

UNITED STATES DISTRICT COURT
DISTRICT OF CONNECTICUT

UNITED STATES

v.

DAVID C. JACKSON and ALEX HURT

Crim. No. 3:14cr250 (JBA)

September 3, 2015

**RULING DENYING DEFENDANT HURT'S MOTION IN LIMINE TO PRECLUDE
EVIDENCE OF RECORDED CALLS**

Defendant Alex Hurt moves [Doc. # 105] to preclude the Government from introducing evidence of telephone calls recorded with only one party's consent. Mr. Hurt contends that such recordings are inadmissible under Conn. Gen. Stat. § 52-570d, which prohibits the recording of phone calls without both parties' consent or notification to both parties that the call is being recorded. (Mot. in Limine re Recorded Calls at 1.) Although Defendant acknowledges that under federal law, "it is not unlawful for a party to a communication to tape that conversation" and that "federal law generally governs the admissibility of evidence in a federal criminal trial," he argues, relying on *United States v. Sotomayor*, 592 F.2d 1219 (2d Cir. 1979), that "where [a] [s]tate ha[s] stricter standards than federal law require[s]" with regard to wiretaps, "the federal court should apply the stricter [state] rules." (Reply [Doc. # 111] at 2.)

However, as the Government notes in its Surreply [Doc. # 112], since *Sotomayor*, the Second Circuit has clarified that federal law governs the admission of recordings in federal court cases even where state law applies "more stringent" standards "designed to protect an individual's right to privacy." *United States v. Miller*, 116 F.3d 641, 661 (2d Cir. 1997)); see also *United States v. Amanuel*, 615 F.3d 117, 122 (2d Cir. 2010) ("[W]e agree

