

**IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF ILLINOIS**

UNITED STATES OF AMERICA,)	
)	
Plaintiff,)	
)	
v.)	No. 99-30174-GPM
)	
DALMIRO BANEGAS-FERNANDEZ,)	
)	
Defendant.)	

DEFENDANT'S MOTION TO DISMISS INDICTMENT

Comes now Defendant, Dalmiro Banegas-Fernandez, by his attorney, John D. Stobbs II, and for his Motion to Dismiss Indictment states:

1. The Government participated in selective prosecution by charging Defendant with a felony, and at the same time charging 33 similarly situated individuals with misdemeanors.
2. Defendant has been granted Temporary Protected Status by the United States of America, which prohibits him from being charged with possession of false documentation.
3. Defendant would request that this Motion be set *after* the Hearing on his Motion to Suppress, since the foregoing involves matters which have at their base, expected testimony from the Hearing on the Motion to Suppress.

WHEREFORE, Defendant requests that this Court grant his Motion to Dismiss and Dismiss the Indictment with prejudice.

DALMIRO BANEGAS-FERNANDEZ

STOBBS LAW OFFICES

BY:

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CERTIFICATE OF SERVICE

The undersigned certifies that on the 14th day of October, 1999, a copy of the attached *Defendant's Motion to Dismiss* was served on the following persons by FAXing and depositing a copy of same in an envelope with postage prepaid in the United States Mails in the Post Office in East Alton, Illinois addressed as set out, namely:

Mr. Steve Clark, Esq.
Assistant U.S. Attorney
Nine Executive Drive, Suite 300
Fairview Heights, Illinois 62208

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