

**U.S. District Court  
Southern District of New York (Foley Square)  
CIVIL DOCKET FOR CASE #: 1:23-cv-03983-AT-GS**

Cheng v. Department of Justice et al  
Assigned to: Judge Analisa Torres  
Referred to: Magistrate Judge Gary Stein  
Cause: 05:552 Freedom of Information Act

Date Filed: 05/12/2023  
Jury Demand: None  
Nature of Suit: 550 Prisoner: Civil Rights  
Jurisdiction: U.S. Government Defendant

**Plaintiff****Sheng-Wen Cheng**

represented by **Sheng-Wen Cheng**  
No. 05261-509  
Federal Medical Center  
FMC Rochester  
P.O. Box 4000  
Rochester, MN 55903  
PRO SE

V.

**Defendant****Department of Justice**

represented by **Alexander Kristofcak**  
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**Defendant****Federal Bureau of Investigation**

represented by **Alexander Kristofcak**  
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**Ilan Stein**  
(See above for address)  
**ATTORNEY TO BE NOTICED**

Date Filed	#	Docket Text
05/12/2023	<u>1</u>	COMPLAINT against Department of Justice, Federal Bureau of Investigation. Document filed by Sheng-Wen Cheng. (sac) (Entered: 05/12/2023)
05/12/2023	<u>2</u>	REQUEST TO PROCEED IN FORMA PAUPERIS. Document filed by Sheng-Wen Cheng. (sac) (Entered: 05/12/2023)

05/12/2023	<u>3</u>	PRISONER AUTHORIZATION. Document filed by Sheng–Wen Cheng. (sac) (Entered: 05/12/2023)
05/12/2023		Case Designated ECF. (sac) (Entered: 05/12/2023)
06/07/2023	<u>4</u>	LETTER from S. Cheng, dated 6/1/23 re: If possible, please inform me if this Honorable Court has received my FOIA lawsuit against the DOJ and FBI(along with my In Forma Pauperis application) or not as soon as practicable. Document filed by Sheng–Wen Cheng.(sc) Modified on 6/8/2023 (sc). (Entered: 06/08/2023)
06/07/2023		Request for Copy of the updated Docket Sheet Received: Re <u>4</u> Letter. Request for Docket Report, from Sheng–Wen Cheng received on 6/7/23. Transmission to Pro Se Assistants for processing. (sc) (Entered: 06/08/2023)
06/08/2023		Request for Copies/Transcripts/Docket Sheet Processed: Mailed copy of Docket Sheet to Sheng–Wen Cheng, No. 05261–509 at Federal Medical Center, FMC Rochester, P.O. Box 4000, Rochester, MN 55903 on 6/8/2023. (sha) (Entered: 06/08/2023)
06/20/2023	<u>5</u>	ORDER GRANTING IFP APPLICATION IN PRISONER CASE: The Clerk of Court is directed to send a copy of this order and the prisoner authorization to the agency having custody of Plaintiff. That agency is directed to forward copies of Plaintiffs prison trust fund account for the past six months and to disburse the payments required under 28 U.S.C. § 1915 to the United States District Court for the Southern District of New York and to include the above docket number on the disbursement before sending it to the Court. If Plaintiff is transferred to another facility, the current facility shall provide a copy of this order to the facility to which Plaintiff is transferred. Finally, it is Plaintiffs obligation to promptly submit a written notification to the Court if Plaintiffs address changes, and the Court may dismiss the action if Plaintiff fails to do so. SO ORDERED. (Signed by Judge Laura Taylor Swain on 6/20/2023) (sha) (Entered: 06/20/2023)
06/21/2023		MAILING RECEIPT: Document No: 5. Mailed to: Sheng–Wen Cheng No.05261–509 Federal Medical Center P.O. Box 4000 Rochester, MN 55903. Also mailed a copy to the Superintendent of Federal Medical Center FMC Rochester. (kh) (Entered: 06/21/2023)
06/26/2023	<u>6</u>	MOTION TO REQUIRE DETAILED INDEXING, JUSTIFICATION, & ITEMIZATION. Document filed by Sheng–Wen Cheng.(sc) (Entered: 06/27/2023)
06/27/2023		NOTICE OF CASE REASSIGNMENT to Judge Analisa Torres. Judge Unassigned is no longer assigned to the case. (vba) (Entered: 06/27/2023)
06/27/2023		Magistrate Judge Gabriel W. Gorenstein 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: <a href="https://nysd.uscourts.gov/sites/default/files/2018-06/AO-3.pdf">https://nysd.uscourts.gov/sites/default/files/2018-06/AO-3.pdf</a> . (vba) (Entered: 06/27/2023)
06/28/2023	<u>7</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). Referred to Magistrate Judge Gabriel W. Gorenstein. Motions referred to Gabriel W. Gorenstein. (Signed by Judge Analisa Torres on 6/28/2023) (kv) (Entered: 06/28/2023)
06/28/2023	<u>9</u>	ORDER denying without prejudice <u>6</u> MOTION TO REQUIRE DETAILED INDEXING, JUSTIFICATION, & ITEMIZATION. All motions should await the service of the complaint on the defendants and the defendants' response to the complaint. (HEREBY ORDERED by Magistrate Judge Gabriel W. Gorenstein)(Text Only Order) (GWG) (Entered: 06/28/2023)
06/28/2023	<u>10</u>	ORDER OF SERVICE: The Clerk of Court is directed to mail an information package to Plaintiff. The Clerk of Court is further directed to (1) issue summonses for the United States Department of Justice and Federal Bureau of Investigation; (2) complete the USM–285 forms with the addresses for these Defendants, (3) mark the box on USM–285 form labeled "Check for service on U.S.A."; and (4) deliver all documents necessary to effect service to the U.S. Marshals Service. SO ORDERED. USM–285 Form due by 7/28/2023. Request for Issuance of Summons due by 7/28/2023. (Signed

