UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLUMBIA

GRANT F. SMITH

Plaintiff,

v. Civil No. 1:15-cv-00224 (TSC)

CENTRAL INTELLIGENCE AGENCY

Defendant.

PLAINTIFF'S MEMORANDUM IN OPPOSITION TO DEFENDANT MOTION FOR SUMMARY JUDGMENT, OPPOSITION TO DECLARATION OF ANTOINETTE B. SHINER AND DRAFT MOTION TO DENY

Plaintiff Grant F. Smith respectfully opposes Defendant Central Intelligence Agency's Motion for Summary Judgment (Doc 12). In support of this opposition, Plaintiff submits the following: its Memorandum in Opposition to Defendant Motion for Summary Judgment, Opposition to the Declaration of Antoinette B. Shiner, and a Proposed Order Denying Motion for Summary Judgment.

UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLUMBIA

GRANT F. SMITH

Plaintiff,

v. Civil No. 1:15-cv-01431

CENTRAL INTELLIGENCE AGENCY

Defendant.

MEMORANDUM IN OPPOSITION TO DEFENDANT MOTION FOR SUMMARY JUDGEMENT

The Defendant in this Freedom of Information Act (FOIA) case, the Central Intelligence Agency, insinuates that the Plaintiff's effort to seek judicial review of his request was in some way premature. The Defendant claims the CIA faithfully abides by FOIA processing statutes and Court precedent. The Defendant asserts that somehow fact that there is any such budget as intelligence support for Israel somehow remains a secret. It makes this bald claim even though the President of the United States—the CIA's own commander-in-chief as much as over all branches of the military—has higher declassification authority than the CIA and disclosed the existence of "unprecedented" intelligence support—ultimately funded by U.S. taxpayers. The Defendant mischaracterizes an important precedent set in the court-ordered disclosure of CIA budget line items as justification for keeping a shroud of secrecy over yet another budget line item of intense public interest. Public interest in the CIA budget for Israel exists because that budget under existing U.S. statutes (the Symington and Glenn Amendments) is illegal; much as clandestine CIA support

for the Nicaraguan Contras violated the Boland Amendments. The Defendant's invocation of a "Glomar" response and citation of FOIA exemptions are therefore unconvincing. The Defendant should be compelled to provide the information sought by the Plaintiff for *in camera* review and release.

The Defendant's invocation of the so-called Glomar response, though inappropriate, is oddly symbolic. The USNS Hughes Glomar Explorer was a ship built in 1971 under CIA's Project Azorian to recover the Soviet submarine K-129 which sank in 1968. The CIA spent $1.68 billion in a no-bid contract to build the massive, sole-purpose ship. Its cover story was that it would "extract manganese nodules" from the ocean floor. The nautical boondoggle ultimately failed. During an attempt to winch the K-129 to the surface, it broke up, and the most-sought items such as codebooks and nuclear missiles were lost. The vessel reflagged the GSF Explorer then roamed the seas like an albatross, searching for a buyer and new purpose. The massive amounts paid to build and sail the vessel were never recouped and in 2015 it was announced the ship would be sold for scrap. Subsequently CIA "boilerplate" refusals to properly respond to public interest FOIA requests about publicly known programs became known as "Glomar" responses. Essential details of Project Azorian were disclosed in the news media, starting with reporter Jack Anderson in the mid-1970's who claimed, "Navy experts have told us that the sunken sub contains no real secrets and that the project, therefore, is a waste of the taxpayers' money."[1] The CIA refused to release any of its own files about the failed operation until 2010.[2] However, given the history of Project

[1] Robarge, David (March 2012). "The Glomar Explorer in Film and Print" *Studies in Intelligence* 56 (1): 28–29.
[2] *Intelligence in Public Literature: The Glomar Explorer in Film and Print, CIA Website, posted May 2, 2012 https://www.cia.gov/library/center-for-the-study-of-intelligence/csi-publications/csi-studies/studies/vol.-56-no.-1/the-glomar-explorer-in-film-and-print.html*

Azorian, a "Glomar" response should be a red flag the possible existence of an illegal, ill-advised, failed or financially questionable operation that CIA wishes to cover up in order to avoid accountability.

