

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

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AMERICAN CIVIL LIBERTIES UNION and
THE AMERICAN CIVIL LIBERTIES UNION
FOUNDATION,

Plaintiffs,

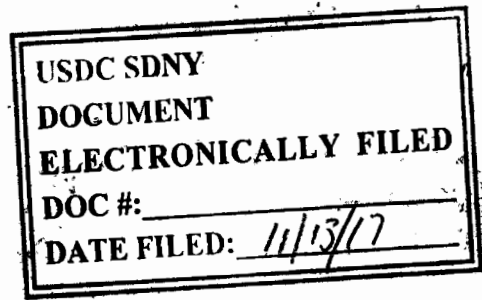
v.

**ORDER GRANTING IN PART
AND DENYING IN PART
DEFENDANT'S MOTION TO
ALTER JUDGMENT OR FOR
RECONSIDERATION**

15 Civ. 9317 (AKH)

DEPARTMENT OF DEFENSE, DEPARTMENT
OF JUSTICE, including its components the
OFFICE OF LEGAL COUNSEL and OFFICE OF
INFORMATION POLICY, DEPARTMENT OF
STATE, and CENTRAL INTELLIGENCE
AGENCY,

Defendants.



Central Intelligence Agency ("CIA"), one of the defendants in this FOIA lawsuit, moves to alter or amend the order of September 28, 2017, granting and denying summary judgment to Plaintiff and Defendant, and for reconsideration of the order, *see* Dkt. No. 77. For the reasons stated below, the Government may make a supplemental submission, as it requests, to identify the portions of Document 66 that it believes should not be disclosed, and to justify such nondisclosure. The Court particularly wishes to see, for *ex parte* and *in camera* review, the version of Document 66, prepared by the Government, that identifies the discrete information that the Government contends were, and should be, protected from disclosure. The Government offers to file, under seal, a supplemental declaration explaining why the indicated information remains currently and properly

classified or otherwise protected from disclosure. The Court accepts the Government's offer.

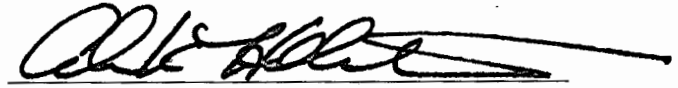
Plaintiff, opposing the Government's motion, points out that the Government already has supplemented its submissions several times, and that it is complaining, not that the court overlooked "controlling decisions or data," *see Shrader v. CSX Transp., Inc.*, 70 F.3d 255, 257 (2d Cir. 1995), but that the Court decided incorrectly. Plaintiff is correct that Defendant wishes to "relitigate an issue already decided," *see Drapkin v. Mafco Consol. Grp., Inc.*, 818 F. Supp. 2d 678, 696 (S.D.N.Y. 2011), and that it points to nothing that the Court overlooked.

Defendant has not made a sufficient showing to warrant reconsideration under well-settled case-law. *See Kolel Beth Yechiel Mechil of Tartikov, Inc. v. YLL Irrevocable Trust*, 729 F. 3d 99, 104 (2d Cir. 2013) (motion for reconsideration warranted where the moving party identifies "an intervening change of controlling law, the availability of new evidence, or the need to correct a clear error or prevent manifest injustice). However, in the interest of justice, I grant the Government's motion for leave to supplement one more time, consistently with its requests, as described above. Issues of national security are involved, and technical rules of judicial convenience should not prevent the Government from making full and proper arguments to support its position. Defendant's motion for reconsideration will be considered following the Court's review of Defendant's supplemental submission.

Defendant will file supplemental papers by November 28, 2017. Because the submission will be *ex parte*, there will be no opposition papers, except as ordered. A hearing, *in camera* and on the record, will be held on December 6, 2017, at 2:30 P.M.

SO ORDERED.

Dated: November 13, 2017
New York, New York



ALVIN K. HELLERSTEIN

United States District Judge