		by Magistrate Judge Gabriel W. Gorenstein on 6/28/2023) (ama) (Entered: 06/28/2023)
06/29/2023		MAILING RECEIPT: Document No: 7. Mailed to: Sheng–Wen Cheng No.05261–509 Federal Medical Center P.O. Box 4000 Rochester, MN 55903. (kh) (Entered: 06/29/2023)
06/29/2023	<u>11</u>	SUMMONS ISSUED as to Department of Justice, Federal Bureau of Investigation. (ta) (Entered: 06/29/2023)
06/29/2023		FRCP 4 SERVICE PACKAGE HAND DELIVERED TO U.S.M.: on 06/29/2023 Re: Magistrate Judge Gabriel W. Gorenstein <u>10</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) United States Department of Justice and Federal Bureau of Investigation. (ta) (Entered: 06/29/2023)
06/29/2023	<u>12</u>	INFORMATION PACKAGE MAILED to Sheng–Wen Cheng No. 05261–509 Federal Medical Center FMC Rochester P.O. Box 4000 Rochester, MN 55903 on 06/29/2023 Re: <u>10</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. (ta) (Entered: 06/29/2023)
07/10/2023	<u>13</u>	NOTICE OF APPEARANCE by Alexander Kristofcak on behalf of Department of Justice, Federal Bureau of Investigation..(Kristofcak, Alexander) (Entered: 07/10/2023)
08/04/2023	<u>14</u>	ANSWER to <u>1</u> Complaint. Document filed by Department of Justice, Federal Bureau of Investigation..(Kristofcak, Alexander) (Entered: 08/04/2023)
08/04/2023	<u>15</u>	CERTIFICATE OF SERVICE of Answer (ECF No. 14) served on SHENG–WEN CHENG on August 4, 2023. Service was made by MAIL. Document filed by Department of Justice, Federal Bureau of Investigation..(Kristofcak, Alexander) (Entered: 08/04/2023)
08/07/2023	<u>16</u>	NOTICE OF APPEARANCE by Ilan Stein on behalf of Department of Justice, Federal Bureau of Investigation..(Stein, Ilan) (Entered: 08/07/2023)
08/07/2023	<u>17</u>	ORDER: The Court assumes that the next step in this case should be the filing of a summary judgment motion. See, e.g., Bloomberg L.P. v. Bd. of Governors of Fed. Reserve System, 649 F.Supp. 2d 262, 271 (S.D.N.Y. 2009) ("Summary judgment is the preferred procedural vehicle for resolving FOIA disputes."); Families for Freedom v. U.S. Cust. and Border Protec., 797 F. Supp.2d 375, 385 (S.D.N.Y. 2011) ("FOIA cases are generally and most appropriately resolved on motions for summary judgment."). Accordingly, any motion for summary judgment shall be filed by September 8, 2023. Any opposition shall be filed by October 6, 2023. Any reply shall be filed by October 27, 2023. If either side believes that a summary judgment motion is not the appropriate next step in this case, that party may so state in the letter to the Court and offer a proposal as to the appropriate next step in this case. SO ORDERED., ( Motions due by 9/8/2023., Responses due by 10/6/2023, Replies due by 10/27/2023.) (Signed by Magistrate Judge Gabriel W. Gorenstein on 8/07/2023) (ama) (Entered: 08/07/2023)
08/08/2023		MAILING RECEIPT: Document No: 17. Mailed to: Sheng–Wen Cheng No.05261–509 Federal Medical Center P.O. Box 4000 Rochester, MN 55903. (ta) (Entered: 08/08/2023)
08/11/2023	<u>18</u>	MOTION to Continue <i>Summary Judgment Briefing</i> . Document filed by Department of Justice, Federal Bureau of Investigation..(Kristofcak, Alexander) (Entered: 08/11/2023)

