

CLOSED

**U.S. District Court  
Southern District of New York (Foley Square)  
CIVIL DOCKET FOR CASE #: 1:07-cv-04149-LTS**

Kelly et al v. Lapan et al  
Assigned to: Judge Laura Taylor Swain  
Similar Case: [1:07-cv-07434-LTS](#)  
Cause: 42:1983 Prisoner Civil Rights

Date Filed: 05/29/2007  
Date Terminated: 07/31/2007  
Jury Demand: None  
Nature of Suit: 550 Prisoner: Civil Rights  
Jurisdiction: Federal Question

**Plaintiff**

**Douglas Kelly**

represented by **Moses Silverman**  
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**Plaintiff**

**Moshe Milstein**

represented by **Moses Silverman**  
(See above for address)  
*ATTORNEY TO BE NOTICED*

**Solomon N. Klein**  
(See above for address)  
*ATTORNEY TO BE NOTICED*

**Plaintiff**

**John Okon**

represented by **Moses Silverman**  
(See above for address)  
*ATTORNEY TO BE NOTICED*

**Solomon N. Klein**  
(See above for address)  
*ATTORNEY TO BE NOTICED*

V.

**Defendant**

**Director Harley Lapan**  
*Federal Bureau of Prisons*

**Defendant**

**Warden J.M. Killian**  
*Federal Prison Camp at Otisville, NY*

Date Filed	#	Docket Text
05/29/2007	1	COMPLAINT against Harley Lapan, J.M. Killian. Document filed by Douglas Kelly, Moshe Milstein, John Okon.(jeh) (Entered: 05/30/2007)
05/29/2007		Magistrate Judge Frank Maas is so designated. (jeh) (Entered: 05/31/2007)
05/31/2007		MEMORANDUM TO THE DOCKET CLERK: Preliminary Injunction/TRO Hearing begun and (continued) 5/31/07 before the Hon. Laura Taylor Swain– TRO denied for reasons stated on record. Plaintiff's to pursue administrative remedy at facility. Plaintiff's to serve and file PI motion by 6/29/07– Govt to respond by 7/31/07. Any reply by 8/31/07. 921/07 for Govt to reply. (tro) (Entered: 06/04/2007)
05/31/2007	2	ORDER: The Court will hold a hearing on the attached Order to Show Cause on Thursday, May 31, 2007, at 11:30 a.m. The Court will provide a copy of this order, as well as the complaint and the plaintiffs moving papers to the United States Attorney's Office is hereby requested to make arrangements for telephonic participation by the Plaintiffs. (Signed by Judge Laura Taylor Swain on 5/30/07) Copies Faxed By Chambers.(js) (Entered: 06/04/2007)
06/04/2007	3	ORDER; For the reasons stated on the record at the May 31, 2007 hearing, Plaintiffs' application for an Order to Show Cause and TRO is denied. As also stated on the record at the May 31, 2007 hearing, Plaintiff's preliminary injunction motion papers in this matter are to be filed and served by 6/29/07. Opposition papers, as well as any cross–motion, shall be filed and served by 7/31/07. Plaintiffs' response papers to any cross–motion, as well as any reply to their preliminary injunction papers, shall be filed and served by 8/31/07. The government's reply papers on its cross–motion shall be filed and served by 09/21/07. (Signed by Judge Laura Taylor Swain on 5/31/07) (djc) (Entered: 06/07/2007)
06/04/2007	4	ORDER; The Clerk of Court is respectfully requested to amend the Court records to reflect the register number of plaintiffs Moshe Milstein (No. 56279–053) and John Okun (No. 84294–054). Additionally, the Court records shall reflect the following address for all of the named plaintiffs in this action: FCI Otisville, P.O. Box 1000, Otisville, NY 10963–1000. (Signed by Judge Laura Taylor Swain on 5/31/07) Copies mailed.(djc) (Entered: 06/07/2007)
06/05/2007	5	LETTER addressed to Judge Laura Taylor Swain from Brian M. Feldman dated 6/1/07 re: to inform the court that the library materials at issue in this matter will not be dicarded until at least October 2007.. (tro) (Entered: 06/07/2007)
06/19/2007	7	ENDORSED LETTER addressed to Judge Laura Taylor Swain from Douglas Kelly, Moshe Milstein, and John Okon dated 6/11/2007 re: request that Honor direct the Government to supply the Policy Statement to us forthwith. ENDORSEMENT: The undersigned has referred this case, by order date June 18, 2007, to Magistrate Judge Maas. The foregoing letter shall be directed to Judge Maas with a copy to the undersigned. SO ORDERED. (Signed by Judge Laura Taylor Swain on 6/18/2007) Copies Mailed By Chambers.(jmi) (Entered: 06/20/2007)
06/20/2007	6	TRANSCRIPT of proceedings held on 5/31/2007 before Judge Laura Taylor Swain. (lca) (Entered: 06/20/2007)
06/21/2007	8	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. Referred to Magistrate Judge Frank Maas. (Signed by Judge Laura Taylor Swain on 6/18/2007) Copies Mailed &Faxed By Chambers.(jpo) (Entered: 06/25/2007)
06/27/2007	11	NOTICE OF APPEARANCE by Moses Silverman on behalf of Douglas Kelly, Moshe Milstein, John Okon (dle) (Entered: 07/06/2007)
06/27/2007	12	NOTICE OF APPEARANCE by Solomon N. Klein on behalf of Douglas Kelly, Moshe Milstein, John Okon (dle) (Entered: 07/06/2007)

