

No. _____

In The Supreme Court of The United States

ROBERT PAUL LANGLEY, JR., *Petitioner*,

v.

JEFF PREMO, SUPERINTENDENT,
OREGON STATE PENITENTIARY, *Respondent*.

*ON PETITION FOR WRIT OF CERTIORARI
TO THE OREGON SUPREME COURT*

PETITION FOR WRIT OF CERTIORARI

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QUESTIONS PRESENTED

1. Does the Fourth Amendment require that a search warrant particularly describe the things to be seized?
2. Does the Fourth Amendment require that a search warrant provide judicial authorization to seize things?
3. Is it ineffective assistance of counsel under the Sixth Amendment to fail to move to suppress items seized pursuant to a search warrant that did not particularly describe the things to be seized, and did not provide judicial authorization to seize things?

PARTIES TO THE PROCEEDING

All parties are listed in the case caption. Robert Paul Langley, Jr., was the Appellant below. Jeff Premo, Superintendent, Oregon State Penitentiary, was the Appellee below.

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PETITION FOR WRIT OF CERTIORARI

Robert Paul Langley, Jr., respectfully petitions for a Writ of Certiorari to the Oregon Supreme Court.

OPINIONS BELOW

Petitioner filed for post-conviction relief based on a claim of ineffective assistance of counsel who represented him at trial on aggravated murder charges. Petitioner was denied post-conviction relief by the trial court, and a General Judgment denying relief was entered on December 10, 2015. (App-1). Petitioner appealed to the Oregon Court of Appeals and the Court Affirmed Without Opinion the denial of post-conviction relief on October 4, 2017. (App-5). Petitioner filed for review with the Oregon Supreme Court which was denied by Order Denying Review on March 22, 2018. (App-6). Petitioner sought reconsideration with the Oregon Supreme Court which was denied by Order Denying Petition for Reconsideration on June 21, 2018. (App-7). The Oregon Court of Appeals then entered the Appellate Judgment and Supplemental Judgment on July 3, 2018. (App-8). An Order by the Oregon Court of Appeals was entered on July 12, 2018,

holding the Appellate Judgment in abeyance pending resolution of petitioner's petition for writ of certiorari. (App-9).

JURISDICTION

The Oregon Court of Appeals entered the Appellate Judgment and Supplemental Judgment with an effective date of July 3, 2018. An Order was entered by the Oregon Court of Appeals on July 12, 2018, holding the Appellate Judgment and Supplemental Judgment in Abeyance pending resolution of petitioner's petition for writ of certiorari. On August 21, 2018, Chief Justice John G. Roberts, Jr., extended the time for filing a petition for writ of certiorari to and including November 18, 2018. The jurisdiction of this Court is invoked under 28 U.S.C. § 1257(a).

CONSTITUTIONAL PROVISIONS INVOLVED

The Fourth Amendment to the United States Constitution provides:

The right of the people to be secure in their persons, houses, papers and effects, against unreasonable searches and seizures, shall not be violated, and no Warrants shall issue, but upon probable cause, supported by Oath or affirmation, and particularly describing the place to be searched, and the person or things to be seized.

The Sixth Amendment to the United States Constitution provides in pertinent part: “In all criminal prosecutions, the accused shall enjoy the right . . . to have the Assistance of Counsel for his defence.”

The Fourteenth Amendment to the United States Constitution, Section 1 provides in pertinent part: “No State shall . . . deprive any person of life, liberty, or property, without due process of law . . .”

STATEMENT OF THE CASE

A. Factual History

Petitioner Robert Langley was a resident at the Oregon State Hospital in Salem, Oregon, as a participant in the Correctional Treatment Program. He entered the program in 1986, and lived in a cottage on the hospital grounds. He also had a personal room inside the hospital. In 1988, a body was discovered on the hospital grounds in a shallow grave. Law enforcement officials believed that the individual found in the shallow grave was the victim of a homicide. Mr. Langley was a suspect in the homicide investigation.

During the investigation law enforcement officials sought, and obtained, five search warrants to collect evidence to use in the

investigation and prosecution of Mr. Langley on aggravated murder charges. Over 100 items were seized during the execution of the five search warrants. The search warrants varied with respect to the relevant language in the search warrant affidavits, who signed the affidavits, and who executed the warrants. None of the search warrants particularly described any things to seized, and none of the search warrants provided judicial authorization to seize any things at all. The search warrants are identified by numbers, and were issued to search different specified areas.

1. Search Warrant #164, residence located at 2660 Greenwood Dr., NE, Cottage 18, Salem, Marion Co., OR.; a search of petitioner's residence. (App-10).¹
2. Search Warrant #167, Room 119, Ward 41A; a search of petitioner's room in the Oregon State Hospital which resulted in, among other things, seizure of Mr. Langley's medical records and personal writings protected by state law (ORS 179.505, 192.502(2), and 192.525) and federal law (Code of Federal Regulations, Chapter 42, Part 2). (App-18).
3. Search Warrant #174, a 1977 Toyota Celica; a search of petitioner's car. (App-25).

