

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

UNITED STATES OF AMERICA,)
)
 Plaintiff,)
)
vs.)
)
WILLIAM NEVILLES,)
)
 Defendant.)

ORDER ON DEFENDANT'S MOTION FOR *FRANKS* HEARING AND TO COMPEL
DISCLOSURE OF CONFIDENTIAL INFORMANT

Defendant William Nevilles has been indicted on one count of being a felon in possession of a firearm in violation of 18 U.S.C. § 922(g), one count of possession with intent to distribute crack cocaine in violation of 21 U.S.C. § 841, and one count of carrying, using, and possessing a firearm during a drug trafficking crime in violation of 18 U.S.C. § 924(c). On August 3, 2004, Nevilles, by and through his attorney, filed a motion to compel the government to disclose the identity of a confidential informant and for a *Franks* hearing. The motion was referred the next day to the United States Magistrate Judge for hearing and/or determination.

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. The

government has failed to respond to the 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 government, it is assumed that the government has no opposition to the motion and any objections it might have had to the motion are waived. Accordingly, Nevilles' motion to compel the identity of the confidential informant is granted, and this matter is set for a *Franks* hearing on Thursday, September 9, 2004, at 10:00 a.m. in Courtroom #5, Federal Building, Memphis, Tennessee 38103.

IT IS SO ORDERED this 19th day of August, 2004.

DIANE K. VESCOVO
UNITED STATES MAGISTRATE JUDGE

In the absence of any objection by the government, defendant's motion for order compelling return of property is granted. The government is directed to return the computer and computer disks seized from E & J Enterprises, 3845 Viscount, Suite 3, and 3835 Viscount, Suite 8, Memphis, Tennessee 38118, on September 28, 1992, to the defendant James D. Robinson, Jr. within ten days of the date of this order.

IT IS SO ORDERED.

DIANE K. VESCOVO
UNITED STATES MAGISTRATE JUDGE

Date: _____