

UNITED STATES COURT OF APPEALS  
FOR THE SIXTH CIRCUIT

UNITED STATES OF AMERICA,

Case No. 06-1734

Plaintiff-Appellee,

District Court CASE NO.

1:03-CR-00239

1:03-mj-00371-JGS-ALL

Vs.

NORMAN DAVID SOMERVILLE

Defendant-Appellant.

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PRO SE APPELLANT'S BRIEF

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Statement Regarding Oral Argument

Unless the Sixth Circuit Court of Appeals is willing to appoint Counsel, Oral Argument for this interlocutory appeal is waived. Appellant is indigent and unable to afford counsel. If the Sixth Circuit Court, in its honorable wisdom, believes these matters are adequately stated in this brief and the subsequent Reply brief, if any, then Oral Argument is respectfully waived.

Jurisdictional Statement

The United States District Court for the Western District of Michigan claimed jurisdiction in this matter under 18 U.S.C. §922(o)(1). This Court of Appeals has jurisdiction to review a final Order of the District Court under 28 U.S.C. §1292. Appellant claims this to be an appeal of right under the U.S. Constitution.

STATEMENT OF THE CASE

A three count Indictment against Norman David Somerville was issued in the Western District of Michigan U.S. District Court on October 7, 2003. An Arrest Warrant which was not signed by a magistrate judge was also issued that same date. A Motion and Order to Seal the Indictment was also issued that same date. All three of these documents are from Case Number 1:03-CR-0239 in this District Court. This is the Case of USA Vs. NORMAN DAVID SOMERVILLE.

On October 9, 2003, an Application and Affidavit for Search Warrant, Search Warrant, and Motion and Order to Seal the Application and Affidavit for Search Warrant were created under Case No. 1:03-M-371. The Application and Affidavit for Search Warrant listed activities of Norman David Somerville and Lisa Kay Vega, but the Case Number 1:03-M-371 is captioned USA Vs. 40 Acres of Property.

On October 10, 2003, Defendant Somerville was arrested while shopping inside The Home Depot store in Cadillac, Michigan. While being held at the Michigan State Police Post in Cadillac on that same date, Defendant Somerville was presented with copies of both Arrest Warrant and Search Warrant. Somerville vigorously protested stating both documents were invalid for lack of valid signatures. Federal Agent Mark Semear who presented the documents did not deny that the warrants were invalid.

On October 17, 2003, Certified True Copies of the Application and Affidavit for Search Warrant, Search Warrant, and Motion to Seal the Application and Affidavit for Search Warrant were given to the newly court appointed defense Counsel, Mr. Joseph Doelee.

Mr. Doele met with Somerville once during the next two days, October 18 or 19, 2003, at the Newaygo County Jail prior to the October 20, 2003 Arraignment and Detention Hearing. At that meeting Mr. Doele gave Mr. Somerville copies of the Certified documents from the Search Warrant which Mr. Doele had received from Assistant U.S. Attorney Lloyd K. Meyer on October 17. Mr. Doele did not give his client any instructions concerning "sealed" documents. Somerville proceeded to discuss these documents with Lisa Kay Vega and others over the telephone from Newaygo County Jail, and these documents themselves were mailed to Lisa Kay Vega, who is still in possession of them, whereupon she photocopied the documents and distributed them to various persons and posted them on the internet.

At the Arraignment and Detention Hearing, Mr. Meyer declared that all the Search Warrant information would be made available in an "open file" policy.

Immediately after the Hearing on October 20, 2003, a Proffer Agreement with extensive immunity provisions granted to Somerville was drafted by the government and agreed to by Somerville and the government. Thus began a series of meetings to disclose volumes of information to the government.

Immediately after the Arrest of Somerville in Cadillac, the government commenced its two day search of the 40 Acres of Property. At the conclusion of that Search and seizure, the government agents left a copy of the Search Warrant with Attachment A and a copy of the four pages of Return to Search Warrant, in the residence. This documentation was retrieved from the Somerville farm by Lisa Kay Vega who is still in possession of these documents.

The case of USA Vs. NORMAN DAVID SOMERVILLE was scheduled for a jury trial by Magistrate Judge Joseph G. Scoville at the October 20, 2003 Hearing. The Government's Motion and Brief for Detention submitted for this Hearing contained a substantial quantity of 'factual' argument inconsistent with the contents of the Return to Search Warrant from Case No. 1:03-M-371.

Over the next ten months, the case of USA Vs. NORMAN DAVID SOMERVILLE, 1:03-CR-0239, and its trial, were continued and adjourned. On August 11, 2004, a Plea Agreement drafted by the government which denied the existence of the Proffer Agreement and its immunity provisions, was accepted by the District Court. Somerville had multiple reservations about such Plea Agreement which in his best judgement and belief for the safety of himself and others were not expressed in open court. Somerville wrote a letter the very next day to Judge Quist to express these reservations, which included the lack of consideration of the prior immunity agreements.

Subsequent to the Plea Hearing, a PSI Report was prepared by Probation Officer Linda Skrycki. Somerville did file objections to this report directly with the Assistant U.S. Attorney Lloyd K. Meyer. A meeting to present these objections, which included multiple objections to the PSI Report's representation of the results of the Search, was documentedly held on October 25, 2004, which Linda Skrycki attended. Linda Skrycki later wrote the PSI Report and contended that no objections were filed by Somerville.

At the Sentencing Hearing on March 24, 2005, AUSA Meyer mentions that the Search Warrant attributable to Case No. 1:03-CR-0239 is

found in Case No. 1:03-M-371. None of the Search Warrant documents attributed to these matters was ever entered into the Record in Case 1:03-CR-0239, and none were ever entered as exhibits prior to or in the Sentencing Hearing. In the Direct Appeal process, in Case No. 05-1475 before the Sixth Circuit Court of Appeals, Somerville did submit a Motion to Supplement the Record for Appeal which specifically requested that the Search Warrant and Return to Search Warrant be placed in the Record; Judge Quist denied this Motion stating that Somerville was attempting to add new evidence to the case.

Throughout these proceedings, Somerville has contended that the Search Warrant documents were invalid. Somerville pressed his concerns in these matters in written and verbal encounters with his court-appointed Counsel, Mr. Doele, who did nothing. Somerville expressed his concerns publicly in a Letter to the Editor of The Advocate newspaper from Cadillac, Michigan in November 2003.

