

IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF TENNESSEE
WESTERN DIVISION

UNITED STATES OF AMERICA,)
)
 Plaintiff,)
)
vs.) No. 02-20356-BV
)
WILLIAM HOLLAND,)
)
 Defendants.)

ORDER GRANTING NONPARTY AEGIS SCIENCES CORPORATION'S
MOTION TO QUASH

Before the court is the October 5, 2004 motion of nonparty Aegis Sciences Corporation ("Aegis") to quash a subpoena issued pursuant to Rule 17(c) of the Federal Rules of Criminal Procedure to direct Dr. David Black to produce certain documents and items related to this criminal case. This motion was referred to the United States Magistrate Judge for a determination. For the following reasons, the motion is granted.

On September 14, 2004 the undersigned magistrate judge issued an order granting the defendant's motion to issue a subpoena duces tecum to Dr. David Black of Aegis. On October 4, 2004, the defendant, William Holland, caused a subpoena to be served on Aegis. Aegis promptly filed a motion on October 5, 2004 contending that the subpoena was improper and should be quashed.

Pursuant to Local Criminal Rule 12.1, responses to motions in

criminal cases are required to be filed within eleven days of the service of the motion if a party opposes the motion. Holland has failed to respond to Aegis's motion, and the time for response has expired. Local Rule 12.1 further provides that "[f]ailure to file a response will constitute a waiver of any objections which the party may have to a motion."

In the absence of any response by the defendant, it is assumed that Holland has no opposition to the motion and any objections he might have had to the motion are waived. Accordingly, Aegis's motion to quash the subpoena is granted.¹

IT IS SO ORDERED this 29th day of October, 2004.

DIANE K. VESCOVO
UNITED STATES MAGISTRATE JUDGE

1 Aegis is a nonparty in this criminal action. Thus, Aegis's motion to quash could be considered a civil miscellaneous matter governed by the Federal Rules of Civil Procedure. However, even if the motion is governed by the Rules of Civil Procedure, the court would reach the same conclusion. Pursuant to Local Rule 7.2(a)(2), responses to motions in civil cases are to be filed within fifteen days after service of the motion. Holland has not filed a response to this motion, and the time for responding has now expired. Rule 7.2(a)(2) further provides that "[f]ailure to respond timely to any motion, other than one for requesting dismissal of a claim or action, may be deemed good grounds for granting the motion."