

UNITED STATES DISTRICT COURT

for the Southern District of California

FILED
2011 MAY 19 PM 1:35
CLERK OF DISTRICT COURT
SOUTHERN DISTRICT OF CALIFORNIA
BY: [Signature] DEPUTY

In the Matter of the Search of)
(Briefly describe the property to be searched)
or identify the person by name and address))
Apple I-Phone 4GS (Model-A1332), Serial #)
81027EDEA4S, Seized from Thomas Demetrious)
Johnson on August 20, 2010)

Case No. 10CR3507-W

APPLICATION FOR A SEARCH WARRANT

I, a federal law enforcement officer or an attorney for the government, request a search warrant and state under penalty of perjury that I have reason to believe that there is now concealed on the following person or property located in the Southern District of California (identify the person or describe property to be searched and give its location):

See Attachment A

The person or property to be searched, described above, is believed to conceal (identify the person or describe the property to be seized):

See Attachment B

The basis for the search under Fed. R. Crim. P. 41(c) is (check one or more):

- [x] evidence of a crime;
- [x] contraband, fruits of crime, or other items illegally possessed;
- [x] property designed for use, intended for use, or used in committing a crime;
- [] a person to be arrested or a person who is unlawfully restrained.

The search is related to a violation of 21 U.S.C. § 841, 846, and the application is based on these facts:

See Attached Affidavit.

- [x] Continued on the attached sheet.
- [] Delayed notice of ___ days (give exact ending date if more than 30 days: ___) is requested under 18 U.S.C. § 3103a, the basis of which is set forth on the attached sheet.

[Signature]
Applicant's signature

ATFSpecial Agent Gordon T. Geerdes
Printed name and title

Sworn to before me and signed in my presence.

Date: 5/17/11

[Signature]
Judge's signature

City and state: San Diego, California

Honorable William McCurine, Jr.
Printed name and title

ATTACHMENT A

PROPERTY TO BE SEARCHED

The Property:

Evidentiary Exhibit #019 Cellular telephone,

Make/Model: Apple I-Phone 4GS (A1332),

Type: Smart Phone, Phone number unknown

IMEI: 012338003802220

Serial Number: 81027EDEA4S

FCC ID# BCG-E2380A

This cellular telephone was removed from Thomas Demetrious JOHNSON's personal affects at the time of his arrest on August 20, 2010 and is currently in ATF Evidence at 9449 Balboa Avenue in San Diego. It will be processed by a Special Agent assigned to the Digital Investigations and Cybercrime Branch of the Special Operations Division of the Bureau of Alcohol, Tobacco, Firearms and Explosives.

ATTACHMENT B
LIST OF ITEMS TO BE SEIZED

The cellular telephone device and any storage devices, such as SIM cards or flash memory devices attached to, inserted in or seized with the device, will be analyzed and the following data will be seized only to the extent that it contains or depicts evidence of violations of Title 21, United States Code § 841(a)(1), 846 (which makes it a crime to conspire to possess cocaine with the intent to distribute); Title 18, United States Code § 1951(a) (which makes it a crime to conspire to affect commerce by robbery and extortion); Title 18, United States Code § 924(c)(1)(A)(i) (which makes it a crime to possess a firearm in furtherance of a crime of violence); Title 18, United States Code § 922(g)(1) and 924(a)(2) (which makes it a crime for felons to possess firearms and ammunition), including evidence reflecting use, dominion and control of the device:

1. All telephone numbers and direct connect numbers or identities assigned to the device, including usernames and passwords and electronic mail addresses;
2. Call and direct connect history information, including Internet Protocol addresses accessed by the device or accessing the device;
3. Stored photographs, videos and text messages;
4. Stored electronic mail, including attachments, and voice messages and other recordings;
5. Web-browsing history and any stored web pages;
6. Stored documents and other files;
7. Stored geo-location information;
8. Data stored in any application; and
9. Any and all contacts and associated telephone numbers.
10. Evidence of user attribution showing who used or owned the Device at the time the items described in this warrant were created, edited, or deleted, such as logs, phonebooks, saved usernames and passwords, documents, and browsing history.