In April 2006, during the filing of Briefs in his Appeals to the Sixth Circuit, Somerville inquired of Magistrate Scoville in regards to the Search Warrant and Return to Search Warrant from Case No. 1:03-M-371. Magistrate Scoville responded with a signed and FILED stamped copy of the Search Warrant along with a copy of the Return to Search Warrant after going through several machinations in the Court Records. On April 26, 2006, a Case file numbered 1:03-mj-00371-JGS-ALL was created and filled with docket entries all made on April 26, 2006, which referenced documents from Case No. 1:03-M-371 which supposedly had been "FILED" and on the Record all the way back to October 9, 2003.

In response to the creation of Case No. 1:03-mj-00371-JGS-ALL and the contents of its docket entries and descriptions, and its documents, Somerville timely filed a Motion to Strike Docket for Case No. 1:03-mj-00371-JGS-ALL. This Motion contended that this Case file was improper on many grounds. The District Court, under the hand of Judge Gordon Quist, Denied this Motion, and this instant matter is an Appeal of that ORDER.

Somerville has contended in his Appeal process that the acceptance of a Guilty plea by the District Court was improper and has cited the case of U.S. v. COFFELT (6th Cir. 2005) Case No. 02-5610, which finds that a Guilty Plea requires evidence. While the government claimed that it had a Search Warrant and related documents, none were entered into the Record in District Case 1:03-CR-0239; and though the government was ordered to perform firearms testing to determine if machineguns actually were found; the government has never entered such report into the Record and refuses to produce this report, which was Ordered by Magistrate Scoville on October 20, 2003. The only information which Judge Gordon Quist relied upon in the acceptance of a Guilty Plea from Somerville, were statements made by Somerville in the Plea Hearing which were covered under the immunity terms provided by the government in the Proffer Agreement. Without a valid Search Warrant and Return to Search Warrant on the Record, there is no valid chain of evidence to support claims made in the PSI Report or claims made in exhibits or testimony in the Sentencing Hearing.

The government will claim that the Search Warrant documents were on the Record, but the facts of the matter show otherwise.

While it is certainly possible to have evidence in hand, it is an entirely different matter to place it into the Record where it may be challenged. Holding some evidence off the Record which by law, under the Federal Rules of Criminal Procedure, shall be filed, is prejudicial to the Defendants who should rightfully be able to refer to it or challenge its form or content. This is particularly true in cases of Search Warrants and associated documents. Many misrepresentations of the actual seizure were made in court documents and media press releases by the AUSA Meyer, BATF, and the Michigan State Police. These false declarations were highly prejudicial. The Application and Affidavit for Search Warrant is filled with material which is simply wrong, and the credibility of the Confidential Informant before the Grand Jury (which is the only real substance of this Application) is substantially perjured and is a fact admitted by the BATF Agent Mark Semear in Sentencing Testimony. Enhancements made in the PSI Report regarding other items seized are all based upon the Search Warrant documents, which if they had been on the Record would have easily shown falsehoods in the PSI and requests for enhancements to sentencing. At every phase of this case, the withholding of these Search Warrant documents has prejudiced against the Defense. Right from the very beginning, when these documents should have been on the Record to challenge their sufficiency, over a period of ten months, they were withheld. Even though the Defense Counsel had copies of these documents each being "Certified as a True Copy", the obvious deficiencies in them could not be addressed until they were put on the Record, which is a task belonging to the government Agents, the Magistrate Judge, and Clerks to complete. The copies of these documents which the Defense Counsel

received several days or more after they were supposedly filed, and which were Certified True Copies, did not bear any markings showing a FILED Date or other normal court procedures, and thus it is quite obvious that these documents were being held in some off-the-record file. When Judge Quist refused to accept these Search Warrant documents into the Record, stating that this was improperly adding evidence to the case, not only did he stipulate inherently that these documents were not in the Record in this matter (even though He presided over the Sentencing Hearing in which AUSA Meyer connected these documents from another case into the matter), but he also acted prejudicially against the Defendant/Appellant yet again for the failure of these documents to be in the Record. When it was advantageous for the Defense to have these documents on the Record, they have been withheld and denied. Now that the entire conviction is at stake for lack of evidence, the District Court is claiming that these documents really were on the Record, and they were simply hidden under Seal in an entirely Sealed Case, Case No. 1:03-M-371 or 1:03-mj-00371-JGS-ALL. No SEAL was ever requested for this entire case, only a Seal of one document, that being the Application and Affidavit for Search Warrant. By Local Rules of the Court, Sealed documents are to be held in a Sealed envelope and properly marked. The purportedly Sealed document in this case, was released by AUSA Meyer on October 17, 2003, and by his own request in the Motion to Seal, this Act of Releasing the information effectively unsealed the document. There were no other requests to Seal in Case No. 1:03-M-371, and like all the documents in Case No. 1:03-CR-0239, the documents in Case No.

1:03-M-371 should have been placed into the filing system, such as is known to be the electronic Docket available to everyone in a very normal and timely fashion. Filing Dates and the date something is "Entered" into the Record system would be the same date or only a few days later, not two and a half years later.

In Judge Quist's DENIAL of the MOTION TO STRIKE DOCKET FOR CASE No. 1:03-mj-00371-JGS-ALL, he ignores the clear proof of the falsity of the docket entries which claim the Case was Sealed, a matter which was not incomprehensible without a determined effort to abuse his discretion and act prejudicially against the Defendant. He further goes on to make the erroneous statement that the electronic record shows that the warrant was indeed filed with the Clerk on October 29, 2003; there are no entries in either Case No. 1:03-CR-0239 or 1:03-mj-00371 dated October 29, 2003 for any document, let alone a warrant. Judge Quist claims that these new entries are not nunc pro tunc even though they are all made two and a half years late. Judge Quist also claims that file naming conventions changed in November 2004, and that files which would previously be designated with "M" are now designated with "MJ"; this further confirms that this Case No. 1:03-mj-00371-JGS-ALL was created after november 2004 in the electronic system; cases previously filed would still operate in the system with their original Case Number, which in this matter would be 1:03-M-371 since all the documents are marked as such and rules which govern the filing of documents require that they be in a file which bears the same nomenclature.

The MOTION TO STRIKE DOCKET FOR CASE No. 1:03-mj-00371-JGS-ALL also argued that the Search Warrant documents should be suppressed

from the Record altogether due to the prejudice against the Defendant which has already occurred and which will yet occur if they are now admitted into the Record. Case law shows that these documents should be suppressed and/or invalidated in cases such as this.