The Plaintiff rejects the Defendant's insinuation that his resort to the court was somehow premature. In DCKT 12-1, the Defendant states "Plaintiff filed an administrative appeal on May 5, 2015, id., Ex. 3, which the CIA docketed on May 15, 2015, id., Ex. 4. On September 2, 2015, before the administrative appeal process was completed, Plaintiff filed this lawsuit." The Defendant obviously assumes that all administrative appeals are subject to however much time the CIA wishes to consume.

In fact, the CIA was required to make a "determination" on the merits of the FOIA appeal within 20 working days of receipt. 5 U.S.C. § 552(a)(6)(A)(ii). The agency must also "immediately notify the person making such request of the provisions for judicial review of that determination." The CIA did neither, and because it routinely fails to comply with FOIA deadlines, taking years to respond to relatively straightforward requests, reasonable efficiency gave the Plaintiff no choice other than to file suit given the pressing public interest concerns over the existence of a massive secret intelligence budget for Israel.

The Defendant claims that its Glomar response was appropriate, though admitting, "That said, the Glomar doctrine is not without limits, and a 'plaintiff can overcome a Glomar response by showing that the agency has already disclosed the fact of the existence (or nonexistence) of responsive records, since that is the purportedly exempt information that a Glomar response is designed to protect.'" (Dkt 12-1, pages 3-4)

The Defendant also cites the executive's insights into "what adverse effects might

occur as a result of public disclosure of a particular classified record." However, rather than exploring, or even more convincingly, submitting actual affidavits from the Executive (e.i., the U.S. President) the defendant submits low ranking agency official affidavits generically alleging potential harm to national security and advancing theoretical cases of such harm.

However, the ultimate authority over the CIA,"the executive," and the elected official to whom the CIA reports, has already determined that such information is releasable. This executive affidavit took the form of an August 5, 2015 presidential speech at American University. It may be consulted on the website of the White House.[3]

The President stated that his administration was providing unprecedented levels of military and intelligence assistance to Israel. The president—higher in the classification hierarchy than the CIA—did not apparently believe that openly acknowledging the existence of "unprecedented" intelligence support to Israel was in any way disclosing some great national secret. He even provided benchmarks for analysts to begin to independently estimate what amount the total secret—yet possibly illegal—intelligence budget might be.

The Defendant complains that this statement could not possibly signify "assistance in the form of budgetary support…whether there were line-items…and…which agency provided support." This is simply not a serious response. The Central Intelligence Agency, as the name implies, was created as the centralized authority for the conduct and coordination of intelligence activities. While it does not always succeed in this complicated mandate, it would, within the function of its mandate have ready access financial information about any "unprecedented" intelligence support to Israel readily available. To

[3] https://www.whitehouse.gov/the-press-office/2015/08/05/remarks-president-iran-nuclear-deal

assert otherwise, the Defendant would be claiming that the CIA is incompetent, and not really the "Central" agency it was set up to be.

The CIA appears to claims that it, not the president, is the only bona fide declassification authority, stating, "general Presidential statements do not waive CIA's ability to issue a Glomar response, even if they are on the same topic as that at issue." (Dkt 12-1 page 20) Perhaps the CIA feels it is advisable to impinge its own credibility by such denials even after clear and unambiguous presidential statements. The Court should take that under advisement in its assessment of good faith. The Plaintiff believes it is an exercise of bad faith.

However, it cannot be denied that whatever the Defendant believes or asserts, the CIA is not on par with the President on matters of declassification. The CIA unjustifiably labels to be secret matters of national security toward which all Americans must continue to exhibit a high level of deference. The information requested should be put into the public domain information because "…the President has the authority to declassify anything."[4] If the president publicly states that unprecedented levels of military and intelligence support are being provided to Israel, he has *de facto* declassified the existence of intelligence budget line items for support destined to Israel—because CIA is the agency responsible for coordinating that type of activity. CIA cannot credibly deny that budget line items exist, because the U.S. federal government is a budget-oriented entity. Because such a budget exists, its top line may be found in one or more CIA reports that can be redacted and released.

The President Barak Obama asserted his right to declassify information and this right

[4] Noah Shachtman, "Obama finally talks drone war, but it's almost impossible to believe him" Wired, September 6, 2012.

is underscored the declassification hierarchy within Executive Order 13526-Classified National Security Information:

"Sec. 1.3. Classification Authority.(a) The authority to classify information originally may be exercised only by: (1) the President and the Vice President; (2) agency heads and officials designated by the President; and (3) United States Government officials delegated this authority pursuant to paragraph (c) of this section."

