

UNITED STATES DISTRICT COURT  
WESTERN DISTRICT OF MICHIGAN  
SOUTHERN DIVISION

FILED - GP

06 MAY -8 PM 1:44

UNITED STATES OF AMERICA,

Plaintiff,

Vs.

NORMAN DAVID SOMERVILLE,

Defendant.

Case No. 1:03-CR-0239

1:03-MJ-0371

"1:03-mj-00371-JGS-ALL"

MOTION TO STRIKE DOCKET FOR  
Case No. 1:03-mj-00371-JGS-ALL

United States Attorney	Norman David Somerville
Attorney for Plaintiff	Defendant
330 Ionia Ave., NW	In Propria Personna
Suite 501, The Law Bldg.	Federal Medical Center
Grand Rapids, MI 49503	P.O. Box 14500
(616) 456-2404	Lexington, KY 40512

MOTION TO STRIKE DOCKET FOR Case No. 1:03-mj-00371-JGS-ALL

NOW COMES Defendant, Norman David Somerville, In Propria Personna, to request the ORDER of the Court to STRIKE the entire Docket, Record, and contents of newly created District Case No. 1:03-mj-00371-JGS-ALL.

1. On 04/26/2006, an entire Court Record and Docket, complete with Filed documents and listed as a CLOSED Case TERMINATED on 04/25/2006, was entered into the District Court Record under the Case No. 1:03-mj-00371-JGS-ALL.

2. Defendant claims standing to challenge this Docket, its entries, and the contents of its File, pursuant to violations of Federal Rules of Civil Procedure and violations of Federal Rules of Criminal Procedure, infra, and the fact that Defendant is named within this case file as "claimant". Fast, Inc. v. Shaner (1950, CA3 Pa) 181 F2d 937, provides that primary responsibility rests upon litigants to see to it that their record is in proper form at all times.

3. Defendant claims that this challenge is timely filed.

4. Docket entry #1 claims that an APPLICATION and affidavit for Search warrant as to 40 Acres of property; signed by Magistrate Judge Joseph G. Scoville, with (Attachment#(1):Indictment in case 1:03CR239 as to Norman David Somerville) was Filed on 10/09/2003. The APPLICATION AND AFFIDAVIT FOR SEARCH WARRANT front page bears the CASE NUMBER: 1:03-M-371, and is attached as **Exhibit A** to this Motion. Fed.R.Civ.Proc. 79(a) states "All papers filed with the clerk, all process issued and returns made thereon, all appearances, orders, verdicts, and judgements shall be entered Chronologically in the civil docket on the folio assigned to the action and shall be marked with its file number." This document is improperly filed in a file which does not match its Case Number.

5. Docket entry #2 is mysteriously missing from the record.

6. Docket entry #3 claims that a MOTION and ORDER to seal case as to 40 Acres of property until further order of this court; CASE UNSEALED pursuant to Order of the Court dated 4/25/06; signed by Magistrate Judge Joseph G. Scoville, was Filed on 10/09/2003. This MOTION and ORDER to seal dated 10/09/2003 is attached as **Exhibit B** to this Motion; said MOTION TO SEAL "moves this Court pursuant to Local Rule 49.8(a) to seal the Search Warrant Application and Affidavit **in the above entitled case** in order that the execution of the search warrant be unimpeded and the investigation continue, and that such sealing remain in force and operation **until the United States Attorney releases the information** or until further order of this Court." This MOTION TO SEAL requests to seal only ONE document

"in the above entitled case" and speaks nothing of a seal on the entire case; the entry of the Clerk in this Docket Entry is grossly in error as to the nature of this MOTION TO SEAL. The search warrant applied for, which was purportedly issued by Magistrate Scoville, was conspicuously never sealed and neither was this MOTION TO SEAL. The "MOTION TO SEAL" document bears the Case Number: 1:03M371 and is improperly filed in this case file. The "Order of the Court dated 4/25/06" referenced in this Docket Entry is entered on this record in Docket Entry #7, addressed infra.