AFFIDAVIT IN SUPPORT OF
APPLICATION FOR SEARCH WARRANT

1
2 I, Gordon T. Geerdes, being duly sworn, hereby state as
3 follows:

4 I. INTRODUCTION

5 1. I make this affidavit in support of an application under
6 Rule 41 of the Federal Rules of Criminal Procedure for a search
7 warrant authorizing the examination of Apple iPhone, (model A1332,
8 Serial Number: 81027EDEA4S) hereinafter "iPhone," which is
9 currently stored in law enforcement possession, as Exhibit # 019 in
10 case number 784045-10-0079 at ATF San Diego Evidence Vault located
11 at 9449 Balboa Avenue, Suite 200, San Diego, California, and the
12 extraction from the iPhone of certain things described in
13 Attachment B.

14 2. I am a Special Agent (SA) employed by the Bureau of
15 Alcohol, Tobacco, Firearms and Explosives (ATF), United States
16 Department of Justice, and have been so employed for approximately
17 ten years.

18 a. I am currently assigned to the San Diego, California,
19 Field Office. I am a graduate of the Federal Law Enforcement
20 Training Center and the ATF National Academy. As a result of my
21 training and experience as an ATF Agent, I am familiar with federal
22 and state criminal laws. My primary duties have been the
23 enforcement of federal firearm, arson, and explosive laws. I have
24 participated in numerous investigations of possession of firearms
25 by prohibited persons and the possession of illegal firearms. I
26 have participated in investigations that involved interstate and
27 international firearm trafficking. I have also participated in the
28 searches of numerous residences and businesses involving federal

AFFIDAVIT IN SUPPORT OF
APPLICATION FOR SEARCH WARRANT

and state firearm violations.

1 b. Based on my training and experience, consultation with
2 other agents from ATF, and all of the facts and opinions set forth
3 in this Affidavit, I know:

4 c. It is common for individuals to use cellular telephones
5 to contact, communicate with in voice or text form, and retain
6 contact information about as well as to conduct actual transactions
7 of firearms or narcotics with personal and business associates.

8 d. It is common for modern telephones to store records of
9 telephone calls and text messages that document the time of said
10 calls and messages. These calls and messages can provide
11 additional information about what was said or typed before or after
12 the arrest of Thomas Demetrious Johnson regarding the conspiracy to
13 possess illegal narcotics, the illegal possession of a firearm, and
14 the conspiracy to perform an armed robbery. Additionally, newer
15 technology cellular phones, specifically iPhones, capture GPS data
16 that records the locations where the iPhone has been and can
17 contain locations or addresses pertinent to this investigation.
18 Furthermore, co-conspirators and witnesses can be potentially
19 identified based upon this call and text history. The telephone
20 numbers of friends and acquaintances are also known to be stored in
21 an electronic telephone book in cellular telephones. This
22 information may also lead to other witnesses that the caller or
23 callers contacted around the time of the crime.

24 3. This affidavit is intended to show only that there is
25 sufficient probable cause for the requested warrant and does not
26 set forth all of my knowledge about this matter.

II. PROBABLE CAUSE

1 4. The statements made in this affidavit are based on my own
2 personal observations and investigation, as well as information
3 communicated or reported to me by other participants in the
4 investigation.

5 a. In the first week of August, 2010, an ATF Confidential
6 Informant (CI) was provided contact information of an individual
7 known as "TJ" (later identified as Thomas Demetrious JOHNSON) at
8 telephone number 626-316-9887 by a source of information. The CI
9 was advised that JOHNSON was involved in the distribution of crack
10 cocaine.

11 b. Over the next couple of days, the CI contacted JOHNSON
12 via cellular phone call and via text message to arrange a meeting
13 in person. The CI met with JOHNSON in National City, California
14 and discussed prices for crack cocaine. During this meeting the CI
15 told JOHNSON that he had a friend who had information regarding
16 committing a robbery of a "stash house" with narcotics in San
17 Diego, CA. JOHNSON told the CI "you came to the right person."

18 JOHNSON told the CI he wanted to talk to some of his boys back in
19 Pasadena, California, and have another meeting with the CI and his
20 boys next week in Pasadena, California.

