

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF MICHIGAN, SOUTHERN DIVISION

UNITED STATES OF AMERICA

vs.

NORMAN DAVID SOMERVILLE,

Defendant.

Case No. 1:03-cr-239

Grand Rapids, Michigan

October 20, 2003

3:09 p.m.

HON. GORDON J. QUIST

AMENDED TO CORRECT
CASE NUMBER

ARRAIGNMENT
BEFORE THE HONORABLE JOSEPH G. SCOVILLE
UNITED STATES MAGISTRATE JUDGE

APPEARANCES:

For the Government: Mr. Lloyd K. Meyer
Assistant U.S. Attorney
The Law Building - Fifth Floor
330 Ionia Avenue, NW
Grand Rapids, MI 49503
(616) 456-2404

For the Defendant: Mr. Joseph H. Doele
Attorney at Law
220 Lyon Street, NW
450 Grand Plaza Place
Grand Rapids, MI 49503
(616) 454-1847

1 Grand Rapids, Michigan

2 October 20, 2003 - 3:09 p.m.

3 THE COURT: This is case number 1:03-cr-239, United
4 States versus Norman David Somerville. Mr. Meyer appears on
5 behalf of the government; defendant appears in court with
6 counsel, Mr. Doele.

7 Mr. Doele, have you had a chance to review the
8 Indictment with your client?

9 MR. DOELE: Yes, I have, your Honor.

10 THE COURT: Would you and he step up to the lectern
11 then, please?

12 MR. DOELE: Yes.

13 THE COURT: Mr. Somerville, you're in federal court
14 because the government is bringing three criminal charges against
15 you. The charges are contained in a document called the
16 Indictment. Have you read that now?

17 THE DEFENDANT: Yes, sir.

18 THE COURT: Count 1 charges that in or about
19 September of this year in Wexford County that you knowingly
20 possessed a machine gun in violation of federal law. If you are
21 convicted of that offense you face up to ten years in prison, up
22 to three years thereafter of supervised release, a maximum fine
23 of \$250,000, and a \$100 special assessment.

24 Do you understand the nature of Count 1 and the
25 penalties you face on that charge?

1 THE DEFENDANT: Yes, sir.

2 THE COURT: Count 2 charges that in or about
3 September of this year, 2003, in Wexford County, at a time when
4 you were an unlawful user of marijuana, a controlled substance as
5 defined by federal law, knowingly possessed in and affecting
6 commerce one or more firearms, namely, four Fabrik Nationale L1A1
7 rifles. Do you understand the nature of that charge?

8 THE DEFENDANT: I believe so, sir.

9 THE COURT: If convicted of Count 2 you face the same
10 penalties that apply to Count 1.

11 Finally, Count 3 alleges that in or about September
12 2003 in Wexford County that you knowingly, willfully, and
13 unlawfully attempted to manufacture marijuana, a Schedule One
14 controlled substance.

15 If you are convicted of this offense you face up to
16 five years in prison, at least two years thereafter of supervised
17 release, a maximum fine of \$250,000, and a \$100 special
18 assessment. Do you understand the nature of Count 3 and the
19 penalties you face on that charge?

20 THE DEFENDANT: I believe so, sir.

21 THE COURT: Before calling upon you to enter your
22 plea to these charges, it's my responsibility to review with you
23 certain of your constitutional rights.

24 First, you have the right to the assistance of
25 counsel at every stage of the case against you. The Court has

1 appointed Mr. Doele to represent you without charge throughout
2 these proceedings. Do you understand that?

3 THE DEFENDANT: Yes, sir.

4 THE COURT: You are presumed by the law to be
5 innocent of all three charges until proven guilty, and the
6 government has the burden of proving you guilty beyond a
7 reasonable doubt. Do you understand that?

8 THE DEFENDANT: Yes, sir.

9 THE COURT: You have the right to plead not guilty.
10 If you do so you'll have a trial before a jury and a jury will
11 decide whether or not you're guilty. At your trial you'll have
12 certain constitutional rights including the right to counsel, the
13 right to confront and cross-examine the witnesses against you,
14 the right to present a defense and to compel the appearance and
15 testimony of witnesses.