7. Docket Entry #4 claims that a SEARCH WARRANT RETURNED EXECUTED on 10/10/2003 in case as to 40 Acres of property was filed on 10/14/2003. This alleged document bears a case number 1:03-M-371 and is improperly filed in this case file. This document bears a "FILED" stamping claiming to have been filed in Case Number 1:03-M-371 on 10/14/2003. Attached to this Motion as **Exhibit C** is the AFFIDAVIT of Mrs. Robyn Somerville with its two Notarized Attachments which make inquiry of the District Court Clerk as regards the Search Warrant with Case Number 1:03-M-371 and the reply of the Clerk that no such case file as 1:03-M-371 exists. This alleged search warrant document was verifiably NEVER ACTUALLY FILED, and the "FILED" stamping which bears upon it appears to be printed beneath an overprinting of the "Search Warrant" text. This document is also conspicuously defective for failure to state the date "to search on or before" as required by Fed.R. Crim.Proc. Reference is also made to the transcript of the ARRAIGNMENT of Norman David Somerville on October 20, 2003 from Case Number 1:03-CR-0239-GJQ, presided over by Magistrate Judge Joseph G. Scoville, Document #137, page 6, lines

15 thru 23:

MR. MEYER .... And, your Honor, I met with Mr. Doele on Friday and showed him a lot of what we've seized and so he should make arrangements with me. I'm going to have an open file in this case and just anything he wants to see or inspect or copy we'll make it available to him.

THE COURT: And there was a search warrant in the case?

MR. MEYER: I gave that to Mr. Doele on Friday.

THE COURT: Okay. All right.

As stated in court, Mr. Meyer did give Mr. Doele a copy of the Search Warrant, Return to Search Warrant, MOTION TO SEAL, and APPLICATION AND AFFIDAVIT FOR SEARCH WARRANT on Friday, October 17, 2003. Mr. Doele gave copies of all these documents to Defendant Somerville over the weekend during a visit to the Newaygo County Jail prior to the Monday, October 20, 2003 court appearance. The documents released to Mr. Doele in Mr. Meyer's "open file" policy did **NOT** include the "Search Warrant" allegedly filed in this Docket Entry #4 on 10/14/2003, but did in fact contain the "Certified" Search Warrant document attached to this Motion as **Exhibit D**. The RETURN TO SEARCH WARRANT annotated in this Docket Entry states that a copy of Warrant and Receipt for Items left with: "left in residence"; the Copy of Warrant left in residence is attached to this Motion as **Exhibit E**, and is distinctly not the same document claimed to be "FILED" in this Docket Entry.

8. Docket Entry #5 claims that a LETTER from Norman David Somerville requesting a copy of the inventory re 40 Acres of property was filed on 4/12/2006. This letter addressed to Magistrate Scoville referenced Case Number 1:03-M-371 and included as an Attachment, the "Certified" Search Warrant bearing Case Number 1:03-M-371

(attached to this Motion as Exhibit D) and as such is filed in the wrong case file. Attached to this Motion as Exhibit F is the LETTER to Magistrate Scoville.

9. Docket Entry #6 claims that a LETTER from the Court to AUSA Delaney re: case will be unsealed on 4/21/06 re 40 Acres of property unless there is any objection was filed on 4/17/2006. This letter references documents which all bear Case Number 1:03-M-371, and as such is improperly filed. The premise of this letter, as noted in text of the Docket Entry, is faulty and deceptive since the CASE to which it refers was never sealed at any time.

10. Docket Entry #7 claims that an ORDER to unseal case as to 40 Acres of property; signed by Magistrate Judge Joseph G. Scoville, was filed on 4/25/2006. This ORDER is frivolous; a plain reading of the MOTION TO SEAL reveals that only one document was requested to be sealed and that such seal could be lifted by Action of the U.S. Attorney releasing the information, as per terms requested by the U.S. Attorney in the requested ORDER to seal. As noted in paragraph 7 above, Mr. Meyer's "open file" policy and his admission of having released documents from this file to Mr. Doele, specifically spoken to Magistrate Scoville in those proceedings, clearly lifted such seal of the single specified document. The sealing of an Affidavit containing sensitive information is not uncommon in the issuance of a search warrant; the sealing of an entire case is unjustified, and was never requested or justified in this matter.

11. Docket Entry dated 04/25/2006 entitled "Remark", claims ~~that~~ a copy of inventory re: Search Warrant as to 40 Acres of

property, mailed to Norman David Somerville by mmh. This letter, signed by Magistrate Scoville is clearly marked Re: Search Warrant - 1:03-M-371 and is attached to this Motion as **Exhibit G**. This document does not bear the Case File number 1:03-mj-00371 and as such is filed in the wrong case file.

