

IN THE UNITED STATES DISTRICT COURT FOR THE
DISTRICT OF KANSAS

UNITED STATES OF AMERICA,

Plaintiff,

Vs.

No. 06-40041-01-SAC

BRENTON LEE MAYHEW,

Defendant.

MEMORANDUM AND ORDER

The case comes before the court on the defendant's pretrial motion to suppress statement (Dk. 15) and motion to determine admissibility of alleged coconspirator statements (Dk. 16). The government has responded separately to each motion conceding the first (Dk. 18) and mooted the second (Dk. 17). In light of these responses, the court will not conduct any hearing on the motions and issues the following as its rulings.

The defendant moves to suppress his statement given on or

about July 7, 2006. (Dk. 15). The government concedes the defendant's statement should be suppressed but reserves its right under *Harris v. New York*, 401 U.S. 222 (1971), to offer the statement for impeachment purposes to attack the credibility of the defendant's trial testimony. The court grants the defendant's motion to suppress as conceded by the government.

The defendant moves for an order requiring the government to disclose all coconspirator statements that it intends to offer and setting down a pretrial *James* hearing to determine admissibility of those coconspirator statements. (Dk. 16). The government responds that it does not intend to offer statements as evidence pursuant to Fed. R. Evid. 801(d)(2)(E). Based on the government's response, the defendant's motion is denied as moot.

IT IS THEREFORE ORDERED that the defendant's pretrial motion to suppress statement (Dk. 15) is granted as conceded by the government, and the defendant's motion to determine admissibility of alleged coconspirator statements (Dk. 16) is denied as moot.

Dated this 18th day of September, 2006, Topeka, Kansas.

s/ Sam A. Crow

Sam A. Crow, U.S. District Senior Judge