

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.)

**SUPPLEMENTAL CITATIONS OF AUTHORITY IN SUPPORT OF
DEFENDANT'S MOTION TO SUPPRESS THE SEARCH OF THE SOUTH
TEXAS WELLNESS CENTER**

The Court has scheduled argument for the morning of October 21, 2008, on the issue of defendant Elder's "standing" to litigate the legality of the search warrant served on the South Texas Wellness Center (STWC).

Defendant Elder will argue the following cases:

Rakas v. Illinois, 439 U.S. 128 (1978)
(proposition that "standing" is no longer a proper consideration and that cases must turn on the defendant's legitimate and reasonable expectation of privacy of the area or premises to be searched.

Minnesota v. Carter, 525 U.S. 83 (1998)
(affirms Rakas and reiterates that issue is privacy expectation and not legitimacy on the premises or necessity to even be on the premises).

O'Connor v. Ortega, 480 U.S. 709 (1987)
(recognizes that a physician even when discharged or placed on administrative leave still retains an expectation of privacy in files and file cabinets and other personal areas).

Defendant will argue that he was employed as a physician at

STWC; he proscribed treatment for patients while employed there part time; those records remained on the premises and are confidential and may not be disclosed without consent of the patient or transfer of the case to another physician with defendant's concurrence; those patient records remained in closed confidential files and file cabinets; defendant's patient records were a clear target of the search warrant; and, defendant had a reasonable expectation of privacy in those records and a belief that they would not be disclosed or turned over to anyone other than another physician or surrendered to the patient upon proper request.

WHEREFORE, defendant files his supplemental citations of authority and notice of his position he will argue.

Respectfully submitted,

/s/
John R. Osgood
Attorney at Law, #23896
Commercial Fed Bnk- Suite 305
740 NW Blue Parkway
Lee's Summit, MO 64086

Office Phone: (816) 525-8200
Fax: 525-7580

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 Monday, October 20, 2008.

/s/
JOHN R. OSGOOD