cases). (sha) (Entered: 03/28/2023)
04/26/2023	<u>9</u>	LETTER MOTION for Extension of Time addressed to Judge John P. Cronan from Susan C. Branagan dated April 26, 2023. Document filed by U.S. Department of Justice..(Branagan, Susan) (Entered: 04/26/2023)
04/27/2023	<u>10</u>	ORDER granting <u>9</u> Letter Motion for Extension of Time. The request is granted. Defendant shall respond to the Complaint by May 30, 2023. The Clerk of Court is respectfully directed to close the motion pending at Docket Number 9. SO

		ORDERED. (Signed by Judge John P. Cronan on 4/27/2023) (jca) (Entered: 04/27/2023)
04/27/2023		Set/Reset Deadlines: U.S. Department of Justice answer due 5/30/2023. (jca) (Entered: 04/27/2023)
04/28/2023		MAILING RECEIPT: Document No: 10. Mailed to: Kevin Lowe 67 Chateau Drive Melville, NY 11747. (kh) (Entered: 04/28/2023)
05/03/2023	<u>11</u>	LETTER from K. Lowe, dated 4/28/23 re: Please provide an update on the status of the Court Order dated 3/24/23, regarding service of said order on the United States. Document filed by Kevin Lowe.(sc) Modified on 5/4/2023 (sc). (Entered: 05/04/2023)
05/04/2023		Request for Copy of the updated Docket Sheet Received: Re <u>11</u> Letter. Request for Docket Report, from Kevin Lowe received on 5/4/23. Transmission to Pro Se Assistants for processing. (sc) (Entered: 05/04/2023)
05/04/2023		Request for Copies/Transcripts/Docket Sheet Processed: Mailed copy of Docket Sheet to Kevin Lowe 67 Chateau Drive Melville, NY 11747 on 05/04/2023. (ta) (Entered: 05/04/2023)
05/30/2023	<u>12</u>	ANSWER to <u>1</u> Complaint. Document filed by U.S. Department of Justice..(Branagan, Susan) (Entered: 05/30/2023)
06/01/2023	<u>13</u>	NOTICE OF ASSIGNMENT: This case has been assigned to the undersigned for all purposes. All counsel must familiarize themselves with the Court's Individual Rules, which are available at https://www.nysd.uscourts.gov/hon-john-p-cronan . Counsel for all parties are hereby ORDERED to appear before the undersigned for an Initial Pretrial Conference ("IPTC") in accordance with Rule 16 of the Federal Rules of Civil Procedure on June 26, 2023 at 3:30 p.m. Unless the Court orders otherwise, the Court will conduct the IPTC by teleconference. At the scheduled time, counsel for all parties should call (866) 434-5269, access code 9176261. Absent leave of Court obtained by letter-motion filed before the conference, all pretrial conferences must be attended by the attorney who will serve as principal trial counsel. Counsel are directed to confer with each other prior to the conference regarding settlement and each of the other subjects to be considered at the IPTC. No later than seven days prior to the IPTC, it is further ORDERED that the parties shall submit a joint letter, not to exceed five (5) pages, addressing the following in separate paragraphs: and as set forth herein. SO ORDERED. Telephonic Initial Conference set for 6/26/2023 at 03:30 PM before Judge John P. Cronan. (Signed by Judge John P. Cronan on 6/01/2023) (ama) (Entered: 06/01/2023)
06/02/2023		MAILING RECEIPT: Document No: 13. Mailed to: Kevin Lowe 67 Chateau Drive Melville, NY 11747. (sha) (Entered: 06/02/2023)
06/17/2023	<u>14</u>	MOTION FOR PERMISSION FOR ELECTRONIC CASE FILING, Re: for Permission for Kevin Lowe to participate in electronic case filing in this case. Document filed by Kevin Lowe.(sc) (Entered: 06/20/2023)
06/17/2023	<u>15</u>	PRO SE CONSENT TO RECEIVE ELECTRONIC SERVICE. The following party: Kevin Lowe consents to receive electronic service via the ECF system. Document filed by Kevin Lowe.(sc) (Entered: 06/20/2023)
06/20/2023	<u>16</u>	ORDER OF REFERENCE TO A MAGISTRATE JUDGE: Order that case be referred to the Clerk of Court for assignment to a Magistrate Judge for General Pretrial (includes scheduling, discovery, non-dispositive pretrial motions, and settlement) and Dispositive Motion (i.e., motion requiring a Report and Recommendation). All Motions. Referred to Magistrate Judge Ona T. Wang. The Initial Pretrial Conference scheduled for June 26, 2023 is adjourned sine die. This action is referred to the Honorable Ona T. Wang for the following purposes. SO ORDERED. Motions referred to Ona T. Wang. (Signed by Judge John P. Cronan on 6/20/2023) (ama) (Entered: 06/20/2023)
