

UNITED STATES DISTRICT COURT

EASTERN DISTRICT OF CALIFORNIA

In the Matter of the Search of

The Stanislaus County Superior Court Department #8, the Bailiff's desk in Department #8, the Bailiff's court locker in Department #8, the Sheriff's Department Courthouse Security Bailiff Briefing room, Men's Locker #14 assigned to Deputy Dave Swanson, and a filing cabinet and mail box assigned to Deputy Dave Swanson, located at 800 11th Street, Modesto, California.

APPLICATION AND AFFIDAVIT FOR SEARCH WARRANT

CASE NUMBER:

I, Steven P. Jacobson being duly sworn depose and say:

I am a(n) Designated Task Force Agent with the Federal Bureau of Investigation and have reason to believe

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

SEE ATTACHMENT "A"

in the Eastern District of California there is now concealed a certain person or property, namely
(describe the person or property to be seized)

SEE ATTACHMENT "B"

which is (state one or more bases for search and seizure set forth under Rule 41(b) of the Federal Rules of Criminal Procedure)

(1) property that constitutes evidence of the commission of a criminal offense; (2) contraband, fruits of crime, or things otherwise criminally possessed; (3) property designed or intended for use or which is or has been used as the means of committing a criminal offense; (or person for whose arrest there is probable cause, or who is unlawfully restrained.)

concerning a violation of Title 18 United States Code, Sections 1001(a)(2) and 1505.
The facts to support a finding of Probable Cause are as follows:

Continued on the attached sheet and made a part hereof. Yes No



Signature of Affiant

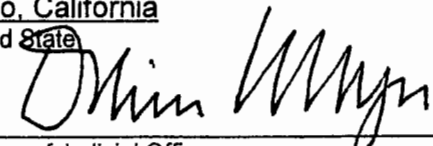
Sworn to before me, and subscribed in my presence

at

1-28-08 5:55 p.m.
Date and Time Issued

Fresno, California
City and State

Hon. Oliver W. Wanger, U.S. District Judge
Name & Title of Judicial Officer



Signature of Judicial Officer

1 California.

2 E. The person of Stanislaus County Sheriff's Deputy
3 David SWANSON described as a White Male Adult (WMA) with a date
4 of birth of: October 6, 1956.

5 F. An unknown brand cellular telephone identified by the
6 telephone number of (209) 918-7259, including:

7 1. Any electronic data processing and storage
8 devices, such as central processing units, internal and
9 peripheral storage devices such as fixed disks, external hard
10 disks, floppy disk drives and diskettes, tape drives and tapes,
11 optical storage devices or other memory storage devices;
12 peripheral input/output devices such as keyboards, printers,
13 video display monitors, optical readers and related
14 communication devices such as acoustic or electrical modems,
15 associated telephone sets, speed dialers, or other controlling
16 devices, plotters, software to run programs, connecting cables
17 and plugs, peripherals such as joysticks, mouses, or other
18 input devices, writing pads, manuals, power backup devices,
19 connecting switches, power sources, telephones and telephone
20 cables, and interface devices. Examination and search of the
21 above listed cellular telephone and all of the above components
22 for files, data, images, software, operating systems, deleted
23 files, system configurations, drive and disk configurations, date
24 and time, unallocated and slack space.

ATTACHMENT B

- 1
- 2 a. (1) black colored binder last seen with Outlaw
- 3 Motorcycle Gang (OMG) Officer Safety Bulletins and
- 4 secured in the Stanislaus County Department #8 Bailiff
- 5 evidence locker;
- 6 b. (2) OMG Bulletins dated September 19, 2007 and October
- 7 18, 2007, respectively. The OMG Bulletins contain
- 8 information about Road Dog Cycle that I had previously
- 9 provided copies to Deputy SWANSON. These OMG Bulletins
- 10 had oversized hole punches on the left side of the OMG
- 11 Bulletins. If my name and the date hasn't been
- 12 permanently defaced from the bulletins, my name and the
- 13 date should be written in blue ink at the top of the OMG
- 14 Bulletins. These OMG Bulletins were last seen inside of
- 15 item (a) above;
- 16 c. Contact names, telephone numbers, addresses, Email
- 17 addresses, address books, lists of, or single references
- 18 to, addresses or telephone numbers for Bob Holloway,
- 19 Kathy Holloway, Gary Ermoian, Kirk McAllister, Mary Lynn
- 20 Belsher, and any other person know to be associated with
- 21 the above listed individuals, including known names of
- 22 documented Hells Angels Nomad and Merced Chapter members
- 23 or members of any other outlaw motorcycle gang;
- 24 d. Calendar(s) containing appointment date(s) and time(s),
- 25 time reminder cards, notes, or entries made depicting
- 26 information pertaining to Bob Holloway, Kathy Holloway,
- 27 Gary Ermoian, Kirk McAllister, Mary Lynn Belsher, and
- 28 any other person know to be associated with the above

1 listed individuals, including known names of documented
2 Hells Angels Nomad and Merced Chapter members, and any
3 other outlaw motorcycle gang;

