IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF TEXAS
SHERMAN DIVISION

BRIAN HUDDLESTON, Plaintiff, v. FEDERAL BUREAU OF INVESTIGATION and UNITED STATES DEPARTMENT OF JUSTICE, Defendants.	CIVIL ACTION No. 4:20CV447 JUDGE AMOS MAZZANT

FBI'S SUR-REPLY TO PLAINTIFF'S REPLY IN SUPPORT OF MOTION FOR RECONSIDERATION OF SEARCH ADEQUACY RULINGS

The Reply confirms the primary issue with the Motion. The Motion's introduction sets the stage by pointing to the July 30, 2026, release of OXFERD COMMA and MARCH TOLL records, arguing that "[t]hose records prove that the sworn declarations on which the Court's search adequacy rulings rest were false." Doc. 257, at 1. According to Plaintiff, because those newly released records undermine the declarations that supported the Court's search adequacy rulings, reconsideration is required. Defendant, therefore, addressed that asserted new evidence directly, along with Plaintiff's reliance on *Loper Bright Enterprises v. Rainmondo*, 603 U.S. 369 (2024), and explained why none provide a basis to reopen the Court's prior decisions.

Plaintiff now faults Defendant for not separately responding to every argument, plethora of factual assertions, and numerous citations collected in the 164-page filing. But most of those issues are not new. Over six years of litigation, Plaintiff has repeatedly challenged the FBI's response to his FOIA request. He has challenged the reasonableness of its search for records, its search methodology, the repositories searched, attacked the FBI's credibility in virtually every

pleading, sought discovery and evidentiary development that is generally not available in FOIA cases, and asked the Court to revisit each unfavorable ruling. Those issues have been extensively briefed, and the Court has repeatedly resolved them. Defendant recounted this history not because it takes reconsideration off the table, but because that history shows that many of these issues have been considered multiple times and the truly new arguments in favor of reconsideration are extremely narrow.

Defendant was not required to reproduce the six years of briefing merely because Plaintiff challenged six years of decisions and packaged it alongside his arguments relating to OXFERD COMMA and MARCH TOLL. Nor does Local Rule CV-7(d) transform Defendant's decision to address the asserted grounds for reconsideration into a concession of every previously litigated contention that Defendant did not separately re-brief. Defendant opposed the Motion, addressed the governing standard, and explained why Plaintiff's alleged new evidence and supposed intervening authority fail to compel reconsideration here. Defendant reasserts the positions it has maintained—successfully—throughout this litigation.

Given the page limits for this Sur-Reply, Defendant addresses a few limited points raised in the Reply. Its decision not to separately respond to every conceivable point made should not be construed as a concession nor as an admission that Plaintiff's point is well-founded. To be clear, any reconsideration is opposed. First, the Response mistakenly substituted the word "investigations" for "individuals" in one quotation of Plaintiff's code-name request, although both the Response and Corcoran Declaration accurately quote the request elsewhere. Second, the response stated the chronology of the Crossfire Hurricane binder too generally. Defendant corrects issues here. But the point remains the same—there is no basis to reconsider the last six years of litigation.

The question before the Court therefore remains, at its core, and the one Plaintiff placed at the forefront of the Motion—whether OXFERD COMMA and MARCH TOLL, together with *Loper Bright* supply a sufficient basis to reconsider years of search adequacy rulings. They do not.

I. The isolated misquotation of Plaintiff's code-name request was an inadvertent error and does not affect the analysis.

Plaintiff correctly notes that on page 13 of the Response, a block quotation inadvertently replaced "individuals" with "investigations" when quoting one of Plaintiff's FOIA requests. The substitution was an inadvertent transcription error.

The record makes that clear. The same Response later correctly states that Plaintiff is seeking code names assigned to "individuals 'as part of the Crossfire Hurricane investigation.'" Doc. 265, at 20. The Corcoran Declaration also correctly quotes the request as seeking code names assigned to individuals. Doc. 265-1, at 6 n.2. Clearly any argument that Defendant deliberately altered the quotation is unsupported.

More significantly, the scrivener's error does not affect the substantive issue. The request was not for code names for every individual investigated in connection with Russia, the 2016 election, or any matter handled by personnel who worked on Crossfire Hurricane. It sought code names assigned "to any and all individuals **as part of the Crossfire Hurricane investigation**." That limiting language remains dispositive. The corrected quotation therefore does not undermine the FBI's argument or its prior searches. The Motion should be denied.