This Appeal seeks to have the request made of the District Court in the MOTION TO STRIKE DOCKET FOR CASE No. 1:03-mj-00371-JGS-ALL to strike the Record and Docket in that Case Number and prohibit the introduction of the Search Warrant documents into the Record under any Case Number fulfilled by this Honorable Court.

STATEMENT OF THE FACTS

The Search Warrant in the possession of B.A.T.F. Agent Mark Semear, which was presented to Norman David Somerville while in custody in the Michigan State Police Post in Cadillac, Michigan on October 10, 2003, was rubber-stamped with Magistrate Judge Scoville's name "JOSEPH G. SCOVILLE" and the Date Issued was also rubber-stamped "OCT 9 2003". This document was stamped "Certified as a True Copy Ronald C. Weston, Sr., Clerk By \_\_\_\_\_ Deputy Clerk U.S. District Court Western Dist. of Michigan Date \_\_\_\_\_". This Certified stamp was dated by rubber-stamp identical to the Date Issued, and is endorsed By Margaret Hetherington who is listed in the 2004 Judicial Staff Directory for the 6th Circuit Western District of Michigan as being Secretary to Magistrate Judge Scoville. See **Exhibit B** for this listing. A photocopy of this identical document was given to Defense Counsel Joseph Doelee on October 17, 2003 by AUSA Lloyd K. Meyer. This transfer of documents is supported by testimony of Lloyd K. Meyer before Magistrate Scoville in the Hearing on October 20, 2003. The Search Warrant now revealed in the Docket Entry #4 of Case No. 1:03-mj-00371-JGS-ALL is not the same document presented by AUSA Meyer to Counsel Doelee nor is it the same document possessed by BATF Agent Semear when he presented the Search Warrant to Somerville. According to **ATF O 3220.1 -- SEARCHES AND EXAMINATIONS** (see **Exhibit C**), which is a Directive to all special agents, the BATF Agent should possess the Original Search Warrant and return it to the issuing official after the search, and copies of this warrant are to be exhibited upon search and left in the premises searched and a copy given to the U.S. Attorney.

No documentation claiming or conforming to the issuance of a telephonic search warrant under Federal Rules of Criminal Procedure Rule 41 has been revealed by the Court or the U.S. Attorney.

Two additional documents, with similarly rubber-stamped Dates and JOSEPH G. SCOVILLE in the signature space, and similarly stamped "Certified" and endorsed by Margaret Hetherington and rubber-stamp dated OCT 9 2003, were delivered into the possession of Defense Counsel Doele by Lloyd K. Meyer on October 17, 2003. Those two documents are the APPLICATION AND AFFIDAVIT FOR SEARCH WARRANT and the MOTION TO SEAL the Search Warrant Application and Affidavit in Case No. 1:03-M-371. These documents are Exhibits in the MOTION TO STRIKE DOCKET FOR CASE No. 1:03-mj-00371-JGS-ALL.as Exhibit A and Exhibit B; for Exhibit purposes only the first page with signatures and dates and stampings from the APPLICATION AND AFFIDAVIT FOR SEARCH WARRANT was included in the Exhibit A, and similarly only the first pages of Exhibits D and E were included with the Motion.

The existence of Search Warrant documents was claimed by the AUSA Lloyd K. Meyer in the October 20, 2003 Hearing and in the March 24, 2005 Sentencing Hearing, however no Search Warrant documents were ever put on the Record. There are no Docket Entries in Case No. 1:03-CR-0239 which list Search Warrant documents prior to the commencement of Appeals by Somerville. There never has been a file in the electronic Record under the file number 1:03-M-371 and thus there never has been a Search Warrant on the Record under that File/Case Number.

The electronic Record is understood to be THE RECORD which is maintained by the Clerk according to law. Local Rule 49.10(a) reads, in pertinent part:

"This rule shall apply to all criminal actions maintained in the court's electronic case filing system. All documents, whether filed electronically or on paper, will be placed into the electronic case filing system, except for sealed documents and certain voluminous documents."

This electronic Record is the location where a Case properly filed, such as Case No. 1:03-M-371, should have been noted.

Judge Gordon Quist maintains that the Case No. 1:03-M-371 was created on October 9, 2003 because the electronic Record in the newly created docket for Case No. 1:03-mj-00371-JGS-ALL says it was, even though all the docket entry "Entered" dates, particularly those for October 9, 2003 "Date Filed", are April 26, 2006. Judge Quist's Denial Order (the subject of this instant Appeal), does not address the very clear language in the MOTION TO SEAL the APPLICATION AND AFFIDAVIT FOR SEARCH WARRANT which is the only request to seal anything in Case No. 1:03-M-371 or Case No. 1:03-mj-00371-JGS-ALL. The language in that MOTION TO SEAL is very brief and was clearly stated in Somerville's MOTION TO STRIKE DOCKET FOR CASE No. 1:03-mj-00371-JGS-ALL; that language reads:

"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."

This language does not request to Seal the Case No. 1:03-M-371 as

the Docket Entry #3 in Case No. 1:03-mj-00371-JGS-ALL claims. Magistrate Judge Joseph G. Scoville is in error claiming that this Case was Sealed, the Docket Entry is in Error, and Judge Gordon Quist is in Error. The Local Rule 49.8(a) which is appealed to in the MOTION TO SEAL reads as follows:

"(a) Request to seal - Requests to seal a document must be made by motion and will be granted only upon good cause shown. If the document accompanies the motion, it shall include an envelope suitable for sealing the document. The envelope shall have the caption of the case, case number, title of document, and the words "Contains Sealed Documents" prominently written on the outside. The document shall not be considered sealed until so ordered by the Court."

This Rule does not consider Sealing entire Cases, only individual documents for good cause. The MOTION TO SEAL clearly states that the Sealing may be lifted by the United States Attorney releasing the information. The information in the sealed document, APPLICATION AND AFFIDAVIT FOR SEARCH WARRANT was released by AUSA Meyer on October 17, 2003, and at such time the Seal, if any, was lifted by such Action. Judge Quist's Order fails to acknowledge that the claims and statements made in the electronic Record are inaccurate. Judge Quist's Order fails to acknowledge the unambiguous fact that the Case No. 1:03-M-371 was never sealed. Judge Quist's Order does acknowledge that the information in the warrant application was released in the discovery process. Judge Quist's Order also contends that the "minor difference in the numbering of cases was introduced effective November 1, 2004, when the court converted to the electronic CM/ECF system." In fact, the electronic system had already been in place and functioning as the OFFICIAL system in compliance with Federal Rules for quite some time prior to that

date.