12. Each and every document in this newly created and CLOSED Docket/Case File is devoid of a Case File Number contained on the Case File, and each document references documents which are marked clearly as belonging in other Files, specifically Case No. 1:03-M-371, which the Clerk has already confirmed has never existed. These documents, required to be filed by the Clerk under Fed.R.Civ.Proc. 79(a) and Fed.R.Crim.Proc. 41, have languished in oblivion for over 30 months, untouchable, unreferencable, and unchallengable under formal court procedure by the Defendant or his Counsel. Reference Baltimore Sun Co. v. Goetz (1989, CA4 Md) 886 F2d 60, the judicial officer is directed under Rule 41 to file Search Warrant and all papers in connection with it with the Clerk of District Court so that papers are available for use in subsequent criminal trial if sufficiency is questioned. See also, United States v. Ball (1969, DC Tenn) 316 F Supp 685, and Search Warrant for Second Floor Bedroom (1980, DC RI) 489 F Supp 207. In the case of U.S. v. Norman David Somerville 1:03-CR-0239, the matter of whether or not a trial was to take place went unresolved for 10 months while these documents were held in abeyance OFF THE RECORD, and have further remained off the record for another 20 months unreferencable even thru Defendant's filings in his Direct Appeal to the Sixth Circuit in Case No. 05-1475 and Case No. 05-2441.

13. This attempt by this Court and its officers to create a Docket and Case File and documents to file in it, in nunc pro tunc fashion, under the false premise that such "case" was sealed is highly prejudicial against Defendant Somerville and a serious breach of law. The failure to file Search Warrant documents on the record in a case file properly recorded, to wit as documented Case Number 1:03-M-371, is a serious breach of law. Federal Rules of Criminal Procedure have effect of law; there is no distinction between construction of Rules promulgated by United States Supreme Court under congressional authority and other legislation adopted by Congress itself - In re Grand Jury (1970, DC Md) 315 F Supp 662. Criminal statutes and Federal Rules of Criminal Procedure require strict interpretation in favor of Defendants where substantial rights are involved - see United States v. Kees (1961, ED Ill) 198 F Supp 575, reversed on other grounds (1962, CA7 Ill) 304 F2d 661. Any ambiguity in Federal Rules of Criminal Procedure should be resolved in favor of defendant - see United States v. Wilson (1973, DC Mich) 60 FRD 55, reversed on other grounds (1974 CA6 Mich) 491 F2d 724, cert denied (1976) 426 US 907, 48 L.Ed.2d 831. The courts failure to comply with Rule 41 totally foreclosed any challenges to the sufficiency of the warrants in the initial stages of the proceedings over 10 months, and further denied challenges in any Appeal processes since there never were documents in the record to be challenged. The documents themselves ("certified" Search Warrant versions, MOTION TO SEAL, and SEARCH WARRANT APPLICATION AND AFFIDAVIT) are highly questionable for compliance with Rule 41 as they all bear rubber stampings of Magistrate Scoville's name where

proper signatures are due. This leads very reasonably to the conclusion that such documents were withheld from the Record deliberately to avoid exposure to challenges of their apparent invalidity and lack of compliance with Federal Rules. Obvious prejudice has already occurred against Defendant Somerville, in that even if these documents were permitted into a Record, nunc pro tunc, some 30 months late, and were challenged in some new trial or other proceeding and found to be invalid and evidence suppressed resulting in reversal of conviction or no conviction at all, Defendant has already served years in incarceration deprived of his opportunity to make such challenges, and those years can not be recovered. Even if these documents DID survive a challenge to their sufficiency, substantial actual prejudice has already occurred - see United States v. Averell (1969, ED NY) 296 F Supp 1004, which finds that failure to file search warrant promptly with Clerk of United States District Court will not invalidate an otherwise lawful search unless there is prejudice to the defendant. The defendant has recently challenged the propriety of the Guilty Plea given on August 11, 2004 under the findings of U.S. v. COFFELT (6th Cir. 2005) Case No. 02-5610 dated October 18, 2005, which find that a Guilty Plea requires evidence; since the government has never filed any Search Warrant on the record and also refused to put a B.A.T.F. firearms testing report on the Record, there is no evidence to support the taking of a Guilty Plea by this Court, and allowing the nunc pro tunc creation of a case file and "record" in which to place documents on the record to defeat Defendants challenge is highly prejudicial.


So much prejudice has already occurred that these search warrant documents and the search itself must be invalidated for such egregious non-compliance with Rule 41. The District Court may refer to REID v. WHITE MOTOR CORP. (6th Cir. 1989) 886 F.2d 1462 to review the inappropriateness of such nunc pro tunc entries by the court. And further, as cited in REID, "see Cloyd v. Richardson, 510 F.2d 485 (6th Cir. 1975) (per curiam)(strict compliance with the requirements of Rule 58 and 79(a) is mandatory."

