

08SW11

STATE OF WISCONSIN

CIRCUIT COURT
BRANCH

DANE COUNTY

In the matter of a request to seal
Search Warrant 3

FILED
AUG 28 2008
STATE OF WISCONSIN CIRCUIT COURT FOR DANE CTY.

ORDER

IT IS HEREBY ORDERED, on request of the State of Wisconsin, and for the reasons stated, that the Complaint for Search Warrant 3, Search Warrant 3, Return of Search Warrant 3, and all documents relating to the sealing of Search Warrant 3, are sealed for a period not exceeding 90 days.

DATED at Madison, Wisconsin, this 28 day of August 2008.

BY THE COURT:

Sarah B. O'Brien
 The Honorable SARAH B. O'BRIEN
 Dane County Circuit Court
 Branch 16

08SW11

STATE OF WISCONSIN

CIRCUIT COURT
BRANCH

DANE COUNTY

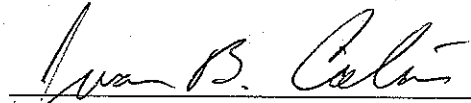
In the matter of a request to seal
Search Warrant 3

ORDER

IT IS HEREBY ORDERED, on request of the State of Wisconsin, and for the reasons stated, that the Complaint for Search Warrant 3, Search Warrant 3, Return of Search Warrant 3, and the Applications in support of sealing Search Warrant 3 are sealed for a period not exceeding 90 days.

DATED at Madison, Wisconsin, this 2 day of ^{JUNE}~~May~~, 3008.

BY THE COURT:



The Honorable Juan Colas
Dane County Circuit Court
Branch 10

2008 JUN -2 AM 11:28
CIRCUIT COURT
DANE COUNTY, WI

FILED

STATE OF WISCONSIN

CIRCUIT COURT
BRANCH

DANE COUNTY

085W11
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In the matter of a request
to seal Search Warrant 3

2008 APR -8 PM 3:18

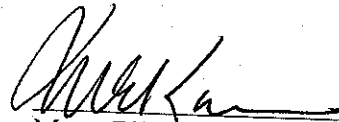
DANE COUNTY, WI

MOTION

COMES NOW the State of Wisconsin, by Assistant District Attorney Mary Ellen Karst, and hereby moves this court for an Order sealing the Complaint for Search Warrant, Search Warrant, and Return of Search Warrant for the digital video surveillance or any copies of such made from Fed Ex Kinko's, Madison, Wisconsin, herein designated as "Search Warrant 3". Grounds for this Motion are set forth in the attached Affidavit of Detective Ann Turner pursuant to State v. Cummings, 199 Wis. 2d 721 (1996).

DATED at Madison, Wisconsin, this 8th day of April, 2008.

Respectfully submitted:



Mary Ellen Karst
Assistant District Attorney
Dane County, Wisconsin
State Bar No. 1001844

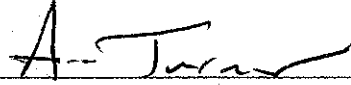
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AFFIDAVIT

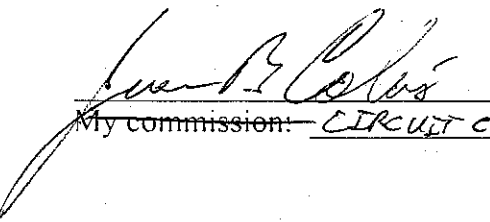
CIRCUIT COURT
2008 APR -8 PM 3:18
DANE COUNTY, WI

Your Affiant, being duly sworn under oath, states as follows:

1. That your Affiant is a detective employed by the Madison Police Department involved in the investigation of the death of Brittany Zimmerman in her home at 517 W. Doty Street, Madison, Wisconsin, on April 2, 2008;
2. That a warrant was signed on Saturday, April 6, 2008, by The Honorable Juan Colas, Dane County Circuit Court, Branch 10, to retrieve digital video surveillance or any copies of such made from Fed Ex Kinko's as potential evidence in this homicide investigation;
3. That your Affiant was the Complainant in the Complaint for Search Warrant in relating to the collection of this digital video surveillance or any copies of such made.
4. That this is an ongoing investigation and no one has yet been charged with this crime;
5. That your Affiant requests this warrant and attending documents be sealed to prevent witnesses from conforming their testimony to media reports and to prevent future suspects from knowing what information the investigative agencies already possess when interviewing them;
6. That your Affiant requests 60 days due to the complexity of this investigation and the need for time for the Wisconsin State Crime Laboratory to analyze physical evidence; that should charges be issued in connection with this crime prior thereto, Affiant will notify the occur and ask that the Order authorizing the seal be lifted.


 Ann Turner, Detective
 Madison Police Department

Subscribed and sworn to before me
 This 8 day of April, 2008.


