

**UNITED STATES DISTRICT COURT  
WESTERN DISTRICT OF KENTUCKY  
AT LOUISVILLE**

**CRIMINAL ACTION NO. 3:06MJ-230  
UNITED STATES OF AMERICA,**

**PLAINTIFF,**

**vs.**

**STEVEN D. GREEN,**

**DEFENDANT.**

**MOTION TO PRESERVE EVIDENCE**

Comes the defendant, Steven D. Green, by counsel, and moves the Court pursuant to FRCrP 16(d)(1), its inherent power to compel the preservation of evidence in order to achieve the orderly and expeditious disposition of cases, and all other applicable law and authority to enter an order directing the United States to properly maintain and preserve all documents, records, information, and other evidence of any kind or nature—directly admissible or otherwise—which are in the possession, custody, or control of the United States, or which come into the possession, custody, or control of the United States, which could be potentially necessary or helpful to the proper resolution of the above-styled action, including, but not limited to:

1. Evidence of any kind or nature or records of information arguably subject to disclosure, discovery, inspection, or subpoena pursuant to FRCrP

6(e), 7(f), 16(a)(1), and 17.

2. Evidence of any kind or nature or records of information arguably subject to production or disclosure at trial pursuant to 18 U.S.C. §3500, FRCP 26.2, FRE 612 or 613(a).

3. Evidence of any kind or nature or records of information arguably favorable or useful to the defendant under the principles of Brady v. Maryland, 373 U.S. 83 (1963).

4. Evidence of any kind that can be tested scientifically. This includes any tissue and/or body fluid tested by the government as the result of any autopsy or similar government procedure conducted in accordance with this investigation.

The United States has no interest in the alteration or suppression of documents, records, information, and other evidence relevant or otherwise pertaining to this case and little or no interest in their destruction. The incidental and slight burden which might be imposed upon the government agencies involved by requiring them to retain intact the above described evidence until such time as defendant or the Court have had an opportunity to inspect same is manifestly outweighed by defendant's substantial interest in a fair trial.

Defendant also moves the Court to require the United States to provide his counsel with a list of all documents, records, information, or other evidence of any kind or nature relevant or otherwise pertaining to this case which has been destroyed or otherwise altered in any form or manner for whatever reason prior to the filing of this motion, including but not limited to, rough notes of interviews, reports, memoranda, subpoenaed documents, and other

documents. The authority for this request is United States v. Agurs, 427 U.S. 97 (1976); Giles v. Maryland, 386 U.S. 66 (1967); and Brady v. Maryland, *supra*.

/s/ Scott T. Wendelsdorf  
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Counsel for Defendant.

**CERTIFICATE**

I certify that a copy of the foregoing motion was served on the United States by mailing and telefaxing same to its counsel of record, Brian Butler, Esq., and Marisa J. Ford, Esq., Assistant United States Attorneys, Tenth Floor, Bank of Louisville Building, 510 West Broadway, Louisville, Kentucky 40202, this 11th day of July, 2006.

/s/ Scott T. Wendelsdorf