The version of the Search Warrant first page shown in Exhibit E of the MOTION TO STRIKE DOCKET FOR CASE No. 1:03-mj-00371-JGS-ALL is a photocopy of the document left in the residence at the Somerville farm by the Agents after the Search and seizure. This version of the Search Warrant is "Certified as a True Copy". According to Federal Rules of Evidence, Rule 902, Certified Copies of court documents are self-authenticating, and as such are accepted as authentic in all respects, including signatures and dates. Were this not to be the case, Certified True Copies of documents would render nothing meaningful to the court. The signed Original of this document (original Certified stamp signature of the Clerk), is in the possession of Lisa Kay Vega and is being sought to be returned to Somerville in Sixth Circuit Case No. 05-2441. The "Certified as a True Copy..." versions of the APPLICATION AND AFFIDAVIT FOR SEARCH WARRANT, SEARCH WARRANT, and MOTION TO SEAL, (as shown in Exhibits in the MOTION TO STRIKE DOCKET FOR CASE No. 1:03-mj-00371-JGS-ALL) are the only Search Warrant related documents from October 9, 2003, ever shown or known to Somerville or his counsel(s) prior to the creation of the Docket for Case No. 1:03-mj-00371-JGS-ALL on April 26, 2006. The Record will show that the Search Warrant documents (front pages) presented in Sixth Circuit Case no. 05-1475 (Somerville's pro se Direct Appeal primary brief) in Appendix Exhibit "O", were given to Somerville by his second court-appointed counsel Mr. Richard Zambon, who received the file from Mr. Joseph Doele. The Return to Search Warrant documents (four numbered pages) which were left in residence at the Somerville farm and taken by

Lisa Kay Vega, are identical in content to the documents presented to Mr. Joseph Doele by Lloyd K. Meyer on October 17, 2003, and identical to the documents which Magistrate Judge Joseph G. Scoville delivered to Somerville in April 2006, and identical to the numbered pages shown in the Docket Entry #4 of the new Case File No. 1:03-mj-00371-JGS-ALL.

The newly revealed documents in Case File No. 1:03-mj-00371-JGS-ALL from 10/09/2003 and 10/14/2003 "Date Filed" (Entry numbers #1, #3, and #4), all bear signatures and dates written by hand and "FILED" stampings. None of the previously revealed documents which were "Certified" have any "FILED" stampings.

The electronic record in Case No. 1:03-CR-0239 shows that Somerville formally requested all the documents from the case, and specifically included a request for signed search and arrest warrants. See docket Entry #106. In Judge Gordon Quist's MEMORANDUM ORDER, docket Entry #108, he addresses this request. The Judge begins with his confirmation of the Defendants plea of guilty to one count of possession of a machinegun on August 11, 2004. He then confirms the request of Somerville:

"In his current motions, Defendant seeks free copies of all documents in the Court's file, in general, and the following documents in particular:(1) **all sealed items;** (2) all exhibits (including those submitted at the March 24, 2005, sentencing hearing); (3) color copies of all photographs; (4) **copies of the signed search and/or arrest warrant;** and (5) a copy of the transcript from the November 17, 2004, hearing regarding his counsel's motion to withdraw." (Bold emphasis added)

Further on in this MEMORANDUM ORDER, Judge Quist Orders that the warrants be provided to Somerville by the Clerk. NO SEARCH WARRANT DOCUMENTS were ever given to Somerville by the Clerk as a result

of this Order. The Judge further Ordered that all non-sealed exhibits presented at the sentencing hearing be given to Somerville; the Search Warrant documents were not among these documents. The Judge further Orders the government to address the Defendant's request for copies of the sealed documents submitted in connection with his sentencing hearing; and in the ORDER Judge Quist issued under docket Entry #109, the government was required to provide all sealed documents to Somerville. No Search Warrant documents of any kind were ever given to me by the Court, the Clerk, or the government, as a result of these Orders. The Search Warrant documents were simply NOT IN THE RECORD anywhere, and certainly the government would have been aware of the Search Warrant documents if they had existed on the record as claimed by AUSA Meyer in the Sentencing Hearing.

The electronic record in Case No. 1:03-CR-0239 will show under docket Entry #140 that Somerville filed a MOTION TO SUPPLEMENT THE RECORD FOR APPEAL on November 16, 2005. This Motion specifically requested that the Search Warrant and Return to Search Warrant be placed in the record. Judge Gordon Quist, in his MEMORANDUM ORDER under docket Entry #142, DENIED this Motion stating very clearly that Somerville was attempting to add new evidence to the case. It is very clear that Search Warrant(s) and related documents have never been in the record anywhere in any form, sealed or unsealed, or as exhibits, prior to Somerville's Appeals process.

Although the government was Ordered on October 20, 2003, to perform firearms testing on evidence seized pursuant to the Search Warrant, neither the Warrant, Return, or the Firearms Testing Report

were placed on the Record. Neither Somerville or his Counsel(s) have ever received a copy of this allegedly existing Firearms Testing Report. As such, the District Court accepted a Guilty Plea from Somerville without any valid evidence ever placed in the Record. By virtue of the Opinion of the Sixth Circuit in U.S. v. COFFELT, a guilty plea without evidence is improperly taken.

This instant appeal presents issues which represent abuse of discretion in the consideration of evidentiary matters which were raised in the lower court. Quoting from the Opinion in U.S. v. ARNOLD (6th Cir. 2005) Case No. 04-5384:

"All evidentiary rulings, including those that challenge constitutionality, are reviewed by the appellate court under the "abuse of discretion" standard. U.S. v. Schreane, 331 F.3d 548, 564 (2003), cert. denied, 540 U.S. 973, 124 S.Ct. 448, 157 L.Ed.2d 323 (2003). See also Gen. Elec. Co. v. Joiner, 522 U.S. 136, 141, 118 S.Ct. 512, 139 L.Ed.2d 508 (1997) ("We have held that abuse of discretion is the proper standard of review of a district court's evidentiary rulings."). This Court will find an abuse of discretion when there is a "definite and firm conviction that the court below committed a clear error of judgement in the conclusion it reached upon a weighing of the relevant factors." Schreane, 331 F.3d at 564 (quoting Super Sulky, Inc. v. U.S. Trotting Ass'n, 174 F.3d 733, 740 (6th Cir. 1999)). Abuse of discretion also results when the "lower court relies on clearly erroneous findings of fact, or when it improperly applies the law or uses an erroneous legal standard." U.S. v. Heavrin, 330 F.3d 723, 727 (6th Cir. 2003) (quotation and citation omitted)."

