

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF HAWAII

IN RE:
PUBLIC FIRST LAW CENTER,

Movant.

MISC. NO. 26-000198 JAO-RT

**ORDER DENYING
GOVERNMENT’S MOTION FOR
RECONSIDERATION (ECF NO. 9)**

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On May 28, 2026, the Court verbally granted Public First Law Center’s (“Public First”) motion to unseal (“Motion to Unseal”) the Government’s motion regarding Defendant Scott Alan Rudo (“Government’s Motion”), found at ECF No. 68 in *United States v. Rudo*, CR No. 22-00055-JAO (“*Rudo*”). See ECF No. 8 (verbal order). The Government now moves for reconsideration (“Reconsideration Motion”), asking the Court to limit access to the Government’s Motion “via a ‘courthouse only’ access rule to prevent digital harvesting.” ECF No. 9 at 2. Public First opposes, arguing that the Reconsideration Motion is based primarily

on generalized policy arguments, rather than information specific to Mr. Rudo's case. *See* ECF No. 12. For the following reasons, the Reconsideration Motion is DENIED.

I. BACKGROUND

Mr. Rudo pleaded guilty, pursuant to a plea agreement, to a single-count Information charging him with Conspiracy to Commit Honest Services Wire Fraud, a violation of 18 U.S.C. § 1349. *See Rudo*, ECF No. 10. The Memorandum of Plea Agreement was publicly filed and indicated that Mr. Rudo had agreed to “fully cooperate with the United States” and to “testify truthfully at any and all trials[.]” *See id.* at 28.

Mr. Rudo indeed testified at a trial in the case of *United States v. Sulla, et al.* *See United States v. Sulla, et al.*, CR No. 22-00058 ECF Nos. 435, 437, 446, 452, 460. He did so in open court, and transcripts of his testimony are available on the docket in that case. *See id.*, ECF Nos. 538–541.

Prior to Mr. Rudo's sentencing, the Government filed the Government's Motion under seal. *See Rudo*, ECF No. 68. The Court sentenced him on May 28, 2026, again in open court, to a term of forty-six months. *See id.*, ECF No. 78. In the course of his sentencing hearing, Mr. Rudo's counsel discussed his cooperation, including the fact that he had many meetings with the Government.

Public First moved to unseal the Government's Motion on May 27, 2026. *See* ECF No. 1. The Court ordered that any parties could file objections to the Motion to Unseal no later than 8:30 a.m. the following day. *See* ECF No. 4. The County of Hawai'i took no position on it, *see* ECF No. 6, but the Government opposed, also moving to seal its opposition, *see* ECF No. 5. Mr. Rudo did not file an objection. The Court held a hearing on the Motion to Unseal, at which Mr. Rudo verbally joined the Government in opposing the motion. *See* ECF No. 11 at 19. The Court orally granted the Motion to Unseal, and denied the Government's motion to seal its opposition, but also granted the Government's request to stay the ruling until June 12, 2026. *See* ECF No. 8.

On June 12, the Government filed the Reconsideration Motion. ECF No. 9. Public First opposed. ECF No. 12. The Court elects to rule on the Reconsideration Motion without a hearing. *See* CrimLR 12.2(a)(1).

II. LEGAL STANDARDS

A. Motion to Reconsider

The Ninth Circuit requires that a successful motion for reconsideration accomplish two goals. "First, a motion for reconsideration must demonstrate some reason why the Court should reconsider its prior decision. Second, the motion must set forth facts or law of a 'strongly convincing' nature to induce the court to reverse its prior decision." *Jacob v. United States*, 128 F. Supp. 2d 638, 641 (D.

Haw. 2000) (citation omitted). Mere disagreement with a court’s analysis in a previous order is not a sufficient basis for reconsideration. *See White v. Sabatino*, 424 F. Supp. 2d 1271, 1274 (D. Haw. 2006). Nor may motions for reconsideration be “based on evidence and legal arguments that a movant could have presented at the time of the challenged decision.” *Wereb v. Maui Cnty.*, 830 F. Supp. 2d 1026, 1031 (D. Haw. 2011) (citing *Kona Enter., Inc. v. Estate of Bishop*, 229 F.3d 877, 890 (9th Cir. 2000) (other citation omitted)).

