

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

UNITED STATES OF AMERICA,)	
)	
Plaintiff,)	
)	
v.)	Case No. 04:10-cr-00162-FJG
)	
THEODORE WIGGINS,)	
)	
Defendant.)	

**MOTION FOR LEAVE TO FILE, OUT OF TIME,
OBJECTIONS TO GOVERNMENT'S NOTICE OF INTENT TO OFFER RULE
404(b) EVIDENCE**

COMES NOW Defendant, Theodore Wiggins, by and through his undersigned attorney of record and for his Motion For Leave To File, Out of Time, Objections to Government's Intent to Offer Rule 404(b) Evidence, states to the court as follows;

1. This case was originally filed on May 10, 2010.
2. Presently before the court is a Second Superseding Indictment, filed June 07/2011.
3. Of the twenty five defendants in this case, Mr. Wiggins is the only defendant remaining for trial.
4. Theodore Wiggins is currently charged in a second superseding indictment with one count of conspiracy to distribute cocaine and cocaine base in violation of 21 U.S.C. §841(a)(1) and (b)(1)(A) (count 1); and knowingly and intentionally distribute cocaine base in violation of 21 U.S.C. §841(a)(1) and (b)(1)(C) (count 8).
5. Additionally, the government has filed two separate notices of intent

to use prior convictions to enhance punishment, pursuant to 21 U.S.C. §851. Therefore, Mr. Wiggins faces potential sentences up to life without parole.

6. On December 30, 2011 (DOC 573) the government filed its “Notice of Intent to Offer Rule 404(b) Evidence.
7. Due to oversight, Defendant’s counsel failed to file written objections to the government’s proposed Rule 404(b) Evidence.
8. Defendant has meritorious objections to the filing of the Rule 404(b) Evidence proposed to be offer by the government.
9. The attorney for the government has authorized the undersigned to inform the court that he has no objection to the granting of this request.
10. This case is anticipated to be set for trail on the June 4, 2012 accelerated trial docket.
11. This request is made in good faith and not in an attempt to delay the anticipated trial setting.
12. It is the belief of movant that the granting of this request will not prejudice the government.

WHEREFORE, Defendant, Theodore Wiggins, prays this court grant his request for leave to file his objections to the government’s proposed Rule 404(b) evidence.

Respectfully submitted,

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ATTORNEY FOR DEFENDANT,
Theodore Wiggins

CERTIFICATE OF SERVICE

I hereby certify that a copy of the above and foregoing was served electronically via the CM/ECF filing system, this 12th day of May, 2012, upon the following:

Brent Venneman, Assistant United States Attorney

Michael W. Walker