Contrary to what the Defendant asserts, the Plaintiff need not have "pointed to any official documents in the public record which indicate that the CIA has previously confirmed or denied the existence of intelligence budget line-items supporting Israel." If the President states there is "unprecedented" intelligence support being provided it logically follows, given the current configuration of the U.S. federal government, that CIA has the information requested. The only remain question for the American public, many of whom believe such aid is illegal, are paying to provide such support.

The disclosure of the CIA's topline dollar amounts to Israel is a public interest matter that, since the President does not consider its existence a secret, should quickly lead to the disclosure of the requests dollar amounts for years 1990-2015. This was the path taken in court over the most applicable precedent, the release of the overall U.S. intelligence budget numbers.

The Defendant incorrectly states "In his complaint, Plaintiff points to two purported official acknowledgments by the CIA confirming or denying that there are intelligence budget line items supporting Israel. Neither one suffices." In fact, the Plaintiff pointed to one statement by a subordinate, the Director of Central Intelligence, on the need for

financial disclosure to the public it claims to serve. (DKT Document 12-1 page 18) The second statement was by a higher authority than the CIA, that is, the sitting U.S. president to whom CIA reports, and who retains a higher classification/declassification authority than any other entity.

The Defendant attempts to cast doubt on information the Plaintiff referenced in his original FOIA request, stating, "First, Plaintiff states: 'In 1996 Congressional testimony by then-Director of Central Intelligence John Deutch testified that 'the President is persuaded that disclosure of the annual amount appropriated for intelligence purposes will inform the public and not, in itself, harm intelligence activities.'" Compl. ¶ 5. Even assuming this is an accurate quotation – and there is no citation whatsoever – the assertion fails to pass official acknowledgement muster."

The Plaintiff graciously advises the Defendant of the confirmed existence of a global computing network known as "the Internet." A ten-second Google search quickly reveals, on the website of Congress.gov, that CIA Director Deutch in fact made the cited statement.[5] Moreover, the DCI went on to urge more financial transparency, given huge public doubts that the CIA was exercising proper custodianship over the tax dollars entrusted to it.

The Defendant splits hairs over whether Deutch's remarks about budgetary disclosure can be applied in this case. They can. As cited previously using polling data, Americans have grave concerns about the amount of foreign aid being provided to Israel, with most believing it is "too much." The plaintiff's FOIA request was, in fact for an aggregate intelligence budget, not for America, but for Israel, being funded by U.S.

[5] Intelligence Authorization Act for Fiscal Year 1997, US House of Representatives, May 22, 1996 https://www.congress.gov/congressional-record/1996/5/22/house-section/article/h5389-2

taxpayers.

The Defendant claims "Indeed, courts within this Circuit have held that the aggregate 'intelligence budget information relates to intelligence methods, namely the allocation, transfer, and funding of intelligence programs.' *Aftergood v. CIA*, 355 F. Supp. 2d 557, 562 (D.D.C. 2005) (internal quotation marks omitted)." This is a poor choice of citations because it proves precisely the opposite of what the Defendant contends. The lessons from *Aftergood v. CIA* are that such numbers can be—and in fact were—released because the public interest outweighed CIA theories of grave harm to national security advanced by its low level officials. Steven Aftergood published such CIA budget information extracted by court order at the Federation of American of American Scientists website. Americans could thereafter measure whether their dollars were being well spent in light of such fiascos as 9/11 and CIA intelligence used to justify, on the basis of nonexistent weapons of mass destruction, the invasion of Iraq. Aftergood's Freedom of Information Act lawsuit against the Central Intelligence Agency led to the declassification and publication of the U.S. government's total intelligence budget ($26.6 billion in 1997) for the first time in fifty years.

In addition to being illegal under the Symington and Glenn Amendments, the CIA's intelligence support to Israel must be massive and amount to billions of dollars. The public interest in understanding how such unpopular, and harmful, financial support for a major and ongoing espionage threat to the U.S. is being funneled through CIA outweighs any claims of harm to national security. Israel is dependent upon the United States, not the reverse.