¹ Each respective Search Warrant includes the Search Warrant Affidavit or Supplemental Affidavit, and Search Warrant Return.

4. Search Warrant #239, a search for petitioner's blood, hair, saliva, foot casts and photographs of petitioner's feet; a search constituting a physical intrusion penetrating beneath the skin of petitioner's body. (App-33).
5. Search Warrant #319; a search for x-rays of petitioner's feet. (App-40).

Mr. Langley was charged with 17 counts of aggravated murder in 1988. He was convicted of 14 counts of aggravated murder in 1989 after a jury trial, and sentenced to death. Counsel who represented Mr. Langley did not move to suppress evidence on the basis that the five search warrants failed to comply with the Fourth Amendment requirement that search warrants particularly describe the things to be seized, and provide judicial authorization to seize things.

The Oregon Supreme Court on automatic and direct review reversed the judgments of conviction for aggravated murder on an issue unrelated to this petition, and remanded the case to the circuit court for a new trial. *State v. Langley*, 314 Or. 511 (1992).

At the new trial in 1996, Mr. Langley was convicted of aggravated murder after a stipulated facts trial before the court, and was sentenced to life imprisonment for a minimum of 30 years without the possibility of parole. Counsel who represented

Mr. Langley at the new trial, like counsel at the first trial, did not move to suppress evidence seized pursuant to the five search warrants that were in violation of the Fourth Amendment. An appeal was filed with the Oregon Court of Appeals, and the convictions for aggravated murder were Affirmed From the Bench. *State v. Langley*, 184 Or. App. 225 (2002). A Petition for Review was filed with the Oregon Supreme Court and was denied. *State v. Langley*, 335 Or. 104 (2002).

B. The Post-Conviction Relief Trial

Mr. Langley filed a petition for post-conviction relief in 2003, and argued, *inter alia*, that counsel in both trials were ineffective under the Sixth Amendment for failing to move to suppress evidence seized pursuant to the five search warrants on the basis that the search warrants violated his Fourth and Fourteenth Amendment right against unreasonable searches and seizures because the search warrants did not particularly describe things to be seized, and did not provide judicial authorization to seize things. In fact, the search warrants did not particularly describe *any* things to be seized, and did not provide judicial authorization to seize *any* things. A post-

conviction trial was held in 2015, and the court denied post-conviction relief. (App-1).

Oregon has held that a search warrant is facially insufficient when it fails to state or describe with particularity the items authorized to be seized, and fails to have judicial authorization to seize the items. *State v. Miller*, 188 Or. App. 514, *rev den*, 336 Or. 148 (2003). In its letter decision, the post-conviction court ruled that *Miller* announced new law in 2003, which was years after petitioner's case, and that "at the time of this trial, a "competent attorney had no way to predict *Miller*." (App-4). The *Miller* decision cites to the Fourth Amendment in footnote 2, but the case was decided on Oregon statutory law. 188 Or. App. at 517-18.

The post-conviction court did not address the issue whether the five search warrants violated the Fourth and Fourteenth Amendments. The post-conviction court did not address the issue whether counsel in both trials were ineffective under the Sixth Amendment for not challenging the constitutionality of the search warrants.

C. The Post-Conviction Relief Appeal

The Oregon Court of Appeals affirmed without opinion the denial of post-conviction relief. *Langley v. Premo*, 288 Or. App. 168 (2017). The Oregon Supreme Court denied review, 362 Or. 665 (2018), and denied the Petition for Reconsideration of the denial of review. The Oregon Court of Appeals then entered the Appellate Judgment and Supplemental Judgment with an effective date of July 3, 2018.

REASONS FOR GRANTING THE PETITION

A. The Oregon Supreme Court, by failing to address the issue, has decided that a search warrant issued that does not particularly describe things to be seized, and lacks judicial authorization to seize things, does not violate the Fourth Amendment.

The five search warrants in this case did not particularly describe things to be seized, and lacked judicial authorization to seize any things. Over 100 items were seized pursuant to those search warrants including petitioner's medical records and his personal writings that were required by the Correctional Treatment Program in which he was a participant. In failing to address the issue of whether search warrants that plainly violate the Fourth Amendment's particularity requirement can nevertheless reasonably be presumed to be valid, the Oregon Supreme Court has decided an

important federal constitutional issue ignoring well-established and settled United States Supreme Court precedent, and in conflict with the express language of the Fourth Amendment that a search warrant “particularly describ[e] the . . . things to be seized.”

The Fourth Amendment protects “[the] right of the people to be secure in their persons, houses, papers, and effects, against unreasonable searches and seizures.” In determining whether a particular governmental action violates the Fourth Amendment, this Court has been guided by “the traditional protections against unreasonable searches and seizures afforded by the common law at the time of the framing.” *Wilson v. Arkansas*, 514 U.S. 927, 931 (1995).