14. If the District Court is permitted to create this ~~closed~~ file and fill it with documents which should have been filed over 30 months ago, then there is obvious prejudice by the Court itself against the Defendant. Quoting Supreme Court Justice Anthony M. Kennedy, quoted in DABABNAH v. WEST VIRGINIA BD. OF MEDICINE, 47 F.Supp.2d 734, 749 "The law makes a promise. The promise is neutrality. If that promise is broken, the law ceases to exist. All that's left is the dictate of a tyrant, or a mob."

WHEREFORE, Defendant prays this honorable Court will grant an ORDER to STRIKE the Case File 1:03-mj-00371-JGS-ALL from the Court records and prohibit the introduction of search warrant documents into the Record under any Case Number from the supposed search warrant for 40 Acres of property referenced in Exhibits to this Motion for wanton violations of Federal Rules of Criminal Procedure.

Dated: May 5, 2006

Respectfully submitted,

  
Norman David Somerville  
Defendant, In Propria Persona

UNITED STATES DISTRICT COURT  
WESTERN DISTRICT OF MICHIGAN  
SOUTHERN DIVISION

UNITED STATES OF AMERICA,

Plaintiff,

Case No. 1:03-CR-0239  
1:03-M-371

Vs.

"1:03-mj-00371-JGS-ALL"

NORMAN DAVID SOMERVILLE,

CERTIFICATE OF SERVICE

Defendant. /

United States Attorney	Norman David Somerville
Attorney for Plaintiff	Defendant, In Propria Persona
330 Ionia Ave., NW	Federal Medical Center
Suite 501, The Law Bldg.	P.O. Box 14500
Grand Rapids, MI 49503	Lexington, KY 40512

CERTIFICATE OF SERVICE

The undersigned Certifies under penalty of perjury that he served a copy of the attached MOTION TO STRIKE DOCKET FOR Case No. 1:03-mj-00371-JGS-ALL on the United States Attorney, Attorney for Plaintiff, by sending same via first-class U.S. Mail addressed to the United States Attorney, 330 Ionia Ave., NW, Suite 501, The Law Bldg., Grand Rapids, MI 49503; and he further certifies that the Original and three copies of this same MOTION were sent via first-class U.S. Mail to the Clerk of the Court, U.S. District Court for the Western District of Michigan, 399 Federal Building, 110 Michigan NW, Grand Rapids, MI 49503 on the 5<sup>TH</sup> day of May, 2006.

  
Norman David Somerville



UNITED STATES OF AMERICA  
IN THE UNITED STATES DISTRICT COURT FOR THE  
WESTERN DISTRICT OF MICHIGAN, SOUTHERN DIVISION

IN THE MATTER OF:

No. 1:03m371

Forty acres of property located on the west side of 21<sup>st</sup> Road between M-42 and 18 ½ Road; it is the second parcel of land north of 18 ½ Road and west of 21<sup>st</sup> Road, in Antioch Township, Wexford County, Michigan, Western Judicial District of Michigan. The legal description is "COM 100 RDS N OF SE COR OF SEC: N 100 RDS: W 64 RDS: E TO BEG. 40 A: ANT. SEC. 10 T23N R11W -MESICK."

Hon. Joseph G. Scoville  
U. S. Magistrate Judge

Certified as a True Copy  
Ronald C. Weston, Sr., Clerk  
By M. Hetherington  
Deputy Clerk  
U. S. District Court  
Western Dist. of Michigan  
Date OCT 9 2003

MOTION TO SEAL

Now comes the United States of America by Margaret M. Chiara, United States Attorney for the Western District of Michigan and Lloyd K. Meyer, Assistant United States Attorney, and moves this Court pursuant to Local Rule 49.8(a) to seal the Search Warrant Application and Affidavit in the above entitled case in order that the execution of the search warrant be unimpeded and the investigation continue, and that such sealing remain in force and operation until the United States Attorney releases the information or until further order of this Court.

Respectfully submitted,

MARGARET M. CHIARA  
United States Attorney

Dated: 10/9/03

Lloyd K. Meyer  
LLOYD K. MEYER  
Assistant United States Attorney

IT IS SO ORDERED.