B. Unsealing Cooperation Documents

Acknowledging that the public has a First Amendment right to access criminal proceedings, the Ninth Circuit has outlined three requirements for the closing of such matters:

[C]riminal proceedings may be closed to the public without violating the First Amendment only if three substantive requirements are satisfied: (1) closure serves a compelling interest; (2) there is a substantial probability that, in the absence of closure, this compelling interest would be harmed; and (3) there are no alternatives to closure that would adequately protect the compelling interest.

United States v. Doe, 870 F.3d 991, 998 (9th Cir. 2017) (internal quotation marks and citations omitted).

III. DISCUSSION

The Government seeks reconsideration of the Court’s order unsealing the Government’s Motion “to prevent manifest injustice resulting from the way

[Public First] presented its motion to unseal.” ECF No. 9 at 3. It complains that it wasn’t until the hearing on the Motion to Unseal that Public First “conceded for the first time that a rule limiting access to Sealed Motion 68 to the courthouse-only was sufficient to preserve the asserted First Amendment right of public access” and that this amounted to “a material change from the argument advanced in their motion to unseal[.]” *Id.* at 5. The Government says that, had it and the Court been made aware of this concession, then both “would have had an opportunity to research and consider such a proposal prior to the hearing.” *Id.* The Government rounds out its argument by saying that, in light of this last-minute change in approach “and the compelling interest in witness safety, . . . the Court has a strong basis to reconsider its Order to avoid manifest injustice.” *Id.*

Public First responds that it did not, in fact, concede that courthouse-only access was sufficient here, and points to the transcript of the hearing on the Motion to Unseal, during which Public First’s counsel acknowledged such access may be an option where there are genuine safety concerns:

[I]n courthouse only availability is also an option, *if there are any real concerns in the BOP*, you know, that’s a dangerous place, but in courthouse availability is also an option as a lesser restrictive option than wholesale sealing, *if there are any real safety interests*.

ECF No. 11 at 24 (emphases added); ECF No. 12 at 2. It also argues that the Reconsideration Motion merely outlines generalized policy concerns for witness

safety, and does not address why Mr. Rudo himself would be in any danger if the Government's Motion were unsealed. *See* ECF No. 12 at 2, 5.

Reconsideration is not warranted here. As an initial matter, the Reconsideration Motion—much like the Government's opposition to the Motion to Unseal—ignores the fact that practically all of Mr. Rudo's cooperation has already been made public and is readily identifiable on the docket. Nevertheless, the Government pleads, "if cooperators know that their entire cooperation history may be made public, many future potential cooperators will refuse to cooperate or testify at all, severely hamstringing federal law enforcement, potentially resulting in defendants going unprosecuted[.]" *Id.* at 7. But Mr. Rudo's cooperation history is *already* public. The document that will be unsealed reflects the government's treatment of that cooperation.

In any event, the Court does not view Public First's remarks during the hearing as reflecting a wholesale concession that courthouse-only access would suffice under the First Amendment. Rather, Public First cabined the option to a situation where there were real safety concerns for Mr. Rudo. As the Court stated at the hearing on the Motion to Unseal, the Government had failed to state what the compelling interest was specific to this case, where Mr. Rudo testified in open court and before his co-conspirators who were not dangerous individuals. *See* ECF No. 24 at 26–28. The Reconsideration Motion doesn't fill that gap. Although the

Court allowed a stay of its verbal ruling on the Motion to Unseal so that the Government could consider its options—including evaluating the courthouse-only option—the Government did not use that time to proffer more than generalized concerns about cooperator safety. It has yet to demonstrate reasons why *Mr. Rudo* faces any greater danger if the Government’s Motion is unsealed. *Cf. Doe*, 870 F.3d at 1002 (reversing District Court’s refusal to seal a plea agreement in a case where the defendant had cooperated against a cartel that had the financial ability to exact retaliation and had warned the defendant that they knew where his family was). The Court doesn’t consider a generalized concern about witness protection as a sufficiently compelling interest to restrict access to the Government’s Motion to the courthouse only, *in this case*.

IV. CONCLUSION

For the foregoing reasons, the Reconsideration Motion is DENIED. The Court directs the Clerk’s Office to unseal ECF No. 68 in CR No. 22-00055-JAO and close the instant case.

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IT IS SO ORDERED.

DATED: Honolulu, Hawai‘i, July 29, 2026.



A handwritten signature in black ink, appearing to read "Jill A. Otake".

Jill A. Otake
United States District Judge

MSC 26-00198 JAO-RT, *In re Public First Law Center*, ORDER DENYING
GOVERNMENT’S MOTION FOR RECONSIDERATION (ECF NO. 9)