

UNITED STATES DISTRICT COURT
DISTRICT OF MAINE

UNITED STATES OF AMERICA,)
)
 v.) CR-04-54-B-W
)
 STEVE BOUCHARD and)
 LEO ROUSSEL,)
)
 Defendants.)

**ORDER ON RECOMMENDED DECISION
OF THE MAGISTRATE JUDGE**

Facing federal drug charges, the Defendants filed separate Motions to Suppress evidence obtained from warrantless searches of their motor vehicles. The Motions allege there was no probable cause to search the vehicles and the Defendants did not consent to the searches. The Defendants filed affidavits in support of their Motions. The Government filed an Objection to the Defendants' Motions to Suppress, but did not file any affidavits or put forth any other evidence in support of its Objection. No evidentiary hearing was held, and no formal evidentiary stipulations were entered into. On November 8, 2004, the United States Magistrate Judge filed her Recommended Decision, recommending denial of the Defendants' Motions to Suppress. Noting the Defendants "have not challenged any of the factual allegations I have set forth in this recommended decision," the Magistrate Judge's recitation of facts in her Recommended Decision mirrors those set forth by the Government. On November 24, 2004, the Defendants filed Objections to the Recommended Decision, arguing there was no agreement on critical facts, the Government did not file affidavits in support of its Objection, and the Government's recitation of facts is entitled to no more credence than the Defendants' recitation of facts.

It is unclear to this Court whether there are critical facts in dispute and, therefore, this case is REMANDED to the Magistrate Judge so that she may (1) clarify the basis for her conclusion that the facts were undisputed; (2) hold an evidentiary hearing, if she deems it necessary; or, (3) provide an alternate means by which the parties may identify and present the facts.

SO ORDERED.

/s/ John A. Woodcock, Jr.
JOHN A. WOODCOCK, JR.
UNITED STATES DISTRICT JUDGE

Dated this 21st day of December, 2004.

Defendant

STEVE BOUCHARD (1)

represented by **STEPHEN C. SMITH**
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Defendant

LEO ROUSSEL (2)

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Plaintiff

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