

**IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF ILLINOIS**

UNITED STATES OF AMERICA,)
)
Plaintiff,)
)
v.) No. 05-CR-30015-DRH
)
TRAVIS NORMAN,)
)
Defendant.)

**DEFENDANT'S MOTION TO SUPPRESS THE CONTENTS OF ANY
ELECTRONIC SURVEILLANCE**

Comes now Defendant, by his attorney, John D. Stobbs II, and for his Motion to Suppress the Contents of Any Electronic Surveillance states:

1. To date the undersigned has not received any documentation supporting the wiretaps which were used in this case, and for this reason this Motion is not as fact specific as it otherwise would be. On March 28, 2005, the undersigned spoke with Assistant U.S. Attorney Killian regarding this issue and it appears as if the Applications for Wiretaps and other discoverable material will be provided in the very near future. Since trial is only 20 days away this Motion is being filed in an abundance of caution.

2. Defendant hereby moves this Honorable Court for an Order suppressing and prohibiting the Government from introducing into evidence at trial any and all intercepted wire and oral communications obtained by unlawful electronic surveillance in which Defendant and any other person or persons participated in or which Defendant was referred to directly or indirectly, and all evidence derived from the information obtained from said

electronically intercepted communications which has been in any manner used in obtaining the Indictment against the Defendant for the following reasons:

3. Title 18 U.S.C. § 2518(1)(c) provides that each application submitted to the District Judge shall include:

a full and complete statement as to whether or not other investigative procedures have been tried and failed or why they reasonably appear to be unlikely to succeed if tried or to be too dangerous.

4. In this case, the undersigned believes that the Affidavit(s) to the said Application(s) established beyond any doubt that normal investigative procedures worked quite well enough to accomplish every purpose lawfully open to investigative agents of the Government, short of a general warrant to conduct an unlimited exploratory investigation which is prohibited by the Fourth Amendment to the United States Constitution.

5. Normal Surveillance of the target Defendant named in the Application(s) and of the premises was possible and practicable and could easily have been effected by normal means; and all of the statements in the Application(s) to the contrary are knowingly false, untrue, and deceptive, thus constituting an illegal imposition upon the Court, and a misuse of official authority so grave as to totally invalidate any interception Orders issued on the basis of such patently false averments.

6. Because no wiretap can lawfully be ordered, consistent with the Fourth Amendment's constitutional limitations, against any particularly identified persons and places, under circumstances where normal investigative procedures have been tried and failed, the wiretap Orders issued in the within cause on the basis of Affidavit(s) which

describe under oath the success of normal investigative procedures, are void, as authorizing intrusions upon this Defendant's right of privacy and assured to him by the mandates of the Fourth and Fifth Amendments to the United States Constitution.

7. The relevant statute and the law of this Circuit require that the application for the intercept of any electronic communication describe, with particularity, the facilities to be intercepted. 18 U.S.C. §2518 et seq., United States v. Rios, 495 U.S. 257 (1990).

8. The relevant statute further requires that prior to applying for the wire tap order, the Government must first obtain authorization to intercept the facility. 18 U.S.C. §2518 et seq.

9. The relevant law further requires that the contents of any wire, oral, or electronic communication must be immediately made available to the judge who had issued the order and sealed under the direction of that judge. United States v. Rios, 495 U.S. 257. This requirement has been applied as a means to reduce the likelihood that an electronic surveillance recording could be subject to tampering. Any failure to immediately present the record of electronic surveillance is in violation of the law, and the evidence derived therefrom should be suppressed.

10. The type of interception utilized by the Government in this case went beyond the scope of the application. Pursuant to 18 U.S.C. § 2518(a)(b)(iii), no order of interception can be issued unless the application contains "a particular description of the type of communications sought to be intercepted." The Order is without jurisdiction and void, together with all evidence of calls to other numbers and persons.

CONCLUSION

Defendant submits that the above violations and irregularities are fundamental and constitute defects so basic as to undermine Congressional intent that interception of wire communications be circumscribed and subject to exacting judicial supervision. See United States v. Giordano, 416 U.S. 505 (1974); United States v. Vest, 813 F.2d 477(1st Cir. 1987). Defendant further states that the Government's activities in this instance under § 2518 were illegal and void because the activities of the Government were such that Defendant's Fourth Amendment privacy interests as guaranteed by the United States Constitution were violated.

WHEREFORE, for each and all of the foregoing reasons, Defendant prays that the evidence procured by virtue of any wiretap orders be suppressed in accordance with the provisions of 18 U.S.C. § 2518(10)(a), and that upon the suppression of such evidence that the case against Defendant be dismissed.

TRAVIS NORMAN

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BY:

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CERTIFICATE OF SERVICE

I hereby certify that on March 29, 2005 a copy of the attached **DEFENDANT'S MOTION TO SUPPRESS THE CONTENTS OF ANY ELECTRONIC SURVEILLANCE** was filed electronically with the Clerk of the Court to be served by operation of the Court's electronic filing system upon the following:

Mr. Ranley Killian
Assistant U.S. Attorney
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