

**UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF TENNESSEE
AT CHATTANOOGA**

UNITED STATES OF AMERICA : **CASE NO. 1:08-cr-23**
:
v. :
:
WILLIAM HORACE (“BILLY”) LONG : **JUDGE MATTICE/LEE**
:

**MOTION FOR ORDER SETTING DATE BY WHICH
WITNESSES MUST COMPLY WITH SUBPOENA DUCES TECUM**

Comes the defendant, **WILLIAM HORACE (“BILLY”) LONG**, by and through counsel and respectfully moves the Court to enter an order requiring News Channel 9 Director Tom Henderson and Reporter John Madewell to comply with the subpoenas duces tecum and to produce the interview in advance of the sentencing hearing set August 18, 2008, allowing enough time for the defense and the Government to review fully the interview. The defendant will have subpoenas duces tecum for Tom Henderson and John Madewell issued and served on them today, May 7, 2008, for the entire footage (approximately 40 minutes) of the interview with the cooperating witness in this case, Rev. C. Eugene Overstreet, part of which was aired on News Channel 9 and Channel 11 on May 6, 2008, at 11:00 p.m. and 10:30 p.m and again this morning, May 7, 2008, on News Channel 9 in Chattanooga.

The defense has spoken with Tom Henderson who stated that they are preserving the raw footage of the interview but that New Channel 9 would not provide a copy to the defendant. The defendant submits that the interview is relevant because it contains information that will aid the Court, the Government, and the defendant at sentencing. This interview and statements by the cooperating witness, Mr. Overstreet, cannot be obtained by any other means. The interview is

believed to contain exculpatory evidence that would support a downward variance for sentencing entrapment or sentencing factor manipulation under current federal case law. If the full interview conducted of Mr. Overstreet by John Madewell is not preserved and turned over to the Court and parties, irreparable harm will be done to the defendant, and his Due Process rights will be violated . U.S. Const. Amend V. The defendant's attorneys believe that failing to request the preservation of this interview could result in the ineffective assistance of counsel under the Sixth Amendment of the United States Constitution.

Defense counsel contacted Assistant United States Attorney Gary Humble who stated that he could not participate in our request because of a policy of the United States Attorney General's Office and the Department of Justice not to take a position on matters involving First Amendment issues.

Defense counsel requests an immediate hearing relating to this issue.

Respectfully submitted,

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CERTIFICATE OF SERVICE

I hereby certify that on May 7, 2008, a copy of the foregoing pleading was filed electronically. Notice of this filing will be sent by operation of the Court's electronic filing system to all parties indicated on the electronic filing receipt. All other parties will be served by regular U.S. Mail. Parties may access this filing through the Court's electronic filing system.

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