

**UNITED STATES DISTRICT COURT
DISTRICT OF MAINE**

UNITED STATES OF AMERICA,)	
)	
)	
v.)	
)	Docket no. 2:10-cr-35-GZS
DENNIS GAUTHIER,)	
)	
)	
Defendant.)	
)	

ORDER ON DEFENDANT’S MOTION IN LIMINE

Before the Court is a motion by Defendant, titled “Defendant Gauthier’s First Motion in Limine” (Docket # 100). The Indictment (Docket # 3) in this matter charges Gauthier with two counts. Count One charges a conspiracy to distribute and possess with intent to distribute five hundred grams or more of cocaine in violation of 21 U.S.C. § 841(b)(1)(B). Count Two charges possession with intent to distribute cocaine in violation of 21 U.S.C. § 841(b)(1)(C). The pending Motion seeks a ruling from this Court that the amount of drugs attributable to Defendant “is an element of the offense and must be proven to the jury beyond a reasonable doubt” as well as a ruling that the Court will instruct the jury accordingly. (Def.’s Mot. (Docket # 100) at 1.)

Although Defendant previously indicated his intent to plead guilty to portions of this Indictment (Docket # 79), he has since withdrawn that Notice indicating he “will proceed to trial.” (Def.’s Withdrawal of Intent to Plead Guilty (Docket # 122).) In light of this procedural posture, the substantive issues raised in the pending Motion in Limine are more appropriately addressed via proposed jury instructions and motions under Federal Rule of Criminal Procedure 29. Therefore, Defendant’s Motion (Docket # 100) is hereby DENIED WITHOUT PREJUDICE. Defendant is free to reassert the arguments contained in the motion at trial.

SO ORDERED.

/s/ George Z. Singal
United States District Judge

Dated this 25th day of August, 2010.

Defendant (1)

DENNIS GAUTHIER

also known as
GOOCH

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Pending Counts

CONSPIRACY TO POSSESS WITH
INTENT TO DISTRIBUTE
COCAINE AND AIDING AND
ABETTING, 21:846 AND 841(a)(1)
AND 18:2
(1)

POSSESS WITH INTENT TO
DISTRIBUTE COCAINE AND
AIDING AND ABETTING,
21:841(a)(1) and 18:2
(2)

Highest Offense Level (Opening)

Felony

Terminated Counts

None

**Highest Offense Level
(Terminated)**

Disposition

Disposition

None

Complaints

Disposition

None

Plaintiff

USA

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