08/14/2023	<u>19</u>	ORDER granting <u>18</u> Letter Motion to Continue. Application granted. The briefing schedule is suspended. The Government shall report by August 25, 2023. The undersigned notes that any summary judgment motion is returnable before Judge Torres and shall comply with section IV of Judge Torres's Individual Rules of Practice in Pro Se Cases. So Ordered. (Signed by Magistrate Judge Gabriel W. Gorenstein on 8/14/2023) (jca) (Entered: 08/14/2023)
08/15/2023		MAILING RECEIPT: Document No: 19. Mailed to: Sheng-Wen Cheng No.05261-509 Federal Medical Center P.O. Box 4000 Rochester, MN 55903. (sha) (Entered: 08/15/2023)
08/25/2023	<u>20</u>	LETTER addressed to Magistrate Judge Gabriel W. Gorenstein from the Government dated August 25, 2023 re: Status Update. Document filed by Department of Justice, Federal Bureau of Investigation..(Kristofcak, Alexander) (Entered: 08/25/2023)
08/28/2023	<u>21</u>	MEMO ENDORSEMENT: on re: <u>20</u> Letter filed by Department of Justice, Federal Bureau of Investigation. ENDORSEMENT: Application granted. Any summary judgment motion is returnable before Judge Torres and shall comply with section IV of Judge Torres's Individual Rules of Practice in Pro Se Cases. SO ORDERED. (Signed by Magistrate Judge Gabriel W. Gorenstein on 8/28/2023) (ama) (Entered: 08/28/2023)
08/29/2023		MAILING RECEIPT: Document No: 21. Mailed to: Sheng-Wen Cheng No.05261-509 Federal Medical Center P.O. Box 4000 Rochester, MN 55903. (sha) (Entered: 08/29/2023)
09/06/2023	<u>22</u>	LETTER addressed to Magistrate Judge Gabriel W. Gorenstein from the Government dated September 6, 2023 re: Summary Judgment Briefing. Document filed by Department of Justice, Federal Bureau of Investigation..(Kristofcak, Alexander) (Entered: 09/06/2023)
09/06/2023	<u>25</u>	MARSHALS PROCESS RECEIPT AND RETURN OF SERVICE EXECUTED. Summons and Complaint served. Federal Bureau of Investigation, served on 8/8/2023, answer due 10/10/2023. Service was accepted by Derrick Mayers, Civ. Clerk. Document filed by Sheng-Wen Cheng. (sc) (Entered: 09/08/2023)
09/06/2023	<u>26</u>	MARSHALS PROCESS RECEIPT AND RETURN OF SERVICE EXECUTED. Summons and Complaint served. Department of Justice, served on 8/8/2023, answer due 10/10/2023. Service was accepted by Derrick Mayers, Civ. Clerk. Document filed by Sheng-Wen Cheng. (sc) (Entered: 09/08/2023)
09/06/2023	<u>27</u>	MARSHAL'S PROCESS RECEIPT AND RETURN OF SERVICE EXECUTED.Summons and Complaint served on Derrick Mayers, Legal Clk o/b/o USA. Service was accepted by Derrick Mayers, Civ. Clerk. Document filed by Sheng-Wen Cheng. (sc) (Entered: 09/08/2023)
09/07/2023	<u>23</u>	MEMO ENDORSEMENT: on re: <u>22</u> Letter filed by Department of Justice, Federal Bureau of Investigation. ENDORSEMENT: The Government's proposal to move for summary judgment solely as to the cited exemption while reserving other arguments is again approved. Any summary judgment motion is returnable before Judge Torres, shall comply with section IV of Judge Torres's Individual Rules of Practice in Pro Se Cases, and shall be filed by October 23, 2023. SO ORDERED., ( Motions due by 10/23/2023.) (Signed by Magistrate Judge Gabriel W. Gorenstein on 9/07/2023) (ama) (Entered: 09/07/2023)
09/07/2023	<u>24</u>	AMENDED ORDER REFERRING CASE TO 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) Particular Motion: Anticipated MSJ, see ECF No. 22. Referred to Magistrate Judge Gabriel W. Gorenstein. (Signed by Judge Analisa Torres on 9/7/2023) (rro) (Entered: 09/07/2023)
09/11/2023		MAILING RECEIPT: Document No: 23-24. Mailed to: Sheng-Wen Cheng No.05261-509 Federal Medical Center P.O. Box 4000 Rochester, MN 55903. (sha) (Entered: 09/11/2023)

09/19/2023		NOTICE OF REDESIGNATION TO ANOTHER MAGISTRATE JUDGE. The above entitled action has been redesignated to Magistrate Judge Gary Stein. Please note that this is a reassignment of the designation only. (vba) (Entered: 09/19/2023)
09/19/2023		NOTICE OF REASSIGNMENT OF A REFERRAL TO ANOTHER MAGISTRATE JUDGE. The referral in the above entitled action has been reassigned to Magistrate Judge Gary Stein, for General Pretrial (includes scheduling, discovery, non-dispositive pretrial motions, and settlement) and Dispositive Motion (i.e., motion requiring a Report and Recommendation). (vba) (Entered: 09/19/2023)
09/21/2023	<u>28</u>	NOTICE OF MOTION re: to stay pending resolution of criminal case. Document filed by Sheng-Wen Cheng. (sac) (Main Document 28 replaced on 9/26/2023) (sac). Modified on 9/28/2023 (vfr). (Entered: 09/25/2023)
09/21/2023	<u>29</u>	MEMORANDUM OF LAW in Support re: <u>28</u> NOTICE OF MOTION re: to stay pending resolution of criminal case. Document filed by Sheng-Wen Cheng. (sac) (Main Document 29 replaced on 9/26/2023) (sac). (Entered: 09/25/2023)
09/25/2023	<u>30</u>	LETTER addressed to Magistrate Judge Gabriel W. Gorenstein from S. Cheng dated 9/19/23 re: Nevertheless, I am requesting this honorable Court to suspend the new summary judgment briefing schedule until my "Motion to Stay Pending Resolution of Criminal Case", which I filed on 9/14/23, is to be decided by this Court. Document filed by Sheng-Wen Cheng.(sc) (Entered: 09/27/2023)
09/27/2023	<u>31</u>	LETTER addressed to Magistrate Judge Gary Stein from the Government dated September 27, 2023 re: Plaintiff's Motion to Stay and the Summary Judgment Schedule. Document filed by Department of Justice, Federal Bureau of Investigation..(Kristofcak, Alexander) (Entered: 09/27/2023)
09/27/2023		Mailed a copy of Magistrate Judge re-designation and referral to Sheng-Wen Cheng No. 05261-509 Federal Medical Center FMC Rochester P.O. Box 4000 Rochester, MN 55903.(va) (Entered: 09/27/2023)
09/28/2023	<u>32</u>	MEMO ENDORSEMENT on re: <u>31</u> Letter with respect to <u>28</u> Letter Motion to Stay. ENDORSEMENT: The Court agrees with Defendants' proposed approach, which is also consistent with Plaintiff's Sept. 19, 2023 letter (Dkt. No. 30). Accordingly, the briefing schedule for Defendants' proposed summary judgment motion is hereby suspended. On or before Oct. 9, 2023, Defendants will file either a stipulation of dismissal or an opposition to Plaintiff's stay motion. Plaintiff will serve any reply in support of his stay motion by Oct. 30, 2023. The Clerk of Court is directed to send a copy of this Order to the pro se Plaintiff at the following address: No. 05261-509, Federal Medical Center, FMC Rochester, P.O. Box 4000, Rochester, MN 55903. SO ORDERED. (Signed by Magistrate Judge Gary Stein on 9/28/2023) (vfr) Modified on 9/28/2023 (vfr). (Entered: 09/28/2023)
09/28/2023		Set/Reset Deadlines: Responses due by 10/9/2023 (vfr) (Entered: 09/28/2023)
09/29/2023		MAILING RECEIPT: Document No: 32. Mailed to: Sheng-Wen Cheng No.05261-509 Federal Medical Center P.O. Box 4000 Rochester, MN 55903. (sha) (Entered: 09/29/2023)
10/09/2023	<u>33</u>	CROSS MOTION to Dismiss for Lack of Jurisdiction . Document filed by Department of Justice, Federal Bureau of Investigation..(Kristofcak, Alexander) (Entered: 10/09/2023)
10/09/2023	<u>34</u>	MEMORANDUM OF LAW in Opposition re: <u>28</u> MOTION to Stay., <u>33</u> CROSS MOTION to Dismiss for Lack of Jurisdiction . . Document filed by Department of Justice, Federal Bureau of Investigation..(Kristofcak, Alexander) (Entered: 10/09/2023)
10/09/2023	<u>35</u>	NOTICE of Rule 12.1 (Notice to Pro Se Litigant) re: <u>34</u> Memorandum of Law in Opposition to Motion. Document filed by Department of Justice, Federal Bureau of Investigation..(Kristofcak, Alexander) (Entered: 10/09/2023)
10/09/2023	<u>36</u>	CERTIFICATE OF SERVICE of Notice of Motion (ECF No. 33), Defendants' Memorandum of Law in Opposition to Plaintiff's Motion to Stay and in Support of Defendants' Cross-Motion to Dismiss for Lack of Subject Matter Jurisdiction (ECF No. 34), Rule 12.1 Notice (ECF No. 35), and the public records and unpublished

