

**UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF TENNESSEE
AT KNOXVILLE**

UNITED STATES OF AMERICA

v.

No. 3:00-CR-00
judge

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EX PARTE MOTION FOR SUBPOENA DUCES TECUM

FILED UNDER SEAL

Comes the Defendant, 000000000000, through counsel and pursuant to Fed. R. Crm. Pro. 17(c), and United States v. Nixon, 418 U.S. 683 (1974), and respectfully moves the Court for an Order directing that a subpoena *duces tecum* be issued for service on the witness as set forth herein to produce records forthwith, on the grounds that the production of the records are constitutionally necessary in this case to provide effective assistance of counsel and so that the defendant may present a defense at the trial of this matter. The defendant also requests that the Court set a date within thirty (30) days of granting this motion at which time production of the subpoenaed documents shall be produced.¹

00000000000000 is requesting that a subpoena *duces tecum* issue for the following person:

Subpoena Duces Tecum

**John Smith
100 Main Street
Knoxville, TN 37902**

The witness should produce the following in its original format:

¹ The Defendant requests that this date be at least sixty (60) days prior to the Defendant's reciprocal discovery deadline on 0000000000.

1. *Payroll records for xxxxxxxxxxxx*
2. *Federal and State tax filings for xxxxxxxxxxxx*
3. *Daily financial audit/reconciliation forms for xxxxxxxxxxxxxxxxx;*
4. *Daily individual debit/credit card payment receipts from xxxxxxxxxxxxxxx*
5. *Daily merchant services terminal reports for xxxxxxxxxxxxxxxxx;*
6. *Personnel files including W-2 and 1099 forms for xxxxxxxxxxxxxxxxx;*
7. *All correspondence with the ???????????*

In support of this Motion, 00000000000 would show as follows:

1. 000000000000 is charged in Count One of the Indictment with violating 21 U.S.C. §§ ??????????.
2. Count One alleges that 000000000000 conspired with XXXXXXXX to distribute ??????????.
3. The government will argue at trial that _____ was ??????????.
4. The government has indicated that it will call a number of former xxxxxx employees as witnesses at trial. The government will attempt to elicit testimony that 0000000000 ??????. The government will call expert witnesses and other witnesses to establish that ??????????/.
5. Finally, the government will argue at trial that ??????????.
6. WWWWW was responsible for maintaining all the records requested herein. The requested records were physically present at ??????? after the execution of a federal search warrant at ??????. 000000 is unable to obtain these records from any other source as these were the only existing copies. In short, these records are not otherwise available despite the exercise of due diligence.

7. Undersigned counsel is seeking to obtain the records requested in the subpoena *duces tecum* to establish a number of defenses at trial. It is anticipated that these records will assist the defense in showing that ??????????. It is anticipated that these records will assist in establishing that ??????????. It is anticipated that these records will establish that 000000000 required all ??????????. These records will assist in showing that 000000000 followed and complied with the ??????????. These records will show that 000000000000000 appropriately and truthfully ??????????. Finally, these records will assist in impeaching witnesses at trial.
8. The Court should also be aware that all of the documents requested herein are the property of 000000000 ???????? and that all the documents requested herein were removed from 000000 without permission and without authority.
9. The documents are needed immediately for trial preparation. 000000 is not able to prepare for trial without production and inspection of the records well in advance of trial. 0000000000 respectfully suggests that the failure to order the production of these records will delay the trial unnecessarily.
10. This Motion is made in a good faith attempt to prepare this matter for trial and to investigate all possible defenses on behalf of 00000000. This request has been made with specificity and was a targeted request based on known evidentiary issues that will be presented at trial. This motion is not being made in order to harass or delay.

Respectfully submitted on June 10, 2020.

s/Robert R. Kurtz
Robert R. Kurtz

BPR No. 020832
422 S. Gay Street, Suite 301
Knoxville, TN 37902
865-522-9942
rrkurtz@gmail.com