UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF ILLINOIS
EASTERN DIVISION

UNITED STATES OF AMERICA	)	
	)	No. 15 CR 389
	)	
vs.	)	Honorable John W. Darrah
	)	
MELVIN REYNOLDS	)	

Government's Response to
Defendant's Motion to Reconsider

The UNITED STATES OF AMERICA, by ZACHARY T. FARDON, United States Attorney for the Northern District of Illinois, respectfully submits this response to defendant Melvin Reynolds's "Request a Rehearing of Motion for Relief." R.112. For the following reasons, the defendant's motion to reconsider should be denied.

On September 9, 2016, this Court denied the defendant's motions for a "mistrial," finding that the defendant presented no grounds to suggest that the government acquired information "gained from privilege communications." R.105 at 3. The defendant now moves to reconsider this Court's order, yet he presents no new arguments or evidence.

It is well established that "[m]otions for reconsideration serve a limited function: to correct manifest errors of law or fact or to present newly discovered evidence." *Conditioned Ocular Enhancement, Inc. v. Bonaventura*, 458 F. Supp. 2d 704, 707 (N.D. Ill. 2006) (quoting *Caisse Nationale de Credit Agricole v. CBI Indus., Inc.*, 90 F.3d 1264, 1269 (7th Cir. 1996)). In regard to the "manifest error" prong, the Seventh Circuit has explained that a motion to reconsider is proper only when "the

Court has patently misunderstood a party, or has made a decision outside the adversarial issues presented to the Court by the parties, or has made an error not of reasoning but of apprehension." *Bank of Waunakee v. Rochester Cheese Sales, Inc.*, 906 F.2d 1185, 1191 (7th Cir. 1990); *see also Wiegel v. Stork Craft Mfg., Inc.*, 2012 WL 2130910, at *2 (N.D. Ill. June 6, 2012) ("Reconsideration is not appropriate where a party seeks to raise arguments that could have been raised in the original briefing."); *Oto v. Metropolitan Life Ins. Co.*, 224 F.3d 601, 606 (7th Cir. 2000) ("A 'manifest error' is not demonstrated by the disappointment of the losing party," instead it "is the 'wholesale disregard, misapplication, or failure to recognize controlling precedent.'"); *Bilek v. American Home Mortg. Servicing*, 2010 WL 3306912, at *1 (N.D. Ill. Aug. 19, 2010).

The defendant's motion to reconsider plainly fails to establish manifest error or present new evidence. The defendant simply repeats his claim that his stand-by counsel told the defendant in "extremely clear terms and detail what AUSA Jonas told Mr. Kling about the content in Defendant's computer." R.112 at 3-4. The defendant offers no details about this alleged conversation, but claims he is entitled to an evidentiary hearing.

To reiterate, neither the prosecutors nor the case agent acquired any privileged information in this case. Indeed, the prosecutors and the case agent know nothing about the contents of the defendant's computer media except that they contain certain sexually explicit videos involving the defendant that may constitute contraband (those videos were not reviewed by any prosecutors or agents involved in this case).

As a courtesy, the government informed the defendant's stand-by counsel about the fact that the videos were recovered by Atlanta Homeland Security agents. Needless to say, the fact that those videos were found on his computer media has nothing to do with a legitimate claim of privilege.

In short, because the defendant fails to establish manifest error or present new evidence to challenge this Court's previous ruling, this Court should deny his motion to reconsider.

Dated: October 26, 2016

Respectfully submitted,

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