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STATE OF WISCONSIN

CIRCUIT COURT
BRANCH

DANE COUNTY

In the matter of a request to seal
Search Warrant 7

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 7, Search Warrant 7, Return of Search Warrant 7, and all documents relating to the sealing of Search Warrant 7, 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

STATE OF WISCONSIN

CIRCUIT COURT
BRANCH

DANE COUNTY, WI

08 SW18

2008 JUN 10 AM 10:37

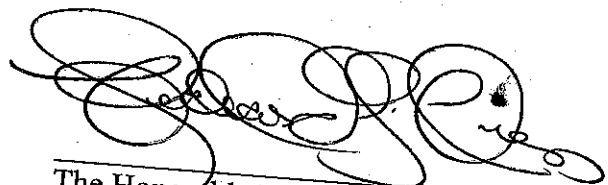
In the matter of a request to seal
Search Warrant 7

ORDER

IT IS HEREBY ORDERED, on request of the State of Wisconsin, and for the reasons stated, that the Complaint for Search Warrant 7, Search Warrant 7, the Return of Search Warrant 7, the Motion for Search Warrant 7, as well as the Affidavits filed in support of the sealing of this warrant, are sealed for a period not exceeding 90 days.

DATED at Madison, Wisconsin this 10 day of June, 2008.

BY THE COURT:



The Honorable Richard Niess
Dane County Circuit Court
Branch 9

085W18 *PH*

STATE OF WISCONSIN

CIRCUIT COURT
BRANCH

DANE COUNTY

In the matter of a request to seal
Search Warrant 7

FILED
2008 JUN 10 AM 10:38
CIRCUIT COURT
DANE COUNTY WI

MOTION

COMES NOW the State of Wisconsin, by ^{Deputy}~~Assistant~~ District Attorney

JUDY SCHWAEMLE, and hereby moves this court for an Order sealing the

Complaint for Search Warrant, Search Warrant, Return of Search Warrant, Motion to Seal Search Warrant, and Affidavits in support of sealing the Search Warrant for the individual Chauncey A Mack M/B 06-07-55, herein designated as "Search Warrant 7".

Grounds for this motion are set forth in the attached Affidavit of Detective David Miller pursuant to State v. Cummings, 199 Wis. 2d 721 (1996).

DATED at Madison, Wisconsin this 10th day of June, 2008.

Respectfully submitted:

Judy Schwaemle

~~Assistant~~ Deputy District Attorney
Dane County, Wisconsin
State Bar No. 1000196

pk

AFFIDAVIT

2008 JUN 10 AM 10:38
CIRCUIT COURT
DANE COUNTY, WI

FILED

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

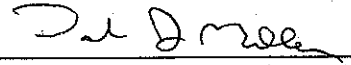
1. That your Affiant is a detective employed by the Madison Police Department and is the lead investigator involved in the investigation of the death of Brittany Zimmermann in her home at 517 W. Doty Street, Madison, Wisconsin, on April 2, 2008;
2. That a warrant was signed by the Honorable Richard Niess, Dane County Circuit Court, Branch 9, authorizing the search of Chaucey A Mack M/B 06-07-55, for evidence of the homicide of Ms. Zimmermann;
3. That your Affiant is the Complainant in the Complaint for Search Warrant relating to the collection of the evidence from the above mentioned person;
4. That this is an ongoing investigation and no one yet has 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. Specifically, your Affiant has already encountered the following in this investigation:
 - a minimum of four independent individuals who have made incriminating statements inculpating 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
6. 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.
7. 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.

8. 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.

9. 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.

10. Your Affiant wishes to protect the reputation of persons being investigated by preventing disclosure of untrue and irrelevant statements.

11. 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 9 day of June, 2008

Maya Krajanovic
My commission: 8/24/08

085W18 pu

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 David J Miller, has this day complained in writing to this Court of the County of Dane, upon oath that on June 6th 2008, in the County of Dane, that there is now located and concealed in and upon a certain person in said County, and more particularly described as follows:

Chauncey Andrew Mack M/B 06-07-55, currently located at the Madison Police Department at the Central District Patrol, located at 211 S Carroll Street, City of Madison, Dane County, Wisconsin

Certain things, to-wit:

Buccal and/or blood sample in sufficient quantity for DNA analysis

which may constitute evidence of a crime, to-wit: First Degree Intentional Homicide committed in violation of Section(s) 940.01(1) of the Wisconsin Statutes, and prayed that a Search Warrant be issued to search said person for the evidence aforesaid.