Dated: OCT 9 2003

JOSEPH G. SCOVILLE  
JOSEPH G. SCOVILLE  
United States Magistrate Judge

EXHIBIT B

# AFFIDAVIT

Michigan STATE )  
 ) Scilicet  
County of Wayne )

"Indeed, no more than (affidavits) is necessary to make the prima facie case." United States v. Kis, 658 F.2<sup>nd</sup>, 526, 536 (7<sup>th</sup> Cir. 1981); Cert Denied, 50 U.S. L.W. 2169; S. Ct. March 22, 1982

That I, Robyn Somerville, a living breathing man (or woman), being first duly sworn, depose and say and declare by my signature that the following facts are true to the best of my knowledge and belief.

THAT, on March 29, 2006, I mailed an original copy of the attached letter addressed to Ronald C. Weston, Sr. (Clerk of the U.S. District Court), 399 Federal Bldg, 110 Michigan St. NW, Grand Rapids, MI 49503, dated March 29, 2006, by first class mail, and asked about Norman David Somerville's Search Warrant with case number 1:03-M-371 because there is no record of this case number on the internet; and THAT on or about April 7, 2006, I received a reply letter from Ronald C. Weston, Sr., Clerk of Court, (copy attached) which states that "Additionally, I was not able to locate any case number on the system with the case number 1:03M371." by first class mail addressed to me. (Two Attached Letters)

Further Affiant Sayth Not.

Done this 21 day of April 2006 A.D.

Robyn Harb Penn Somerville  
Affiant

## ACKNOWLEDGEMENT

SUBSCRIBED TO AND SWORN before me this 21<sup>st</sup> day of April, A.D. 2006, a Notary, that Robyn Somerville, personally appeared and known to me to be the woman whose name subscribed to the within instrument and acknowledged to be the same.

Alison L. Salecki (Seal)  
Notary Public in and for said State  
My Commission expires; June 9, 2008

ALISON L. SALECKI  
NOTARY PUBLIC, STATE OF MI  
COUNTY OF WAYNE  
MY COMMISSION EXPIRES Jun 9, 2008  
ACTING IN COUNTY OF Wayne

EXHIBIT C

March 29, 2006

Ronald C. Weston, Sr.  
399 Federal Bldg  
110 Michigan St NW  
Grand Rapids MI 49503

**COPY**

Dear Ronald C. Weston, Sr.,

My name is Mrs. Robyn Somerville. I am writing on behalf of my brother in law Norman David Somerville. (USM: 11612-040) We also sent you an E-mail to, "info@miwd.uscourts.gov" regarding our first question on Wednesday, March 08, 2006. We have not received a reply to that E-mail. Also, we now have another question, so I am sending another letter, this time via postal mail.

The first question that we have is in reference to payment of the fine owed by Norman David Somerville. The case number is 1:03:CR:239-01. The fine was originally for \$2,000.00. We would like to know how to go about getting proof that this fine was paid. The name of the plaintiff is Norman David Somerville. (USA v. Somerville, et al)

We sent him the receipts from the postal money orders that we sent in to pay the fine. He has sent us photocopies of the money order receipts we sent him. The money orders were issued October 14, 2005. The numbers of the money orders were, 08600904764, 08600904775, and 08600904786.

The Federal Medical facility in Kentucky keeps saying that the fine was not paid. They keep taking money out of Norman's account to pay the fine. He showed them the receipts from the money orders. They say that is not proof that the fine was paid. All we need is "proof" that the fine was paid.

The other question that we had was about a court case. On Norman's search warrants, it lists a misdemeanor case, 1:03-M-371. I got a letter today from Norman saying that he needs to know "ASAP", about this case for a "reply brief" which is due "shortly". I tried to find this case online. I found nothing. No one, not even Norman's lawyers told him anything about this case. Is there any way of finding out about this misdemeanor case?

Any help in these matters will be most appreciated.

Mrs. Robyn Somerville  
etc.

*Robyn Hart Penn Somerville*  
**ACKNOWLEDGEMENT**

of ATTACHMENT Letter to AFFIDAVIT of Robyn Somerville  
SUBSCRIBED TO AND SWORN before me this 21 day of April, A.D. 2006,  
a Notary, that Robyn Somerville, personally appeared and known to me to be the woman  
whose name subscribed to the within instrument and acknowledged to be the same.