In order for combined Obama administration intelligence and military support to

Israel to be "unprecedented" it must be assumed to surpass all previous highs. Year 2015 foreign aid to Israel, which was mostly military aid, was the highest single line item in the entire foreign aid budget amounting to $3.115 billion.[6] Without adjusting for inflation, the previous high was $4.999 billion in the year 1979, implying that the 2015 US intelligence support cited by President Obama and funneled through the CIA was at least $1.884 billion. ($4.999 billion previous high minus $3.115 billion 2015 aid). Or, if President Obama was referring to inflation-adjusted figures, U.S. intelligence support to Israel may have reached $13.205 billion ($4.999 billion in 2015 dollars inflation adjusted to $16.320 billion minus $3.115 billion).[7]

The Central Intelligence Agency has filed no proof of any interaction with its higher declassification authority, the U.S. President, in upholding its invocation of FOIA exemptions. The U.S. president has publicly put U.S. intelligence support for Israel on the table. The U.S. President's declassification authority outranks CIA's declassification authority. Following the precedent of *Aftergood v CIA*, the CIA should now either release the topline budget information requested, or submit affidavits from the Office of the President that such information, while confirmed to exist, cannot be released. The Defendant has done neither. Instead it submits allegedly authoritative assertions by CIA employees far down the hierarchical chain of command, while upholding the unconvincing—yet again, oddly appropriate from a historical standpoint—façade of Glomar.

Therefore, the court should deny summary judgement to the Defendant and obtain

[6] Jeremy Sharp, "U.S. Foreign Aid to Israel" June 10, 2015, page 29 https://www.fas.org/sgp/crs/mideast/RL33222.pdf

[7] Adjusted using the Bureau of Labor Statistics CPI Inflation Calculator http://data.bls.gov/cgi-bin/cpicalc.pl?cost1=4%2C999.00&year1=1979&year2=2015

and review *in camera* the requested information and release it to the Plaintiff.

UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLUMBIA

GRANT F. SMITH

Plaintiff,

v. Civil No. 1:15-cv-01431 (TSC)

CENTRAL INTELLIGENCE AGENCY

Defendant.

PLAINTIFF'S OPPOSITION TO DECLARATION OF ANTOINETTE B. SHINER, INFORMATION REVIEW OFFICER FOR THE CIA LITIGATION INFORMATION REVIEW OFFICE

Plaintiff Grant F. Smith respectfully opposes Defendant Central Intelligence Agency's declaration as inaccurate, irrelevant, out of compliance with FOIA statutes, vastly outranked by a higher classification authority, overly theoretical, improper citation of selective sections of Executive Orders, of little to no applicability to this action, of questionable veracity, incomplete and lacking proper reference to truly applicable sections of Executive orders.

1. Undisputed.
2. Undisputed.
3. Disputed/omissions. The Plaintiff urges the court to recognize that Shiner's classification authority does not outrank the authority of the President under Executive Order 13526. Neither does her authority, nor that of any CIA official even up to the level of Director of Central Intelligence, or DCI, outrank the authority of

the President. Failure to acknowledge this very relevant ordination is a grave omission.

4. Disputed/major omissions. The Plaintiff notes the Defendant's omission of the 1984 CIA Information Act §3141. Operational files of the Central Intelligence Agency, which institutionally the agency misrepresents and fails to comply with, even when ordered to do so by a court, as discussed later.
5. Undisputed.
6. Undisputed.
7. Disputed. The FOIA request actually solicited "a copy of the intelligence budget that pertains to line items supporting Israel."
8. Undisputed.
9. Disputed. This implies that the Plaintiff mentioned DCI John Deutch for the first time in his May 5, 2015 appeal. In fact, the Plaintiff referenced DCI Deutch's declaration in his original FOIA request on March 19, 2015. See the letters attached as exhibits in the original complaint filing.
10. Disputed. As the May 15, 2015 CIA acknowledgement reveals, the Defendant attempted to twist the FOIA request denial into an exercise to determine the applicability of a Glomar response, which was not what the Plaintiff asked for in his appeal. Specifically, the CIA's acknowledgement stated, "You are appealing our initial-level determination to neither confirm nor deny you material responsive to your request." The Plaintiff's May 5, 2015 appeal was silent on Glomar, as the Plaintiff did not then, nor does he now, have any doubt about the existence of a

budget due to declarations of a higher declassification authority (the U.S. President). However, the CIA acknowledgement did serve as an early warning that the Defendant was twisting the intent of the administrative FOIA case, and possibly intending to delay, necessitating litigation on the matter.