 My commission: CIRCUIT COURT JUDGE

085W11

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COMPLAINT FOR SEARCH WARRANT

STATE OF WISCONSIN)
) ss.
COUNTY OF DANE)

In the Circuit Court of the
County of Dane

Detective Ann Turner, being duly sworn on oath complains to the said Court of the County of Dane, that on April 6, 2008, in the City of Madison, County of Dane, that there is now located and concealed in and upon certain premises, in the City of Madison, in said County, and more particularly described as follows:

Fed Ex Kinko's, 654 West Washington Avenue. The business is housed in a three-story multi-colored cement and brick business strip mall style building with a green roof. City Station is engraved in the cement on the third floor portion of the building. The building is located at the corner of West Washington Avenue and Regent Street and the building houses six separate businesses with Fed Ex Kinko's being the eastern most business. The six businesses have green awnings indicating the location of the separate businesses. Fed Ex Kinko's is marked with a green awning with a tan stripe and faces Regent Street. The words Fed Ex Kinko's is also on the awning in tan. The main entrance to Kinko's Fed Ex is located closest to West Washington Av and is a double door. The left door has Fed Ex Kinko's in blue and white letters affixed to the door. The right door has the store hours on a purple and white sign affixed to the door. The other two business doors are also metal and glass. The middle door has a yellow sign with emergency exit only in red letters affixed to the door. The third business door is to the west of the main entrance door and has a yellow sign with emergency exit only in red letters and a purple sign with white letters affixed to the door. Above this door in white are the numbers 654.

2008 APR -9 PM 3:19
CIRCUIT COURT
DANE COUNTY, WI

Certain things, to-wit:

Digital video surveillance from 04-02-08 and any copies made of such.

Which things may constitute evidence of a crime, to-wit: **First Degree Intentional Homicide**, committed in violation of Section(s) 940.01 of the Wisconsin Statutes. That the facts tending to establish grounds for issuing a Search Warrant are as follows:

FACTS:

Your complainant, Detective Ann Turner, is a Detective with the City of Madison Police Department; currently assigned to the Central District Investigative Services Bureau of the Madison Police Department and states she has 18 years experience in law enforcement.

Your complainant is assisting with a homicide investigation in the City of Madison, County of Dane, which occurred on 4/2/08. As a result of the ongoing investigation, your complainant, in conjunction with other investigators with the Madison Police Department, have developed information leading to descriptions of persons of interest who may have information about the suspects responsible for the homicide that occurred on 4/2/08.

On Wednesday, April 2, 2008, at 1:08 pm, your complainant learned that many detectives and officers were sent to 517 West Doty Street, Apt. 1, located in the City of Madison, Dane County, based on information provided by Dispatch that a caller was on the phone indicating that his girlfriend was unconscious and was not breathing. Dispatch further advised that the caller stated that the female had been shot in the chest. Officers there located a person subsequently identified as Brittany S. Zimmermann, apparently deceased and later that day declared dead by the Dane County Coroner's Office.

Your complainant spoke with Detective Sid Woods, who interviewed Thomas A. Cosgrove after he voluntarily agreed to come to the Police Department. Detective Woods advised your complainant that Cosgrove presented a United Kingdom passport for identification. Detective Woods spoke with Cosgrove about information Cosgrove may have regarding this homicide. Cosgrove told Detective Woods that he and a male that is unknown to Cosgrove, went to the Kinko's on West Washington Avenue on the day of the homicide. Cosgrove and the unknown male made 3 photocopies of Cosgrove's passport. The unknown male told Cosgrove that he would assist Cosgrove with the naturalization process. Cosgrove told Detective Woods that the male unknown to him was a male white in his 40's, dressed in all black and had a backpack with a sleeping bag attached to it.

Your complainant knows that Kinko's is commonly used to describe Fed Ex Kinko's.

Your complainant reviewed a police report authored by Officer Mike Hanson. Your complainant learned that Officer Hanson went to Fed Ex Kinko's located at 654 W. Washington Avenue and viewed security video provided to him by Dang Moua who is an employee of Fed Ex Kinko's. Officer Hanson believes Cosgrove and the unknown male white are on the portion of security video dated 04-02-08. Officer Hansen requested a copy of the security video from Moua but was told that Fed Ex Kinko's would not provide the copy without a warrant due to company policy.

Dang Moua told your complainant that he would make a digital recording of the security video that Officer Hanson watched and put it on a compact disc.

Your complainant believes the security video is important to the homicide investigation as it helps to establish a time line of events for Thomas Cosgrove. Your complainant also believes the unknown male white with Cosgrove at the Fed Ex Kinko's needs to be identified as he may have information vital to the investigation. The police need the video to assist in the identification of this unknown male.


