

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF LOUISIANA

UNITED STATES OF AMERICA

CRIMINAL NO. 07-103

VERSUS

SECTION "L" MAG. (5)

JAMES G. PERDIGAO

VIOLATION: 18 USC 1341, 1344,
2314, 1957 & 2, 26 USC 7201 &
7206 (1)

**MOTION FOR LEAVE AND INCORPORATED MEMORANDUM TO FILE REPLY
MEMORANDUM OF DEFENDANT JAMES G. PERDIGAO RELATIVE TO THE
MOTION FOR CONSIDERATION**

NOW INTO COURT, through undersigned counsel, comes the defendant herein, James G. Perdigo, and moves for permission of the Court to file the attached Reply Memorandum of Defendant James G. Perdigo Relative to the Motion for Reconsideration for the reason that the Court has not permitted oral argument on the motion and defendant proposes in the interest of a full vetting that his reply be allowed.

Respectfully submitted,

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s/ William F. Wessel
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**ATTORNEYS FOR DEFENDANT
JAMES PERDIGAO**

CERTIFICATE OF SERVICE

I hereby certify that on **September 9, 2008** I electronically filed the above and foregoing pleading with the Clerk of Court by using the CM/ECF system which will send a notice of electronic filing to counsel registered with the court for receipt of pleadings by e-mail. I also certify that the foregoing and all attachments thereto have been served on all counsel of record by facsimile, electronic mail and/or by depositing same in the United States Mail, properly addressed and postage prepaid, this 9th day of September, 2008.

s/ William F. Wessel
WILLIAM F. WESSEL (8551)

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF LOUISIANA

UNITED STATES OF AMERICA

CRIMINAL NO. 07-103

VERSUS

SECTION "L" MAG. (5)

JAMES G. PERDIGAO aka Jamie Perdigao

VIOLATION: 18 USC 1341, 1344,
2314, 1957 & 2, 26 USC 7201 &
7206 (1)

ORDER

Considering the foregoing,

IT IS ORDERED that the attached Reply Memorandum of Defendant James G. Perdigao
Relative to the Motion for Reconsideration be filed.

New Orleans, Louisiana, this ____ day of September, 2008.

UNITED STATES DISTRICT JUDGE

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF LOUISIANA

UNITED STATES OF AMERICA

CRIMINAL NO. 07-103

VERSUS

SECTION "L" MAG. (5)

JAMES G. PERDIGAO aka Jamie Perdigao

VIOLATION: 18 USC 1341, 1344,
2314, 1957 & 2, 26 USC 7201 &
7206 (1)

**REPLY MEMORANDUM OF DEFENDANT JAMES G. PERDIGAO
RELATIVE TO THE MOTION FOR RECONSIDERATION**

MAY IT PLEASE THE COURT:

THE HISTORY OF THE RECUSAL MOTION

The government glosses over the history of the issue of recusal, which, when it was first brought up by the defendant at a status conference so as not to surprise anyone, the Court suggested that the proposed motion be firstly delivered to the government and then to be discussed at a subsequent status conference before filing same. As expected, at the subsequent status conference, the government requested the Court to require the defendant to file same under seal.

The Court refused to comply with the government's request to file the motion under seal and instructed the defendant to file same in the record and also since it had an opportunity to know exactly what was at issue, set a date for an evidentiary hearing.

In anticipation of the evidentiary hearing, the government filed two memoranda opposing the motion for recusal as well as the evidentiary hearing although the Court had already ordered an evidentiary hearing. Thereafter, the Court ordered the defendant to furnish a list of witnesses who would be called at the evidentiary hearing and show what the witnesses would testify to and the nexus between such testimony and the defendant's contentions. The government was also ordered to reply thereafter with its witnesses, etc. (R. Doc. 110).

Although the government never identified any witnesses that it intended to call, and simply challenged the nexus of the proposed testimony of defendant's 24 witnesses, and filed no motion for a reconsideration of the Court's previous ruling that an evidentiary hearing would be held, and in public, the Court went ahead on the next status conference date, June 6, 2008, without notice to the defendant, at least, took up the merits of the government's previously denied objection to a public evidentiary hearing and decided the matter on the papers rather than in compliance with Fed.R.Crim.P. 12.

The government now contends that the Court should not entertain the defendant's motion for reconsideration because of some "Strict and Rare Standard," yet the government fully expected and the Court complied with the government's oblique request for reconsideration without even setting it for a hearing. The government has no constitutional rights involved. The

defendant does. And the one right (besides the right to a fair prosecution) is the right to be heard and not to be bushwhacked.

“RARE” DOES NOT MEAN “NEVER”

Because the government does not want the embarrassment of a public hearing on its mishandling the case against the defendant and its desire to protect its star witness in the Governor Edwards trial, it cites to the jurisprudence which concludes that it is a rare event to recuse an entire prosecutor’s office.

Defendant has shown through an eleven (11) page listing of witnesses and their proposed testimony the unusual circumstances surrounding the activities of the hierarchy and lower levels of the U.S. Attorney’s office as well as a complete inability of that office to fulfill the responsibilities of fairness and objectivity required by law in the face of serious allegations of criminal wrongdoing and ethics violations.

The defendant argues that it is rare to find an office so involved in such activity and therefore has outlined the testimony in detail of the witnesses.

The government has not even denied what the defendant contends its own employees would testify, e.g. Letten, Mrs. Mann, Harper, Perricone and Mann, let alone the other federal law officials and not least the co-conspirators Robert Guidry and the Adams and Reese Law Firm.

For the foregoing reasons, the Court should reevaluate its Order and Reasons entered on July 9, 2008 which reversed its previous determination to hold an evidentiary hearing on the defendant's motion for recusal and its denial of the defendant's motion for recusal.

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s/ William F. Wessel

WILLIAM F. WESSEL (8551)