Alison R. Salemi (Seal)  
Notary Public in and for said State  
My Commission expires; June 9, 2008

ALISON L. SALEMI  
NOTARY PUBLIC, STATE OF MI  
COUNTY OF WAYNE  
MY COMMISSION EXPIRES Jun 9, 2008  
ACTING IN COUNTY OF Wayne

**EXHIBIT C**

UNITED STATES DISTRICT COURT  
WESTERN DISTRICT OF MICHIGAN

OFFICE OF THE CLERK  
Ronald C. Weston, Sr., Clerk of Court

REPLY TO:

399 FEDERAL BUILDING  
110 MICHIGAN STREET NW  
GRAND RAPIDS, MI 49503

April 3, 2006

Mrs. Robyn Somerville  
23136 Marlboro  
Dearborn, MI 48128-1886



Re: USA vs Norman Somerville  
No: 1:03CR239

Dear Mrs. Somerville:

As requested, enclosed you will find a copy of our payment history regarding the criminal case noted above. Our records concur with your records that the special assessment and fine have been paid in full.

Additionally, I was not able to locate any case number on the system with the case number 1:03M371.

If you have any questions, please feel free to contact me at (616) 732-2715.

Sincerely,

Ronald C. Weston, Sr., Clerk of Court

by: Michael J. Polkowski  
Financial Administrator

*Robyn Hart Penn Somerville*  
ACKNOWLEDGEMENT

enc

of ATTACHMENT Letter to AFFIDAVIT of Robyn Somerville  
SUBSCRIBED TO AND SWORN before me this 21<sup>st</sup> day of April, A.D, 2006,  
a Notary, that Robyn Somerville, personally appeared and known to me to be the woman  
whose name subscribed to the within instrument and acknowledged to be the same.

Alison L. Salecki (Seal)  
Notary Public in and for said State  
My Commission expires; June 9, 2008

EXHIBIT C

ALISON L. SALECKI  
NOTARY PUBLIC, STATE OF MI  
COUNTY OF WAYNE  
MY COMMISSION EXPIRES JUN 9, 2008  
ACTING IN COUNTY OF Wayne

# UNITED STATES DISTRICT COURT

WESTERN DISTRICT OF MICHIGAN, SOUTHERN DIVISION

*In the Matter of the Search of*

*(Name, address or brief description of person or property to be searched)*

## SEARCH WARRANT

Forty acres of property located on the west side of 21<sup>st</sup> Road between M-42 and 18 1/2 Road; it is the second parcel of land north of 18 1/2 Road and west of 21<sup>st</sup> Road, in Antioch Township, Wexford County, Michigan, Western Judicial District of Michigan. The legal description is "COM 100 RDS N OF SE COR OF SEC: N 100 RDS: W 64 RDS: E TO BEG. 40 A: ANT. SEC. 10 T23N R11W - MESICK."

CASE NUMBER: 1:03-M-371

Certified as a True Copy  
Ronald C. Weston, Sr., Clerk  
By [Signature]  
Deputy Clerk  
U. S. District Court  
Western Dist. of Michigan  
Date OCT 9 2003

TO: The Bureau of Alcohol, Tobacco, Firearms and Explosives and any Authorized Officer of the United States

Affidavit(s) having been made before me by Mark Semear, S.A. who has reason to believe

that     on the person of or X on the premises known as *(name, description and/or location)*

Forty acres of property located on the west side of 21<sup>st</sup> Road between M-42 and 18 1/2 Road; it is the second parcel of land north of 18 1/2 Road and west of 21<sup>st</sup> Road, in Antioch Township, Wexford County, Michigan, Western Judicial District of Michigan. The legal description is "COM 100 RDS N OF SE COR OF SEC: N 100 RDS: W 64 RDS: E TO BEG. 40 A: ANT. SEC. 10 T23N R11W -MESICK."

*in the Western District of Michigan, Southern Division, there is now concealed a certain person or property, namely (describe the person or property)*

*See Attachment A*

*I am satisfied that the affidavits(s) and any recorded testimony establish probable cause to believe that the person or property so described is now concealed on the person or premises above-described and establish grounds for the issuance of this warrant.*

YOU ARE HEREBY COMMANDED to search on or before OCT 19 2003 *(not to exceed 10 days)* the person or place named above for the person or property specified, serving this warrant and making the search (in the daytime - 5:00 A.M. to 10:00 P.M.) *(at any time in the day or night as I find reasonable cause has been established)* and if the person or property be found there to seize same, leaving a copy of this warrant and receipt for the person or property taken, and prepare a written inventory of the person or property seized and promptly return this warrant to the Honorable Joseph G. Scoville, U.S. Magistrate Judge, as required by law.

