

UNITED STATES DISTRICT COURT
DISTRICT OF ALASKA

UNITED STATES OF AMERICA,)	
)	
Plaintiff,)	3:06-cr-00022 JWS
)	
vs.)	ORDER FROM CHAMBERS
)	
ROBERT F. KANE, and)	[Re: Motions at 184 and 203]
SECURITY AVIATION, INC.,)	
)	
Defendants.)	
)	

At docket 184, defendant Robert F. Kane (“Kane”) asks the court to preclude any testimony from government witness Gary Schaible (Schaible). Kane contends that the United States plans to call Schaible as an expert witness to testify that the rocket launchers Security purchased had to be registered, even though Schaible has not been disclosed as an expert witness and did not even examine the rocket launchers. Kane also objects to testimony about the registration of rocket launchers by other persons or entities.

At docket 203, defendant Security Aviation, Inc. (“Security”) moves for an order precluding testimony from Schaible that rocket launchers, other than those purchased by Security, have been registered. Security does not object to any other aspect of what it understands will be Schaible’s testimony.

The government filed a combined response at docket 263, which is under seal. In its response, the United States explains that it will not elicit expert testimony from Schaible regarding whether the rocket launchers purchased by Security were required to be registered. Rather, it will call him only to provide a testamentary vehicle for setting

out for the jury's consideration the regulations which govern the registration of certain firearms.

Upon reviewing the United States' letter replying to correspondence from defense counsel attached in support of the motion at docket 184, the court concludes that Kane's motion was an overreaction. What the United States now says will be Schaible's testimony is entirely consistent with the description given in the correspondence. Most importantly, that testimony does not touch upon the primary concern articulated in the motion at docket 184.

In its response at docket 263, the United States also has indicated that it will not elicit any testimony from Schaible respecting registration of rocket launchers by others. This moots the only concern raised by Security and the remaining concern raised by Kane. Given the limited nature of the testimony which will actually be elicited from Schaible, the motions at dockets 184 and 203 appear to be tilting at windmills.

For the reasons above, the motions at dockets 184 and 203 are **DENIED** as moot.

DATED this 14th day of May 2006 at Anchorage, Alaska.

/s/
JOHN W. SEDWICK
UNITED STATES DISTRICT COURT JUDGE