

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

UNITED STATES OF AMERICA)
)
 Plaintiff,)
)
 v.) No. 08-00026-04-CR-W-FJG
)
 CHRISTOPHER L. ELDER,)
)
 Defendant.)

**DEFENDANT ELDER’S MOTION IN LIMINE FOR AN
ORDER PROHIBITING THE GOVERNMENT FROM
MENTIONING IN OPENING STATEMENT OR DURING
THE TRIAL THAT DEA AGENT WATTERSON QUERIED
THE INTERNET AND USED A SYSTEM CALLED
“AUTOTRACK XP” TO DETERMINE IF NAMES
APPEARING ON PRESCRIPTIONS WERE REAL EXISTING
PERSONS WITH SUGGESTIONS IN SUPPORT**

Discovery provided by the United States indicates that DEA Agent Watterson used a patient list believed to have been prepared by Defendant Solomon to query an online data base on the internet called “Autotrack XP” in an attempt to determine if certain individuals listed on the handwritten list were real existing persons. The report, dated January 10, 2007, indicates that Agent Watterson arrived at various conclusions about the individuals named on the list which she reduced to report form which she provided to the government for the truth of the matters asserted therein.

Defendant Elder objects to this evidence on grounds that the underlying data is unreliable hearsay, that any testimony by Watterson would be hearsay upon hearsay, that the database records are not valid business record under the hearsay rule, are not a public record of any type, and do not otherwise constitute evidence that is admissible under any theory of admissibility under the Federal Rules of Evidence.

Finally, Defendant would further object on grounds that if some tortured theory of evidence would allow these findings to find their way into the case, they are not admissible as to Elder and any probative value such evidence might arguably have is grossly outweighed by the prejudicial effect it would have on Elder. Doctor Elder did not write, authorize, or know of the existence of these scripts to begin with. This type of rank hearsay would further undermine his defense and cast a cloud over that defense resulting in severe prejudice to him.

WHEREFORE, Defendant Elder moves the Court for an order instructing the prosecutors not to illicit any such testimony from any witness in this case nor to mention it during voir dire, opening statement, or during any other proceedings conducted in the presence of the jury.

Respectfully submitted,

/s/

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CERTIFICATE OF SERVICE

I certify that a copy of this pleading has been caused to be served on the Assistant United States Attorney for Western District of Missouri and other ECF listed counsel through use of the Electronic Court Document Filing System on September 6, 2008.

/s/

JOHN R. OSGOOD