

Henderson Adam

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May 8, 2012

VIA EMAIL

David W. Ellis
Office Of The Speaker
160 North LaSalle Street
Suite N-600
Chicago, Illinois 60601

Re: Representative Derrick Smith

Dear Mr. Ellis:

If you have not already done so, please include in the record a current copy of the court docket for the Representative Derrick Smith matter. Among other things, the docket indicates that a complaint was filed against the Representative on March 12, 2012. Of course, an investigation regarding the Representative was started prior to the complaint being filed, as disclosed in the complaint itself.

More importantly, I am enclosing a copy of a letter dated April 10, 2012 to Magistrate Nan R. Nolan from United States Attorney Patrick J. Fitzgerald. According to the letter, both material and false information was given to Magistrate Nolan by the Government. The letter indicates that the Government learned about the materially false information "on April 6 and April 9, 2012," yet it delayed telling the Magistrate until April 10, 2012, which, not coincidentally, is the same day that the Representative was indicted. This development raises several issues, including whether the Government met its burden of honesty and integrity with the Court, the Representative and the public by not sharing this information until after it indicted Mr. Smith.

David W. Ellis
May 8, 2012
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In this content, we encourage the Special Investigating Committee to obtain *all* relevant information in connection with its investigation before making decisions or rendering opinions. We anticipate that there will be other critical information similar to the knowledge that the Government chose not to disclose until after the fact, which will affect how this case is viewed in Springfield and in Court. We intend to provide you with that additional information as it becomes available.

Very truly yours,

HENDERSON ADAM, LLC

A handwritten signature in black ink, appearing to read "Victor P. Henderson", written in a cursive style.

Victor P. Henderson

VPH:le

Enclosures



U.S. Department of Justice

United States Attorney
Northern District of Illinois

J. Gregory Deis
Assistant United States Attorney

Dirksen Federal Building
219 South Dearborn Street, 5th Floor
Chicago, Illinois 60604

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April 10, 2012

HAND DELIVERY

Hon. Nan R. Nolan
219 S. Dearborn, Room 1858
Chicago, IL 60604

Re: *U.S. v. Derrick Smith, 12 CR 175*


Dear Judge Nolan:

This letter provides the Court with notice of two inaccurate statements in the March 12, 2012 affidavit of Special Agent Bryan Butler in the above-referenced case, which the government discovered on April 6 and April 9, 2012, respectively. On page 3, footnote 1, the affidavit states: "CS-1 has one prior arrest for domestic assault, but no convictions." According to NCIC, CS-1 actually has two prior convictions: (1) a 2004 drug conviction for which CS-1 was sentenced to probation; and (2) a 1978 burglary conviction for which CS-1 was sentenced to probation, as well as approximately 20 prior arrests, including, but not limited to, arrests for burglary, theft, theft by deception, drug offenses, and a weapons charge. On page 3, footnote 1, the affidavit further states: "Over the past 3-4 years, CS-1 has received approximately \$1,200 from the FBI for his/her assistance in other investigations." According to FBI internal records, over the past 3-4 years, CS-1 received approximately \$2,100 from the FBI for his/her assistance in other investigations.

Very truly yours,

PATRICK J. FITZGERALD
United States Attorney

By:



J. Gregory Deis
Assistant United States Attorney

cc: Victor P. Henderson, Esq. (Counsel for Derrick Smith)
330 South Wells Street, Suite 1410
Chicago, Illinois 60606

NOLAN

**United States District Court
Northern District of Illinois - CM/ECF LIVE, Ver 5.0.3 (Chicago)
CRIMINAL DOCKET FOR CASE #: 1:12-cr-00175-1**

Case title: USA v. Smith

Date Filed: 04/10/2012

Assigned to: Honorable Sharon Johnson
Coleman

Defendant (1)

Derrick Smith

represented by **Samuel E. Adam**
Henderson Adam, LLC
330 South Wells Street
#1410
Chicago, IL 60606
(312)262-2900
Email: attysamadamjr@yahoo.com
LEAD ATTORNEY
ATTORNEY TO BE NOTICED

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Pending Counts

CONVERTS TO OWN USE PROPERTY OF
ANOTHER
(1)

Disposition

Highest Offense Level (Opening)

Felony

Terminated Counts

None

Disposition

Highest Offense Level (Terminated)

None

Complaints

18:666A.F CONVERTS TO OWN USE
PROPERTY OF ANOTHER

Disposition

Plaintiff

USA

represented by: Pretrial Services

435-5545

Email:

ilnptdb_Court_Action_Notice@ilnpt.uscourts.gov

*LEAD ATTORNEY**ATTORNEY TO BE NOTICED***Probation Department**

408-5197

Email: Intake_Docket_ILNP@ilnp.uscourts.gov

*LEAD ATTORNEY**ATTORNEY TO BE NOTICED***Gregory J Deis**

United States Attorney's Office (NDIL)