16 You'll have the right to testify if you wish or to
17 remain silent as you desire. If, however, you plead guilty then
18 you give up all these rights. If you plead guilty you'll not
19 have a trial of any kind and the only further proceeding in the
20 case will be sentencing.

21 If you understand these rights I'll ask you to read
22 and sign the Rights Form.

23 All right, Mr. Doele, is your client ready to enter
24 his plea?

25 MR. DOELE: Yes, your Honor, he pleads not guilty to

1 all three counts.

2 THE COURT: Very well. A plea of not guilty is
3 entered. Both have a seat now, please.

4 I understand both parties are ready to proceed with
5 the initial pretrial at this point?

6 MR. MEYER: Yes, your Honor.

7 MR. DOELE: Yes.

8 THE COURT: Mr. Somerville, we're going to move right
9 into the initial pretrial conference in your case. The main
10 purpose of this conference is to review certain items of evidence
11 that the government will disclose to you and your attorney.

12 Mr. Meyer, does the government have any oral
13 statements of the defendant as defined in Rule 16(a)(1)(A)?

14 MR. MEYER: No, your Honor.

15 THE COURT: Are there any written or recorded
16 statements or grand jury testimony of the defendant?

17 MR. MEYER: No, your Honor.

18 THE COURT: Is the government aware of the previous
19 criminal history?

20 MR. MEYER: Mr. Somerville has no prior criminal
21 record.

22 THE COURT: Does the government have documents,
23 tangible objects, or physical evidence to be disclosed?

24 MR. MEYER: Yes, your Honor. We're still
25 inventorying a substantial amount of evidence that was seized,

1 but I will summarize it for the Court.

2 Under controlled substances there's marijuana, drug
3 paraphernalia, approximately 20 firearms, several machine guns.

4 THE COURT: Does the 20 include the firearms --

5 MR. MEYER: Yes, your Honor.

6 THE COURT: And does it include the machine guns?

7 MR. MEYER: Yes, your Honor.

8 THE COURT: That's including machine guns.

9 MR. MEYER: And it also includes an anti-aircraft gun
10 which is a 50-caliber machine gun. Tens of thousands of rounds
11 of ammunition, gun parts, approximately 100 pounds of explosive
12 powder, 18 destructive devices, and I'd say probably about ten to
13 fifteen boxes of documents, books, publications, videotapes,
14 things of that nature, and hundreds of photographs.

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

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

22 MR. MEYER: I gave that to Mr. Doelee on Friday.

23 THE COURT: Okay. All right.

24 Does the government have or expect to have reports of
25 examinations or tests?

1 MR. MEYER: Yes, your Honor. Drug analysis. And
2 other would be a firearms expert, and an explosives expert.

3 THE COURT: Were these destructive devices homemade
4 or --

5 MR. MEYER: Yes, your Honor.

6 THE COURT: -- military? Homemade?

7 MR. MEYER: Homemade.

8 THE COURT: I take it those reports aren't prepared
9 yet?

10 MR. MEYER: No, your Honor.

11 THE COURT: Is the government seeking reciprocal --

12 MR. MEYER: I'm sorry, we did give Mr. Doele those
13 reports that had been prepared as of Friday, and we'll continue
14 to make them available to him as soon as they're completed.