Your complainant believes Detective Sid Woods and Officer Michael Hanson to be truthful and reliable as required in the every day course of their employment as law enforcement officers.

Your complainant believes Dang Moua to be truthful and reliable in that he is required to maintain the surveillance equipment at Fed Ex Kinko's as a normal course of his duties.

Your complainant believes Thomas Cosgrove to be truthful in that he is a citizen witness.

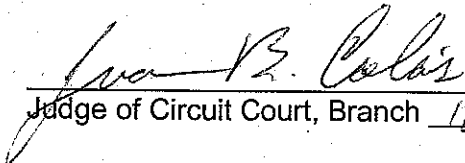
Your complainant has personally viewed Fed Ex Kinko's, located at 654 West Washington Avenue, which is in the city of Madison, Dane County, Wisconsin and knows it to be as described on the face of this document.

WHEREFORE, complainant prays that a Search Warrant be issued to search said premises for the property aforesaid.



(Peace Officer)

Subscribed and sworn to before me
This 6 day of April, 2008.



Judge of Circuit Court, Branch 10

085W11

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SEARCH WARRANT

STATE OF WISCONSIN)
) ss.
COUNTY OF DANE)

In the Circuit Court of the
County of Dane.

THE STATE OF WISCONSIN, to the Sheriff, or any other peace officer for said County:
WHEREAS, Detective Ann Turner has this day complained in writing to this Court of the County of
Dane, upon oath that on April 6, 2008, in the City of Madison, County of Dane, that there is now
located and concealed in and upon certain premises, a commercial facility, located in the City of
Madison, in said County, and more particularly described as follows:

FedEx Kinko's 654 West Washington Av. The business is housed in a three story multi-colored cement and brick business strip mall style building with a green roof. City Station is engraved in the cement on the third floor portion of the building. The building is located at the corner of West Washington Avenue and Regent Street and the building houses six separate businesses with Fed Ex Kinko's being the eastern most business. The six businesses have green awnings indicating the location of the separate businesses. Fed Ex Kinko's is marked with a green awning with a tan stripe. The words Fed Ex Kinko's is also on the awning in tan. The main entrance to Kinko's Fed Ex is located closest to West Washington Avenue and is a double door. The left door has Fed Ex Kinko's in blue and white letters affixed to the door. The right door has the store hours on a purple and white sign affixed to the door. The other two business doors are also metal and glass. The middle door has a yellow sign with emergency exit only in red letters affixed to the door. The third business door is to the west of the main entrance door and has a yellow sign with emergency exit only in red letters and a purple sign with white letters affixed to the door. Above this door in white are the numbers 654.

Certain things, to-wit:

Digital video surveillance from 04-02-08 and any copies made of such.

which things may constitute evidence of a crime, to-wit: **First Degree Intentional Homicide**, committed in violation of Section(s) 940.01 of the Wisconsin Statutes; and prayed that a Search Warrant be issued to search said premises for the property aforesaid.

NOW, THEREFORE, in the name of the State of Wisconsin, you are commanded forthwith to search the said premises for the property aforesaid, and return this Warrant within forty-eight hours, before the said Court.

WITNESS, the Honorable Juan B. Colás, Judge of Circuit Court,

Branch 10, Dane County, Wisconsin, this 6th day of April 2008.

Juan B. Colás
Judge

2008 APR -06 PM 3:18
DANE COUNTY, WI

ENDORSEMENT

Received by me this 6 day of April, 2008, at 2:15 o'clock P M

Det. A. Turner
(Peace Officer)

08SW11
PV

SEARCH WARRANT RETURN

STATE OF WISCONSIN)

) ss.

In the Circuit Court of the
County of Dane.

COUNTY OF DANE)

RETURN OF OFFICER

Dated this 8th day of April, 2008, in the City of Madison Wisconsin,
I hereby certify that by virtue of the within Warrant, I searched the within named
premises and found the following:

14 compact discs

CIRCUIT COURT
2008 APR -8 PM 3:18
DANE COUNTY, WI

and have the same now in my possession subject to the disposition of the Court.

Det A. Turan

(Detective)

STATE OF WISCONSIN

CIRCUIT COURT
BRANCH

DANE COUNTY

In the matter of a request to seal
Search Warrant 3

MOTION

COMES NOW the State of Wisconsin, by Assistant District Attorney Mary Ellen Karst, and hereby moves this court for an Order sealing the Complaint for Search Warrant 3, Search Warrant 3, Return of Search Warrant 3 and all documents related to the sealing of Search Warrant 3. Grounds for this Motion are set forth in the attached Affidavits of Detective David Miller pursuant to State v. Cummings, 199 Wis. 2d 733 (1996).