OCT 9 2003

*Date Issued*

at Grand Rapids, Michigan

Honorable JOSEPH G. SCOVILLE  
*Magistrate Judge*

JOSEPH G. SCOVILLE  
*Signature of Judicial Officer*

EXHIBIT D

**UNITED STATES DISTRICT COURT**

WESTERN DISTRICT OF MICHIGAN, SOUTHERN DIVISION

Copy  
1.25 + 2 +  
form

*In the Matter of the Search of*  
(Name, address or brief description of person or property to be searched)

**SEARCH WARRANT**

Forty acres of property located on the west side of 21<sup>st</sup> Road between M-42 and 18 1/2 Road; it is the second parcel of land north of 18 1/2 Road and west of 21<sup>st</sup> Road, in Antioch Township, Wexford County, Michigan, Western Judicial District of Michigan. The legal description is "COM 100 RDS N OF SE COR OF SEC: N 100 RDS: W 64 RDS: E TO BEG. 40 A: ANT. SEC. 10 T23N R11W - MESICK."

CASE NUMBER: 1:03-M-371

Certified as a True Copy  
Ronald C. Weston, Sr., Clerk  
By M. Witherington  
Deputy Clerk  
U.S. District Court  
Western Dist. of Michigan  
Date \_\_\_\_\_

TO: The Bureau of Alcohol, Tobacco, Firearms and Explosives and any Authorized Officer of the United States

Affidavit(s) having been made before me by Mark Semear, S.A. who has reason to believe

that     on the person of or X on the premises known as (name, description and/or location)

Forty acres of property located on the west side of 21<sup>st</sup> Road between M-42 and 18 1/2 Road; it is the second parcel of land north of 18 1/2 Road and west of 21<sup>st</sup> Road, in Antioch Township, Wexford County, Michigan, Western Judicial District of Michigan. The legal description is "COM 100 RDS N OF SE COR OF SEC: N 100 RDS: W 64 RDS: E TO BEG. 40 A: ANT. SEC. 10 T23N R11W -MESICK."

in the Western District of Michigan, Southern Division, there is now concealed a certain person or property, namely (describe the person or property)

See Attachment A

I am satisfied that the affidavits(s) and any recorded testimony establish probable cause to believe that the person or property so described is now concealed on the person or premises above-described and establish grounds for the issuance of this warrant.

YOU ARE HEREBY COMMANDED to search on or before (not to exceed 10 days) the person or place named above for the person or property specified, serving this warrant and making the search (in the daytime - 6:00 A.M. to 10:00 P.M.) (at any time in the day or night as I find reasonable cause has been established) and if the person or property be found there to seize same, leaving a copy of this warrant and receipt for the person or property taken, and prepare a written inventory of the person or property seized and promptly return this warrant to the Honorable Joseph G. Scoville, U.S. Magistrate Judge, as required by law.

001 9 2006 at Grand Rapids, Michigan  
Date Issued

Honorable JOSEPH G. SCOVILLE  
Magistrate Judge

JOSEPH G. SCOVILLE  
Signature of Judicial Officer

EXHIBIT E

Mr. Norman David Somerville  
11612-040  
Federal Medical Center  
P.O. Box 14500  
Lexington, KY 40512

April 5, 2006

Magistrate Judge Joseph G. Scoville  
Federal Building  
110 Michigan St. NW  
Grand Rapids, Michigan 49503



Honorable Magistrate Judge Scoville,

Please find attached a photocopy of a CERTIFIED copy of a Search Warrant. This Search Warrant bears your rubber-stamped name in the space marked "Signature of Judicial Officer". This document does not bear any marking that it was "FILED" in the District Court record.

According to Federal Rules of Criminal Procedure, Rule 41(f)(4):

"...The judge must, on request, give a copy of the inventory to the person from whom, or from whose premises, the property was taken..."

This is my request, according to Rule 41(f)(4), for a copy of the inventory taken in this Search Warrant execution. Please provide such copy to me at my address above.

According to Fed. Rules of Crim. Proc. Rule 41(i): "FORWARDING PAPERS TO THE CLERK. The magistrate judge to whom the warrant is returned must attach to the warrant a copy of the return, of the inventory, and of all other related papers and must deliver them to the clerk in the district where the property was seized."

It is the statement of the Clerk of the District Court that no such case file numbered 1:03-M-371 exists in the Court records. I would like to know where you filed these Warrant documents as required by Rule 41(i).

