

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

In re Search Warrant dated November 5, 2021,

ANALISA TORRES, District Judge:

USDC SDNY
DOCUMENT
ELECTRONICALLY FILED
DOC #: _____
DATE FILED: 11/23/2021

21 Misc. 813 (AT)

ORDER

On November 19, 2021, Petitioners filed a motion seeking an order directing production of all affidavits that were submitted in support of the issuance of the search warrant dated November 5, 2021. ECF No. 33. Petitioners contend that the Government “affirmatively put[] the affidavits’ contents at issue” by referencing them in its memorandum in opposition to Petitioners’ motion for the appointment of a special master, and that Petitioners require the affidavits to file their reply briefing. *Id.* at 1. On November 22, 2021, Petitioners filed their reply, mooting this request. ECF No. 38. Nevertheless, the Court shall address Petitioners’ motion on the merits.

Petitioners have not shown that access to the affidavits is necessary for them to respond to the Government’s arguments. Even if they had, Petitioners “cite no precedent—and the Court is aware of no authority—for the proposition that the Fourth Amendment (or any other constitutional or statutory provision) gives a person who has not been charged a right to review a search warrant affidavit during an ongoing investigation.” *In re Search Warrants Executed on April 28, 2021*, No. 21 Misc. 425, 2021 WL 2188150, at *3 (S.D.N.Y. May 28, 2021). Here, the Government’s grand jury investigation is ongoing, and no one has been charged. Should those circumstances change, those named as defendants may seek production of the affidavits as part of discovery. *See* Fed. R. Crim. P. 12, 16.

Accordingly, Petitioners’ motion is DENIED. The Clerk of Court is directed to terminate the motion pending at ECF No. 33.

SO ORDERED.

Dated: November 23, 2021
New York, New York



ANALISA TORRES
United States District Judge