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

Dane County, Wisconsin, this 6th day of May 2008

[Handwritten Signature]
Judge

ENDORSEMENT

Received by me this 6th day of May 2008 at 1255 o'clock P M.

[Handwritten Signature]
(Peace Officer)

2008 JUN 10 AM 10:38
CIRCUIT COURT
DANE COUNTY WI

FILED

DM

COMPLAINT FOR SEARCH WARRANT

STATE OF WISCONSIN)

IN THE CIRCUIT COURT

SS.

COUNTY OF DANE)

OF THE COUNTY OF DANE

Detective Dave Miller, being duly sworn on oath complains to the said Court of the County of Dane, that on June 6th 2008, in the County of Dane, that there is now located and concealed in and upon certain person, in the said County, more particularly described as follows:

Chauncey Andrew Mack M/B 06-07-55, currently located at the Madison Police Department at the Central District Patrol, located at 211 S Carroll Street, City of Madison, Dane County, Wisconsin

certain things, to-wit:

Buccal and/or blood sample in sufficient quantity for DNA analysis

which may constitute evidence of a crime, to-wit: First Degree Intentional Homicide committed in violation of Section(s) 940.01(1)) of the Wisconsin Statutes. That the facts tending to establish grounds for issuing a Search Warrant are as follows:

FACTS:

Your complainant, Detective Dave Miller, has been employed by the City of Madison Police Department for eleven years, and has been a police officer for 23 years. Currently your complainant is assigned to investigate a homicide that occurred at 517 W Doty Street #1, in the City of Madison, Dane County, on 04-02-08.

On Wednesday, April 2, 2008, at 1:08 pm, your complainant responded with many other detectives and officers 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. Your complainant arrived on scene and subsequently observed a deceased female, ultimately

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CIRCUIT COURT
DANE COUNTY WI
FILED

identified as Brittany S. Zimmermann. Zimmermann was identified by her boyfriend Jordan Gonnering. Your complainant observed multiple areas of trauma on Zimmermann's body.

Your complainant spoke to Deputy Coroner Jeff Sholts who advised he pronounced Zimmermann dead at 1:34P.

Your complainant learned from the police report of Det. John Summers, that Dr. Robert Corliss conducted an autopsy on 04-03-08, and Det. Summers was present. Dr. Corliss advised Det. Summers that his preliminary finding was that Zimmermann died from "sharp force stab wounds".

On Wednesday, 06-04-08 your complainant interviewed Marc G Craven, who advised your complainant of the following: Craven told your complainant that on or about 04-03-08, at approximately 5P, he was at Concrete Park, located in the 500 block of State St, in the City of Madison, Wisconsin with a small group of people. Included in this group were two males known to Craven as "Smooth" and "leprechaun". Craven heard and observed "Smooth" tell "Leprechaun" something about the Zimmermann homicide when that topic came up in the discussion. Craven heard Smooth tell Leprechaun that he, "Smooth" had gone to do a robbery and the "girl" was home. "Smooth" further stated, "I did what I had to do." Craven asked "Smooth" what he meant by this and "Smooth" responded saying he "stabbed her", somewhere between 8 and 12 times. "Smooth" further said that he had sustained some scratches during the attack.

On Wednesday 06-04-08, your complainant learned from Craven that on or about 04-05-08, Craven was standing in line to enter the homeless shelter at 116 W Washington Ave, when he again had contact with "Smooth". "Smooth" told Craven that he, "Smooth" "fucked up", referring to stabbing Zimmermann. "Smooth" told Craven that he, Craven needed to stay quiet about what "Smooth" had told Craven 2 days earlier about the stabbing.

