

1  
2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25  
26  
27  
28

IN THE UNITED STATES DISTRICT COURT  
FOR THE NORTHERN DISTRICT OF CALIFORNIA

ELECTRONIC FRONTIER FOUNDATION,

Plaintiff,

No. C 08-01023 JSW

v.

OFFICE OF THE DIRECTOR OF  
NATIONAL INTELLIGENCE and  
DEPARTMENT OF JUSTICE,

**ORDER OF WITHDRAWAL OF  
REFERRAL AND SUGGESTION  
FOR CONSENT**

Defendants.

---

Now before the Court is the consolidated cross-motions for summary judgment in this case, and the related action, C 08-2997 JSW. The parties have briefed the legal issues relating to whether the withheld records fall within any of the exceptions to FOIA, 5 U.S.C. § 552(a)(4)(B), in their pending cross-motions for summary judgment. This action arises under the Freedom of Information Act (“FOIA”), 5 U.S.C. § 552. Plaintiff, the non-profit Electronic Frontier Foundation, seeks documents related to correspondence between Executive and Legislative Branch officials on the issues relating to crafting consensus legislation about foreign intelligence surveillance.

On August 7, 2009, this Court referred the review of whether the defendants properly withheld records regarding the Office of the Director of National Intelligence (“ODNI”) and the Department of Justice (“DOJ”) and their communications with members of Congress and congressional staffs and with telecommunications companies about proposed amendments to the Foreign Intelligence Surveillance Act (“FISA”) to a randomly-assigned magistrate judge to

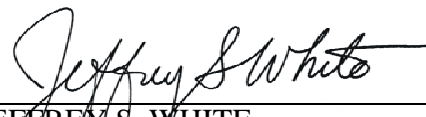
1  
2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25  
26  
27  
28

prepare a report and recommendation on the validity of the withholding of documents as addressed in the parties cross-motions.

Upon reconsideration, the Court withdraws the referral. *See* N.D. General Order No. 42. However, due to the congestion on the Court's calendar, the Court suggests that the parties consent to the jurisdiction of a magistrate judge for all purposes. The parties are under no obligation to consent, but may choose to do so, and may select a particular magistrate judge, if preferred. The parties shall file a notice by no later than August 21, 2009 indicating whether they consent to the jurisdiction of a magistrate judge for all purposes. Otherwise, the undersigned shall decide the outstanding cross-motions for summary judgment in due course.

**IT IS SO ORDERED.**

Dated: August 17, 2009

  
\_\_\_\_\_  
JEFFREY S. WHITE  
UNITED STATES DISTRICT JUDGE