11. Disputed. A more accurate statement would be, "Statutorily, The Agency Release Panel had 20 working days, until June 15, to meet its obligations to respond to the FOIA request. The Agency Release Panel failed to meet its statutory obligations. Months later, the action was filed."

12. Disputed. Given the affirmation of a higher classification authority, the U.S. President, the Glomar response is inapplicable. The existence of CIA intelligence budget line items for Israel is undeniable. The only remaining question is how much is at the top line for the years requested. The Defendant cites a lower section of Executive Order 13526, (3.6 (a)) without acknowledging the clear authority the President to exercise a declassification of the "secret" of intelligence support to Israel, which he, in fact, exercised under Section 1.3, Classification Authority. Given the fact that such aid to Israel is illegal under Symington and Glenn Amendments to the Foreign Aid Act, another section of Executive Order 13526, 1.7 Classification Prohibitions and Limitations also applies. (a) In no case shall information be classified, continue to be maintained as classified, or fail to be declassified in order to (1) conceal violations of law, inefficiency, or administrative error."

13. Disputed. Given the fact that Israel is both a top aid recipient and Counter Intelligence threat to the United States (ranked by the intelligence community right

after China, Russia, and Iran[1], public accountability watchdogs are right to want to know how much support taxpayers are providing to a country that routinely steals critical national defense and industrial secrets from the United States. Also, the Defendant omits other activities in which it has engaged, such as MKULTRA, and an illegal torture program. These activities were carried out as clandestine programs. The CIA claimed divulging such program details would harm national security. In fact, the programs were illegal. Their disclosure represented a paving stone in the road to accountability. History reveals it was the CIA programs that were endangering national security, and not the disclosure of its secret programs. History teaches that disclosure of such activities is a far more important means to ensure national security (by preserving the confidence and informed consent of the governed) than unbroken decades of spurious secrecy.

14. .Disputed. While the CIA often tells courtrooms that it has *bona fide* review procedures in place, there are many examples of how the agency has destroyed, even after a court order mandating release, information it independently determined to be "bad news." Whether it ever employs the procedures it claims to use is an open question to the Plaintiff. (See Smith v CIA 1:185-cv-00224 dkt 18-1 for an elaboration on this subject). In the present case, the fact of record existence is academic, not a state secret.

15. The confirmation that the US provides intelligence aid to Israel has already been established. The disclosure of how much it actually is could jeopardize its

[1] Inside the 2013 U.S. intelligence 'black budget', word search "Israel", Top Secret National Intelligence document. http://apps.washingtonpost.com/g/page/national/inside-the-2013-us-intelligence-black-budget/420/

continuance, since it is illegal. Therefore, the true issue in this action is that by complying with FOIA and applicable Executive Orders, an illegal activity could be disclosed. This is because, as stated under Executive Order 13526, 1.7 Classification Prohibitions and Limitations, the CIA may not withhold the amount simply because it wishes to continue breaking the law. Keeping such numbers secret will eventually lead to disillusionment of the American public. This disillusionment over federal agency corruption and secrecy is the actual true long-term threat to national security.

16. Disputed. This hypothetical case, while not doubt constantly filed as helpful boilerplate in FOIA cases, does not apply to this action.
17. Disputed. Ibid.
18. Disputed. Evoking Glomar in the face of a clear factual Presidential declaration viewed by thousands of students and millions of TV viewers could not possibly build up CIA's credibility or views of its effectiveness. As stated in this filing, Glomar itself, a failed, no-bid intelligence boondoggle is a fine example of how more open government could be accountable when spending hundreds of millions on failed projects, the public oversight role intended by FOIA were honored.
19. Disputed. A higher classification authority outranks the CIA reviewer's determination.
20. Disputed. Using his authority under EO 13526 the U.S. President has made the existence of the records public. Previous courtroom determinations that topline budget numbers won't harm US national security, but could aid accountability, make this information releasable.

