

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

UNITED STATES OF AMERICA,	)	
	)	
Plaintiff,	)	
	)	
vs.	)	05-00344-01-CR-W-ODS
	)	
GARY EYE,	)	
	)	
Defendant.	)	

**OBJECTIONS TO REPORT AND RECOMMENDATION TO DENY  
DEFENDANTS’ MOTION TO DISMISS COUNTS SEVEN AND EIGHT  
BASED ON FAILURE TO STATE AN OFFENSE**

COMES NOW Gary Eye (hereinafter “defendant”), by and through appointed counsel and pursuant to 28 U.S.C. §636(b)(1), respectfully files the following objections to the Report and Recommendation to Deny Defendant’s Motion to Dismiss Counts Seven and Eight (Document 57), with suggestions in support.

Defendant moved for dismissal on the theory that Count Seven is unconstitutional because of vagueness. Defendant also argues that it has been unconstitutionally applied in this case even if the general statute passes constitutional muster. Defendant Eye reasserts the same argument herein, adopts his prior arguments by reference, and submits that the Magistrate erred as a matter of law when he recommended denial of defendant’s motion to dismiss.

WHEREFORE, defendant moves the Court to reject the Magistrate’s R&R and grant defendant the relief sought in his motion.

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**CERTIFICATE OF SERVICE**

I hereby certify that a copy of the foregoing was caused to be emailed to David Ketchmark, Assistant US Attorney, WDMo, Kansas City, Missouri and other counsel in the case via the electronic document filing system on August 25, 2006

/s/  
JOHN R. OSGOOD