

UNITED STATES DISTRICT COURT
MIDDLE DISTRICT OF FLORIDA
JACKSONVILLE DIVISION

UNITED STATES OF AMERICA

v.

CASE NO. 3:06-cr-211-J-32HTS

TONY HENDERSON
a/k/a "Hollywood"

GOVERNMENT'S MOTION TO CORRECT SCRIVENER'S ERROR

The United States of America, by Paul I. Perez, United States Attorney for the Middle District of Florida, hereby respectfully files its motion to correct a scrivener's error in the supporting paperwork to the Indictment of Tony Henderson, filed in the above-captioned case. The correction to the Indictment is as follows:

1. Strike "Pedro Fernandez de Campa" from Form OBD-34, and replace it with Tony Henderson, a/k/a "Hollywood."

Memorandum of Law

Case law permits the correction of obvious clerical errors. See, e.g., United States v. Field, 875 F.2d 130, 133-4 (7th Cir. 1989). "[T]he settled rule in federal courts . . . permits changes in indictments that are merely 'a matter of form' or which correct insignificant clerical errors. . . . An amendment of form and not of substance occurs when the defendant is not misled in any sense, is not subjected to any added burden, and is not otherwise prejudiced." United States v. Kegler, 724 F.2d 190, 195 (D.C. Cir. 1983); United States v. Oliyinka Sobamowo, 892 F.2d 90, 97 (D.C. Cir.), cert. denied, 498 U.S. 825 (1990). An indictment ordinarily may be amended provided that

any evidence defendant had before the amendment would be equally available to him after the amendment. Accordingly, amendments that are merely a matter of form are freely permitted. United States v. Johnson, 741 F.2d 1338, 1340-41 (11th Cir.), cert. denied, 471 U.S. 1117 (1985); Russell v. United States, 369 U.S. 749, 770 (1962).

WHEREFORE, it is respectfully prayed that this Honorable Court enter an order substituting the attached, corrected Form OBD-34.

Respectfully submitted,

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Assistant United States Attorney

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CERTIFICATE OF SERVICE

I hereby certify that on August 2, 2006, I electronically filed the foregoing with the Clerk of the Court by using the CM/ECF system which will send a notice of electronic filing to the following:

Mark J. Rosenblum, Esq.

Alexander R. Christine, Esq.

I hereby certify that on August 2, 2006, a true and correct copy of the foregoing document and the notice of electronic filing was sent by United States Mail to the following non-CM/ECF participant(s):

N/A.

s/ Kathleen O'Malley
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No.

UNITED STATES DISTRICT COURT

Middle District of Florida
Jacksonville Division

THE UNITED STATES OF AMERICA

vs.

TONY HENDERSON,
a/k/a "Hollywood"

INDICTMENT

Violations:

Ct. 1: 21 U.S.C. §§ 841(a)(1) & 841(b)(1)(D)

Cts. 2-7: 21 U.S.C. § 843(b)

Forfeiture: 21 U.S.C. § 853

A true bill,

Foreperson

Filed in open court this 12th day

of June, A.D. 2006.

Clerk

Bail \$ _____