4 e. Photographs, photograph albums depicting persons,
5 vehicles or locations which may appear upon observation
6 to be relevant on the question of Outlaw Motorcycle Gang
7 membership and the Road Dog Cycle or association to the
8 Hells Angels or any outlaw motorcycle gang, such as:
9 Hells Angels support stickers and buttons, clothing
10 commonly associated with the Hells Angels such as:
11 support your local "HA" T-shirts, OMG support wear such
12 as sweat pants/gear, bandanas, hats, beanie caps, red
13 and white clothing and/or other clothing items
14 containing known logos, slogans and monikers of the
15 Hells Angels or other OMG;

16 f. Personal letters, documents, notes, itineraries,
17 correspondences which tend to establish and show a
18 relationship between Deputy Dave SWANSON and Bob
19 Holloway, Kathy Holloway, Gary Ermoian, Kirk McAllister,
20 Mary Lynn Belsher, and any other person know to be
21 associated with the above listed individuals, including
22 known names of documented Hells Angels Nomad and Merced
23 Chapter members, or any other outlaw motorcycle gang;

24 All of the above records, whether stored on paper, on magnetic
25 media such as tape, cassette, disk, diskette or on memory storage
26 devices such as internal or external hard drives, optical disks, or
27 any other storage media, together with indicia of use, ownership,
28 possession, or control of such records.

1 g. In searching for data capable of being read, stored or
2 interpreted by SWANSON's cellular telephone, identified by the
3 telephone number of (209) 918-7259, law enforcement personnel
4 executing this search warrant will employ the following procedures:

5 i. Upon securing the person of Deputy David SWANSON,
6 law enforcement personnel will remove and seize the
7 cellular telephone and will make an initial review
8 of the cellular telephone to determine if this
9 device can to determine whether this item can be
10 searched on-site in a reasonable amount of time and
11 without jeopardizing the ability to preserve the
12 data.

13 ii. If law enforcement determines it is not practical to
14 perform an on-site search then the cellular
15 telephone and its storage devices will be seized and
16 transported to an appropriate law enforcement
17 laboratory for review. The cellular telephone and
18 storage devices will be reviewed by appropriately
19 trained personnel in order to extract and seize any
20 data that falls within the list of items to be
21 seized set forth herein.

22 iii. If law enforcement personnel determine, either
23 on-site or during a subsequent off-site search, that
24 any data (1) is an instrumentality of the offense
25 stated above, meaning that it was designed or
26 intended for the use of, or is being or has been
27 used, as the means of committing the offense; (2)
28 contains any contraband, such as counterfeit or

1 stolen software, child pornography, national
2 security information, or unauthorized access devices
3 such as stolen credit card numbers; (3) is the
4 fruits of criminal activity; or (4) is otherwise
5 criminally possessed, the property shall be seized
6 and not returned pursuant to Federal Rule of
7 Criminal Procedure 41(b).

8 iv. Any data that is encrypted and unreadable will not
9 be returned unless law enforcement personnel have
10 determined that the data is not (1) an
11 instrumentality of the offense, (2) a fruit of the
12 criminal activity, (3) contraband, (4) otherwise
13 unlawfully possessed, or (5) evidence of the offense
14 specified above.

15 v. In searching the data, law enforcement will examine
16 all of the data contained in the cellular telephone
17 equipment and storage devices to view their precise
18 contents and determine whether the data falls within
19 the items to be seized as set forth herein. In
20 addition, law enforcement will search for and
21 attempt to recover "deleted," "hidden" or encrypted
22 data to determine whether the data falls within the
23 list of items to be seized as set forth herein.

24 vi. If law enforcement determines that the cellular
25 telephone equipment and storage devices are no
26 longer necessary to retrieve and preserve the data,
27 and the items are not subject to seizure pursuant to
28 Federal Rule of Criminal Procedure 41(b), the

1 government will return these items within a
2 reasonable period of time not to exceed 60 days from
3 the date of seizure.

4 h. In order to search for data that is capable of being read
5 or interpreted by a cellular telephone, law enforcement personnel
6 will need to seize and search the following items, subject to the
7 procedures set forth above:

8 i. Any cellular telephone equipment and storage device
9 capable of being used to commit, further or store
10 evidence of the offense listed above;

11 ii. Any cellular telephone equipment used to facilitate
12 the transmission, creation, display, encoding or
13 storage of data, including word processing
14 equipment, modems, docking stations, monitors,
15 printers, plotters, encryption devices, and optical
16 scanners;

17 iii. Any magnetic, electronic or optical storage device
18 capable of storing data, such as floppy disks, hard
19 disks, tapes, CD-ROMs, CD-R, CD-RWs, DVDs, optical
20 disks, printer or memory buffers, smart cards, PC
21 cards, memory calculators, electronic dialers,
22 electronic notebooks, and personal digital
23 assistants;

24 iv. Any documentation, operating logs and reference
25 manuals regarding the operation of the cellular
26 telephone equipment, storage devices or software.

27 v. Any applications, utility programs, compilers,
28 interpreters, and other software used to facilitate

1 direct or indirect communication with the cellular
2 telephone hardware, storage devices or data to be
3 searched;

4 vi. Any physical keys, encryption devices, dongles and
5 similar physical items that are necessary to gain
6 access to the cellular telephone equipment, storage
7 devices or data; and

8 vii. Any passwords, password files, test keys, encryption
9 codes or other information necessary to access the
10 cellular telephone equipment, storage devices or
11 data.

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