

UNITED STATES DISTRICT COURT  
NORTHERN DISTRICT OF NEW YORK

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UNITED STATES OF AMERICA,

Plaintiff,

v.

1:07-cv-0352

ROBERT L. SCHULZ;  
WE THE PEOPLE FOUNDATION FOR  
CONSTITUTIONAL EDUCATION, INC.; and  
WE THE PEOPLE CONGRESS, INC.,

Defendants.

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THOMAS J. McAVOY  
Senior United States District Judge

**DECISION and ORDER**

Defendants' move for reconsideration of the Court's August 9, 2007 Decision & Order that denied their motion to dismiss and granted Plaintiff's cross-motion for summary judgment. Defendants also move by Order to Show Cause seeking a stay of the judgment in this matter.

"The standard for granting [a motion for reconsideration] is strict, and reconsideration will generally be denied unless the moving party can point to controlling decisions or data that the court overlooked-matters, in other words, that might reasonably be expected to alter the conclusion reached by the court." Shrader v. CSX Transp., Inc., 70 F.3d 255, 257 (2d Cir. 1995); see also Polanco v. United States, 2000 WL 1346726, at \*1 (S.D.N.Y. September 19, 2000); Califano v. United States, 1998 WL 846779, at \*1 (E.D.N.Y. September 4, 1998). "The high burden imposed on the moving party has been established in order to dissuade repetitive arguments on issues that have already been considered by the court and discourage litigants from making repetitive arguments on issues that have been thoroughly considered by the court [and] to ensure finality and prevent the practice of a losing party examining a decision and then plugging the gaps of the lost motion with additional matters." Nowacki v.

Closson, 2001 WL 175239, \*1 (N.D.N.Y. Jan. 24, 2001) (Munson, J.) (internal citations and quotations omitted). Reconsideration “is not a vehicle for relitigating old issues, presenting the case under new theories, securing a rehearing on the merits, or otherwise taking a ‘second bite at the apple.’ “ Sequa Corp. v. GBJ Corp., 156 F.3d 136, 144 (2d Cir. 1998); see also Polanco, 2000 WL 1346726 at \*1 (quoting Schrader, 70 F.2d at 256) (Reargument is not a vehicle to “advance new facts, issues or arguments not previously presented to the court.”). The Northern District of New York “recognizes only three possible grounds upon which a motion for reconsideration may be granted: (1) an intervening change in controlling law, (2) the availability of new evidence not previously available, or (3) the need to correct clear error of law to prevent manifest injustice.” Nowacki, 2001 WL 175239, at \*1 (quoting In re C-TC 9th Avenue Partnership, 183 B.R. 1, 3 (N.D.N.Y. 1995)).

U.S. v. Li, 2006 WL 2375475, at \*1 (N.D.N.Y. 2006).

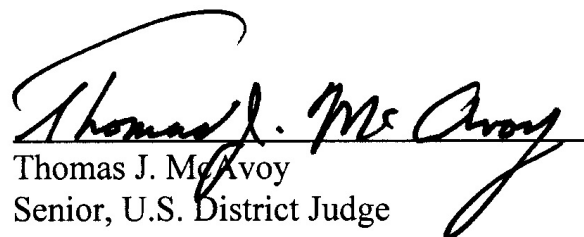
Upon reviewing Defendants’ motion, the Court finds that reconsideration is not warranted. Defendants’ motion consists of reassertions of the same arguments presented in connection with their motion to dismiss and their opposition to the government’s cross-motion for summary judgment and general disagreements with the Court’s conclusions. Defendants fail to identify any intervening change in controlling law, new evidence not previously available, or any need to correct clear error of law to prevent manifest injustice. Accordingly, the motion for reconsideration is DENIED.

Because the motion for reconsideration is DENIED, the motion to stay enforcement of the judgment pending reconsideration also is DENIED. The Court sees no basis upon which the injunction should be stayed pending an appeal. Defendants have not identified irreparable harm absent a stay; the harm to the United States and the public will continue and possibly grow if a stay is granted; Defendants have not demonstrated a substantial possibility of success on appeal; and the public interest (preventing a fraud on the public) compels against a stay. In re All Funds in Accounts in Names Registry Pub., Inc., 58 F.3d

855, 856 (2d Cir. 1995). Accordingly, the motion to stay enforcement pending appeal is DENIED. Defendants' request to file approximately 1,400 pages in support of their motion for reconsideration also is DENIED.

IT IS SO ORDERED.

Dated: August 23, 2007

  
Thomas J. McAvoy  
Senior, U.S. District Judge