II. OXFERD COMMA and MARCH TOLL were separate investigative matters, even if they are related to Crossfire Hurricane.

Plaintiff repeatedly collapses the distinction between an investigation being related to Crossfire Hurricane, arising from information developed from Crossfire Hurricane, and actually being part of Crossfire Hurricane. *See e.g.* Doc. 269, at 5 (wherein he alleges the investigations

are not "separate… in any sense that matters to a FOIA search," which is, notably, a recognition of the very separation Plaintiff denies exists and is instead a challenge to the significance of the separation). Though those facts may establish relationships among investigations, they do not establish the investigations are the *same* investigation.

OXFERD COMMA and Crossfire Hurricane are separate investigations. Corcoran expressly acknowledges that the opening communication relied on criteria and information obtained during Crossfire Hurricane, Doc. 265-1, ¶ 10, and the response acknowledges that the information supplied a predicate for OXFERD COMMA, Doc. 265, at 10. But the same records establish that OXFERD COMMA was opened as a new investigative matter with its own investigative objective and its own case file. *See* Doc. 256-1, ¶ 10. The opening communication does not say that OXFERD COMMA was opened to *further* Crossfire Hurricane. These investigations can be related without being the *same* investigation. They are not the same.

Plaintiff belabors the Fourth Seidel Declaration, which explained that after a partial piercing of the FBI's initial *Glomar* response, RIDS consulted with personnel knowledgeable of "Crossfire Hurricane and related investigations" and conducted additional searches based on information obtained during those consultations within the aforementioned investigative records. Doc. 269, at 6. Plaintiff argues that the FBI previously treated a request regarding Crossfire Hurricane as reaching related investigations and cannot now decline to approach OXFERD COMMA and MARCH TOLL in a similar manner. But that disregards the context of the searches following the partial *Glomar* piercing.

Those searches resulted from a specific official acknowledgement that resulted in a partial piercing of the *Glomar* as to Page and Flynn, who had been assigned code names in connection with Crossfire Hurricane. Doc. 37-1, ¶¶ 43–44. The FBI conferred with Plaintiff, who agreed to

narrow his request to locate a single document for each individual containing the acknowledged code name. *Id.* ¶¶ 44–46. To locate records responsive to that narrowed request, RIDS consulted the personnel knowledgeable of Crossfire Hurricane and related investigations, and "[b]ased upon information provided," conducted searches using terms including, among others, "Page" and "Flynn." *Id.* ¶ 71.

Paragraph 71 of the Fourth Seidel Declaration does not do the work Plaintiff needs. It does not establish that every investigation related to Crossfire Hurricane is "part of" Crossfire Hurricane or must be searched whenever a FOIA request concerns Crossfire Hurricane. Instead, the sequences demonstrates the reasonableness of the FBI's approach—it searches potentially responsive repositories when the information available to FBI indicates that a search is reasonably likely to result in records responsive to the request. In 2021, the FBI, following consultation with knowledgeable personnel, identified investigative records that may have contained records responsive to Plaintiff's narrowed request, and it searched them.

This distinction answers Plaintiff's contention that the FBI searched "related investigations" when it chose to but refuses to do so now. The FBI has never contended that a related investigation should never be searched. Clearly, it can be. The relevant question for search adequacy under FOIA is whether the agency's search was reasonably likely to contain records responsive to the FOIA request. That basis existed for the search of Page/Flynn as set forth in the Fourth Seidel Declaration. But the FBI has determined that the basis does not exist to search the OXFERD COMMA and MARCH TOLL investigative files, which are not reasonably likely to contain records responsive to Plaintiff's FOIA requests.[1]

[1] MARCH TOLL is further removed: it arose from a Senate Judiciary Committee referral concerning then-Attorney General Sessions's confirmation-hearing representations regarding

The 2026 releases therefore do not transform Plaintiff's previously litigated theory concerning undisclosed code names into proof that the FBI's search methodology was inadequate. The Motion should be denied.

III. The Corcoran and Hammer Declarations are consistent regarding the prohibited-access files.

The Reply contends that the Corcoran Declaration contradicts the Second Hammer Declaration because Hammer stated that RIDS searches "include prohibited files," while Corcoran explains that when the underlying material is not electronically available, the file must be located and obtained for review. Doc. 269, at 8-10; Doc. 109-1, ¶ 8; Doc. 265-1, ¶ 17. There is no contradiction. Hammer addressed RIDS' ability to identify prohibited access materials through its search access; Corcoran added the next step when the underlying materials are maintained elsewhere. Importantly, the process is the same for whether a file is a prohibited file, restricted file, or a fully viewable file. Doc. 265-1, ¶ 17. Neither declaration took the position that every prohibited file is immediately viewable in Sentinel. The salient point is that prohibited access status does not prevent RIDS from identifying responsive matter and obtaining the underlying records where appropriate. *Id.* OXFERD COMMA and MARCH TOLL were not omitted because their files were prohibited or physically maintained; they were not repositories likely to contain responsive records. *Id.* ¶¶ 15. Plaintiff's argument fails to establish that the prior searches were inadequate or that the prior search rulings should be reconsidered.

