

**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.**

**REPLY TO RESPONSE OF THE UNITED STATES TO  
DEFENDANT’S MOTION TO PRESERVE EVIDENCE**

Comes the defendant, by counsel, and for his reply to the response of the United States to his motion to preserve evidence says as follows:

Defendant is satisfied with the government’s representation to the Court that it “recognizes and honors its obligation to preserve and disclose to the defense any discoverable evidence or material in its possession, custody or control, in compliance with all applicable procedural rules and federal common law.” (R. 18 United States Response to Defendant’s Motion to Preserve Evidence, p. 1). The government’s response goes on to specifically assure counsel and the Court that 1) it will comply with its obligations under Fed. R. Crim. P. 16, as well as Fed. R. Crim. P. 6(e), 7(f), and 17 “if and to the extent circumstances arise under which the United States must provide evidence or information . . . under any of these rules,” *Id.*, at 2; 2) it “understands and abides by its disclosure obligations” under 18 U.S.C. §3500 and the principles of *Brady v. Maryland*, 373 U.S. 83 (1963), *Id.*, at 3; 3) it intends to “preserve items having actual evidentiary value, to the extent that those items would not be

destroyed or consumed by any scientific tests which might be conducted by the government,” Id.; 4) it will “preserve ‘material evidence’ ‘that might be expected to play a significant role in the suspect’s defense,” as required by California v. Trombetta, 467 U.S. 479, 488 (1984), Id.; 5) it will “not intentionally destroy or discard any item having evidentiary value within its possession, custody, or control, or which would constitute exculpatory evidence to which the defendant is entitled,” Id., at pp. 3-4; and 6) the Court may presume that any agent of the United States, whether military or civilian, will properly discharge their official duties regarding the preservation of records, documents and evidence.

Defendant accepts the representations of the United States in good faith and, in light of same, agrees that his motion may be overruled as moot.

/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 same to its counsel of record, Marisa J. Ford, Esq., Assistant United States Attorney, Tenth Floor, BB&T Bank Building, 510 West Broadway, Louisville, Kentucky 40202, and Brian D. Skaret, Esq., Attorney, Domestic Security Section, Criminal Division, United States Department of Justice, 950 Pennsylvania Avenue N.W., Washington, D.C. 20530, all this 29th day of August, 2006.

/s/ Scott T. Wendelsdorf