

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

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

**MOTION TO REQUIRE THE DEFENDANT
TO SUPPLY EXEMPLARS OF HANDWRITING AND PRINTS**

Comes now the United States of America, by John F. Wood, United States Attorney, and Rudolph R. Rhodes IV, Assistant United States Attorney, both for the Western District of Missouri and moves this Honorable Court for an order directing the defendant, Christopher L. Elder, to furnish exemplars of his handwriting and prints to agents of the Drug Enforcement Administration, for comparisons with questioned handwriting and prints to be used during the preparation for and during the trial of the above case.

The United States Supreme Court has stated that the Fifth Amendment privilege against self-incrimination offers no protection against compulsion to submit to fingerprinting, or against compulsion to write for identification. *Schmerber v. California*, 384 U.S. 757, 764 (1966). The Fifth Amendment protects only against compulsory production of testimonial evidence; it does not protect against compulsory production of real or physical evidence. Therefore, physical characteristics such as prints and handwriting are outside the protection of the Fifth Amendment. The concept that handwriting exemplars are physical characteristics not within the protection of the Fifth Amendment privilege against self-incrimination has been repeatedly stated by the

courts. *United States v. Euge*, 444 U.S. 707, 718 (1980); *Gilbert v. California*, 388 U.S. 263, 266-267 (1967); *United States v. Roth*, 466 F.2d 1111, 1114 (9th Cir.), *cert. denied*, 409 U.S. 1048 (1972).

Because there is no expectation of privacy in physical characteristics constantly exposed to the public, there are also no legitimate Fourth Amendment interests violated by the compulsory production of such characteristics. *United States v. Mara*, 410 U.S. 19, 21-22 (1973); *United States v. Dionisio*, 410 U.S. 1, 8-16 (1973). Therefore, the compulsory production of handwriting does not violate the Fourth Amendment as an unreasonable search and seizure. *Euge*, 444 U.S. at 718; *Mara*, 410 U.S. at 18; *Roth*, 466 F.2d at 1114.

The United States requests that defendant be ordered to provide these handwriting exemplars as soon as possible so that a forensic analysis can be completed in time for trial. Such analysis likely will take at least thirty days. The Government suggests that June 20, 2008 is a reasonable deadline.

For these reasons, the government prays that its motion be granted.

Respectfully submitted,

John F. Wood
United States Attorney

By /s/ Rudolph R. Rhodes, IV

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CERTIFICATE OF SERVICE

The undersigned hereby certifies that a copy of the foregoing was delivered on May 15, 2008, to the CM-ECF system of the United States District Court for the Western District of Missouri for electronic delivery to all counsel of record.

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