Russian contacts. Doc. 265-1, ¶ 10. Plaintiff's cited connections do not make it part of Crossfire Hurricane and do not make it likely to contain responsive records.

IV. The corrected binder chronology does not establish search inadequacy.

Plaintiff is correct that Defendant stated the Crossfire Hurricane binder chronology too broadly. Although the Crossfire Hurricane binder did not exist during much of FBI's search efforts, it had been assembled prior to certain supplemental searches in 2021.

This correction doesn't affect the analysis. The FBI began searching in June 2020, conducted its CRS and Sentinel search in July 2020, and thereafter directed specific searches of FBI Headquarters, the Office of Public Affairs, and the Washington Field Office. Doc. 37-1, ¶¶ 36–65. By December 9, 2020, FBI informed Plaintiff that it completed the initial search and had identified approximately 20,000 pages of responsive material. Doc. 65, at 6 n.3. DOJ did not provide the later-assembled binder to the White House until December 30, 2020. Doc. 269, at 11.

The searches conducted afterward were supplemental, including the later code-name searches following the partial *Glomar* piercing discussed above. Doc. 37-1, ¶¶ 67, 71. Thus, the FBI's search methodology had largely been selected and executed prior to the binder's assembly. The binder's later existence does not retroactively render those searches unreasonable nor require the FBI to restart its processing and treat a later-compiled compilation—which Plaintiff possesses—as a new repository for the earlier requests.

Relatedly to the Crossfire Hurricane binder, the Reply also attacks the FBI's position regarding its response to Item 4 as if it were something new. It is not. In the Fifth Seidel Declaration, the FBI expressly explained that Item 4's request for records concerning "any other person or persons" involved in transferring DNC data to Wikileaks was too vague to permit a reasonable search under 28 C.F.R. § 16.3(b). Doc. 54-1, ¶ 18. Plaintiff challenged that position in his 2022 sur-reply. Doc. 65, at 13–14. The Court had the benefit of the Fifth Seidel Declaration

and the Parties' arguments when it concluded that the FBI had conducted a legally adequate search and awarded FBI summary judgment on that issue. Doc. 70, at 26.

Plaintiff later attempted to again obtain additional searches based on the same broad "any other person or persons" language. In rejecting that effort, the Court specifically referenced Paragraph 18 of the Fifth Seidel Declaration and its explanation regarding the fact the request failed to identify records with sufficient particularity to permit a reasonable search before denying Plaintiff's request for additional searches. Doc. 174, at 11-12. The binder's later publication, therefore, does not make the previously litigated search scope dispute new or provide a reasonable basis for reconsideration.

CONCLUSION

The Motion presents a significant practical choice. Plaintiff asks the Court to reopen years of search litigation, order new searches of investigative files and repositories, revisit prior evidentiary and *Glomar* rulings, require additional declarations and *Vaughn* processing, and to permit discovery or other extraordinary proceedings, all based principally on records that have become public after the searches at issue. The alternative is to apply the Court's prior rulings, resolve the cross-motions for summary judgment that are fully briefed and presently before it, and potentially bring this six-year litigation to a conclusion.

FOIA requires a reasonable search. It does not require a perfect search. It surely does not require perpetual litigation when later events provide a requester with a new theory to revisit what a court has already deemed a reasonable search. Plaintiff has supplied an insufficient basis to reopen the Court's search adequacy rulings, and the Motion should be denied.

Respectfully submitted,

JAY R. COMBS
UNITED STATES ATTORNEY

/s/ James Gillingham
JAMES GARLAND GILLINGHAM
Texas State Bar No. 24065295
james.gillingham@usdoj.gov
110 N. College, Suite 700
Tyler, TX 75702
(903) 590-1400
Fax: (903) 590-1436

COUNSEL FOR DEFENDANTS

CERTIFICATE OF SERVICE

I hereby certify that on November 19, 2026, a true and correct copy of the foregoing document was filed electronically with the court and has been sent to counsel of record via the court's electronic filing system.

/s/ James Gillingham
JAMES GILLINGHAM
Assistant United States Attorney