

**UNITED STATES DISTRICT COURT
MIDDLE DISTRICT OF FLORIDA
ORLANDO DIVISION**

UNITED STATES OF AMERICA

Plaintiff,

v.

Case No: 6:09-cr-47-WWB-DCI

PATRICK CONNOLLY

Defendant.

ORDER

On January 22, 2024, Defendant filed a Motion to Return Property. Doc. 143 (the Motion). In the Motion, Defendant requests the return of the items listed on a form sent to him by the Federal Bureau of Investigation (FBI); through the form (the FBI form), the FBI asked the Defendant to waive ownership of the delineated property. *Id.*

On February 16, 2024, the government filed its response to the Motion. Doc. 145. In its response, the government stated that “two items (and possibly a third)” listed on the FBI form would be returned: keys, “a power cord[,] and the **Western Digital internal hard drive (serial number: WXE808A55348)**.” Doc. 145 at 3 (emphasis added). As to all the other items listed on the FBI form, the government stated that the Motion should be denied because the property

generally falls into one of five categories: it has been the subject of prior Court orders denying the defendant’s request or has been addressed in Government filings noting that the property cannot be located (Doc. 120, 122, at 3-4, 123); it has been abandoned by the defendant or was not requested and, therefore, has been abandoned (Doc. 107, at 4; Doc. 110, at 3; see also Doc. 119-1, which limited the defendant’s prior request to ten items); it has been returned (Doc. 106-1; Doc. 122, at 1); it was the subject of forfeiture (Doc. 58, at 6-7; Doc. 78, at 5; Doc. 120, at 6); or it is property that was seized in the Northern District of Georgia (Doc. 110, at 2; Doc. 120, at 4).

Id. at 2. However, the government’s statement that it would return: “the **Western Digital internal hard drive (serial number: WXE808A55348)**” created confusion for the Court because that item is not listed on the FBI form. *Compare* Doc. 145 at 3 (with emphasis added) *with* Doc. 143-2. It appears that the government conflated two, different items listed on the FBI form:

- “WD 320GB EXTERNAL HARD DRIVE, S/N **WXE808A55348**”
- “One (1) **Western Digital internal hard drive** (SIN: WMAJC1681513)”

Doc. 143-2 (emphasis added to show the conflation).

So, on June 17, 2024, the Court directed the government to clarify “which item the government has agreed to return to Defendant.” Doc. 147 at 2.

On June 28, 2024, the Government filed a Supplement Memorandum stating the following:

The **WD 320 GB External Hard Drive, serial number WXE808A55348**, is a Western Digital external hard drive. There is no internal hard drive with that serial number. It has been returned.

...

The reference to an “internal” hard drive in Doc. 145, at 3, appears to be a typographical error.

Doc. 148 at 1 (footnotes omitted, emphasis added). If the “it” in the third sentence quoted above refers to the **WD 320 GB External Hard Drive, serial number WXE808A55348** and not the nonexistent hard drive in the sentence preceding the word “it,” the Court still has questions about the item listed in the FBI Form as “One (1) Western Digital internal hard drive (SIN: WMAJC1681513).” Doc. 143-2.

Prior to entering the Order at Doc. 147 requesting clarification, the Court attempted to determine whether the items listed on the FBI Form fell within the five categories identified by the government in its response. *See* Doc. 145 at 3. As will be explained in a forthcoming Report and Recommendation, the Court was able to validate the government’s position concerning most of

the items at issue. However, questions remain about the “One (1) Western Digital internal hard drive (SIN: WMAJC1681513).” So far as the Court can tell through a preliminary review of the docket, this item does not fall within any of the five categories and has not been mentioned in this litigation.¹

Accordingly, it is **ORDERED** that on or before **August 1, 2024**, the Government shall file a supplement containing further argument or evidence concerning the “Western Digital internal hard drive (S/N: WMAJC1681513).”

ORDERED in Orlando, Florida on July 18, 2024.



DANIEL C. IRICK
UNITED STATES MAGISTRATE JUDGE

¹ The Court notes that the government has previously opposed the return of a “Western Digital external hard drive”—when Defendant had requested the item in two previous 41(g) motions. *See* Docs. 106; 122 at 3. In fact, the Government appears to have previously asserted the hard drive contained child pornography. Doc. 122 at 3, n. 6. Given the prior typographical error, the Court is unsure if this is the item now at issue, the “One (1) Western Digital internal hard drive (SIN: WMAJC1681513).” Indeed, one of the problems with the documentation in this case is that both parties and the court have often referred to the items using undefined short forms and colloquialisms—not specific model and serial number identifications. A previous judge handling this litigation noted the issue. *See* Doc. 120 at 5.

Another item does not appear to have been referenced in any documents from this litigation, an item listed on the FBI Form as: “ONE BROWN BAG CONTAINING MISC. PARTS FROM EXTERNAL HDD CASE.” Doc. 143-2 at 2. Absent any additional argument and evidence from the Government, the undersigned is prepared to recommend that this item be returned to the Defendant.