

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

**UNITED STATES,
PLAINTIFF**

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NO. 10-00320-CR-W-DGK

V.

**MOHAMMAD ROLLIE,
DEFENDANT**

MOTION TO SEVER

_____ COMES NOW Defendant Mohammad Rollie, by and through counsel and pursuant to Rule 14 of the Federal Rules of Criminal Procedure hereby respectfully moves the Court to sever Defendant's trial from the trial of his co-defendant's and in support thereof states:

1. Defendant and 18 others were indicted on November 17, 2010 with Conspiracy to Distribute five kilograms or more of cocaine, fifty grams or more of cocaine base and one hundred kilograms or more of marijuana and, unlawful financial transactions.
2. During the course of the alleged conspiracy, January 1, 2006 and November 17, 2010, the police conducted numerous tactics to gather evidence, including surveillances, Title III wiretaps, confidential informants and other methods of scrutiny. These led to the production of nearly a thousand pages of discovery and at least 23 CD's of phone conversations.
3. Defendant Rollie was not identified or implicated as a suspect in this investigation by any of these techniques until June 1, 2010 when another eventual defendant, his half-brother, Deshaun Ceruti, who lives in St. Louis, was followed to Defendant Rollie's mother's house at 308 Spruce in Kansas City. Defendant Rollie was living

there and as the police were following Ceruti he backed into a closed garage door.

4. Defendant Rollie came out of the house to see what was happening and was arrested by the police.
5. Defendant Ceruti filed a Motion to Suppress with regard to that arrest and seizure. The Motion was granted on October 5, 2011.
6. Defendant Rollie filed a Motion to Suppress which was denied on February 15, 2012.
7. There have been no other acts or conversations identified that show Defendant Rollie acted in furtherance of the conspiracy.
8. FRCP 14 provides relief from prejudicial joinder and states that "if joinder of offenses or defendant in an indictment, an information, or a consolidation for trial appears to prejudice a defendant or the government, the court may order separate trials of counts, sever the defendants' trials, or provide any other relief that justice requires."
9. Since the government's evidence against Defendant Rollie is based on the activities at 308 Spruce, Kansas City on June 1, 2011, and Court has granted co-defendant Ceruti's Motion to Suppress his arrest and seizures on the same date, at the same time and same location it appears joinder not only prejudices Defendant Rollie, it appears to prejudice the government and co-defendant as well.
10. It would limit Defendant Rollie's availability to fully cross-examine witnesses, it would limit his ability to present a full defense and the paltriness of evidence against him would be hard for the jury to compartmentalize given the large volume of evidence against other defendants which would preclude Defendant Rollie from receiving individualized consideration and verdict.

11. Severance is appropriate in this type of case see United States v. Massa, 740 F.2d 629, 649 (8th Cir. 1994).
12. The Supreme Court suggested in Kotteakos v. United States, 328 U.S. 750, 772, 66 S. CT. 1239 (1946), that the convenience and possible efficiency of joint trials do not automatically trump the constitutional and historic protections afforded individual defendants.
13. Defendant Rollie' guilt or innocence should be based upon all relevant evidence and testimony against him and not upon the voluminous evidence and testimony against other defendants which bears insignificantly on Defendant Rollie.
14. The government's joinder of Defendant Rollie is highly prejudicial, does not promote efficiency as it could lead to multiple and confusing instructions and fundamentally violates Defendant's rights.

WHEREFORE Defendant Rollie prays this Court for it's Order severing him from the other defendants in this case and ordering a separate trial in this matter, and for other and further relief as the Court deems just.

Respectfully submitted,

/s/ Kurt Marquart
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ATTORNEY FOR DEFENDANT ROLLIE

CERTIFICATE OF SERVICE

I hereby certify that on February, 24, 2012 I electronically filed the foregoing with the Clerk of the Court by using the CM/ECF system which will send notice of electronic filing to all parties of record herein.

/s/Kurt Marquart
Kurt Marquart