

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

UNITED STATES OF AMERICA,)	
)	
Plaintiff,)	
)	
v.)	Criminal Action No. 10-00320-12-CR-W-DGK
)	
DESHAUN L. CERUTI,)	
)	
Defendant.)	

MOTION TO DISMISS

COMES NOW Defendant DeShaun L. Ceruti, by and through counsel, and, pursuant to the Fifth Amendment to the United States Constitution, moves this Court for an Order dismissing the pending counts. In support thereof, Mr. Ceruti shows:

PROCEDURAL BACKGROUND

1. Mr. Ceruti is charged with conspiracy to distribute cocaine, crack cocaine and marijuana and conspiracy to conduct financial transactions involving proceeds of unlawful drug activity.
2. He currently is incarcerated while awaiting the trial of this matter.
3. On June 24, 2011, Mr. Ceruti filed a Motion to Suppress Evidence and Arrest. *See Document 267.*
4. The Government filed its response on July 11, 2011. *See Document 282.*
5. The Court heard evidence of the parties on August 10, 2011 and September 28, 2011, respectively. *See Documents 317 and 340.*
6. On October 5, 2011, the Magistrate filed his Report and Recommendations to Grant Defendant's Motion to Suppress Evidence. *See Document 347.*

7. Plaintiff filed the Government's Objections To Report And Recommendation Granting In Part Defendant's Motion To Suppress on October 18, 2011. *See Document 348.*
8. The District Court adopted the Magistrate's Report and Recommendation on October 28, 2011. *See Document 353.*

ARGUMENT

The Court should dismiss this cause against Defendant DeShaun Ceruti. As the evidence, which is the subject of the case herein, has been suppressed, Mr. Ceruti believes the Government has no further evidence to connect him to the charged drug conspiracy. There is physical evidence neither of possession with intent to distribute nor of conducting financial transactions using drug proceeds. There also are no admissions or statements by Mr. Ceruti or others that he possessed controlled substances with the intent to distribute them.

Any purported evidence in the possession of the Government is merely circumstantial. Mr. Ceruti's case is being tried with numerous co-defendants. The Government asserts that these co-defendants may be involved in the offenses to differing degrees. But based upon the fact that they are all tried together, Mr. Ceruti faces a substantial risk of being convicted and solely on circumstantial evidence. Mr. Ceruti requests that this Court dismiss this case to prevent injustice and to preserve his right to a fair trial.

WHEREFORE, Mr. Ceruti prays the Court will grant his Motion and order any further relief it finds fair and just.

Respectfully submitted,

/s/ Kelly M. Connor-Wilson

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CERTIFICATE OF SERVICE

I hereby certify that a true and accurate copy of the foregoing Motion was served on AUSA Bruce Rhoades and all defense attorneys of record by CM/ECF this 27th day of December, 2011.

/s/ Kelly M. Connor-Wilson
Kelly M. Connor-Wilson