

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

UNITED STATES OF AMERICA,

Plaintiff,

ORDER

v.

06-CR-221-C

JAMES V. FRAZIER,

Defendant.

In what is becoming an endless cycle of submissions and orders, on June 18, 2007, this court issued an order responding to some of pro se criminal defendant James Frazier's recent submissions. *See* dkt. 48. Later that same day, Frazier filed an undated letter requesting that this court hold a hearing on his claim that the government intentionally presented false evidence to the grand jury in order unfairly to obtain an indictment against him. *See* dkt. 49.

As I stated in my June 18 order, although the court has not promised to consider any late-filed motions by Frazier, "if Frazier wishes to pursue such motions, the sooner he files them *and the more convincing his evidence of government bad acts*, the more likely the court is to consider them." *See* dkt. 48. His current motion provides no information, not even a proffer, that supports his repeated claims of government misconduct before the grand jury. This court's power to supervise the government's grand jury practice is limited, *see United States v. Jarrett*, 447 F.3d 520, 529 (7th Cir. 2006). Pursuant to F.R. Crim. P. 6(3)(3)(C)(ii), the court may not disclose grand jury proceedings unless Frazier makes a showing that grounds may exist to dismiss the indictment because of matters occurring before the grand jury; this circuit requires a showing

of a “particularized need.” *United States v. Puglia*, 8 F.3d 478, 480 (7th Cir. 1993); *see also Lucas v. Turner*, 725 F.2d 1095, 1101 (7th Cir. 1984). So far, Frazier has submitted only vague, conclusory allegations of witness and government misconduct before the grand jury. If he wants court action, Frazier will have to be more specific as to what bad things he thinks happened: which witnesses lied to the grand jury? Which part of their testimony was a lie? What is the basis for Frazier asserting that they lied?

Frankly, I expected Frazier to take advantage of this court’s order to the government to provide Frazier with all of its discovery in this case before he followed up with motions. I do not know if the government has provided grand jury witness transcripts or reports of interview with its discovery; if not, then Frazier may have to proceed with nothing more than his own proffer. But still, he has to proffer specifics or the court will not even consider holding a hearing on his allegations.

At this point, the court will STAY substantive consideration of Frazier’s motion(s) to suppress and/or dismiss and will DENY WITHOUT PREJUDICE his request for a hearing.

Entered this 20th day of June, 2007.

BY THE COURT:

/s/

STEPHEN L. CROCKER
Magistrate Judge