15 THE COURT: Is the government seeking reciprocal
16 discovery?

17 MR. MEYER: Yes, your Honor.

18 THE COURT: Mr. Doele, is the defendant requesting
19 disclosure of the nature of Rule 404(b) evidence, if any?

20 MR. DOELE: Yes.

21 THE COURT: Does the government presently intend to
22 introduce any such evidence?

23 MR. MEYER: No, your Honor.

24 THE COURT: Mr. Doele, any pretrial motions filed or
25 contemplated?

1 MR. DOELE: None have been filed at this time. I
2 would ask for 21 days.

3 THE COURT: We can do that.

4 Are both parties requesting a jury trial?

5 MR. MEYER: Yes, your Honor.

6 THE COURT: And how long to try the case?

7 MR. MEYER: I think approximately two weeks in front
8 of Judge Quist.

9 THE COURT: Two weeks?

10 MR. MEYER: Yes, sir.

11 THE COURT: You're sure it's not two days?

12 MR. MEYER: I would say the way we anticipate this
13 case playing out I think two weeks would be appropriate.

14 THE COURT: All right.

15 MR. MEYER: I just would note, your Honor, that we
16 anticipate having additional defendants and charges that we'll
17 present to the grand jury to consider as part of this Indictment,
18 so that would explain the two weeks.

19 THE COURT: All right. Anything else we ought to
20 take up with regard to the pretrial?

21 MR. MEYER: No, your Honor.

22 MR. DOELE: No, your Honor. Thank you.

23 THE COURT: Then I'll ask the parties to read and
24 sign the order then, please.

25 Okay. Thank you.

1 I believe defendant made his initial appearance
2 before Judge Carmody and was detained on the government's motion
3 pending a hearing and has not had his hearing yet, correct?

4 MR. MEYER: That's correct.

5 THE COURT: So both parties ready to proceed on that
6 issue as well?

7 MR. MEYER: The government's ready, your Honor.

8 THE COURT: Mr. Doele?

9 MR. DOELE: Yes, your Honor. I've had the
10 opportunity to meet with Mr. Somerville concerning this. I've
11 fully explained to him his right to a detention hearing, and it
12 is his request and decision to waive his right to a detention
13 hearing.

14 THE COURT: Mr. Somerville, did you understand what
15 Mr. Doele just said?

16 THE DEFENDANT: I'd like to say I understand the law
17 but, frankly, I don't, sir, but I'm trusting in Mr. Doele to look
18 out for my best interest.

19 THE COURT: Well, that's all well and good and you
20 should, but I need to also make sure that you understand -- you
21 personally understand what's going on.

22 You have the right to a hearing at this point called
23 a detention hearing. The law requires that I release defendants
24 on bond unless the government can prove to me that there are no
25 conditions of bond that will adequately assure appearance or the

1 safety of the community. And that's what a detention hearing is
2 about, to make that decision.

3 And this is a hearing just like any other hearing in
4 court. You have the right to an attorney, you have the right to
5 call witnesses, you have the right to question the witnesses
6 against you. But the issues are limited to those two that I
7 mentioned, appearance and danger to the community.

8 So it's not a trial of the person; it's a question of
9 their trustworthiness for bond. That's what a detention hearing
10 is all about.

11 If you give up that hearing then you'll be held in
12 jail till the case is all over, so that is the consequence of
13 giving up your right to a detention hearing.

14 Now, if I have a detention hearing you could be held
15 without bond anyway. So I'm not saying what will happen if there
16 is a detention hearing; I'm just saying that would definitely
17 happen if there isn't.

18 So do you understand everything I've told you?

19 THE DEFENDANT: I believe so.

20 THE COURT: And is your decision to have your
21 detention hearing or to give it up? That's up to you.

22 THE DEFENDANT: I'd like to waive it at this time,
23 sir.

24 THE COURT: By waiving you mean to give it up?

25 THE DEFENDANT: Yes, sir.

1 THE COURT: You make that decision of your own free
2 will?

3 THE DEFENDANT: Under advice of my counsel.

4 THE COURT: All right.

5 Defendant will be detained pending trial then.

6 Anything further we need to do in this matter?

7 MR. MEYER: No, your Honor.

8 MR. DOELE: I don't believe so, your Honor. Thank
9 you.

10 THE COURT: Thank you.

11 Defendant's remanded and court's adjourned.

12 (At 3:20 p.m., proceedings adjourned)

13

CERTIFICATE

I certify that the foregoing is a transcript of the electronically recorded proceedings in the above-entitled matter to the best of my ability.

November 1, 2005

Patricia R. Pritchard /S/
Patricia R. Pritchard, CER 3752