**Exhibit A** attached to this primary Brief is the MOTION TO STRIKE DOCKET FOR CASE No. 1:03-mj-00371-JGS-ALL with all its exhibits and a copy of the Docket for Case No. 1:03-mj-00371-JGS-ALL from the Clerk's office dated April 27, 2006. All of the case law and argument in the Motion are intended to be included in this Appeal.

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ISSUE ONE VIOLATIONS OF LOCAL RULES, FEDERAL RULES OF CRIMINAL  
PROCEDURE, and ATF O 3220.1

According to Local Rule 49.10(a), "All documents, whether filed electronically or on paper, will be placed into the electronic case filing system, except for sealed documents and certain voluminous documents." If in fact, the documents claimed by the U.S. Attorney and the District Court to have been filed under Case No. 1:03-M-371 would have been filed in this system, then they would be filed identically to documents filed in Case No. 1:03-CR-0239 which was created prior to Case No. 1:03-M-371. According to Local Rule 49.10(a), only the proposed sealed document would not be placed in the official electronic record; however, just as in Case No. 1:03-CR-0239, there would be a docket entry timely made to annotate the existence of such a document. Since the facts clearly show that the entire case of Case No. 1:03-M-371 was not sealed, there is no reason for the disparate treatment of documents from Case No. 1:03-M-371.

FRCP Rule 41 requires Search Warrant documents returned to the Magistrate Judge by the Agents to be given to the Clerk for filing along with all other related documents. There is no just cause in this matter for violation of this Rule regarding filing these documents in the official electronic record.

If in fact, a Case File numbered 1:03-M-371 had existed in the official electronic record, as Judge Gordon Quist claims in his Denial Order, and only the name of the file was changed to 1:03-mj-00371-JGS-ALL, then the "Entered" dates in the docket entries would be from two and a half years ago, not all April 26, 2006.

It is clear that it is the Clerk's duty to ascertain the nature and content of a document in order to make an entry in the Docket when recording the filing of such document. The very plain language in the MOTION TO SEAL, which is annotated in Docket Entry #3 in the newly created Case File No. 1:03-mj-00371-JGS-ALL, says nothing about sealing the entire case, so it is inconceivable as to how the Entry Clerk "(dmh)" arrived at the language used in the "Docket Text" to describe the nature and content of this document as "MOTION and ORDER to seal case...". This document only speaks to sealing the Search Warrant Application and Affidavit (a fairly common practice), and should be annotated as such. Instead, however, it is apparent that there is a conspiracy involved between this Clerk and Magistrate Scoville to perpetrate a fraud upon the Court and the Public Record. Certainly Magistrate Judge Scoville and the Clerk are both capable of reading the language in this document, and the Magistrate's following frivolous Order unsealing the "case" to allow revealing this file of documents is an additional conjunctive act in the perpetration of a fraud upon the court and the public record.

In the case of Groh v. Ramirez, Justice Stevens, delivering the Opinion of the Court stated:

"In fact, the guidelines of petitioner's own department placed him on notice that he might be liable for executing a manifestly invalid warrant. An ATF directive in force at the time of this search warned: "Special agents are liable if they exceed their authority while executing a search warrant and must be sure that a search warrant is sufficient on its face even when issued by a magistrate." Searches and Examinations, ATF Order O 3220.1(7)(d)(Feb. 13, 1997). See also *id.*, at 3220.1(23)(b) ("If any error or deficiency is discovered and there is a

reasonable probability that it will invalidate the warrant, such warrant shall not be executed. The search shall be postponed until a satisfactory warrant has been obtained").<sup>7</sup> And even a cursory reading of the warrant in this case -- perhaps just a simple glance -- would have revealed a glaring deficiency that any reasonable police officer would have known was constitutionally fatal."

Further quoting from Groh v. Ramirez:

"Moreover, the particularity requirement's purpose is not limited to preventing general searches; it also assures the individual whose property is searched and seized of **the executing officer's legal authority**, his need to search, and the limits of his power to do so." (bold emphasis added)

Further citing from Groh v. Ramirez:

"[A] warrant may be so facially deficient...that the executing officers cannot reasonably presume it to be valid." Leon, 468 U.S., at 923.

In this case, Agent Semear possessed a Search Warrant with a rubber-stamping of a name where the Signature of a Judicial Officer should be and this document was Certified as a True Copy; and this being the case, it would be clear to any law enforcement officer that the Original warrant was NOT SIGNED by a Magistrate or any other Judicial Officer and was thusly clearly facially defective.

ISSUE TWO MULTIPLE SETS OF DOCUMENTS

The BATF Directive 3220.1, which notes the individual liability of Agents for acting on an invalid Search Warrant, is very clear about the Agent having the Original Warrant and making copies of that warrant. There is no telephonic warrant involved so there are no Duplicate Original warrants involved. By FRCP Rule 41, a telephonic warrant would be signed by the Agent for the Magistrate Judge; it would not be part of a series of identically rubber-stamped documents. So the question is, why didn't the BATF Agent have True Copies of the properly signed search warrant now revealed by Magistrate Judge Scoville in the newly created Case File No. 1:03-mj-00371-JGS-ALL? The rubber-stamped Search Warrant versions in the possession of the BATF Agent obviously came directly from Magistrate Scoville's own Secretary, on the very same day that Agent Semear allegedly presented his sworn APPLICATION AND AFFIDAVIT FOR SEARCH WARRANT to the Magistrate. It is rather inconceivable that the actual signed valid documents were not available to the Magistrate's own secretary to copy at that time, if they existed at 9:10 a.m. All these documents were allegedly created on October 9, 2003. It is inconceivable that a Magistrate's secretary would 'Certif[y] as a True Copy' any document which she knew to not be a True Copy. The material content of all the versions of these documents is identical in text; the only differences concealed in the supposedly sealed case file are documents with signatures, so allegedly sealing the case file actually did nothing to protect the information or the activity. The only thing that has been hidden in this supposed sealed file is material to create a controversy over whether or not

these warrant activities were in compliance with FRCP Rule 41. Certainly it is apparent that the claimed existence of signed documents is an admission that the rubber-stamped documents are invalid, and that actions taken by virtue of those facially defective documents would be knowingly violative of law and subject the BATF Agent to substantial personal liability. The fact that these newly revealed documents with signatures were never in the record and never given to defense counsel can only lead to suspicion of their authenticity.