		authorities cited in the Memorandum served on Sheng–Wen Cheng on October 9, 2023. Service was made by Certified Mail. Document filed by Department of Justice, Federal Bureau of Investigation..(Kristofcak, Alexander) (Entered: 10/09/2023)
10/11/2023	<u>37</u>	AMENDED ORDER REFERRING CASE TO 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) Particular Motion: Cross–Motion to Dismiss, see ECF No. 33. Specific Non–Dispositive Motion/Dispute Motion to Stay, See ECF. No. 28. Referred to Magistrate Judge Gary Stein. SO ORDERED. Motions referred to Gary Stein. (Signed by Judge Analisa Torres on 10/11/2023) (jca) (Entered: 10/11/2023)
10/13/2023		MAILING RECEIPT: Document No: 37. Mailed to: Sheng–Wen Cheng No.05261–509 Federal Medical Center P.O. Box 4000 Rochester, MN 55903. (sha) (Entered: 10/13/2023)
10/31/2023	<u>39</u>	LETTER addressed to Judge Sidney H. Stein from S. Cheng, dated 10/19/23 re: Therefore, I am withdrawing my Motion to Stay, and I am respectfully requesting this Court to reset a briefing schedule for both me and the Government to submit a summary judgment for this present FOIA case. Document filed by Sheng–Wen Cheng.(sc) (Entered: 11/02/2023)
11/01/2023	<u>38</u>	PLAINTIFF'S MEMORANDUM OF LAW IN OPPOSITION TO THE DEFENDANTS' CROSS–MOTION TO DISMISS AND IN SUPPORT OF PLAINTIFF'S CROSS–MOTION TO STRIKE THE DEFENDANTS' CROSS–MOTION TO DISMISS re: <u>33</u> CROSS MOTION to Dismiss for Lack of Jurisdiction . Document filed by Sheng–Wen Cheng. (sc) (Entered: 11/01/2023)
11/02/2023	<u>40</u>	LETTER addressed to Magistrate Judge Gary Stein from Alexander Kristofcak dated November 2, 2023 re: Plaintiff's Letter Withdrawing His Motion to Stay. Document filed by Department of Justice, Federal Bureau of Investigation..(Kristofcak, Alexander) (Entered: 11/02/2023)
11/08/2023	<u>41</u>	REPLY MEMORANDUM OF LAW in Support re: <u>33</u> CROSS MOTION to Dismiss for Lack of Jurisdiction . . Document filed by Department of Justice, Federal Bureau of Investigation..(Kristofcak, Alexander) (Entered: 11/08/2023)
11/08/2023	<u>42</u>	CERTIFICATE OF SERVICE of Reply Memorandum of Law in Further Support of Defendants' Cross–Motion to Dismiss for Lack of Subject Matter Jurisdiction (ECF No. 41) served on SHENG–WEN CHENG on November 8, 2023. Service was made by MAIL. Document filed by Department of Justice, Federal Bureau of Investigation..(Kristofcak, Alexander) (Entered: 11/08/2023)
01/24/2024	<u>43</u>	ORDER withdrawing <u>28</u> Letter Motion to Stay re: <u>28</u> MOTION to Stay. The Court denies Plaintiff's request for the Court to reset a summary judgment briefing schedule. Summary judgment motion practice will be held in abeyance until the Government's motion to dismiss, which is now fully briefed (Dkt. Nos. 38 & 41), is resolved. Furthermore, in light of Plaintiff's representation that he is withdrawing his motion to stay this proceeding, the Clerk of Court is respectfully requested to terminate the motion at Docket No. 28 as withdrawn. The Clerk of Court is further requested to send a copy of this Order to the pro se Plaintiff. (Signed by Magistrate Judge Gary Stein on 1/24/2024) (rro) (Entered: 01/25/2024)
01/29/2024		MAILING RECEIPT: Document No: 43. Mailed to: Sheng–Wen Cheng No.05261–509 Federal Medical Center P.O. Box 4000 Rochester, MN 55903. (mt) (Entered: 01/29/2024)
02/23/2024	<u>44</u>	REPORT AND RECOMMENDATION re: <u>1</u> Complaint filed by Sheng–Wen Cheng, <u>33</u> CROSS MOTION to Dismiss for Lack of Jurisdiction . filed by Department of Justice, Federal Bureau of Investigation For the foregoing reasons, the undersigned respectfully recommends that Defendants' motion to dismiss this action as moot be DENIED. The undersigned further recommends that, should this Report and Recommendation be adopted by Judge Torres, the Government submit a letter within seven days of Judge Torres' Order proposing a schedule for the briefing of its summary judgment motion. Objections to R&R due by 3/8/2024. (Signed by Magistrate Judge Gary Stein on 2/23/2024) (ate) (Main Document 44 replaced on 2/23/2024) (ate).