06/27/2023	<u>17</u>	ORDER: Accordingly, the parties are directed to meet and confer, and file the following letters by July 26, 2023: Lowe is directed to explain whether the relief he is seeking is the same as that of his FOIA requests in the Section 2255 Case. Defendant is directed to provide an update regarding the status of Lowe's FOIA requests, since its September 30, 2020, letter. (Section 2255 Case, ECF 52). Defendant is directed to

		serve copies of this Order on Lowe and to file proof of service of the same on the docket. SO ORDERED. (Signed by Magistrate Judge Ona T. Wang on 6/27/2023) (rro) (Entered: 06/28/2023)
06/28/2023	<u>18</u>	CERTIFICATE OF SERVICE of Order of Hon. Ona T Wang served on Kevin Lowe on 6/28/2023. Service was made by MAIL. Document filed by U.S. Department of Justice..(Branagan, Susan) (Entered: 06/28/2023)
07/17/2023	<u>19</u>	NOTICE OF MOTION, Re: for Defendant to Produce all withheld/redacted documents for in camera review; to produce a Vaughn Index describing withheld documents etc. Document filed by Kevin Lowe.(sc) (Entered: 07/18/2023)
07/26/2023	<u>20</u>	LETTER addressed to Magistrate Judge Ona T. Wang from Susan C. Branagan dated Susan C. Branagan re: Response to June 27, 2023 Order. Document filed by U.S. Department of Justice..(Branagan, Susan) (Entered: 07/26/2023)
07/27/2023	<u>21</u>	ORDER: The Court is in receipt of ECF Nos. 19 and 20. Defendant is directed to file a letter by Friday, October 27, 2023, updating the Court on the status of EOUSA's processing of pro se Plaintiff's FOIA request. Defendant is directed to serve copies of this Order on pro se Plaintiff and to file proof of service of the same on the docket. SO ORDERED. (Signed by Magistrate Judge Ona T. Wang on 7/27/2023) (rro) (Entered: 07/27/2023)
10/27/2023	<u>22</u>	LETTER addressed to Magistrate Judge Ona T. Wang from Susan C. Branagan dated October 27, 2023 re: Status Report on Processing of FOIA Request. Document filed by U.S. Department of Justice..(Branagan, Susan) (Entered: 10/27/2023)
10/30/2023	<u>23</u>	ORDER The Court has reviewed ECF 22. Defendant is directed to file a letter by Friday, December 1, 2023, updating the Court regarding the completion of the EOUSA's review of pro se Plaintiffs FOIA request. Following completion of this review, the parties are directed to meet and confer regarding any outstanding issues and file a joint status letter on the docket by Friday, December 22, 2023, regarding whether this case can be closed. Defendant is directed to serve copies of this Order on pro se Plaintiff and to file proof of service of the same on the docket. SO ORDERED. (Signed by Magistrate Judge Ona T. Wang on 10/30/2023) (jca) (Entered: 10/30/2023)
11/21/2023	<u>24</u>	CERTIFICATE OF SERVICE of ECF Nos. 21 and 23 served on Kevin Lowe on November 21, 2023. Service was made by Federal Express Overnight Mail. Document filed by U.S. Department of Justice..(Branagan, Susan) (Entered: 11/21/2023)
12/01/2023	<u>25</u>	LETTER addressed to Magistrate Judge Ona T. Wang from Susan C. Branagan dated December 1, 2023 re: Status per October 30 Order. Document filed by U.S. Department of Justice..(Branagan, Susan) (Entered: 12/01/2023)
12/11/2023	<u>26</u>	MOTION FOR PERMISSION FOR ELECTRONIC CASE FILING, Re: for Permission for Kevin Lowe to participate in electronic case filing in this case. Document filed by Kevin Lowe.(sc) (Entered: 12/11/2023)
12/12/2023	<u>27</u>	ORDER granting <u>26</u> Motion for Permission for Electronic Case Filing; granting <u>14</u> Motion for Permission for Electronic Case Filing. The Court has reviewed ECF 26. Pro se Plaintiff's motion for permission to participate in electronic case filing is GRANTED. The Clerk of Court is respectfully directed to close ECF Nos. 14 and 26. SO ORDERED.. (Signed by Magistrate Judge Ona T. Wang on 12/12/2023) (rro) (Entered: 12/12/2023)