06/29/2007	9	ENDORSED LETTER addressed to Magistrate Judge Frank Maas from Solomon N. Klein dated 6/27/2007 re: request that the Court endorse the enclosed Stip extending plfs' deadline to file a motion for preliminary injunction and extending deft's time to file their opposition papers and any cross-motions by a similar time. ENDORSEMENT: In light of the recent referral to me, I would ask Mr. Klein to initiate a Telephone Conference set for 7/10/2007 at 04:00 PM before Magistrate Judge Frank Maas, so that I can familiarize myself with this case. (Counsel should call the main number for Chambers (212) 805-6727.) (Signed by Judge Frank Maas on 6/28/2007) (jar) (Entered: 07/03/2007)
06/29/2007	10	STIPULATION AND ORDER: Plts' Motion for a prliminary injunction due by 7/30/2007. Dfts' Response as well as any Cross Motion are due by 8/31/2007. Plts' Replies to Preliminary Injunction papers as well as any response to any Cross Motion are due by 9/28/2007. The govt's reply papers on its cross-motion is due by 10/19/2007. (Signed by Judge Frank Maas on 6/28/2007) (jar) (Entered: 07/03/2007)
07/02/2007	13	AFFIDAVIT OF SERVICE of Summons and Complaint. J.M. Killian served on 6/28/2007, answer due 7/18/2007. Service was accepted by Orlavia Hines, U.S. District Attorney's Office. Document filed by Douglas Kelly; Moshe Milstein; John Okon. (dle) (Entered: 07/06/2007)
07/02/2007	14	AFFIDAVIT OF SERVICE of Summons and Complaint. Harley Lapan served on 6/28/2007, answer due 7/18/2007. Service was accepted by Orlavia Hines, U.S. District Attorney's Office. Document filed by Douglas Kelly; Moshe Milstein; John Okon. (dle) (Entered: 07/06/2007)
07/10/2007		Minute Entry for proceedings held before Judge Frank Maas : Telephone Conference held on 7/10/2007. (tro) (Entered: 07/16/2007)
07/12/2007	15	ORDER: Pursuant to the telephone conference held earlier today, it is hereby ORDERED that: On or before July 30, 2007, the plaintiffs may file an amended complaint; A telephone conference shall be held on August 2, 2007, at 11:30 am. Plaintiff's counsel shall initiate the conference by calling the main number for chambers, which is (212)805-6727. SO ORDERED: (Signed by Judge Frank Maas on 07/10/07) (dcr) (Entered: 07/18/2007)
07/27/2007	17	SUMMONS RETURNED EXECUTED Summons and Complaint served. Harley Lapan served on 6/28/2007, answer due 8/27/2007; J.M. Killian served on 6/28/2007, answer due 8/27/2007. Service was made by certified mail. Document filed by Douglas Kelly; Moshe Milstein; John Okon. (jar) (Entered: 07/31/2007)
07/30/2007	16	TRANSCRIPT of proceedings held on 5/31/07 before Judge Laura Taylor Swain. (jbe) (Entered: 07/30/2007)
07/31/2007	18	ENDORSED LETTER addressed to Magistrate Judge Frank Maas from Solomon N. Klein dated 7/27/2007 re: we now believe it feasible that Plts will exhaust the grievance process prior to their release from Otisville. ENDORSEMENT: In view of this letter, the conference is cancelled and the Clerk of the Court is respectfully requested to close the case. (Signed by Judge Frank Maas on 7/30/2007) (jar) (Entered: 08/01/2007)
08/28/2007	<u>19</u>	NOTICE of Voluntary Dismissal pursuant to Rule 41(a)(1) of the F.R.C.P. without prejudice. (Signed by Judge Laura Taylor Swain on 8/27/07) (kco) (Entered: 08/28/2007)
09/04/2007		CASE NO LONGER REFERRED to Magistrate Judge Frank Maas. I have closed the above reference for magistrate judge statistical purposes. Reason: Case Dismissed. (jco) (Entered: 09/17/2007)