DATED at Madison, Wisconsin this 27th day of August, 2008.

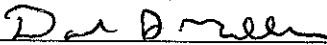
Respectfully submitted:



Mary Ellen Karst
Assistant District Attorney
Dane County, Wisconsin
State Bar No. 1001844

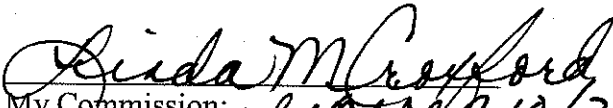
AFFIDAVIT

1. That your affiant is a detective employed by the City of Madison Police Department assigned as the lead investigator in the investigation of the homicide of Brittany Zimmerman on April 2, 2008, and is familiar with all search warrants previously returned and ordered sealed by Judges Colas and Niess in connection with that investigation.
2. That the orders sealing said search warrants expire on or about September 6, 2008.
3. That the facts set forth in the Affidavits your affiant previously executed in connection with each of these search warrants (and copies of which are attached hereto and incorporated herein) are still true and applicable as of the date this document is subscribed and sworn to by your affiant below.
4. That your affiant requests that each of these search warrants, identified as Search Warrants 1-7, inclusive, be sealed for an additional 90 days.
5. That should criminal charges be issued as against anyone for this crime prior to the expiration of that 90 day period, your affiant will notify this court of same and agree that the search warrants no longer should remain sealed.



David Miller
Detective, Madison Police Department

Subscribed and sworn to before me
This 28th day of August, 2008.


My Commission: expired 10/31/10

AFFIDAVIT

YOUR AFFIANT, being duly sworn under oath, states as follows:

1. That your Affiant is a detective employed by the Madison Police Department and is the lead investigator involved in the investigation of the death of Brittany Zimmerman in her home at 517 W. Doty Street, Madison, Wisconsin, on April 2, 2008.
2. That a warrant was signed by the Honorable Juan Colas, Dane County Circuit Court, Branch 10, authorizing the search of FedEx Kinkos, located at 654 West Washington Avenue, on April 6, 2008, for evidence of the homicide of Ms. Zimmerman.
3. Your Affiant knows that Detective Ann Turner, MAPD, was responsible for the execution and return of this search warrant.
4. That on or about April 8, 2008, Judge Colas entered an Order upon application by the State of Wisconsin sealing all documents related to this warrant for a period not exceeding 60 days.
5. That this is an ongoing investigation and no one yet has been charged with this crime.
6. That your Affiant requests this warrant and attending documents be sealed to prevent witnesses from conforming their testimony to media reports and to prevent future suspects from knowing what information the investigative agencies already possess when interviewing them. Specifically, your Affiant has already encountered the following in this investigation:
 - a minimum of four independent individuals who have made incriminating statements inculcating themselves in this homicide all of whom your Affiant has excluded as suspects;
 - multiple persons interviewed who have not been able to distinguish what they know from their own knowledge with what has been reported in the media.
7. Your Affiant states that additional time is needed due to the complexity of this investigation. As this appears to be a stranger homicide, the pool of potential suspects and witnesses is extremely large, resulting in a much more time-consuming investigation. Despite due diligence, given this enormous number of people, these interviews are not yet complete.
8. That because this homicide is of not only local, but national, interest, every release of information is dispersed more widely, becoming known to more people, than is ordinary, and would tend to affect the integrity of the investigation, as it has already done, as demonstrated above.


9. Your Affiant also requests these documents be sealed to prevent knowledge of forensic evidence possessed by the MAPD from becoming public knowledge. If this information is released, it would give the killer greater incentive to flee.

10. Your Affiant also requests these documents be sealed to allow the Wisconsin State Crime Laboratory additional time to complete their analysis of the physical evidence and further for the police to receive the results of their analysis and apply those results accordingly and meaningfully to the investigation.

11. Your Affiant wishes to protect the reputation of persons being investigated (to-wit: Thomas A. Cosgrove) by preventing disclosure of untrue and irrelevant statements.

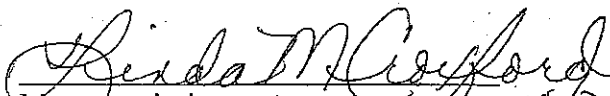
12. Your Affiant states that although the original sealing was for not more than 60 days, now that your Affiant has been involved nonstop in this investigation since its inception, it has become apparent that this investigation is likely to take considerably more time and therefore requests sealing for a period not to exceed ninety days.

13. Your Affiant states that should a person or persons be charged with this crime prior to the expiration of the 90 days, your Affiant will return to court and ask that the seal be lifted.



David J. Miller, Detective
Madison Police Department

Subscribed and sworn to before me
This 30th day of May, 2008.


My commission: expires 10/31/10