**SUPERIOR COURT OF CALIFORNIA**

**County of \_\_Alameda\_\_\_\_\_\_\_\_**

**COURT ORDER**\*

Electronic Communication Records

(Phone ⬩ E-Mail ⬩ Internet)

**TO**: Metro PCS, hereinafter “Provider”

**Type of service provided**: ⌧ Telephone 🞎 E-mail 🞎 Internet

**APPLICANT**: Detective Aaron Edens, hereinafter “Applicant.”

**SUBSCRIBER**: Donte Smith 510-467-8619

**ORDER**: Based on the findings below, Provider is ordered to furnish Applicant with the following records if they are in Provider’s possession or if they can be obtained with reasonable effort:

**Subscriber records**

🞎 Subscriber’s name and address 🞎 Types of services utilized

🞎Telephone number, e-mail address, IP address 🞎 Length of service, including start date

□ Means and source of payment, including credit card and bank account numbers

**Connection records**

**Telephone**

⌧ Local and long distance connection records from \_\_\_\_5/2/2008\_\_\_\_\_\_\_\_\_\_ to \_\_\_9/1/2008\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

⌧ Locations, dates, and times of cell tower contacts from \_\_5/2/2008\_\_\_\_\_\_\_\_\_\_\_\_ to \_\_\_9/1/2008\_\_\_\_\_\_\_\_\_\_\_\_\_\_

🞎 Last outgoing phone number 🞎 Last incoming phone number

**COMPLIANCE DATE**: Provider shall furnish the listed records to Applicant on or before 11/15/2008

**NON-DISCLOSURE ORDER**: Provider shall not notify Subscriber or any other person of the existence or content of this order as follows: 🞎 Until 90 days from the date of this order. 🞏 Until further order of this court.

**FINDINGS**

(1) Provider is an electronic communication service company as defined in 18 USC § 2510(15) and is doing business in California.

(2) Pursuant to 18 USC §§ 2703(c)(1)(B), 2703(c), and 2703(d), this court may order a provider of an electronic communication service doing business in California to disclose the records listed above to an officer who has established reasonable grounds to believe said records are relevant and material to an ongoing criminal investigation.

(3) Applicant has filed with this court a declaration containing specific and articulable facts establishing reasonable grounds to believe the listed records are relevant and material to an ongoing criminal investigation.

(4) Applicant’s declaration has established grounds for a non-disclosure order pursuant to 18 USC § 2705(b). Grounds for nondisclosure are based on the following: [check one or more]

🞎 Jeopardize an investigation 🞎 Danger to life or safety

🞎 Flight from prosecution 🞎 Evidence destruction or tampering

🞎 Intimidation of potential witnesses

\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

Date Judge of the Superior Court

\* Application must be attached

18 USC § 2703(d)

**Application for Court Order**

Electronic Communication Records

**Provider**: Metro PCS, hereinafter “Provider”

**Type of service provided**: ⌧ Telephone 🞎 E-mail 🞎 Internet

**Target information** (if known)

Name and address: John Smith

Phone number: 510-467-8619

**Jurisdiction**: Provider is an electronic communication service provider as defined in 18 USC § 2510(15) and is doing business in California.

**Certification**: Per 18 USC § 2703(d), I certify that records that are likely to be obtained pursuant to this Order are relevant to an ongoing criminal investigation being conducted by the above law enforcement agency. This certification is based on the following information:

I am Detective Aaron Edens of the Hayward Police Department’s (HPD) Investigations Division. On 5/18/2008 at 1433 HPD Communications received a 911 call stating someone had been shot at the Sheikh Shoe Store located within the Southland Mall at 1 Southland Mall Road in Hayward. Responding units located a victim, later identified as Fred Thomas Jr., outside the store that had been shot multiple times. Fred Thomas Jr. was declared dead at the scene. The investigation determined the suspected gunman in the case was Curtis Otis who was assisted in escaping from the scene by a male subject who drove the vehicle. The male subject was later identified during the investigation as John Johnson.

Otis was arrested for a parole violation subsequent to the investigation. The investigators assigned to this case have monitored the recorded phone calls from Otis while incarcerated. During these monitored phone conversations, Otis is heard speaking to an individual who is believed to be Johnson. On one of the recorded conversations, Johnson referenced Otis being “unpredictable” and “blasting” someone. Johnson used two phone numbers to communicate with Otis-510-681-4598 (cellular service provided by Sprint-Nextel) and 510-467-8619 (cellular service provided by MetroPCS).

I sought and was granted Court Orders for call detail records and subscriber records for the listed numbers. 510-681-4598 was no longer in service but 510-467-8619 was still in use. I sought and was granted a Court Order to install a pen register, also known as, a trap-trace/dialed number recorder. Using the information obtained from the pen register such as cell tower location information in conjunction with specialized detection equipment HPD Officers were able to locate the phone in possession of another subject. That subject provided information which led to the identification of Johnson.

An interview of the witness determined that Johnson had given the subject the phone subsequent to Johnson’s arrest for an unrelated weapons and drug case on 9/5/2008. The prior Court Order had authorized the release of call detail records from 9/1/2008 to 9/29/2008. Therefore, I am requesting a Court Order authorizing Metro PCS, a cellular service provider, to provide the following records: toll records, and call detail information (cell site, cell sector, and address locations) for the monthly billing period which covers 5/2/2008 to the 9/1/2008 for the phone number 510-467-8619.

All of the information contained herein is known to me through personal knowledge from conversations with various persons mentioned and from official police records, reports, channels, or communications. Wherefore, affiant declares under penalty of perjury that the forgoing is true and correct to the best of my knowledge and belief.

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Date Signature of Affiant

18 USC § 2703(d)