

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

UNITED STATES OF AMERICA,)	
)	
Plaintiff,)	
)	
v.)	No. 09-00296-03-CR-W-FJG
)	
ROBERT E. STEWART,)	
)	
Defendant.)	

**GOVERNMENT’S RESPONSE TO DEFENDANT
STEWART’S MOTION TO SEVER COUNTS**

Comes now, the United States of America, by and through its undersigned attorneys, and responds to Defendant Stewart’s Motion to Sever Count One from Count Two Pursuant to Rule 8(a) of the Federal Rules of Criminal Procedure. Count One charges defendants Angell, Burkitt, Stewart, Cox, Larson, and Donkersloot, who are all members of the Galloping Goose and El Forstero motorcycle clubs, with a narcotics distribution conspiracy from January 1, 2002 to July 31, 2007. Count Two charges defendant Angell with threatening a witness in connection with law enforcement’s investigation and prosecution of that same narcotics conspiracy. Because they are connected with the same common scheme, the offenses in Counts One and Two are properly joined, and defendant's Motion should be denied.

Defendant argues that under Rule 8(a), Counts One and Two are improperly joined because the offenses charged in Counts One and Two are not: of the same or similar

character; based on the same act or transaction; based on two or more acts or transactions connected together; or constituting parts of a common scheme or plan. Defendant mistakenly proffers that the threats alleged in Count Two are based on a separate case, *United States v. William Eneff, et al.*, 07-CR-0020-CR-W-FJG. In fact, the *Eneff* case is a companion case to the current, above-captioned case. Because of the large number of putative defendants in the two motorcycle clubs, it was not practical for the government to charge all of the defendants in a single indictment. However, both indictments arise from the same conspiracy by club members from 2002 to 2007 to pool common funds to purchase methamphetamine, cocaine and marijuana. The drugs were distributed back to club members for use at certain “runs” the clubs held every year. In sum, the indictments allege that the defendants conspired to distribute over 500 grams of methamphetamine in violation of 21 U.S.C. §§ 841(a)(1), 841(b)(1)(A) and 846, which carries a mandatory 10-year minimum sentence.

Count Two in the instant indictment arose from an incident where Defendant Angell traveled to a witness’s home on August 31, 2009 and made verbal threats. The witness—a former member of the Galloping Goose Motorcycle Club—had been charged in the *Eneff* case and was cooperating in the prosecution of that case and in the ongoing investigation against Angell and his motorcycle club brothers. The ongoing investigation led to the instant indictment. At the time of the threats, the majority of the *Eneff* defendants had already entered guilty pleas and were awaiting sentencing. However,

other members of the motorcycle clubs (including Angell) knew that the investigation was ongoing and that additional indictments were possible.

Because Counts One and Two in the instant indictment arise from the same conspiracy by members of the Galloping Goose and El Forstero motorcycle clubs to distribute narcotics from 2002 to 2007, the offenses in Counts One and Two are properly joined and Defendant Stewart's motion should be denied.

Respectfully submitted,

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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 October 13, 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.

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