

UNITED STATES

MAR 22 2017

FOREIGN INTELLIGENCE SURVEILLANCE COURT
John Flynn Hall, Clerk of Court

WASHINGTON, D.C.

IN RE OPINIONS & ORDERS OF THIS COURT
ADDRESSING BULK COLLECTION OF DATA
UNDER THE FOREIGN INTELLIGENCE
SURVEILLANCE ACT.

Docket No. Misc. 13-08

ORDER

Sua sponte and pursuant to Rule 49 of the Rules of Procedure of the United States Foreign Intelligence Surveillance Court (“FISC”), the undersigned requested that all Judges of the FISC be polled with respect to whether the question of constitutional standing decided in the January 25, 2017 Opinion in this matter should be reconsidered en banc. A majority of Judges voted in favor of en banc reconsideration on the ground that it is necessary to secure or maintain uniformity of the court’s decisions. *See* 50 U.S.C. §1803(a)(2)(A). Accordingly, it is

ORDERED that Movants and the United States each may submit one legal brief addressing the question of whether Movants established Article III standing notwithstanding that a First Amendment qualified right of access does not apply to the judicial opinions they seek.¹

¹ The January 25, 2017 Opinion addressed (1) whether Movants established constitutional standing and (2) whether the First Amendment provided a qualified right of access to the judicial opinions Movants sought. The conclusion that a First Amendment qualified right of access did not apply was consistent with prior FISC precedent and therefore does not pose a concern about uniformity that merits en banc reconsideration. As indicated in the January 25, 2017 Opinion, the First Amendment qualified right of access was the only ground on which Movants asserted standing. (Op. 40, Jan. 25, 2017.)

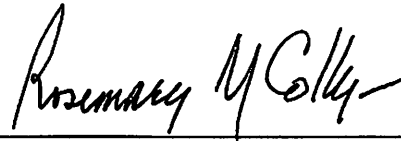
These legal briefs shall be filed no later than April 17, 2017 at 3:00 p.m. and shall be no longer than 20 pages in length. It further is

ORDERED that Movants and the United States each may submit one responsive brief that shall be filed no later than May 1, 2017 at 3:00 p.m. and shall be no longer than 7 pages in length.

The Court does not anticipate that oral arguments will be entertained.

IT IS SO ORDERED.

March 22, 2017



ROSEMARY M. COLLYER
Presiding Judge, United States Foreign
Intelligence Surveillance Court