21 c. In the second week of August, the same ATF Confidential
22 Informant was contacted by JOHNSON via cellular phone call and via
23 text message to arrange another meeting. On or about August 10,
24 2010 the CI met with JOHNSON and an individual later identified as
25 Daniel Loren WARREN in Pasadena, California. The CI again briefly
26 told JOHNSON and WARREN about a friend who has information
27 regarding committing a robbery of a "stash house" with narcotics in
28

1 San Diego, CA. Both JOHNSON and WARREN expressed an interest in
2 meeting the CI's friend and learning about the details of
3 committing the robbery with their crew. Both individuals agreed to
4 meet the CI's friend (ATF undercover Special Agent Kozlowski) and
5 listen to the scenario. If they liked it, they would come to San
6 Diego, CA to conduct the robbery. This meeting was arranged via
7 text message and telephonically through the use of JOHNSON's
8 cellular phone.

9 d. On August 19, 2010, at approximately 1800 hours, SA
10 Kozlowski met two unknown African-American males, later identified
11 as JOHNSON and WARREN at a La Quinta hotel located in the city of
12 Chula Vista, California. JOHNSON and WARREN arrived at the hotel
13 driving a white Lexus (CA 6DYG332). The purpose of this meeting was
14 to discuss the armed robbery of cocaine from a fictitious cocaine
15 stash house that was believed to be occupied by armed guards.

16 e. At the meeting, SA Kozlowski told JOHNSON and WARREN that
17 he is a drug courier for an organization that controls several
18 cocaine stash houses. SA Kozlowski stated he was interested in
19 recruiting them to rob one of those houses that contained
20 approximately 30 kilograms of cocaine. JOHNSON and WARREN conveyed
21 to SA Kozlowski that they were willing to commit the armed robbery
22 of the narcotics stash house. JOHNSON, WARREN, and Kozlowski
23 agreed to split the cocaine in three equal shares after the
24 robbery. JOHNSON and WARREN also discussed how they needed to use
25 force to handle the occupants of the house.

26 f. At the conclusion of the meeting, JOHNSON stated that he
27 was going to get firearms and bring them back for the robbery on
28 the following day. WARREN asked what time SA Kozlowski would be

1 going to the "stash house" on the following day, and SA Kozlowski
2 said he wanted them ready by 10:00 a.m. JOHNSON stated that they
3 would be ready by 8:00 a.m.

4 g. On August 20, 2010, at approximately 10:00 a.m., the CI
5 went to the Shell gas station in Chula Vista, California and met
6 JOHNSON and WARREN. The CI and JOHNSON arranged this meeting
7 telephonically. The CI, JOHNSON, and WARREN traveled to a location
8 in Chula Vista where they met SA Kozlowski. SA Kozlowski asked
9 JOHNSON and WARREN if they were ready and if they were "cool." SA
10 Kozlowski received affirmative responses. SA Kozlowski also asked
11 if they had gotten the firearms and he received an affirmative
12 response.

13 h. SA Kozlowski then initiated the arrest signal and JOHNSON
14 and WARREN were taken into custody outside their vehicles. A
15 subsequent search of their vehicles and the surrounding area
16 revealed the presence of two handguns, ammunitions loaded in
17 magazines, and two cellular telephones. One of the phones
18 identified as a Motorola i465 having a phone number of
19 (626)-831-4772, was recovered from WARREN. The second cellular
20 phone, an Apple iPhone 4GS, model number A1332, phone number
21 unknown, was recovered from JOHNSON.

22 5. The iPhone is currently in the lawful possession of the
23 ATF. It came into the ATF's possession in the following way: this
24 cellular telephone was removed from Thomas Demetrious JOHNSON's
25 personal affects at the time of his arrest and is currently in ATF
26 San Diego Evidence Vault located at 9449 Balboa Avenue in San
27 Diego. Therefore, while ATF might already have all necessary
28 authority to examine the iPhone, I seek this additional warrant out

1 of an abundance of caution to be certain that an examination of the
2 iPhone will comply with the Fourth Amendment and other applicable
3 laws.

4 6. The iPhone is currently in storage at ATF San Diego
5 Evidence Vault, In my training and experience, I know that the
6 iPhone has been stored in a manner in which its contents are, to
7 the extent material to this investigation, in substantially the
8 same state as they were when the iPhone first came into the
9 possession of ATF.

