

CRIMINAL ACTION NO. 12-87-JJB-SCR
UNITED STATES DISTRICT COURT MIDDLE DISTRICT OF LOUISIANA

United States v. Painter

Decided Nov 21, 2013

CRIMINAL ACTION NO. 12-87-JJB-SCR

11-21-2013

UNITED STATES OF AMERICA v. MURPHY J. PAINTER

JAMES J. BRADY

RULING ON MOTION TO DISMISS

This matter is before the court on the Defendant's Motion (doc. 78) to Dismiss Indictment for Spoliation of Critical Evidence. The Government filed a Memorandum (doc. 96) in Opposition to the Defendant's motion, to which the Defendant filed a Reply Memorandum (doc. 102). The court held an evidentiary hearing regarding this motion on the following dates: October 24, November 12, November 15, and November 19.

It is the Defendant's contention that these alleged exculpatory files were deleted from his computer by Shane Evans or some other individual. Therefore, Defendant needed to prove as a threshold matter that these files were deleted at some point. Based on the testimony presented at the hearing, this Court is not convinced that these files were deleted by any individual. It is true that this was not the most artfully-handled investigation and seizure, but that does not change the fact that there is simply no evidence or testimony to support a finding that these deletions occurred. Other than the Defendant who believed these files were on his computer, no other individual testified that any of the alleged files were deleted, or that any deletions occurred on August 13, 2010 or thereafter. It would be a far stretch for this Court to find that these deletions occurred based on the complete lack of evidence to that effect.

Without an iota of proof that these files were actually deleted, other than the baseless assertions of the
2 Defendant, the Defendant has failed to prove the threshold matter for his *2 spoliation claim—that these files were actually deleted. Accordingly, this Court refuses to find that there has been spoliation of evidence.

As a result, the Defendant's Motion (doc. 78) to Dismiss Indictment for Spoliation of Critical Evidence is **DENIED.**

Signed in Baton Rouge, Louisiana, on November 21, 2013.

JUDGE JAMES J. BRADY

UNITED STATES DISTRICT COURT

MIDDLE DISTRICT OF LOUISIANA