The preponderance of the evidence in this issue, especially with the series of identically rubber-stamped documents (AFFIDAVIT, WARRANT, MOTION TO SEAL) "Certified" and issued directly from the Magistrate's office on October 9, 2003, would indicate that the rubber-stamped documents were in fact the only documents in existence at that time. As such, it is clear that FRCP Rule 41 was wantonly violated and the search warrant was in fact defective and the BATF Agent Mark Semear was reasonably aware of this fact. Electronic signing of documents had not yet been implemented under Local Rules at that time. If Agent Semear and the Judicial Officials had followed Local Rules, FRCP Rule 41, and ATF O 3220.1, then Agent Semear would have been in possession of the Original signed Search Warrant and he would have had no need of receiving Certified Copies from the Magistrate's secretary when all he needed to do according to law and his directives was to photocopy the properly signed Original warrant - if it had existed.

It is quite apparent that the "Certified as a True Copy..." series of documents, certified on October 9, 2003, were all given

to Defense Counsel Doele on October 17, 2003 as stated by AUSA Meyer in the October 20, 2003 Hearing; certainly the BATF Agent did not give all these documents to Somerville and it is not the U.S. Attorney's job to give Somerville such documents. What is significant about this transfer of documents from Meyer to Doele is that they were presented as Certified as True Copies of the documents in AUSA Meyer's "open file"; if these documents were not in fact True Copies and Mr. Meyer was indeed aware of some other "real" documents, then Mr. Meyer perpetrated a fraud upon Mr. Doele and made misleading statements to the court.

The dialogue between Mr. Meyer and Magistrate Judge Scoville in the October 20, 2003 Hearing would tend to show that Magistrate Scoville was not even aware that Search Warrant documents existed in this case. Quoting from the Hearing transcript, Document #137 from the docket for District Case No. 1:03-CR-0239, 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.

If Magistrate Scoville had in fact read the 11 page APPLICATION AND AFFIDAVIT FOR SEARCH WARRANT on October 9, 2003, filled with scandalous material about Somerville, and signed that document, and signed the Search Warrant and signed the MOTION TO SEAL and supposedly even received back from BATF Agent Semear both the Original warrant and the four page Return to Search Warrant which

were supposedly then turned over to the Clerk and filed on October 14, 2003, then it would seem that Magistrate Scoville would have been more aware of the documents and his interrogatory of Mr. Meyer would have been phrased a bit differently. Further, if Magistrate Scoville was, at that time, maintaining a sealed file in this matter, then Mr. Meyer's statements of an "anything he wants" "open file" would have been exceedingly in tension with the Magistrate's supposed understanding of the secrecy in this matter.

ISSUE THREE PREJUDICE CAUSED TO DEFENDANT/APPELLANT BY FAILURE  
TO PROPERLY FILE DOCUMENTS

1. Purportedly properly executed Search Warrant documents were never available to challenge, nor were the "Certified as a True Copy..." set of Search Warrant documents because no search warrant documents were ever properly filed on the Record under any case file number prior to April 26, 2006.

This represents a two and a half year delay in filing these documents on the Record. This is a delay not due to the failure of Defense Counsel to file these documents. The process of filing these documents is purely the duty of government Agents, the Magistrate, and the Court Clerks, and if there was a deficiency in this process it was the duty of the government to make sure that their record was in order.

The fact that only "Certified as a True Copy..." documents which were obviously facially defective under FRCP Rule 41 were the only search warrant documents given to Defense Counsel, (and that no other documents were properly on the Record to obtain), and that these Certified documents were NOT placed on the Record, rendered Defense Counsel incapable of challenging sufficiency of the documents or seeking suppression of the warrant and evidence. It is not the duty of Defense Counsel to compel compliance with FRCP Rule 41 by Judicial Officers. If these warrant documents were not filed properly on the Record then it is the government who misled the Court by claiming this evidence, and it is a failure of the court itself for taking no notice of this fact.

Defense Counsel was in fact NOT deficient in challenging the

sufficiency of the Search Warrant documents as the government and the District Court have contended, but rather Defense Counsel was plainly DENIED this opportunity by the failure to place any documents into the Record to be challenged, no matter which sets of documents that might have been.

2. Inconsistencies in Government's Motion and Brief for Detention (October 20, 2003 Hearing), as compared to the items actually listed as seized in the Return to Search Warrant which was not in the Record, could not be challenged. The Motion declared that the Confidential Informant's information upon execution of the Search Warrant was just as they were told. In fact, this was not the case as only finally admitted in some detail by BATF Agent Semear in testimony at the Sentencing Hearing on March 24, 2005. These false statements by the Confidential Informant which were copied right into the Motion were quite obviously known to be false by Lloyd K. Meyer, but he used these false statements anyway. The Informant had claimed; quoting from the APPLICATION AND AFFIDAVIT FOR SEARCH WARRANT: "Mr. Somerville...hides loaded firearms on other parts of the property." "...Mr. Somerville has obtained additional parts that he modified to convert this M2 into a machinegun. The source stated that this machinegun is mounted on an anti-aircraft mount..." "...Mr. Somerville has manufactured several destructive devices that he is using as land mines...Mr. Somerville is able to activate these devices electronically via a wire firing line. I believe from the source's description that these devices are pressure sensitive and may also be command detonated. The source stated that the devices

are checked by Mr. Somerville periodically and also activated if he and Ms. Vega leave the property. The source has personally witnessed the detonation of some of the destructive devices manufactured by Mr. Somerville." "The source stated that Mr. Somerville has at least 45,000 rounds of linked .50 caliber ammunition..."

None of these things were true, and the Return to Search Warrant, if it had been timely filed, would have revealed this immediately to the court.

3. False Declarations in the Media by the AUSA Lloyd K. Meyer, and other government sources, served to substantially desparage the character and conduct of the defendant, and were enabled by the lack of the Return to Search Warrant being placed on the Record. The government and its Agents and Spokespersons, made embellished claims to sensationalize this case, the majority of which would have been quashed with substantial embarrassment to the government if the Search Warrant and Return to Search Warrant had in fact been filed in the Public Record.