10 **III. TECHNICAL TERMS**

11 7. Based on my training and experience, I use the following
12 technical terms to convey the following meanings:

13 a. Wireless telephone: A wireless telephone (or mobile
14 telephone, or cellular telephone) is a handheld wireless device
15 used primarily for voice communication through radio signals.
16 These telephones send signals through networks of
17 transmitter/receivers, enabling communication with other wireless
18 telephones or traditional "land line" telephones. A wireless
19 telephone usually contains a "call log," which records the
20 telephone number, date, and time of calls made to and from the
21 phone. In addition to enabling voice communications, wireless
22 telephones now offer a broad range of capabilities. These
23 capabilities include, but are not limited to: storing names and
24 phone numbers in electronic "address books;" sending, receiving,
25 and storing text messages and email; taking, sending, receiving,
26 and storing still photographs and moving video; storing and playing
27 back audio files; storing dates, appointments, and other
28 information on personal calendars; and accessing and downloading

1 information from the Internet. Wireless telephones may also
2 include global positioning system ("GPS") technology for
3 determining the location of the device.

4 b. Digital camera: A digital camera is a camera that
5 records pictures as digital picture files, rather than by using
6 photographic film. Digital cameras use a variety of fixed and
7 removable storage media to store their recorded images. Images can
8 usually be retrieved by connecting the camera to a computer or by
9 connecting the removable storage medium to a separate reader.
10 Removable storage media include various types of flash memory cards
11 or miniature hard drives. Most digital cameras also include a
12 screen for viewing the stored images. This storage media can
13 contain any digital data, including data unrelated to photographs
14 or videos.

15 c. Portable media player: A portable media player (or "MP3
16 Player" or iPod) is a handheld digital storage device designed
17 primarily to store and play audio, video, or photographic files.
18 However, a portable media player can also store other digital data.
19 Some portable media players can use removable storage media.
20 Removable storage media include various types of flash memory cards
21 or miniature hard drives. This removable storage media can also
22 store any digital data. Depending on the model, a portable media
23 player may have the ability to store very large amounts of
24 electronic data and may offer additional features such as a
25 calendar, contact list, clock, or games.

26 d. GPS: A GPS navigation device uses the Global Positioning
27 System to display its current location. It often contains records
28 the locations where it has been. Some GPS navigation devices can

1 give a user driving or walking directions to another location.
2 These devices can contain records of the addresses or locations
3 involved in such navigation. The Global Positioning System
4 (generally abbreviated "GPS") consists of 24 NAVSTAR satellites
5 orbiting the Earth. Each satellite contains an extremely accurate
6 clock. Each satellite repeatedly transmits by radio a mathematical
7 representation of the current time, combined with a special
8 sequence of numbers. These signals are sent by radio, using
9 specifications that are publicly available. A GPS antenna on Earth
10 can receive those signals. When a GPS antenna receives signals
11 from at least four satellites, a computer connected to that antenna
12 can mathematically calculate the antenna's latitude, longitude, and
13 sometimes altitude with a high level of precision.

14 e. PDA: A personal digital assistant, or PDA, is a handheld
15 electronic device used for storing data (such as names, addresses,
16 appointments or notes) and utilizing computer programs. Some PDAs
17 also function as wireless communication devices and are used to
18 access the Internet and send and receive email. PDAs usually
19 include a memory card or other removable storage media for storing
20 data and a keyboard and/or touch screen for entering data.
21 Removable storage media include various types of flash memory cards
22 or miniature hard drives. This removable storage media can store
23 any digital data. Most PDAs run computer software, giving them
24 many of the same capabilities as personal computers. For example,
25 PDA users can work with word-processing documents, spreadsheets,
26 and presentations. PDAs may also include global positioning system
27 ("GPS") technology for determining the location of the device.
28

1 8. Based on my training, experience, and research, and from
2 consulting the manufacturer's (Apple) advertisements and product
3 technical specifications available online at
4 <http://www.apple.com/iphone/> ; I know that the iPhone has
5 capabilities that allow it to serve as a wireless telephone,
6 digital camera, portable media player, GPS navigation device, and
7 PDA. In my training and experience, examining data stored on
8 devices of this type can uncover, among other things, evidence that
9 reveals or suggests who possessed or used the device.

10 **IV. ELECTRONIC STORAGE AND FORENSIC ANALYSIS**

11 9. The warrant applied for would authorize the seizure of
12 electronic storage media or, potentially, the copying of
13 electronically stored information, all under Rule 41(e)(2)(B).

14 10. Based on my knowledge, training, and experience, I know
15 that electronic devices can store information for long periods of
16 time. Similarly, things that have been viewed via the Internet are
17 typically stored for some period of time on the device. This
18 information can sometimes be recovered with forensics tools.