		(Entered: 02/23/2024)
02/26/2024		MAILING RECEIPT: Document No: 44. Mailed to: Sheng–Wen Cheng No.05261–509 Federal Medical Center P.O. Box 4000 Rochester, MN 55903. (mt) (Entered: 02/26/2024)
03/19/2024	<u>45</u>	ORDER ADOPTING REPORT AND RECOMMENDATIONS for <u>44</u> Report and Recommendations, <u>33</u> Motion to Dismiss/Lack of Jurisdiction filed by Department of Justice, Federal Bureau of Investigation. The Court ADOPTS Judge Stein's R&R in its entirety. By March 26, 2024, the Government shall submit a proposed briefing schedule for its summary judgment motion. See R&R at 15. The Clerk of Court is directed to terminate the motion at ECF No. 33 and mail a copy of the R&R and this order to pro se Plaintiff. SO ORDERED. (Signed by Judge Analisa Torres on 3/19/24) (yv) (Entered: 03/19/2024)
03/19/2024	<u>46</u>	LETTER addressed to Magistrate Judge Gary Stein from AUSA Alexander Kristofcak dated March 19, 2024 re: Proposed Summary Judgment Briefing Schedule. Document filed by Department of Justice, Federal Bureau of Investigation..(Kristofcak, Alexander) (Entered: 03/19/2024)
03/20/2024		MAILING RECEIPT: Document No: 45. Mailed to: Sheng–Wen Cheng No.05261–509 Federal Medical Center P.O. Box 4000 Rochester, MN 55903. (sha) (Entered: 03/20/2024)
03/21/2024	<u>47</u>	MEMO ENDORSEMENT on re: <u>46</u> Letter filed by Department of Justice, Federal Bureau of Investigation. ENDORSEMENT: Application granted. The Government's summary judgment brief is due by May 3, 2024; Plaintiff's response is due by June 3, 2024; the Government's reply is due by June 17, 2024. The Clerk of Court is respectfully directed to mail a copy of this Order to pro se Plaintiff. SO ORDERED. (Signed by Magistrate Judge Gary Stein on 3/21/2024) (tg) Modified on 3/22/2024 (tg). (Entered: 03/21/2024)
03/21/2024		Set/Reset Deadlines: Motions due by 5/3/2024. Responses due by 6/3/2024 Replies due by 6/17/2024. (tg) (Entered: 03/22/2024)
03/22/2024		MAILING RECEIPT: Document No: 47. Mailed to: Sheng–Wen Cheng No.05261–509 Federal Medical Center P.O. Box 4000 Rochester, MN 55903. (sha) (Entered: 03/22/2024)
05/03/2024	<u>48</u>	MOTION for Summary Judgment . Document filed by Department of Justice, Federal Bureau of Investigation..(Kristofcak, Alexander) (Entered: 05/03/2024)
05/03/2024	<u>49</u>	MEMORANDUM OF LAW in Support re: <u>48</u> MOTION for Summary Judgment . . Document filed by Department of Justice, Federal Bureau of Investigation..(Kristofcak, Alexander) (Entered: 05/03/2024)
05/03/2024	<u>50</u>	DECLARATION of Vanessa R. Brinkmann in Support re: <u>48</u> MOTION for Summary Judgment .. Document filed by Department of Justice, Federal Bureau of Investigation. (Attachments: # <u>1</u> Exhibit A: April 19, 2023, Letter from OIP to Cheng).(Kristofcak, Alexander) (Entered: 05/03/2024)
05/03/2024	<u>51</u>	DECLARATION of Michael G. Seidel in Support re: <u>48</u> MOTION for Summary Judgment .. Document filed by Department of Justice, Federal Bureau of Investigation. (Attachments: # <u>1</u> Exhibit A: FOIA Request and Referral, # <u>2</u> Exhibit B: FOIA FBI Receipt, # <u>3</u> Exhibit C: FOIA FBI Response, # <u>4</u> Exhibit D: FOIA Appeal to OIP, # <u>5</u> Exhibit E: FOIA OIP receipt, # <u>6</u> Exhibit F: FOIA Appeal denial).(Kristofcak, Alexander) (Entered: 05/03/2024)
05/03/2024	<u>52</u>	CERTIFICATE OF SERVICE of Notice of Motion (ECF No. 48), Defendants' Memorandum of Law in Support of Their Motion For Summary Judgment (ECF No. 49), the Declaration of Vanessa R. Brinkmann with the accompanying exhibit (ECF No. 50), and the Declaration of Michael G. Seidel with the accompanying exhibits (ECF No. 51) served on Sheng–Wen Cheng on May 3, 2024. Service was made by Mail. Document filed by Department of Justice, Federal Bureau of Investigation..(Kristofcak, Alexander) (Entered: 05/03/2024)
05/22/2024	<u>53</u>	LETTER addressed to Judge Analisa Torres from Sheng–Wen Cheng dated 5/13/2024 re: extend deadline to file opposition. Document filed by Sheng–Wen Cheng..(rro)

