

**IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF OHIO
EASTERN DISIVISION**

UNITED STATES OF AMERICA,)	CRIMINAL NO. 07 CR 195
)	
Plaintiff,)	JUDGE CHRISTOPHER BOYKO
)	
vs.)	<u>MOTION TO TERMINATE</u>
)	<u>PROBATION</u>
SCOTT HARVANEK,)	
)	
Defendant.)	

Now comes the Defendant, SCOTT HARVANEK, by and through undersigned counsel, Edwin J. Vargas, and respectfully moves this honorable court for an order terminating probation in the above captioned case. The reasons for this motion are more fully set forth in the following brief in support.

Respectfully submitted,

The Vargas Law Firm, Co. L.P.A.

/s/ Edwin J. Vargas
EDWIN J. VARGAS (0062913)
The Brownhoist Building
4403 St. Clair Ave.
Cleveland, OH 44103
(216) 539-1236-PHONE
(216) 803-9919-FAX
edvargas1@ameritech.net

Counsel for the Defendant SCOTT HARVANEK

BRIEF IN SUPPORT

On April 30, 2007, Defendant, SCOTT HARVANEK, plead guilty to a bill of information which included one count of Conspiracy to Commit Criminal Copyright Infringement, a class D felony, in violation of 18 U.S.C. § 371 and one count of Criminal Copyright Infringement, a class D felony, in violation of 18 U.S.C. §§ 506(a)(1)(C); 18 U.S.C. § 2319(d)(2). The defendant was released on bond and returned to his home in Tucson where he was supervised by pre-trial service for Arizona.

On August 5, 2008, the defendant was sentenced to 3 years Probation, 4 months of Home Confinement with Electronic Monitoring program to begin not later than 30 days from the date of sentencing, a fine of \$2,000.00, a Special assessment of \$200 due immediately and 100 hours of Community Service. The defendant returned to Tucson to begin the execution of his sentence on electronic home detention and completed successfully all of the conditions of the Home Confinement with Electronic Monitoring.

To date, the defendant has successfully completed (100) hours of community service, (Please see Motion Exhibit A-1, the attached letter from 4PAWS Rescue Inc.) paid all fines, special assessments and supervision fees, and has successfully maintained employment with Login, Inc. for the duration of his probation.

The defendant is seeking for a discharge from probation for the following reasons. In March of 2009 the defendant's wife, who is a Staff Sergeant with the United State Air Force, has been reassigned to Colorado Springs, Colorado. Scott has remained employed with Login, Inc. a Tucson based internet company and while his job can be accomplished remotely he does regularly have to travel to Tucson for meetings and to do physical adjustments to equipment. ((Please see Motion Exhibit A-2, Scott Harvanek's letter). The defendant has also become a

father and with his wife in the USAF they would like to travel more extensively to introduce their son to their family. Each time the defendant travels he is required to obtain permission. We have reached the approximate midway point to the defendant's probation and he has successfully completed all of this court requirements. However, it may be helpful to review the defendants pre-sentencing behavior in this case.

As the Government as set forth in its sentencing memorandum the Defendant cooperated extensively in the Government's investigation and successful prosecution of a top administrator in the Elite Torrents organization in the Western District of Virginia in *United States v. Daniel Dove*. The Defendant assisted the Government by providing testimony before the Grand Jury and by testifying truthfully at the trial of Daniel Dove. In both instance the Defendant travel to the Western District of Virginia to provide this testimony on behalf of the Governments case.

The Defendant further assisted the government by identifying documents and emails that allowed the government to prove Dove's operation of a high-speed computer resold by Defendant's company. Furthermore, the Defendant identified records providing both physical address and the Internet Protocol addresses that corroborated other evidence proving Dove's identity. These records, and other information provided by Defendant, corroborated evidence that Dove used a server he leased in furtherance of his administrative role in the conspiracy.

Furthermore, the defendant not only maintained his employment with his current employer Login, Inc., he flourished earning prizes and promotions that this court is aware of, having granted the right to travel to receive these awards. It is suggested by undersigned counsel that defendant has shown remorse for his actions, a willingness to learn from his past mistakes, and has successfully been punished and rehabilitated.

WHEREFORE, the Defendant respectfully moves this honorable court for an order terminating probation in the above captioned case.

Respectfully submitted,

/s/ *Edwin J. Vargas*
EDWIN J. VARGAS

Counsel For the Defendant SCOTT HARVANEK

CERTIFICATE OF SERVICE

I certify that the foregoing **Motion to Terminate Probation** was filed electronically using the ECF filing system of the Federal District Court for the Northern District of Ohio, this 13th day of January, 2010, and all attorneys of record have been notified of its filing electronically.

/s/ Edwin J. Vargas
EDWIN J. VARGAS (#0062913)