

UNITED STATES DISTRICT COURT  
DISTRICT OF MINNESOTA

UNITED STATES OF AMERICA,	)	Criminal No. 16-334(1) (JNE/KMM)
	)	
Plaintiff,	)	
	)	<b>MOTION FOR GOVERNMENT</b>
v.	)	<b>AGENTS TO RETAIN ROUGH</b>
	)	<b>NOTES AND EVIDENCE</b>
PAUL R. HANSMEIER,	)	
	)	
Defendant.	)	

The defendant, Paul R. Hansmeier, by and through his undersigned attorney, pursuant to Title 18, United States Code, Section 3500 *et. seq.*, Brady v. Maryland, 375 U.S. 83 (1963), and Rule 16 of the Federal Rules of Criminal Procedure, moves the Court for an Order requiring any law enforcement agent, including any confidential reliable informants, to retain and preserve all rough notes taken as a part of their investigation, whether or not the contents of such rough notes are incorporated in official records. In addition, defendant moves for an Order directing any and all officials involved in this case to preserve the evidence seized in the course of their investigation.

Because this is a motion for preservation and not discovery, we ask that the Court address it now, outside of the normal timeframe for pretrial motions.

Defendant so moves on the following grounds:

1. Rough notes are considered statements within the common sense meaning of Title 18, United States Code, Section 3500(e)(1); United States v. Bernard, 607 F.2d 1257 (9th Cir. 1979); United States v. Gaston, 608 F.2d 607 (5th Cir. 1979);

2. Destruction of rough notes by law enforcement officials usurps the judicial function of determining what evidence must be produced. United States v. Harris, 543 F.2d 1247 (9th Cir. 1976);

3. The rough notes may contain facts favorable to the defense.

4. The evidence seized is directly relevant to issues ranging from defendant's guilt or innocence to sentencing considerations. Its inspection and use as provided for under Rule 16(c) of the Federal Rules of Criminal Procedure, will be rendered impossible if is altered or destroyed.

This motion is based on the indictment, the records and proceedings herein, and any briefing which the court may require thereafter.

Dated: January 4, 2017

Respectfully submitted,

*s/Andrew H. Mohring*

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