19 11. **Forensic evidence** - As further described in Attachment
20 B, this application seeks permission to locate forensic electronic
21 evidence that establishes how the iPhone was used, the purpose of
22 its use, who used it, and when. There is probable cause to believe
23 that this forensic electronic evidence might be on the iPhone
24 because:

25 a. Data on the storage medium can provide evidence of a file
26 that was once on the storage medium but has since been deleted or
27 edited, or of a deleted portion of a file. Forensic evidence on a
28 device can also indicate who has used or controlled the device.

1 This "user attribution" evidence is analogous to the search for
2 "indicia of occupancy" while executing a search warrant at a
3 residence.

4 12. **Nature of examination** - Based on the foregoing, and
5 consistent with Rule 41(e)(2)(B), the warrant I am applying for
6 would permit the examination of the device consistent with the
7 warrant. The examination may require authorities to employ
8 techniques, including but not limited to computer-assisted scans of
9 the entire medium, that might expose many parts of the device to
10 human inspection in order to determine whether it is evidence
11 described by the warrant.

12 **V. SEARCH PROTOCOL**

13 Procedures For Electronically Stored Information

14 13. It is not possible to determine, merely by knowing the
15 cellular telephone's make, model and serial number, the nature and
16 types of services to which the device is subscribed and the nature
17 of the data stored on the device. Cellular devices today can be
18 simple cellular telephones and text message devices, can include
19 cameras, can serve as personal digital assistants and have
20 functions such as calendars and full address books and can be
21 mini-computers allowing for electronic mail services, web services
22 and rudimentary word processing. An increasing number of cellular
23 service providers now allow for their subscribers to access their
24 device over the internet and remotely destroy all of the data
25 contained on the device. For that reason, the device may only be
26 powered in a secure environment or, if possible, started in "flight
27 mode" which disables access to the network. Unlike typical
28 computers, many cellular telephones do not have hard drives or hard
drive equivalents and store information in volatile memory within

1 the device or in memory cards inserted into the device. Current
2 technology provides some solutions for acquiring some of the data
3 stored in some cellular telephone models using forensic hardware
4 and software. Even if some of the stored information on the device
5 may be acquired forensically, not all of the data subject to
6 seizure may be so acquired. For devices that are not subject to
7 forensic data acquisition or that have potentially relevant data
8 stored that is not subject to such acquisition, the examiner must
9 inspect the device manually and record the process and the results
10 using digital photography. This process is time and labor
11 intensive and may take weeks or longer.

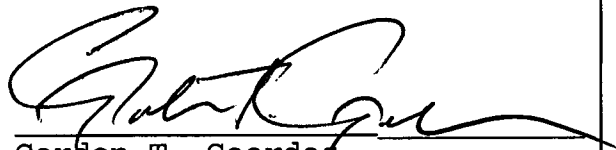
12 14. Following the issuance of this warrant, I will collect
13 the subject cellular telephone and subject it to analysis. All
14 forensic analysis of the data contained within the telephone and
15 its memory cards will employ search protocols directed
16 exclusively to the identification and extraction of data within
17 the scope of this warrant

18 15. Based on the foregoing, identifying and extracting data
19 subject to seizure pursuant to this warrant may require a range
20 of data analysis techniques, including manual review, and,
21 consequently, may take weeks or months. The personnel conducting
22 the identification and extraction of data will complete the
23 analysis within ninety (90) days, absent further application to
24 this court.
25
26
27
28

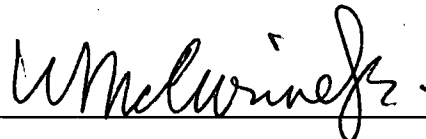
CONCLUSION

1 16. I submit that this affidavit supports probable cause for
2 a search warrant authorizing the examination of the iPhone to seek
3 the items described in Attachment B.

