

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF KANSAS**

MICHAEL B. HAYS,

Plaintiff,

v.

**COMMANDANT, United States Disciplinary
Barracks, et al.,**

Defendants.

CIVIL ACTION

No. 04-3351-KHV

ORDER

This matter is before the Court on the government's Motion For Review Of Magistrate's Order (Doc. #17) filed April 13, 2005, which the Court also construes as an alternative supplemental motion for leave to file exhibits conventionally. Upon objection to a magistrate judge order on a non-dispositive matter, the district court may modify or set aside any portion of the order which it finds to be "clearly erroneous or contrary to law." Rule 72(a), Fed. R. Civ. P.; 28 U.S.C. § 636(b)(1)(A). The government argues that Judge Waxse erred when he overruled the government's motion to file conventionally 14 editions of *Celebrity Sleuth* magazine. Based on the information in the government's original motion, Judge Waxse's ruling denying the government leave to file the magazines conventionally is not "clearly erroneous or contrary to law." Rule 72(a), Fed. R. Civ. P.; 28 U.S.C. § 636(b)(1)(A). The Court therefore overrules the government's motion for review.

In its motion for review, the government presents new information such as the number of pages in each magazine and the size of the electronic information (approximately 700 mb) required to upload the magazines. Typically, new information is not a ground for reconsideration or review. In this case, however,

the Court will construe the government's motion for review as a supplemental motion for leave to file exhibits conventionally. Given the size of the electronic information required to upload the magazines, the Court grants the government leave to file the exhibits conventionally.

IT IS THEREFORE ORDERED that the government's Motion For Review Of Magistrate's Order (Doc. #17) filed April 13, 2005, which the Court also construes as an alternative supplemental motion for leave to file exhibits conventionally, be and hereby is **SUSTAINED in part**. The government's motion for review is overruled. The government's alternative supplemental motion for leave to file exhibits conventionally is sustained.

Dated this 18th day of April, 2005 at Kansas City, Kansas.

s/ Kathryn H. Vratil
KATHRYN H. VRATIL
United States District Judge