4. Manipulation of Search and Seizure by AUSA Lloyd K. Meyer and BATF Agent Semear presented a false perception of Somerville. According to the Search Warrant Attachment A, certain items were ordered to be seized which were not seized. According to BATF Agent Semear, in a tape-recorded proffer meeting at the Newaygo County Jail in November 2004, he was receiving directions regarding the Search and seizure from AUSA Lloyd K. Meyer by telephone. Items particularly exculpatory and in refutation of the embellished and fantasized claims of the Confidential Informant were left behind.

5. False statements in the PSI Report(s) were enabled because the Return to Search Warrant was not in the Record to refer to. The omission of filing the warrant documents seems quite deliberate when we review the PSI Report(s). The government did not find any hand grenades in the search, yet the PSI had claimed there were, and a two-point sentencing enhancement was created. This enhancement was grabbed out of thin air; and ultimately, when Defense Counsel Zambon pressed the matter in discussion with AUSA Meyer prior to sentencing by bringing up the Return to Search Warrant and the fact that no live grenades were found, the government conceded this fact and withdrew the enhancement and added a few typed-in words on the updated PSI Report stating no live grenades were found. In fact, only military surplus inert training grenades which were part of the inventory purchased for the Howell Military Surplus store were found. Everything else about grenades in Sentencing testimony by BATF Agent Semear was pure speculation, and was directly in conflict with substantial information I provided in proffer meetings and notes which the government witness FBI Agent Birdsong stated was truthful. The PSI Report is substantially defective in regards to the quantities of various items seized according to the Return to Search Warrant; either a substantial quantity of evidence has been stolen, or the government has a purposeful agenda for these false listings. The PSI Report is supposed to be accurate, not a creative writing exercise to provide a false record or to deceive the court. Nothing in the PSI Report is "immaterial" or it wouldn't be included.

6. Perjury in the Grand Jury testimony used within the Application

and Affidavit for Search Warrant and other court documents by the government, very reasonably prejudiced the court against Somerville. Even though the government knew the items mentioned above in subpart 2 of this ISSUE were false immediately upon execution of the Search, the truth was not revealed. Additionally, throughout the proffer meetings with Somerville and Lisa Kay Vega, it became very clear to the government that many other representations made by the Confidential Informant were false and/or embellished. Somerville and Vega were not part of some "self-styled" militia, and the CI knew that the Michigan Militia had taken in Somerville and Vega as members and turned the Somerville farm into a camp for their use beginning the very day of the 9/11 terrorist attacks, and the entire representation of this scene at the Somerville farm as being in response to the Michigan State Police's murder of Scott Woodring while he was surrendering is total fraud. The CI knew very well that it was the Michigan Militia's top leadership which initiated the camp and the creation of firearms by bringing their machinist Brian Douglas Alan Shimkus there and further it was these same leadership persons who initiated the distribution of the firearms being created. Somerville was NOT the "ring-leader" of this activity. The CI presented a false picture of the purpose of the home construction as well, claiming it to be a "bunker" when in fact it was massively obvious to anyone that all the pallets of Oriented Strand Board, 2x4's, 2x6's, 2x8's, roofing materials, insulation materials, etc., were being used to build a home. The presentation of "landmines" was a deliberate and knowing fraud to create a "stand-off" situation. The representation that Somerville had made all the elements of the

supposed "compound" was false too; it was the Michigan Militia and their membership who built these things. Yet, the government continued to make these false representations to the court.

7. Denial of Defendant's Motion to Supplement the Record for Appeal served to deprive Somerville of the ability to refer to Search Warrant documents in his Appeal filings. This Denial Order claims that Somerville was attempting to add new evidence to the case and specifically cites the warrants. Without these documents in the Record, Somerville can not substantiate his claims about false statements in the PSI Report(s) used in Sentencing or refute any claims made in any government documents as regards the seizure, nor can he substantiate the failures to reasonably and honestly document what was actually listed as seized on the Return to Search Warrant.

8. Placement of Search Warrant documents on the Record now is designed to defeat Somerville's Appeal by placing "new evidence" into the Record in order to justify a Guilty Plea. Judge Quist's Denial Order, the object of this instant Appeal, cites U.S. v. ORMSBY (6th Cir. 2001) and other cases, claiming that the Guilty Plea had the effect of waiving nonjurisdictional constitutional defects arising before the entry of the plea. In rebuttal, U.S. v. COFFELT (6th Cir. 2005) still requires evidence before acceptance of a Guilty Plea, and the failure to have any such evidence on the Record, no matter that it is found to be a nonjurisdictional defect or otherwise, has been held by this Court of Appeals to require reversing the conviction. Further, part of the argument raised in

the MOTION TO STRIKE DOCKET FOR CASE No. 1:03-mj-00371-JGS-ALL and this instant Appeal is that this defect is arising now in the creation of this nunc pro tunc electronic Record as clear violations of FRCP Rule 41 and Local Rules. Certainly the initial failure to comply with FRCP Rule 41 was a defect which did occur before entry of the plea, but these new entries in the Record clearly denoted by all their Docket Entry "Entered" dates of 4/26/2006 are defects arising now which are occurring under the false claim that the entire Case 1:03-M-371 was sealed. This is a scheme to admit a nunc pro tunc Record and additional controversial documents which is occurring now in the Appeals process in order to conceal prior defects and failure to conform to FRCP Rule 41 and Local Rules.

ISSUE FOUR NECESSITY TO REVERSE CONVICTION

The government's only evidence in this case is procured through the Search Warrant. Given that the Search Warrant is found to be invalid and therefore the evidence secured from that search be automatically suppressed, there is no evidence to support a conviction under any of the indictments issued against Somerville. The conviction, without any evidence, cannot stand, and is within the power of this Court of Appeals to Reverse and to Order the release of Somerville. The likelihood that the government will be able to re-establish any case to support their Indictments under further prosecution is inconceivable. Somerville's Proffer/Immunity Agreement with the government stands as a further obstacle to any prosecution.

