

IN THE UNITED STATES DISTRICT COURT FOR THE  
DISTRICT OF KANSAS

UNITED STATES OF AMERICA,

Plaintiff,

Vs.

No. 09-40048-01-SAC

OLLIE BROWN, JR.,

Defendant.

ORDER

This case comes before the court on the defendant Ollie Brown, Jr.'s motion to reconsider (Dk. 75) that part of the court's prior order in limine (Dk. 51) which denied the defendant's motion in limine (Dk. 41) concerning evidence of the defendant's arrest and charge for possession of firearm in Junction City, Kansas, in January of 2008. The defendant contends his guilty plea on counts three and four has so minimized the probative value of this Rule 404(b) evidence that it is now substantially outweighed by the danger of unfair prejudice. Because of the defendant's plea, the government states it will not offer this 404(b) evidence unless it becomes relevant during cross-examination of the defendant's witnesses. In the event of its perceived relevance, the government shall seek leave of the court outside of the presence of the jury before referring to this 404(b)

evidence in court. Based on the government's representations, the court accepts them and grants the defendant's motion to reconsider as uncontested.

IT IS THEREFORE ORDERED that the defendant's motion to reconsider (Dk. 75) is granted as uncontested, and the court's prior order in limine (Dk. 51) is modified accordingly to sustain the defendant's motion in limine with regard to evidence of the defendant's firearm possession on January 25, 2008, in Junction City, Kansas.

Dated this 4<sup>th</sup> day of November, 2009, Topeka, Kansas.

s/ Sam A. Crow

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