

UNITED STATES DISTRICT COURT FOR THE WESTERN DISTRICT OF NEW YORK

Leslie James Pickering v. Central Intelligence Agency

Pickering · No. 1:24-cv-00081 · Decided March 24, 2026

SUMMARY

The United States District Court for the Western District of New York denied the CIA’s motion for reconsideration of an order requiring submission of an FBI Form FD-302 for in camera review in a FOIA action. The court modified the procedure to permit the CIA to submit either the redacted version or any unredacted version it possesses, while limiting disclosure of whether an unredacted version exists.

CASE DETAILS

COURT	United States District Court for the Western District of New York
WRITING FOR THE COURT	Geoffrey W. Crawford
JURISDICTION	United States District Court for the Western District of New York
DECIDED	March 24, 2026
DOCKET	1:24-cv-00081
DISPOSITION	other
PROCEDURAL POSTURE	The court considered the CIA's motion for reconsideration of an earlier order directing production of an FBI Form FD-302 for in camera review in a FOIA action.
STANDARD OF REVIEW	Reconsideration is generally denied absent controlling decisions or data that the court overlooked and that might reasonably be expected to alter the prior conclusion. The recognized grounds are an intervening change in controlling law, newly available evidence, or the need to correct clear error or prevent manifest injustice; these criteria are strictly construed against the moving party.
PRECEDENTIAL VALUE	Unknown

TOPICS

- motion for reconsideration
- public records
- administrative law
- civil procedure

PRACTICE AREAS

QUESTIONS PRESENTED

1. Whether the CIA demonstrated clear error warranting reconsideration of the court's order requiring production of the Form FD-302 for in camera review.
2. Whether the court could structure in camera review in a manner that preserved the Glomar doctrine while addressing the unresolved questions raised by the publicly released, redacted FBI document.
3. Whether the redacted version or any unredacted version of the Form FD-302 should be submitted for in camera review.

HOLDINGS

1. Reconsideration was not warranted because the CIA did not establish a controlling change in law, new evidence, clear error, or manifest injustice sufficient to disturb the prior order.
2. The court retained its order requiring in camera review because the redacted FBI Form FD-302's reference to the CIA, considered with the surrounding circumstances, left questions about possible unlawful domestic surveillance that could not be resolved solely from the agency's public declaration.
3. The CIA must submit the redacted Form FD-302 if it possesses only that version, and must submit an unredacted version if it possesses one; the court will conduct the review in camera and will not disclose which version was submitted except under the stated condition involving unlawful domestic surveillance.

KEY QUOTATIONS

“The major grounds justifying reconsideration are an intervening change of controlling law, the availability of new evidence, or the need to correct a clear error or prevent a manifest injustice.” (at 2)

“Ultimately, an agency’s justification for invoking a FOIA exemption is sufficient if it appears logical or plausible.” (at 3)

“However, in this case, the court concludes that “questions remain” as to the CIA’s potential involvement in the domestic investigation into ELF and Mr. Pickering.” (at 5)

“Defendant’s Motion to Reconsider (Doc. 23) is DENIED, except that the court modifies the procedure for in camera review as follows.” (Conclusion)

FACTUAL BACKGROUND

Pickering sought CIA records concerning himself, including records relating to a July 17, 2001, FBI investigation in Portland, Oregon. His FOIA request included a heavily redacted FBI Form FD-302 that briefly referenced the CIA. The document was temporally close to FBI Joint Terrorism Task Force raids connected to Pickering's support for the Earth Liberation Front. Because the document raised questions about possible CIA involvement in a domestic investigation, the court ordered in camera review.

PROCEDURAL HISTORY

Pickering filed a FOIA action alleging that the CIA failed to respond adequately to his request for records concerning him. The CIA moved for summary judgment and asserted that any classified connection would require a Glomar response. On January 15, 2026, the court ordered the CIA to produce an unredacted Form FD-302 for in camera inspection. The CIA moved for reconsideration, and the court denied reconsideration while modifying the production procedure.

DISPOSITION

other

REMAND INSTRUCTIONS

The CIA must comply within 30 days. It must produce the redacted Form FD-302 if that is the only version it possesses, or the unredacted version if it possesses one, for in camera review in chambers. The court will not disclose which version was produced unless the stated condition concerning unlawful domestic surveillance is satisfied.

CASES CITED

- Shomo v. Eckert, 755 F. Supp. 3d 344, 347 (W.D.N.Y. 2024)
- Shrader v. CSX Transportation, Inc., 70 F.3d 255, 257 (2d Cir. 1995)
- Virgin Atlantic Airways, Ltd. v. National Mediation Board, 956 F.2d 1245, 1255 (2d Cir. 1992)
- Boyde v. Osborne, No. 10-CV-6651, 2013 WL 6662862, at *1 (W.D.N.Y. Dec. 16, 2013)
- Wilner v. National Security Agency, 592 F.3d 60, 73, 75-76 (2d Cir. 2009)
- Larson v. Department of State, 565 F.3d 857, 862, 865 (D.C. Cir. 2009)
- Kuzma v. IRS, 775 F.2d 66, 69 (2d Cir. 1985) (per curiam)
- Birnbaum v. United States, 588 F.2d 319, 329 (2d Cir. 1978)
- Platsky v. National Security Agency, No. 15-cv-1529, 2016 WL 3661534, at *6 (S.D.N.Y. July 1, 2016)