Your complainant met again with Craven on 06-04-08 and showed him a photo lineup containing 6 photos, including a photo of Chauncey A Mack M/B 06-07-55. This lineup was compiled using the computer program utilized and maintained by the Dane County Sheriff's Department. Craven viewed all six photos and positively identified Mack as the individual he knows as "Smooth" and the person that he saw and heard make the above statements about the Zimmermann homicide on 04-03-08 and 04-05-08.

Your complainant learned from reports completed by Inv. Tom Parr, that biological evidence was collected from the decedents person at the autopsy. This evidence was submitted to the Wisconsin State Crime Lab for analysis. Your complainant learned from Lisa Misner, DNA analyst, at the Wisconsin State Crime Lab, that analysis of evidence submitted, revealed a DNA (deoxyribonucleic acid) profile inconsistent with the decedents DNA.

Your complainant knows that blood or buccal samples are the most reliable source of DNA for comparison purposes.

Your complainant believes Detective John Summers and Inv. Tom Parr to be truthful and reliable inasmuch as they are required to be so in their employment as law enforcement officers. Your complainant has worked with the above listed officers and found them to be truthful and reliable in the past.

Your complainant believes Jordan Gonnering and Marc Craven to be truthful and reliable inasmuch as they are citizen witnesses to this incident.


Your complainant believes Deputy Coroner Jeff Sholts to be truthful and reliable inasmuch as he is required to be so during the course of his duties as an employee of the Dane County Coroners Office. Your complainant has worked with Deputy coroner Sholts and found him to be truthful and reliable in the past.

Your complainant believes the information provided by Dr. Robert Corliss to be truthful and reliable inasmuch as he is required to be so in his capacity as a Forensic Pathologist. Your complainant has worked with Dr. Corliss and found him to be truthful and reliable in the past.

Your complainant believes Lisa Misner of the Wisconsin State Crime Lab to be truthful and reliable inasmuch as she is required to be so due to her role in the analysis of evidence involving criminal investigations. Your complainant has worked with Lisa Misner and found them to be truthful and reliable in the past.

Your complainant believes the information obtained from the Dane County Sheriff's Department to be truthful and reliable inasmuch as it is kept during the normal course of day-to-day operations of that organization.

WHEREFORE, your complainant prays that a Search Warrant be issued to search said person for the evidence aforesaid.



Detective David J Miller

Subscribed and sworn to before me

this 6 day of June, 2008.


Judge of Circuit Court, Branch 9

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CIRCUIT COURT)
) ss.
COUNTY OF DANE)

RETURN OF OFFICER

Dated this 10th day

of June, 2008.

at Madison, Wisconsin.

I hereby certify that by virtue of the within Warrant, I searched the within named premises and found the following:

Buccal swab from Chauncey A Mack M/B 06-07-55

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

Duane J. Moore
(Sheriff) (Peace Officer)

FILED
2008 JUN 10 AM 10:39
CIRCUIT COURT
DANE COUNTY WI

**In the matter of a request to seal
Search Warrant 7**

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 7, Search Warrant 7, Return of Search Warrant 7 and all documents related to the sealing of Search Warrant 7. 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

David Miller
Detective, Madison Police Department

Subscribed and sworn to before me

This 28th day of August, 2008.

Linda M. Crawford
My Commission: Expires 10/31/10

AFFIDAVIT

YOUR AFFLIANT, being duly sworn under oath, states as follow:

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 Zimmermann in her home at 517 W. Doty Street, Madison, Wisconsin, on April 2, 2008;
2. That a warrant was signed by the Honorable Richard Niess, Dane County Circuit Court, Branch 9, authorizing the search of Chauncey A Mack M/B 06-07-55, for evidence of the homicide of Ms. Zimmermann;
3. That your Affiant is the Complainant in the Complaint for Search Warrant relating to the collection of the evidence from the above mentioned person;
4. That this is an ongoing investigation and no one yet has 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. 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
6. 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.
7. 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.

8. 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.

9. 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.

10. Your Affiant wishes to protect the reputation of persons being investigated by preventing disclosure of untrue and irrelevant statements.

11. 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 9 day of June, 2008

Maya Krajanovic
My commission: 8/24/08