

UNITED STATES DISTRICT COURT
DISTRICT OF MINNESOTA
Criminal No. 06-97 (MJD/JJG)

UNITED STATES OF AMERICA,)
)
)
Plaintiff,)
) **UNITED STATES' MOTION**
v.) **TO DISMISS THE INDICTMENT**
)
CHRISTOPHER WILLIAM SMITH,)
)
)
Defendant.)

The United States of America, by and through its attorneys Rachel K. Paulose, United States Attorney for the District of Minnesota, and Nicole A. Engisch, Assistant United States Attorney, hereby moves the Court to dismiss the indictment in this matter, Criminal No. 06-97 (MJD/JJG).

Rule 48(a), Federal Rules of Criminal Procedure, provides that the United States Attorney may dismiss an indictment by leave of the Court. In United States v. Jacobo-Zavala, 241 F.3d 1009 (8th Cir. 2001), the Eighth Circuit analyzed a District Court's authority to grant authority to dismiss an indictment. "[C]ourts have recognized two circumstances in which the district court may deny leave to dismiss an indictment: when the defendant objects to the dismissal, and when dismissal is clearly contrary to the manifest public interest. Id. at 1011, citing United States v. Gonzalez, 58 F.3d 459, 461 (9th Cir.1995); United States v. Hamm, 659 F.2d 624, 629 (5th Cir.1981); In re Richards, 213 F.3d 773,

786-87 (3d Cir.2000) ("refusal to dismiss is appropriate only in the rarest of cases").

In this case, the United States' interests have been sufficiently addressed through the sentencing in a related case, United States v. Christopher William Smith, Criminal No. 05-282(1) (MJD/JJG). Dismissal of this indictment is in the interests of justice.

Dated: August 17, 2007

Respectfully Submitted,

RACHEL K. PAULOSE
United States Attorney

s/Nicole A. Engisch

BY: NICOLE A. ENGISCH
Assistant U.S. Attorney