

UNITED STATES DISTRICT COURT  
DISTRICT OF MINNESOTA  
No. 05-CR-282 (MJD/JJG)

United States of America, )  
)  
Plaintiff, )  
)  
vs. )  
)  
Christopher William Smith (1), )  
)  
Defendant. )

**MOTION FOR A NEW TRIAL**

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Defendant Christopher William Smith, by and through his undersigned attorney, Lisa Lodin Peralta, hereby moves the Court for a new trial pursuant to Federal Rule of Criminal Procedure 33.

In support of that motion, Defendant asserts the following grounds:

1. The Court erred by allowing an unqualified “expert” to testify to the prevailing standards of medical practice in the United States; this testimony was the only evidence concerning prevailing standards.
2. The Court erred by instructing the jury to consider prevailing standards of medical practice in the United States as having to be satisfied in order for a prescription to be valid when there was no qualified testimony concerning such practice.
3. The Court erred by refusing to instruct the jury that a good-faith reading of CFR 1306.04 could support an acquittal.
4. The Court erred by refusing to instruct the jury that the seminal question of fact was whether the prescriptions in issue were issued in the usual course of Dr. Mach’s practice rather than in the usual course of the prevailing standards of medical practice in the United States.

WHEREFORE, Defendant Christopher William Smith respectfully requests the Court grant his motion for a new trial.

Dated: November 28, 2006

/s/ Lisa Lodin Peralta

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