219 South Dearborn Street, Suite 500

Chicago, IL 60604

*LEAD ATTORNEY**ATTORNEY TO BE NOTICED*

Date Filed	#	Docket Text
03/12/2012	<u>1</u>	COMPLAINT signed by Honorable Nan R. Nolan as to Derrick Smith (1). (vcf,) (Entered: 03/15/2012)
03/12/2012	<u>2</u>	MOTION by USA to seal complaint, affidavit, and arrest warrant as to Derrick Smith. (vcf,) (Entered: 03/15/2012)
03/12/2012	<u>3</u>	MINUTE entry before the Honorable Nan R. Nolan: Enter order granting Government's motion to Seal Complaint, Affidavit, and Arrest Warrant. Mailed notice (vcf,) (Entered: 03/15/2012)
03/12/2012	<u>4</u>	ORDER as to Derrick Smith Signed by the Honorable Nan R. Nolan on 3/12/2012.Mailed notice (vcf,) (Entered: 03/15/2012)
03/12/2012	<u>5</u>	MINUTE entry before the Honorable Nan R. Nolan: Warrant for arrest to issues as to Derrick Smith. Mailed notice (vcf,) (Entered: 03/15/2012)
03/13/2012	<u>6</u>	MINUTE entry before the Honorable Nan R. Nolan: Initial Appearance proceedings held. Defendant appears in response to arrest on 3/13/2012. Defendant informed of his rights. Defendant waives his right to preliminary examination. Enter a finding of probable cause; Order defendant bound to the District Court for further proceedings. Case ordered unsealed. Mailed notice (vcf,) (Entered: 03/15/2012)
03/13/2012	<u>7</u>	ORDER Setting Conditions of Release as to Derrick Smith in amount of \$ 4,500. OWN RECOGNIZANCE Signed by the Honorable Nan R. Nolan on 3/13/2012.Mailed notice (vcf,) (Entered: 03/15/2012)
03/13/2012	<u>8</u>	APPEARANCE Bond as to Derrick Smith in amount of \$ 4,500. (vcf,) (Entered: 03/15/2012)
04/03/2012	<u>9</u>	ATTORNEY Appearance for defendant Derrick Smith by Victor P. Henderson (Henderson, Victor) (Entered: 04/03/2012)
04/03/2012	<u>10</u>	ATTORNEY Appearance for defendant Derrick Smith by Samuel E. Adam (Adam, Samuel) (Entered: 04/03/2012)
04/04/2012	<u>11</u>	MINUTE entry before the Honorable Nan R. Nolan: At the request of Pretrial Services and no

		objection from the Government or Defendant's counsel, the Court here by modifies defendant's Conditions Of Release only as follows: Pretrial Services supervision is hereby removed, as it does not appear warranted. Mailed notice (lxs,) (Entered: 04/04/2012)
04/10/2012	<u>12</u>	INDICTMENT as to Derrick Smith (1) count(s) 1 (yap,) (Entered: 04/11/2012)
04/10/2012	<u>13</u>	DESIGNATION Sheet: FELONY (Category 3). (yap,) (Entered: 04/11/2012)
04/10/2012	<u>14</u>	MINUTE entry before the Honorable Susan E. Cox as to Derrick Smith (1): To set preliminary bail at \$4,500.00 and that the defendant be allowed to sign own recognizance bond. (yap,) (Entered: 04/11/2012)
04/11/2012		Judge update in case as to Derrick Smith. Judge Honorable Nan R. Nolan no longer assigned to case. (jn,) (Entered: 04/11/2012)
04/13/2012	<u>16</u>	NOTICE of Arraignment as to Derrick Smith before Honorable Sharon Johnson Coleman on 4/30/2012 at 11:00 AM. in courtroom 1425.(yap,) (Entered: 04/13/2012)
04/30/2012	<u>17</u>	MINUTE entry before the Honorable Sharon Johnson Coleman as to Derrick Smith (1): Arraignment held on 4/30/12. Defendant Derrick Smith waives formal reading of the indictment and enters a plea of not guilty to the indictment. 16.1(a) conference to be held by 5/9/12. Pretrial motions to be filed by 5/9/12. Status hearing is set for 5/16/12 at 9:45 a.m. The Court finds that time is excluded from 4/30/12 through and including 5/16/12, pursuant to 18 U.S.C. 3161(h)(7)(A)(B), in the interest of justice. Same bond to stand. Mailed notice (yap,) . (Entered: 04/30/2012)
05/03/2012	<u>18</u>	MOTION by USA for discovery as to Derrick Smith <i>Agreed Motion Pursuant to Local Criminal Rule 16.1</i> (Deis, J.) (Entered: 05/03/2012)
05/03/2012	<u>19</u>	NOTICE of Motion by J. Gregory Deis for presentment of motion for discovery <u>18</u> before Honorable Sharon Johnson Coleman on 5/9/2012 at 09:45 AM. (Deis, J.) (Entered: 05/03/2012)

PACER Service Center			
Transaction Receipt			
05/06/2012 09:16:40			
PACER Login:	sa3905	Client Code:	Derrick Smith
Description:	Docket Report	Search Criteria:	1:12-cr-00175
Billable Pages:	2	Cost:	0.20