### CONCLUSION

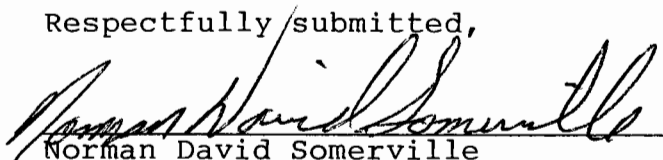
It is readily apparent that the Search Warrant and related documents were never on the official District Court Record until April 26, 2006. It is readily apparent that the Case No. 1:03-M-371 was never sealed and that treating the filing of that case and its documents any differently from Case No. 1:03-CR-0239 is unjustified. It is readily apparent that the allegedly valid signed set of Search Warrant documents were never provided to Defense Counsel, and that substantial prejudice to the Defendant has occurred as a result. Allowing the set of search warrant documents recently revealed into the Record, which are procedurally in conflict with Certified documents originally tendered at the time of the Search and subsequently to Defense Counsel, creates a controversy over which sets of documents are legitimate. The newly revealed documents should have been properly recorded two and a half years ago and as such are clearly in violation of FRCP Rule 41 filing requirements and this Appeals Court's jurisprudence on strict adherence to Rule 41 supports this. The originally tendered Certified set of documents are clearly deficient for compliance with Rule 41 as regards the obvious lack of proper presentation of the Application and Affidavit for Search Warrant to the Magistrate who would have properly signed it if he found it acceptable, and similarly with the Search Warrant and Motion to Seal the Application and Affidavit for Search Warrant. The conspiratorial attempts at covering up the failures to comply with Rule 41 are embarrassments to the Court and deeply troubling as regards the integrity of the judiciary. These matters represent something more seriously prejudicial against the

Defendant/Appellant than mere abuse of discretion.

Appellant prays that this honorable Court of Appeals will find that the Guilty Plea was improperly taken for lack of any evidence on the Record, and find that the Search Warrant documents are invalid for a multitude of violations of Local Rules and Federal Rules of Criminal Procedure.

Dated: JUNE 9, 2006

Respectfully submitted,



Norman David Somerville  
Defendant/Appellant  
In Propria Persona  
Federal Medical Center  
P.O. Box 14500  
Lexington, KY 40512

ADDENDUM - DESIGNATION OF JOINT APPENDIX CONTENTS

Documents from Case File No. 1:03-mj-00371-JGS-ALL

<u>Docket #</u>	<u>Document Description</u>
1	APPLICATION and affidavit for Search warrant
3	MOTION and ORDER to seal
4	SEARCH WARRANT RETURNED EXECUTED
5	LETTER from Norman David Somerville
6	LETTER from the Court to AUSA Delaney
7	ORDER to unseal case

Documents from Case File No. 1:03-CR-00239-GJQ

<u>Docket #</u>	<u>Document Description</u>
7	ARREST Warrant returned executed
9	GOVT'S MOTION for detention with brief in support
11	PRETRIAL CONFERENCE SUMMARY ORDER
85	TRANSCRIPT of Plea Proceedings
101	PRESENTENCE INVESTIGATION REPORT (SEALED)
105	TRANSCRIPT of Sentence Proceedings

Miscellaneous Documents

LOCAL RULES OF PRACTICE AND PROCEDURE, United States District  
Court For the Western District of Michigan, Updated June 21, 2005

UNITED STATES COURT OF APPEALS  
FOR THE SIXTH CIRCUIT

UNITED STATES OF AMERICA,

Plaintiff-Appellee,

CASE No. 06-1734

Vs.

NORMAN DAVID SOMERVILLE,

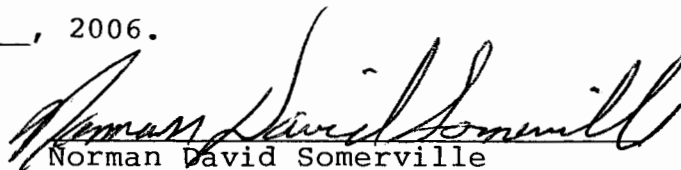
CERTIFICATE OF COMPLIANCE

Defendant-Appellant. /

CERTIFICATE OF COMPLIANCE

Pursuant to Federal Rule of Appellate Procedure 32(a)(7)(c), the undersigned certifies that this Brief complies with the type-volume limitations and contains no more than 14,000 words as provided by FRAP 32(a)(7)(B). A manual word count determined that this Brief contains 10,667 words, including this certificate.

Dated: JUNE 9<sup>TH</sup>, 2006.

  
Norman David Somerville

UNITED STATES COURT OF APPEALS  
FOR THE SIXTH CIRCUIT

UNITED STATES OF AMERICA,

Plaintiff-Appellee,

CASE No. 06-1734

Vs.

NORMAN DAVID SOMERVILLE,


CERTIFICATE OF SERVICE

Defendant-Appellant.

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CERTIFICATE OF SERVICE

The undersigned certifies that he caused two copies of the attached PRO SE APPELLANT'S BRIEF to be served upon the United States Attorney by having same sent via First Class U.S. Mail postage prepaid addressed to: United States Attorney, 330 Ionia Ave., NW, Suite 501, The Law Bldg., Grand Rapids, MI 49503; and he further certifies that he caused the Original and six copies of the same PRO SE APPELLANT'S BRIEF to be served upon the Clerk of the Court by having same sent via First Class U.S. Mail postage prepaid addressed to: Clerk of the Court, U.S. Sixth Circuit Court of Appeals, Cincinnati, Ohio 45202-3988, on the 28<sup>TH</sup> day of JUNE, 2006.

  
Norman David Somerville

Listing of Exhibits

- A MOTION TO STRIKE DOCKET FOR CASE No. 1:03-mj-00371-JGS-ALL  
with Exhibits and Copy of Docket from the Clerk
- B 2004 Judicial Staff Directory, 6th Circuit, Western District  
of Michigan, page 242
- C Bureau of Alcohol, Tobacco, and Firearms document, ATF O 3220.1  
(portions obtained thru Freedom of Information Act)
- D ORDER, (object of this instant Appeal), Document 10, Case  
1:03-mj-00371-JGS-ALL, filed 05/15/2006
- E MEMORANDUM ORDER, Document 108, Case 1:03-cr-00239-GJQ, directing  
delivery of case documents to Somerville
- F ORDER, Document 109, Case 1:03-cr-00239-GJQ, directing delivery  
of sealed case documents to Somerville
- G MOTION TO SUPPLEMENT THE RECORD FOR APPEAL, Document 140, Case  
1:03-cr-00239, Motion by Somerville
- H MEMORANDUM ORDER, Document 142, Case 1:03-cr-00239-GJQ, DENIAL  
of Somerville's Motion to Supplement the Record for Appeal
- I TRANSCRIPT of Arraignment/Detention Hearing, Document 137, Case  
1:03-cr-00239-GJQ, Hearing Date October 20, 2003
- J U.S. v. ARNOLD (6th Cir. 2005) Case No. 04-5384, relevant pages
- K U.S. v. COFFELT, (6th Cir. 2005) Case No. 02-5610