		(Entered: 05/24/2024)
05/28/2024	<u>54</u>	MEMO ENDORSEMENT on re: <u>53</u> Letter filed by Sheng–Wen Cheng. ENDORSEMENT: Application granted. The briefing schedule on the Government's pending motion for summary judgment, as set by the Court's prior Order (Dkt. No. 47), is amended as follows: Plaintiff's opposition is due by Friday, June 14, 2024 and the Government's reply is due by Friday, June 28, 2024. The Clerk of Court is respectfully directed to mail a copy of this Order to pro se Plaintiff. SO ORDERED. ( Replies due by 6/28/2024., Responses due by 6/14/2024) (Signed by Magistrate Judge Gary Stein on 5/28/2024) (tg) (Entered: 05/28/2024)
05/28/2024	<u>55</u>	MEMO ENDORSEMENT on re: <u>53</u> Letter filed by Sheng–Wen Cheng. ENDORSEMENT: GRANTED. Plaintiff shall file his opposition by June 14, 2024. The Clerk of Court is directed to mail a copy of this order to Plaintiff pro se. SO ORDERED. (Responses due by 6/14/2024.) (Signed by Judge Analisa Torres on 5/28/2024) (mml) (Entered: 05/29/2024)
05/29/2024		MAILING RECEIPT: Document No: 54. Mailed to: Sheng–Wen Cheng No.05261–509 Federal Medical Center P.O. Box 4000 Rochester, MN 55903. (nb) (Entered: 05/29/2024)
05/30/2024		MAILING RECEIPT: Document No: 55. Mailed to: Sheng–Wen Cheng No.05261–509 Federal Medical Center P.O. Box 4000 Rochester, MN 55903. (vn) (Entered: 05/30/2024)
06/04/2024	<u>56</u>	NOTICE OF CROSS–MOTION for Summary Judgment. Document filed by Sheng–Wen Cheng.(yv) (Entered: 06/06/2024)
06/04/2024	<u>57</u>	MEMORANDUM OF LAW in Support re: <u>56</u> MOTION for Summary Judgment AND IN OPPOSITION TO DEFENDANTS' MOTION FOR SUMMARY JUDGEMENT. Document filed by Sheng–Wen Cheng. (yv) (Entered: 06/06/2024)
06/11/2024	<u>58</u>	LETTER from Sheng–Wen Cheng dated 6/4/2024 re: status regarding opposition to the defendants summary judgment. Document filed by Sheng–Wen Cheng.(sgz) Modified on 6/18/2024 (sgz). (Entered: 06/14/2024)
06/11/2024		Request for Copies/Transcripts/Docket Sheet Received: Re <u>58</u> Letter. Request for Docket Report, from Sheng–Wen Cheng received on 6/11/2024. Transmission to Pro Se Assistants for processing. (tro) (Entered: 06/17/2024)
06/18/2024		Request for Copies/Transcripts/Docket Sheet Processed: Mailed copy of Docket Sheet to Sheng–Wen Cheng No. 05261–509 Federal Medical Center FMC Rochester P.O. Box 4000 Rochester, MN 55903 on 6/18/2024. (nb) (Entered: 06/18/2024)
06/20/2024	<u>59</u>	MEMO ENDORSEMENT on re: <u>58</u> Letter filed by Sheng–Wen Cheng ENDORSEMENT: The Court is in receipt of Plaintiffs cross–motion for summary judgment and supporting memorandum of law, as well as Plaintiffs opposition to Defendants' motion for summary judgment. Plaintiff may refer to the docket sheet in this action, a copy of which was mailed to Plaintiff on June 18, 2024, to further confirm the Court has received his filings. (See Dkt. Nos. 56 & 57). (Signed by Magistrate Judge Gary Stein on 6/20/2024) (tro) (Entered: 06/20/2024)
06/21/2024		MAILING RECEIPT: Document No: 59. Mailed to: Sheng–Wen Cheng No.05261–509 Federal Medical Center P.O. Box 4000 Rochester, MN 55903. (nb) (Entered: 06/21/2024)
06/28/2024	<u>60</u>	REPLY MEMORANDUM OF LAW in Support re: <u>48</u> MOTION for Summary Judgment ., <u>56</u> MOTION for Summary Judgment. <i>And In Opposition to Plaintiff's Cross–Motion</i> . Document filed by Department of Justice, Federal Bureau of Investigation..(Kristofcak, Alexander) (Entered: 06/28/2024)
06/28/2024	<u>61</u>	CERTIFICATE OF SERVICE of Defendants' Reply Memorandum of Law in Further Support of Their Motion For Summary Judgment And In Opposition To Plaintiff's Cross–Motion (ECF No. 60) served on SHENG–WEN CHENG on June 28, 2024. Service was made by MAIL. Document filed by Department of Justice, Federal Bureau of Investigation..(Kristofcak, Alexander) (Entered: 06/28/2024)



