


FILED

MAY 22 2012

**CLERK, U.S. DISTRICT COURT
EASTERN DISTRICT OF CALIFORNIA**
BY  **DEPUTY CLERK**

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IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF CALIFORNIA

UNITED STATES OF AMERICA,

Plaintiff,

v.

FELIPE SOLIS,

Defendant.

CASE NO. 2:12-cr-0079 MCE

**MOTION FOR LEAVE TO
ISSUE RULE 17(c) SUBPOENA
REQUIRING PRODUCTION OF
DOCUMENTS IN ADVANCE OF TRIAL;
ORDER**

The government wishes to obtain prior to trial certain cellular telephone records from Sprint/Nextel which may be introduced at trial. From looking at the cell phone records of other coconspirators, the requested records may be some of the phones used by the defendant during the period of the charged conspiracy and may be admissible evidence at trial. Based on witness information the defendant frequently changed phone numbers and probably used prepaid phones (which don't require authentic subscriber information). Obtaining these records in advance of trial will allow an analysis to determine their relevance, if any.

When trial subpoenas are used to obtain records in advance of trial, Rule 17(c)(1), F.R.Crim.P., anticipates leave of Court before the subpoena issues:


(1) In General. A subpoena may order the witness to produce any books, papers, documents, data, or other objects the subpoena designates. The court may direct the witness to produce the designated items in court

1 before trial or before they are to be offered in evidence. When the items
2 arrive, the court may permit the parties and their attorneys to inspect all or
3 part of them.

4 Here, the trial has been scheduled for October 29, 2012, and the proposed subpoena directs that
5 the records (most likely in electronic format) be delivered to the government by June 30, 2012. This
6 will allow the review and analysis of the records. Defense counsel is aware of this request and a copy
7 of the material will be given to defense counsel upon receipt. Therefore it is requested that the
8 government be given leave of Court to issue the attached subpoena.

9 Dated: May 16, 2012

BENJAMIN B. WAGNER
United States Attorney

10 /s/Richard J. Bender 
11 By: RICHARD J. BENDER
12 Asst. U.S. Attorney

13 **ORDER**

14 It is so Ordered,
15 this 16 day of May, 2012

16 
17 **GREGORY G. HOLLOWS**
18 GREGORY G. HOLLOWS
19 U.S. Magistrate Judge
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