

Multiple Indictments Letter

J. Douglas Wilson

May 6, 1996

U.S. Department of Justice

Washington, D.C. 20530

MEMORANDUM

TO:	Robert S. Litt
Deputy Assistant Attorney General	
FROM:	J. Douglas Wilson
Attorney, Appellate Section	
SUBJECT:	Availability of transfer under Fed. R. Crim. P. 20 and 21(b).
DATE:	May 6, 1996

Theodore Kaczynski may be under indictment simultaneously in more than one jurisdiction. If so, he may seek to consolidate the pending prosecutions in a single district. This memorandum addresses the possibility that Kaczynski may be able to use Fed. R. Crim. P. 21(b) to consolidate multiple prosecutions in more than one district. The memorandum also discusses the circumstances under which Kaczynski could invoke Fed. R. Crim. P. 20 to transfer an indictment returned in another district to Montana for final disposition.

I. **RULE 21(b)**

1. *Background:* There is no procedure under the Federal Rules of Criminal Procedure to "consolidate" multiple indictments pending in more than one district.¹ A defendant may, however, move in each ...

¹ Federal Rule of Criminal Procedure 13 states that

[t]he court may order two or more indictments or informations or both to be tried together if the offenses, and the defendants if there is more than one, could have been joined in a single indictment or information. The procedure shall be the same as if the prosecution were under such single indictment or information.

This provision authorizes the consolidation only of indictments brought within a single district, not indictments pending in more ...



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