

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

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In re: GRAND JURY SUBPOENA SERVED ON : M11-188 (JSR)
THE AMERICAN CIVIL LIBERTIES UNION :
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ORDER

JED S. RAKOFF, U.S.D.J.

By letter dated December 18, 2006, not submitted under seal, the Government withdraws its prior objection to the public disclosure of the letter briefs of the respective parties dated December 12, 2006 that were submitted to this Court earlier in this proceeding, as well as to the public disclosure of the transcript of the oral argument on December 11, 2006 that was tentatively filed under seal. Accordingly, the Clerk of the Court is directed to publicly file and docket the three letter briefs attached hereto (i.e., the two letter briefs dated December 12, 2006 and the Government's instant letter of December 18, 2006) and also to unseal and docket publicly the transcript of the oral argument of December 11, 2006. Hereafter, all filings in this matter will be presumptively public unless the Court, upon express application of one party or the other, orders otherwise.

As to the "Secret" document called for by the subpoena that is the subject of this dispute, the Government has now declassified the document and withdrawn the subpoena. On this basis, the Government asks the Court to declare moot the ACLU's motion to quash. The ACLU will have until midnight on Wednesday, December 20, 2006 to respond to this suggestion or to any other aspect of the Government's instant letter of December 18, 2006. As previously scheduled, the parties shall appear in Courtroom 14-B at 10 a.m. this Thursday, December 21, 2006, to address any remaining issues in this matter.

SO ORDERED.



JED S. RAKOFF U.S.D.J.

Dated: New York, New York
December 18, 2006