4 I declare under penalty and perjury that the foregoing is true and
5 correct to the best of my knowledge.
6
7
8

9
10
11 
12 Gordon T. Geerdes
13 Special Agent
Bureau of Alcohol, Tobacco,
Firearms and Explosives

14 Subscribed and sworn before me
15 this 17th day of May, 2011

16 
17 _____
18 United States Magistrate Judge
Hon. William McCurine, Jr.
19
20
21
22
23
24
25
26
27
28

1 LAURA E. DUFFY
 United States Attorney
 2 MICHAEL E. LASATER
 Assistant United States Attorney
 3 California Bar No. 057571
 DAVID A. FOX
 4 Assistant United States Attorney
 California Bar No. 254651
 5 Federal Office Building
 880 Front Street, Room 6293
 6 San Diego, California 92101-8893
 Telephone: (619) 557- 7082

7 Attorneys for United States of America

8
 9 UNITED STATES DISTRICT COURT
 10 SOUTHERN DISTRICT OF CALIFORNIA

11 IN RE:) No.
 12)
 13 ORDER AUTHORIZING APPLE INC. TO) APPLICATION AND MOTION OF THE
 ASSIST IN THE EXECUTION OF A) UNITED STATES
 14 FEDERAL SEARCH WARRANT)
)
 15 _____)

16
 17 Now Comes the United States of America, by and through its
 18 attorneys, Laura E. Duffy, United States Attorney, Michael E.
 19 Lasater, Assistant United States Attorney, David A. Fox, Assistant
 20 United States Attorney, and hereby moves this Court for an order,
 21 pursuant to 28 U.S.C. § 1651 (the "All Writs Act"), authorizing the
 22 Apple, Inc. to assist the Bureau of Alcohol, Tobacco, Firearms and
 23 Explosives (ATF).

24 The San Diego Division of ATF currently has in its possession
 25 one iPhone that is the subject of a Federal Search Warrant authorized
 26 and issued by this Court. Because the iPhone is password protected
 27 ATF cannot execute the warrant as it is unable to bypass the password
 28

1 and retrieve any data contained within the phone, including data
2 authorized by the warrant.

3 Apple, Inc. is the manufacturer of the subject iPhone, and has
4 the ability to bypass the password protection, enabling ATF to
5 analyze the phone in compliance with this Court's search warrant.

6 Without an order of this Court authorizing Apple, Inc. to assist
7 ATF in this manner, execution of the search warrant is impossible.

8 Currently, there is no specific statute authorizing a private
9 manufacturer of electronic media to assist law enforcement in the
10 execution of a search warrant, as is required in this matter.
11 However, the All Writs Act authorizes "[t']he Supreme Court and all
12 Courts established by Act of Congress. ..[to] issue all writs
13 necessary or appropriate in aid of their respective jurisdictions and
14 agreeable to the usages and principles of law." 28 U.S.C. § 1651(a).
15 As the Supreme Court explained, "[t]he All Writs Act is a residual
16 source of authority to issue writs that are not otherwise covered by
17 statute." *Pennsylvania Bureau of Correction v. United States*
18 *Marshals Service*, 474 U.S. 34, 43 (1985); see also, *U.S. v. New York*
19 *Telephone Co.*, 434 U.S. 159 (1978) (a case decided before the Federal
20 pen register/trap and trace statute was enacted, holding that a pen
21 trap could be authorized by a search warrant based on probable cause
22 and that the All Writs Act was an appropriate means for directing the
23 telephone company to provide assistance to the government in
24 executing the warrant.)

25 Based on the foregoing, the government respectfully requests the
26 Court grant this motion, and issue an Order authorizing Apple Inc.
27 to assist law enforcement agents in the search of one Apple iPhone
28 Telephone, Model No: 4GS (A1332); Serial No. 81027 EDEA4S, IMEI

1 Number: 012338003802220 (the "cell phone"), and ordering Apple, Inc.
2 to assist law enforcement in searching the cell phone, assistance
3 that shall include, but is not limited to, bypassing the cell phone
4 user's passcode so that the agents may search the cell phone.

5

6 DATED: May 17, 2011.

7

Respectfully submitted,

8

LAURA E. DUFFY
United States Attorney

9

10



11

DAVID A. FOX
Assistant U.S. Attorney

12

13

14

15

16

17

18

19

20

21

22

23

24

25

26

27

28

1 FURTHER ORDERED that Apple, Inc. shall assist law enforcement
2 agents in searching the cell phone, assistance that shall include,
3 but is not limited to, bypassing the cell phone user's passcode so
4 that the agents may search the cell phone.

5 IT IS SO ORDERED, this 17th day of May, 2011

6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28



WILLIAM MCCURINE, JR.
United States Magistrate Judge