

IN THE UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF ARKANSAS
FAYETTEVILLE DIVISION

UNITED STATES OF AMERICA)
)
v.) No. 5:06CR50064-001
)
HOLLIS WAYNE FINCHER)

ORDER

Now on this _____ day of January, 2007, the Motion to Amend Indictment filed on behalf of the United States of America is presented to the Court. After due consideration the court finds:

1. The indictment filed November 15, 2006, names the inscription in Count 1 as “W Fincher Non-commercial Amendment 2 is invoked Black Oak AR 7001.”

2. The indictment should be amended to reflect the inscription in Count 1 as “W Fincher Non-commercial Amendment 2 is invoked Black Oak AR 7QQ1;”

3. The inscription set forth in the indictment is a matter of form and not substance. Misnomers generally are mistakes of form that may be corrected by amending the indictment. See United States v. Mason, 869 F.2d 414, 417 (8th Cir. 1989). Also, a finding of prejudice to the defendant must be present before an amendment is held impermissible. United States v. Burnett, 582 F.2d 436, 438 (8th Cir. 1976); and, United States v. Krall, 835 F.2d 711, 715 (8th Cir. 1987).

IT IS THEREFORE ORDERED, that the Motion to Amend Indictment filed by the United States of America be granted.

Jimm Larry Hendren
Chief United States District Judge