

IN THE UNITED STATES DISTRICT COURT FOR THE  
WESTERN DISTRICT OF MISSOURI  
WESTERN DIVISION

UNITED STATES OF AMERICA,            )  
  )  
  Plaintiff,            )  
  v.    )  
  )     No. 09-00296-02-CR-W-FJG  
ERIC BURKITT,                            )  
a/k/a “Little Eric,”                    )  
  )  
  Defendant.                            )

**GOVERNMENT’S SUGGESTIONS IN OPPOSITION  
TO DEFENDANT’S MOTION IN LIMINE TO PRECLUDE ANY REFERENCE  
BY THE GOVERNMENT TO THE CHARGES OF RAPE AND FORCIBLE  
SODOMY PRESENTLY PENDING AGAINST MR. BURKITT IN JACKSON  
COUNTY, MISSOURI**

The United States of America, in response to defendant Eric Burkitt’s motion in limine to preclude any reference by the government to the charges of rape and forcible sodomy presently pending against Mr. Burkitt in Jackson County, Missouri, states as follows:

The government does not intend to introduce evidence of pending rape and sodomy charges against defendant Burkitt in its case-in-chief. The alleged conduct in the state charges occurred after, and is not related to, the drug conspiracy that is charged in the federal indictment. However, the alleged victim in the rape case against defendant Burkitt is on the government’s witness list. Her ex-husband was a prospect of the Galloping Goose motorcycle club and she attended club “runs” and parties with him where illegal narcotics were distributed by the club to club members and their guests.

She will describe illegal drug use by club members, including by defendant Burkitt. If the defense attempts to delve into the rape charges on cross examination to establish bias and attack her credibility, then the government will seek to introduce evidence of the rape charges in order to show prior consistent statements to rebut allegations of recent fabrication under Federal Rule of Evidence 801(d)(1)(B).

WHEREFORE, for the foregoing reasons and authorities, the government respectfully requests the Court deny defendant's motion in limine to preclude any reference by the government to the charges of rape and forcible sodomy presently pending against Mr. Burkitt in Jackson County, Missouri.

Respectfully submitted,

Matt J. Whitworth  
United States Attorney

By */s/Daniel M. Nelson*

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**CERTIFICATE OF SERVICE**

The undersigned hereby certifies that a copy of the foregoing was delivered on December 4, 2009, to the CM-ECF system of the United States District Court for the Western District of Missouri for electronic delivery to all counsel of record.

*/s/Daniel M. Nelson*  
Daniel M. Nelson  
Assistant United States Attorney