

**IN THE UNITED STATES DISTRICT COURT  
FOR THE EASTERN DISTRICT OF PENNSYLVANIA**

<b>UNITED STATES OF AMERICA</b>	:	<b>CRIMINAL ACTION</b>
	:	
vs.	:	
	:	
<b>ANDRE HENRY</b>	:	<b>NO. 06-33-01</b>
	:	

**ORDER AND MEMORANDUM**

**ORDER**

**AND NOW**, this 30<sup>th</sup> day of January, 2007, upon consideration of defendant's *pro se* Motion for Reconsideration of Motion to Dismiss Indictment for Prosecutorial Misconduct/Perjury Being Known and Grand Jury Abuse (Document No. 353, filed January 30, 2007), the Court, by Order dated January 3, 2007, having denied defendant's *pro se* Motion to Dismiss the Indictment for Prosecutorial Misconduct/Perjury Being Known and Grand Jury Abuse (Document Nos. 258 and 259, filed November 21, 2006), the prior decision of the Court having been based on the following:

1. Defendant's allegations of prosecutorial misconduct by "Presenting Known False Material Testimony to the Grand Jury and Grand Jury Abuse" pertain to testimony that was elicited as part of the initial Indictment that was issued on January 24, 2006, and not to the Superseding Indictment that was issued on October 24, 2006. (Def. Mot. at 1.)
2. Defendant's only allegations that pertain to the Superseding Indictment issued on October 24, 2006 are: (1) that the Superseding Indictment did not cure the defects in the initial indictment; and (2) that the Superseding Indictment evidences the

bad faith, prosecutorial misconduct, and severe prejudice that he suffered before the first grand jury. (See Def. Mot. at 1 of the Argument Section.)

3. Defendant has failed to establish prosecutorial misconduct, perjured testimony, presentation of false documents, or any other violations of law with respect to the Superseding Indictment.
4. Defendant has thus failed to meet the standard for dismissal of an indictment set forth by the Supreme Court in Bank of Nova Scotia v. United States, 487 U.S. 250, 256 (1988),<sup>1</sup>

and defendant having no new evidence that was unavailable when the Court denied the prior Motion, there being no intervening change in controlling law, and there being no need to correct a clear error of law or fact to prevent “manifest injustice,” **IT IS ORDERED** that defendant’s *pro se* Motion for Reconsideration of Motion to Dismiss Indictment for Prosecutorial Misconduct/Perjury Being Known and Grand Jury Abuse is **DENIED**.

#### **MEMORANDUM**

Three situations justify granting a motion for reconsideration: (1) an intervening change in the controlling law; (2) the availability of new evidence not available when the court dismissed the prior petition; or (3) the need to correct a clear error of law or fact or to prevent “manifest injustice.” Max’s Seafood Cafe v. Quinteros, 176 F.3d 669, 677 (3d Cir. 1999); Dimensional

---

<sup>1</sup> “[D]ismissal of the indictment is appropriate only if it is established that the violation substantially influenced the grand jury’s decision to indict, or if there is grave doubt that the decision to indict was free from the substantial influence of such violations.” Bank of Nova Scotia, 487 U.S. at 250 (citations omitted).

Music Publ., LLC v. Kersey, 2006 U.S. Dist. LEXIS 47488, 2006 WL 1983189, \*1 (July 12, 2006). “Because federal courts have a strong interest in the finality of judgments, motions for reconsideration should be granted sparingly.” Cont’l Cas. Co. v. Diversified Indus., Inc., 884 F. Supp. 937, 943 (E.D. Pa. 1995); see also Porter v. NationsCredit Consumer Discount Co., 2006 U.S. Dist. LEXIS 41947, 2006 WL 1737544, \*2 (E.D. Pa. June 22, 2006).

Defendant’s arguments in support of his Motion are little more than restatements of the arguments previously made in the Motion to Dismiss the Indictment which was denied by Order dated January 3, 2007. “A motion for reconsideration is not properly grounded on a request that a court consider repetitive arguments that have been fully examined by the court.” Blue Mountain Mushroom Co. v. Monterey Mushroom, Inc., 246 F. Supp.2d 394, 398 (E.D. Pa. 2002).

The arguments advanced in defendant’s Motion do not constitute a basis for reconsidering the Court’s Order of January 3, 2007. Accordingly, defendant’s *pro se* Motion for Reconsideration of Motion to Dismiss Indictment for Prosecutorial Misconduct/Perjury Being Known and Grand Jury Abuse is **DENIED**.

**BY THE COURT:**

/s/ Honorable Jan E. DuBois  
**JAN E. DUBOIS, J.**