07/16/2024	<u>62</u>	ORDER: To date, however, the Government has not indicated to the Court that it provided Plaintiff with notice under Local Civil Rule 56.2, which provides, in pertinent part: Any represented party moving for summary judgment against a party proceeding pro se shall serve and file as a separate document, together with the papers in support of the motion, the following "Notice To Pro Se Litigant Who Opposes a Motion For Summary Judgment" with the full texts of Fed. R. Civ. P. 56 and Local Civil Rule 56.1 attached. The Government is therefore directed to inform the Court by no later than Friday, July 19, 2024 whether it served a Local Civil Rule 56.2 notice on Plaintiff. If the Government did provide such notice, it shall file the notice on the docket as required by Local Civil Rule 56.2. If the Government did not provide such notice, it shall wait for further direction from the Court. SO ORDERED. (Signed by Magistrate Judge Gary Stein on 7/16/2024) (tg) (Entered: 07/16/2024)
07/18/2024		MAILING RECEIPT: Document No: 62. Mailed to: Sheng–Wen Cheng No.05261–509 Federal Medical Center P.O. Box 4000 Rochester, MN 55903. (sac) (Entered: 07/18/2024)
07/19/2024	<u>63</u>	LETTER addressed to Magistrate Judge Gary Stein from AUSA Alexander Kristofcak dated July 19, 2024 re: Rule 56.2 Notice. Document filed by Department of Justice, Federal Bureau of Investigation..(Kristofcak, Alexander) (Entered: 07/19/2024)
07/23/2024	<u>64</u>	LETTER from Sheng–Wan Cheng dated 7/18/24 re: I am writing this letter to inquire whether this honorable court has received my Reply Brief. Document filed by Sheng–Wen Cheng.(rdz) (Entered: 07/24/2024)
07/23/2024		Request for Copies/Transcripts/Docket Sheet Received: Re <u>64</u> Letter. Request for Docket Report, from Sheng–Wen Cheng received on 7/23/24. Transmission to Pro Se Assistants for processing. (rdz) (Entered: 07/24/2024)
07/24/2024		Request for Copies/Transcripts/Docket Sheet Processed: Mailed copy of Docket Sheet to Sheng–Wen Cheng No. 05261–509 Federal Medical Center FMC Rochester P.O. Box 4000 Rochester, MN 55903 on 7/24/2024. (nb) (Entered: 07/24/2024)
07/24/2024	<u>67</u>	REPLY MEMORANDUM OF LAW in Further Support re: <u>56</u> MOTION for Summary Judgment. Document filed by Sheng–Wen Cheng. (sac) (Entered: 07/26/2024)
07/25/2024	<u>65</u>	ORDER denying without prejudice <u>48</u> Motion for Summary Judgment. Defendants' motion for summary judgment is denied without prejudice for failure to comply with Local Civil Rule 56.2. The parties are directed to seek leave from Judge Stein for a briefing schedule on any renewed motions. The Clerk of Court is respectfully directed to terminate the motion at ECF No. 48. SO ORDERED. (Signed by Judge Analisa Torres on 7/25/24) (yv) (Entered: 07/25/2024)
07/25/2024	<u>66</u>	LETTER addressed to Magistrate Judge Gary Stein from AUSA Alexander Kristofcak dated July 25, 2024 re: Summary Judgment Briefing Schedule. Document filed by Department of Justice, Federal Bureau of Investigation..(Kristofcak, Alexander) (Entered: 07/25/2024)
07/26/2024		MAILING RECEIPT: Document No: 65. Mailed to: Sheng–Wen Cheng No.05261–509 Federal Medical Center P.O. Box 4000 Rochester, MN 55903. (nb) (Entered: 07/26/2024)
07/26/2024	<u>68</u>	MEMO ENDORSEMENT on re: <u>66</u> Letter filed by Department of Justice, Federal Bureau of Investigation. ENDORSEMENT The Government shall submit its renewed motion for summary judgment by Monday, July 29, 2024. At its election, if the Government wishes to rely on its previously filed moving brief and supporting papers (Dkt. Nos. 49–51), the Government need only submit a new notice of motion so stating by the July 29 deadline and its previously filed moving papers will remain operative. If the Government does not wish to rely on those submissions, it is of course at liberty to submit new moving papers in the alternative. In either event, the Government shall, by the July 29 deadline, also serve and file the required Local Rule 56.2 notice in connection with its renewed summary judgment motion. The Court will set the remaining briefing deadlines after the Government renews its motion. SO ORDERED. (Motions due by 7/29/2024.) (Signed by Magistrate Judge Gary Stein on 7/26/2024) (jca) (Entered: 07/26/2024)