21. Disputed. In fact EO 13526 reveals how CIA's review is outranked. It also prohibits retention of material as "classified" when the only function of such secrecy is covering unlawful behavior and embarrassment.
22. Disputed. Outranked by the authority that declassified the existence of the data sought.
23. Disputed. EO 13526 reveals how CIA's determination is outranked. It also prohibits retention of material as "classified" when the only function of such secrecy is covering unlawful behavior and embarrassment.
24. Disputed. The Plaintiff has provided compelling information about which statutes the intelligence aid violates. The Defendant has essentially conceded this by failing to address the Plaintiffs citation of Symington and Glenn questioning how such intelligence aid could possibly be legal under the law. It is the Plaintiff's assertion that the secrecy over the topline budget is a function of a desire to continue violating the clear language of the Act. The court should not allow this charade to continue. It is the function of FOIA to allow citizens to obtain information to better understand and challenge such corruption.
25. Disputed. CIA's acknowledgement is immaterial, the President has already put the issue into the public domain, from which it cannot be retracted by the CIA.
26. Disputed. Covert operations may be a function many CIA employees and officials revere, but they are not the mission of the CIA. Providing actionable and accurate information is the mission of the agency. The CIA's own plainspoken website for children is authoritative on this point, as well as its subordinate position with respect

to the U.S. President: "The employees of the CIA provide intelligence (or information) to the President, the National Security Council, and all other government officials who make and carry out US national security policy. We do not make policy or even make policy recommendations. That's the job of the US executive branch, such as the State Department or the Defense Department. We provide these leaders with the best information possible to help them make policy involving other countries."[2]

27. Disputed. The Central Intelligence Agency, as DCI Deutch testified, benefits when its expenditures are well understood by those paying for its budget.

28. Disputed. Foreign adversaries can be trusted to assume and make their own judgements about intelligence support, perhaps as a percentage of military aid provided by the U.S. The release of numbers of a top counterintelligence threat (Israel), which possesses its own clandestine nuclear weapons arsenal made with knowhow and material stolen from the US, would allow the public to better understand the functions of government, and its failure to deal with the situation.

29. Disputed. Foreign liaisons with Israel, which is the country that matters in this action, are those of a patron to client. Israel provides nothing of value to the United States, as stated by one of the CIA's own top Middle East analysts, Michael Scheuer.[3] On the contrary, Israeli intelligence operations relentlessly plunder U.S. secrets while agitating for the U.S. to fight wars that are in the interest of Israel, but not the United States.

[2] Kids' Zone - Our Mission. "https://www.cia.gov/kids-page/6-12th-grade/who-we-are-what-we-do/our-mission.html"

[3] Joshua Cohen "I'd Dump the Israelis Tomorrow" *Times of Israel*, October 23, 2013 http://blogs.timesofisrael.com/id-dump-the-israelis-tomorrow-ex-cia-analyst-michael-scheuer/

In short, that the U.S. has something valuable at stake, that could be lost if the intelligence budget were publicly released, is entirely unconvincing to informed Americans.

30. Disputed. The United States provides national security assurances to Israel. Israel does not provide national security assurances to the United States. The U.S. "special relationship" with Israel was a major cause motivating the 9/11 terrorist attacks on America.[4] Threats to U.S. national security, therefore, are only heightened by secret, unlawful support advancing that relationship. Americans therefore have a right to know how many of their tax dollars are being put into a relationship that in fact threatens their national security.
31. Disputed. Overruled by Presidential declassification.
32. Disputed. Overruled by Presidential declassification.
33. Disputed. Overruled by Presidential declassification.
34. Disputed. As a relatively low level CIA functionary, Antoinette B. Shiner lacks the authority to overrule a de facto presidential declassification of the existence of the subject matter ought by the Plaintiff.

[4] What motivated the 9/11 hijackers? Congressional Testimony, 9/11 Commission Hearing. https://www.youtube.com/watch?v=J1bm2GPoFfg

UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLUMBIA

GRANT F. SMITH

Plaintiff,

v. Civil No. 1:15-cv-01431 (TSC)

CENTRAL INTELLIGENCE AGENCY

Defendant.

[PROPOSED] ORDER

Upon consideration of Plaintiff's Opposition to Defendant's Motion for Summary Judgment, it is hereby

ORDERED that Defendant's motion is DENIED

Dated

Judge_____