

IN THE UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF ARKANSAS

IN RE: SEARCH AND SEIZURE WARRANTS

AMENDED GENERAL ORDER NO. 7

Effective this date, the following procedures will govern the filing of search and seizure warrants issued under Federal Rule of Criminal Procedure 41:

1. When a District Judge or Magistrate Judge issues a warrant, the warrant and all related documents will be filed by the District Court Clerk in a sealed criminal miscellaneous case.

2. Because there is a compelling interest in protecting from public disclosure all warrant-related documents until the warrant is executed and because no less restrictive alternative is practical to protect that interest, the documents and criminal miscellaneous cases in which they are filed will be maintained under seal.

3. Federal Rule of Criminal Procedure 41(f)(1)(D) provides that “[t]he officer executing the warrant must promptly return it – together with a copy of the inventory – to the . . . judge designated on the warrant.” The officer executing the warrant will have ten (10) days from expiration of the time specified in the warrant for its execution in which to comply with Rule 41(f)(1)(D) by returning the executed warrant/inventory or the unexecuted warrant to the issuing Judge.

4. Upon return of the warrant documents, the Judge will forward them to the District Court Clerk for filing in the criminal miscellaneous case.

5. If the warrant is returned as unexecuted, the seal will not be lifted.

6. If the warrant is returned as executed, if the United States wishes for the case or particular documents in the case to remain under seal, the United States must submit a motion to seal to the District

Court Clerk for filing within seven (7) days of the return of the executed warrant. A proposed order granting the motion to seal must be submitted to the Judge within this same time period. The motion to seal and proposed order must state with particularity facts establishing that there is a compelling government interest for maintaining the case or particular documents under seal and that no less restrictive alternative to sealing is appropriate.

If no motion to seal has been submitted within seven (7) days after the executed warrant has been returned, the Clerk must lift the seal. If a motion to seal is filed, the seal will remain in place until the Judge has ruled on the motion.

7. Even if a motion to seal an executed warrant is granted, the District Court Clerk must create and maintain a public docket sheet for the criminal miscellaneous case when the executed warrant and related documents are forwarded from the Judge to the District Court Clerk. The docket sheet must contain docket entries that describe generally each document in the file (such as application for search warrant, search warrant issued, motion to seal, order granting motion to seal), with redaction of any revealing references.

8. Any order granting a motion to seal will automatically expire within sixty (60) days of its entry or upon the filing of a related indictment or information, whichever occurs earlier, unless the United States files a motion to extend the sealing of the case or particular documents contained therein and supports the motion with particular facts satisfying the criteria for sealing set out above.

9. Any person or other entity seeking to challenge an order to seal must submit a motion to the District Court Clerk for filing, stating specific grounds supporting the release of the sealed documents. In opposing such a motion, the United States has the burden of establishing that the documents should remain under seal based on the criteria for sealing set out above. In appropriate cases, the Judge may

conduct an *in camera* hearing to develop the facts necessary to determine whether the United States has met its burden. If the Judge concludes that the documents should remain under seal, the Judge will enter an order under seal containing specific findings on the criteria for sealing set out above.

IT IS SO ORDERED this 10th day of January 2013.

US DISTRICT COURT
WESTERN DIST ARKANSAS
FILED

JAN 10 2013

CHRIS R. JOHNSON, Clerk
By

Deputy Clerk


HONORABLE P. K. HOLMES, III
CHIEF U.S. DISTRICT JUDGE