

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 FOR LEAVE TO FILE OUT OF TIME A MOTION TO SUPPRESS THE TESTIMONY OF WITNESS HEARN AS TO HER LAY IDENTIFICATION OF DEFENDANT’S PURPORTED HANDWRITING ON PHOTO COPIES OF PREVIOUSLY FAXED PRESCRIPTIONS ON DUE PROCESS GROUNDS THAT THE PROCEDURE USED BY THE DEA WAS UNCONSTITUTIONALLY SUGGESTIVE WITH SUGGESTIONS IN SUPPORT

On August 23, 2008, defendant Elder filed a motion to dismiss charges against Doctor Elder because of government misconduct. That motion has yet to be answered by the government or ruled by the Court (See Elder motion, Document #93). Further investigation into Hearn and the facts and circumstances surrounding her interview now causes defendant to believe that he now has a basis to file a motion to suppress the out-of-court identification of defendant’s handwriting by Hearn during that interview.

Defendant submits that this motion will not prejudice the government in any way or delay these proceedings inasmuch as the matter can be litigated at the same time that the court takes up the matters raised in Elder's pending motion to dismiss (See Doc. #93).

WHEREFORE, defendant Elder moves the Court for leave to file a motion to suppress on grounds stated above out of time.

/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 7, 2008.

/s/

JOHN R. OSGOOD