

review Scully's motion again should the other defendants file for summary judgment and provide the Court with a fuller picture of the day's events.

Scully now argues that the Court overlooked his minimal participation in the search at issue.

DISCUSSION

A motion for reconsideration may be based solely upon "matters or controlling decisions which counsel believes the Court overlooked in the initial decision or order." Local R. Civ. P. 7(c)(1). Such a motion should be granted only where the Court has overlooked facts or precedents which might have "materially influenced" the earlier decision. Park South Tenants Corp. v. 200 Cent. Park South Assocs. L.P., 754 F. Supp. 352, 354 (S.D.N.Y. 1991). The movant's burden is made weighty to avoid "wasteful repetition of arguments already briefed, considered and decided." Weissman v. Fruchtman, 124 F.R.D. 559, 560 (S.D.N.Y. 1989).

In light of the evidence before the Court and construing the facts in favor of plaintiff as the non-movant, summary judgment is inappropriate at this time. Patterson v. County of Oneida, 375 F.3d 206, 218 (2d Cir. 2004). Scully's objections to the motion for reconsideration are based on the credibility of the evidence, specifically of the transcript and recording of the police communications provided by plaintiff. At this stage, however, the Court makes no credibility determinations and cannot choose between conflicting interpretations of the evidence if both are reasonable. See McClellan v. Smith, 439 F.3d 137, 144 (2d Cir. 2006).

In addition, Scully's new submissions do nothing to undermine the Court's conclusion regarding plaintiff's failure to intervene claim. See Anderson v. Branen, 17

