

IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF WISCONSIN

UNITED STATES OF AMERICA,

Plaintiff,

ORDER

v.

05-CR-168-S

JOSE GAMA-GONZALEZ,

Defendant.

On December 20, 2005 defendant, by counsel, filed a motion to suppress statements and motion for an evidentiary hearing. Defendant accompanied this motion with a request for a subpoena directed to Officer Rick Wipperfurth of the Middleton Police Department.

Although it would have been preferable for defendant to submit his *own* affidavit rather than that of his attorney (who does not have the requisite first-hand knowledge), I conclude that an evidentiary hearing is appropriate because defendant has pointed to omissions in police reports that raise a question whether plaintiff is entitled to relief. That said, it is up to the government to present Officer Wipperfurth's testimony in response to defendant's motion. If the government does not intend to call Officer Wipperfurth, it should notify the court and opposing counsel forthwith, at which point the court will issue

the subpoena requested by defendant. In light of this, the court will take no action on defendant's subpoena request at this time.

Entered this 20th day of December, 2005.

BY THE COURT:
/s/
STEPHEN L. CROCKER
Magistrate Judge