07/29/2024		MAILING RECEIPT: Document No: 68. Mailed to: Sheng–Wen Cheng No.05261–509 Federal Medical Center P.O. Box 4000 Rochester, MN 55903. (tro) (Entered: 07/29/2024)
07/29/2024	<u>69</u>	MOTION for Summary Judgment . Document filed by Department of Justice, Federal Bureau of Investigation..(Kristofcak, Alexander) (Entered: 07/29/2024)
07/29/2024	<u>70</u>	MEMORANDUM OF LAW in Support re: <u>69</u> MOTION for Summary Judgment . . Document filed by Department of Justice, Federal Bureau of Investigation..(Kristofcak, Alexander) (Entered: 07/29/2024)
07/29/2024	<u>71</u>	NOTICE of Local Rule 56.2. Document filed by Department of Justice, Federal Bureau of Investigation..(Kristofcak, Alexander) (Entered: 07/29/2024)
07/29/2024	<u>72</u>	CERTIFICATE OF SERVICE of Notice of Motion (ECF No. 69), Defendants' Memorandum of Law in Support of Their Motion For Summary Judgment (ECF No. 70), the Declaration of Vanessa R. Brinkmann with the accompanying exhibit (ECF No. 50), the Declaration of Michael G. Seidel (ECF No. 51) with the accompanying exhibits, and the Local Rule 56.2 Notice (ECF No. 71) served on SHENG–WEN CHENG on July 29, 2024. Service was made by MAIL. Document filed by Department of Justice, Federal Bureau of Investigation..(Kristofcak, Alexander) (Entered: 07/29/2024)
08/02/2024	<u>73</u>	ORDER: Accordingly, Plaintiff shall submit his opposition to the Government's renewed motion for summary judgment by no later than August 30, 2024. Plaintiff, if he wishes, may rely on his previously–submitted brief (Dkt. No. 57) in opposition to the Government's motion and in support of his cross–motion for summary judgment. If Plaintiff elects to do so, he shall inform the Court of his decision by the August 30 deadline. Plaintiff is of course at liberty to submit a new opposition brief in the alternative by that deadline. The Government shall submit its reply in further support of its renewed motion for summary judgment by no later than September 13, 2024. Lastly, pursuant to Plaintiff's July 18, 2024 letter (Dkt. No. 64), the Court confirms receipt of Plaintiff's reply in further support of his cross–motion for summary judgment, which has been filed at Docket No. 67. SO ORDERED. ( Replies due by 9/13/2024., Responses due by 8/30/2024) (Signed by Magistrate Judge Gary Stein on 8/2/2024) (vfr) (Entered: 08/02/2024)
08/05/2024		MAILING RECEIPT: Document No: 73. Mailed to: Sheng–Wen Cheng No.05261–509 Federal Medical Center P.O. Box 4000 Rochester, MN 55903. (laq) (Entered: 08/05/2024)
08/06/2024	<u>74</u>	LETTER addressed to Magistrate Judge Gary Stein from Sheng–Wen Cheng dated 7/31/2024 re: I am hereby requesting my cross–motion for summary judgement (with all supporting brief) for the above–titled action, to be considered moot or withdrawn. Document filed by Sheng–Wen Cheng.(vfr) (Entered: 08/07/2024)
08/28/2024	<u>75</u>	LETTER addressed to Clerk of Court from Sheng–Wen Cheng dated 8/19/2024 re: inquiring if the court is in receipt of brief in opposition to the defendant's summary judgment. Document filed by Sheng–Wen Cheng.(tro) (Entered: 09/03/2024)
08/28/2024	<u>76</u>	MEMORANDUM OF LAW in support of his cross–motion for summary judgement and in opposition to Defendants' Motion for Summary judgements. Document filed by Sheng–Wen Cheng. (ar) (Entered: 09/03/2024)
09/13/2024	<u>77</u>	REPLY MEMORANDUM OF LAW in Support re: <u>69</u> MOTION for Summary Judgment . <i>and In Opposition to Plaintiff's Cross–Motion</i> . Document filed by Department of Justice, Federal Bureau of Investigation..(Kristofcak, Alexander) (Entered: 09/13/2024)
09/13/2024	<u>78</u>	CERTIFICATE OF SERVICE of Defendants' Reply Memorandum of Law in Further Support of Their Motion For Summary Judgment and In Opposition to Plaintiff's Cross–Motion (ECF No. 77) served on Sheng–Wen Cheng on September 13, 2024. Service was made by MAIL. Document filed by Department of Justice, Federal Bureau of Investigation..(Kristofcak, Alexander) (Entered: 09/13/2024)
09/17/2024	<u>79</u>	ORDER denying as moot <u>56</u> Motion for Summary Judgment. The Court is in receipt of pro se Plaintiff's letters dated July 31, 2024 (Dkt. No. 74) and August 19, 2024 (Dkt. No. 75). In response thereto, the Court confirms that, on August 28, 2024, it

		received Plaintiff's brief (Dkt. No. 76) in support of his cross-motion for summary judgment (Dkt. No. 56) and in opposition to Defendants' renewed motion for summary judgment (Dkt. No. 69). Accordingly, the Court considers Plaintiff's prior brief in support of his cross-motion for summary judgment and in opposition to Defendants' first motion for summary judgment (Dkt. No. 57) moot. The Clerk of Court is respectfully directed to mail a copy of the docket sheet in this action to Plaintiff. SO ORDERED. (Signed by Magistrate Judge Gary Stein on 9/17/2024) (tg) (Entered: 09/17/2024)
09/18/2024		MAILING RECEIPT: Document No: 79. Mailed to: Sheng-Wen Cheng No.05261-509 Federal Medical Center P.O. Box 4000 Rochester, MN 55903. (ak) (Entered: 09/18/2024)
09/24/2024	<u>80</u>	LETTER addressed to Clerk of Court from Sheng-Wen Cheng dated 9/24/2024 re: I am writing this letter to inquire whether this Honorable Court has received my "opposition brief and cross-motion for summary judgement" for the above-titled action, a proof of mailing is attached to this letter.. Document filed by Sheng-Wen Cheng. (jjc) (Entered: 09/26/2024)