Respectfully,


  
Norman David Somerville

EXHIBIT F

UNITED STATES DISTRICT COURT

WESTERN DISTRICT OF MICHIGAN  
110 MICHIGAN N.W.  
GRAND RAPIDS, MICHIGAN 49503

CHAMBERS OF  
JOSEPH G. SCOVILLE  
UNITED STATES MAGISTRATE JUDGE

(616) 456-2309  
FAX (616) 456-2074

April 25, 2006

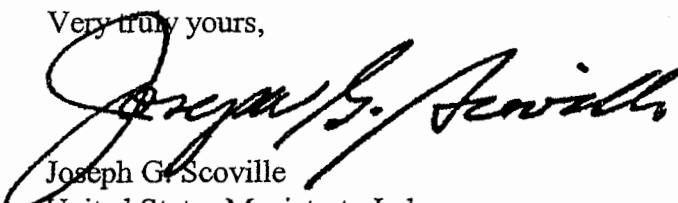
Norman David Somerville  
# 11612-040  
Federal Medical Center  
P.O. Box 14500  
Lexington, KY 40512

Re: Search Warrant - 1:03-M-371

Dear Mr. Somerville:

Pursuant to your request, enclosed is a copy of the inventory taken with regard to the above-referenced search warrant.

Very truly yours,



Joseph G. Scoville  
United States Magistrate Judge

mmh

enclosure

EXHIBIT G

CLOSED

**United States District Court  
Western District of Michigan (Grand Rapids)  
CRIMINAL DOCKET FOR CASE #: 1:03-mj-00371-JGS-ALL**

Case title: USA v. 40 Acres of property

Date Filed: 10/09/2003

Assigned to: Magistrate Judge Joseph G.  
Scoville

**defendant****40 Acres of property (1)**

*located on the west side of 21st Road  
between M-42 and 18 1/2 Road; Antioch  
Township, Wexford County, Michigan  
TERMINATED: 04/25/2006*

**Pending Counts**

None

**Disposition****Highest Offense Level (Opening)**

None

**Terminated Counts**

None

**Disposition****Highest Offense Level (Terminated)**

None

**Complaints**

None

**Disposition****claimant****Norman David Somerville #11612-040**

**Plaintiff**

USA

represented by **Brian K. Delaney**  
 U.S. Attorney (Grand Rapids)  
 The Law Bldg.  
 330 Ionia Ave., NW  
 P.O. Box 208  
 Grand Rapids, MI 49501-0208  
 (616) 456-2404  
 Email: brian.delaney@usdoj.gov  
**LEAD ATTORNEY**  
**ATTORNEY TO BE NOTICED**

**Lloyd K. Meyer**  
 U.S. Attorney (Grand Rapids)  
 The Law Bldg.  
 330 Ionia Ave., NW  
 P.O. Box 208  
 Grand Rapids, MI 49501-0208  
 (616) 456-2404  
 Email: lloyd.meyer2@usdoj.gov  
**TERMINATED: 04/17/2006**

Date Filed	#	Docket Text
10/09/2003	<a href="#">1</a>	APPLICATION and affidavit for Search warrant as to 40 Acres of property ; signed by Magistrate Judge Joseph G. Scoville (Attachment #(1): Indictment in case 1:03CR239 as to Norman David Somerville) (dmh) (Entered: 04/26/2006)
10/09/2003	<a href="#">3</a>	MOTION and ORDER to seal case as to 40 Acres of property until further order of this court; CASE UNSEALED pursuant to Order of the Court dated 4/25/06 ; signed by Magistrate Judge Joseph G. Scoville (dmh, ) (Entered: 04/26/2006)
10/14/2003	<a href="#">4</a>	SEARCH WARRANT RETURNED EXECUTED on 10/10/2003 in case as to 40 Acres of property (dmh, ) (Entered: 04/26/2006)
04/12/2006	<a href="#">5</a>	LETTER from Norman David Somerville <i>requesting a copy of the inventory</i> re 40 Acres of property (dmh, ) (Entered: 04/26/2006)
04/17/2006	<a href="#">6</a>	LETTER from the Court to AUSA Delaney <i>re: case will be unsealed on 4/21/06</i> re 40 Acres of property <i>unless there is any objection</i> (dmh, ) (Entered: 04/26/2006)
04/25/2006	<a href="#">7</a>	ORDER to unseal case as to 40 Acres of property ; signed by Magistrate Judge Joseph G. Scoville (dmh, ) (Entered: 04/26/2006)
04/25/2006	<a href="#">8</a>	Remark: Copy of inventory re: Search Warrant as to 40 Acres of property, mailed to Norman David Somerville by mmh (see letter in file) (dmh) (Entered: 04/26/2006)