12/22/2023	<u>28</u>	NOTICE OF APPEARANCE by Alexander Kristofcak on behalf of U.S. Department of Justice..(Kristofcak, Alexander) (Entered: 12/22/2023)
12/22/2023	<u>29</u>	LETTER addressed to Magistrate Judge Ona T. Wang from Susan C. Branagan dated December 22, 2023 re: Status and Response to ORder of 10-30. Document filed by U.S. Department of Justice..(Branagan, Susan) (Entered: 12/22/2023)
01/03/2024	<u>30</u>	MEMO ENDORSEMENT: on re: <u>29</u> Letter filed by U.S. Department of Justice. ENDORSEMENT: Application Granted. SO ORDERED. (Signed by Magistrate Judge Ona T. Wang on 1/03/2024) (ama) (Entered: 01/03/2024)
03/04/2024	<u>31</u>	JOINT LETTER addressed to Magistrate Judge Ona T. Wang from AUSA Alexander Kristofcak dated March 4, 2024 re: Status Update. Document filed by U.S. Department

		of Justice..(Kristofcak, Alexander) (Entered: 03/04/2024)
03/04/2024	<u>32</u>	ORDER denying as moot <u>19</u> Motion to Produce. The Government has continued to review and produce documents, and has been providing periodic status letters updating on the progress. The parties represent that they have been meeting and conferring on production. See, e.g. ECF 31. Because Plaintiff is pro se, the Government is directed to serve a copy of this text order on Plaintiff. (HEREBY ORDERED by Magistrate Judge Ona T. Wang)(Text Only Order) (Wang, Ona) (Entered: 03/04/2024)
03/05/2024	<u>33</u>	MEMO ENDORSEMENT on re: <u>31</u> Letter filed by U.S. Department of Justice. ENDORSEMENT: Application GRANTED. The parties shall file a status letter by May 1, 2024. (Signed by Magistrate Judge Ona T. Wang on 3/5/2024) (rro) (Entered: 03/05/2024)
05/01/2024	<u>34</u>	JOINT LETTER addressed to Magistrate Judge Ona T. Wang from AUSA Alexander Kristofcak dated May 1, 2024 re: Status Update. Document filed by U.S. Department of Justice..(Kristofcak, Alexander) (Entered: 05/01/2024)
05/02/2024	<u>35</u>	MEMO ENDORSEMENT on re: <u>34</u> Letter filed by U.S. Department of Justice. ENDORSEMENT: Application GRANTED. SO ORDERED. (Signed by Magistrate Judge Ona T. Wang on 5/2/2024) (rro) (Entered: 05/02/2024)
07/01/2024	<u>36</u>	JOINT LETTER addressed to Magistrate Judge Ona T. Wang from AUSA Alexander Kristofcak dated July 1, 2024 re: Status Update. Document filed by U.S. Department of Justice..(Kristofcak, Alexander) (Entered: 07/01/2024)
07/02/2024	<u>37</u>	MEMO ENDORSEMENT on re: <u>36</u> Letter filed by U.S. Department of Justice. ENDORSEMENT: Application GRANTED. SO ORDERED. (Signed by Magistrate Judge Ona T. Wang on 7/2/2024) (rro) (Entered: 07/02/2024)
09/03/2024	<u>38</u>	LETTER addressed to Magistrate Judge Ona T. Wang from AUSA Alexander Kristofcak dated September 3, 2024 re: Status Update. Document filed by U.S. Department of Justice..(Kristofcak, Alexander) (Entered: 09/03/2024)
09/04/2024	<u>39</u>	MOTION for Summary Judgment. Document filed by Kevin Lowe.(jjc) (Entered: 09/06/2024)
09/10/2024	<u>40</u>	LETTER addressed to Magistrate Judge Ona T. Wang from AUSA Alexander Kristofcak dated September 10, 2024 re: Summary Judgment Briefing Schedule. Document filed by U.S. Department of Justice. (Attachments: # <u>1</u> Exhibit A: Plaintiff's Summary Judgment Submissions).(Kristofcak, Alexander) (Entered: 09/10/2024)
09/12/2024	<u>41</u>	ORDER: The Court is in receipt of ECF Nos. 39 and 40. The following briefing schedule will apply to the parties' motions for summary judgment: Defendant's opposition to Plaintiff's motion for summary judgment and cross-motion for summary judgment are due Friday, October 18, 2024. Plaintiff's opposition to Defendant's motion for summary judgment and reply on his motion for summary judgment are due Monday, November 18, 2024. Defendant's reply on its cross-motion for summary judgment is due Wednesday December 4, 2024. SO ORDERED. (Signed by Magistrate Judge Ona T. Wang on 9/12/2024) (ks) (Entered: 09/12/2024)
09/12/2024		Set/Reset Deadlines: Cross Motions due by 10/18/2024. Responses due by 11/18/2024 Replies due by 12/4/2024. (ks) (Entered: 09/12/2024)