

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

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UNITED STATES OF AMERICA,            )  
                                          )  
                  Plaintiff,            )  
                                          )  
vs.                                        )  
                                          )  
WILLIAM HOLLAND,                    )  
                                          )  
                  Defendants.            )

No. 02-20356-B

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ORDER GRANTING AEGIS SCIENCES CORPORATION'S  
MOTION TO QUASH SUBPOENA

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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 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.

Holland failed to file a response to this motion and the time

for filing expired. On October 29, 2004 the undersigned magistrate judge granted the non-party's motion to quash subpoena. On November 4, 2004 Holland filed a motion to reconsider the magistrate judge's order claiming that he was unaware that a response was necessary. Holland's request was granted on the same day. A response to the motion to quash was filed on November 12, 2004.

Although this court previously granted Holland's motion for leave to issue a Rule 17(c) subpoena, the court must now change its position in light of facts which were unknown to the court at the time. In Holland's motion for issuance of a subpoena, he failed to inform the court that Aegis had already provided him with over 280 pages of documents concerning the procedures used in testing the samples at issue in this case. Aegis CEO and president, Dr. David Black, asserts that by producing this information he was following standard and routine procedure customarily adhered to by laboratories around the country.

After a review of these documents, the court finds that Aegis has produced all the information that Holland reasonably needs to prepare for trial. Further review shows that many of the documents subpoenaed by Holland were included in what Dr. Black refers to as the 'litigation support package.' This package of information includes, but is not limited to, 1) operating procedures; 2) chain

of custody forms for the samples in the case; 3) quality control records; and 4) all test data, including calibration curves and calculations used in determining testing results.

In light of the 'litigation support package' attached by Aegis to its motion to quash, the court finds that the documents provided by Aegis are sufficient to allow Holland to prepare for trial. Accordingly, Aegis Sciences Corporations motion to quash the subpoena is granted.

IT IS SO ORDERED this 14th day of December, 2004.

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DIANE K. VESCOVO  
UNITED STATES MAGISTRATE JUDGE