Nearly a century ago in *Marron v. United States*, 275 U.S. 192, 196 (1927), this Court explained why the Fourth Amendment requires a particular description in the warrant of the things to be seized:

The requirement that warrants *shall particularly describe the things to be seized* makes general searches under them impossible and prevents the seizure of one thing under a warrant describing another. As to what is to be taken, nothing is left to the discretion of the officer executing the warrant.

(Emphasis added).

This Court has reaffirmed the principle announced in *Marron* on more than one occasion. For example, in *Berger v. State of N.Y.*, 388 U.S. 41, 58 (1967), this Court stated:

The Fourth Amendment's requirement that a warrant "particularly describ(e) the place to be searched, and the persons or things to be seized," repudiated these general warrants and "makes general searches * * * impossible and prevents the seizure of one thing under a warrant describing another. As to what is to be taken, nothing is left to the discretion of the officer executing the warrant." *Marron v. United States*, 275 U.S. 192, 196, 48 S.Ct. 74, 76, 72 L.Ed. 231 (1927).

Although decided on different grounds, in *United States v. Place*, 462 U.S. 696, 701 (1983) this Court reiterated its view regarding the requirement that a search warrant particularly describe the items to be seized:

In the ordinary case, the Court has viewed a seizure of personal property as per se unreasonable within the meaning of the Fourth Amendment unless it is accomplished pursuant to a judicial warrant issued upon probable cause and *particularly describing the items to be seized*. See, e.g., *Marron v. United States*, 275 U.S. 192, 196, 48 S.Ct. 74, 76, 72 L.Ed. 231 (1927).

(Emphasis added.)

This Court again discussed the requirement that a search warrant particularly describe the items to be seized in *Groh v. Ramirez*, 540 U.S. 551 (2004). *Groh* was a civil case in which this Court held that a seizure of items that were not particularly described in the search warrant was a violation of the Fourth Amendment, and that the ATF agent who executed the search warrant was not entitled to qualified immunity:

The Fourth Amendment by its terms requires particularity in the warrant, not in the supporting documents. See *Massachusetts v. Sheppard*, 468 U.S. 981, 988, n.5 (1984) (“[A] warrant that fails to conform to the particularity requirement of the Fourth Amendment is unconstitutional”); see also *United States v. Stefonek*, 179 F.3d 1030, 1033 (CA7 1999) (“The Fourth Amendment requires that the *warrant* particularly describe the things to be seized, not the papers presented to the judicial officer ... asked to issue the warrant” (emphasis in original)).

Groh, 540 U.S. at 557.

Groh holds that regardless of whether a search warrant is signed by a magistrate and supported by a fully adequate application and detailed affidavit, if it fails to describe the things to be seized with reasonable detail, the warrant is defective. Any search conducted pursuant to such a warrant is considered to be warrantless, and,

therefore, presumptively unreasonable. With respect to the search warrant at issue in *Groh*, the Court stated:

[I]n the space set aside for a description of the items to be seized, the warrant stated that the items consisted of a “single dwelling residence ... blue in color.” In other words, the warrant did not describe the items to be searched *at all*. In this respect, the warrant was so obviously deficient that we must regard the search as “warrantless” within the meaning of our case law. *See* [*United States v. Leon*, 468 U.S. 897, 923 (1984)].

540 U.S. at 558 (emphasis in original).

As stated earlier, the search warrants in petitioner’s case did not describe *any* items to be seized *at all*, and thus, were so obviously deficient that the searches must be regarded as warrantless within the meaning of this Court’s case law.

The Fourth Amendment protects two distinct interests: The prohibition against unreasonable searches and the requirement that a warrant “particularly describ[e] the place to be searched” protect an interest in privacy; and the prohibition against unreasonable seizures and the requirement that a warrant “particularly describ[e] . . . the . . . things to be seized” protect a possessory interest. *Texas v. Brown*, 460 U.S. 730, 747 (1983) (Stevens, J., concurring in judgment). The Fourth Amendment, by its terms declares the privacy and possessory

interests to be equally important. As this Court stated in *Arizona v. Hicks*, 480 U.S. 321, 328 (1987):

Although the interest protected by the Fourth Amendment injunction against unreasonable searches is quite different from that protected by its injunction against unreasonable seizures, see *Texas v. Brown*, [460 U.S. 730, 747-748 (1983)] (STEVENS, J., concurring in judgment), neither the one nor the other is of inferior worth or necessarily requires only lesser protection.

In this case there is a glaring deficiency on the face of the warrants that did not particularly describe any items to be seized and lacked judicial authorization to seize anything at all. The five search warrants in this case, as in *Groh*, are so obviously deficient in failing to comply with the Constitution's particularity requirement that they are facially invalid. See *Bivens v. Six Unknown Agents*, 403 U.S. 388, 394 n.7 (1977) ("[T]he Fourth Amendment confines an officer executing a search warrant strictly within the bounds set by the warrant."). The five search warrants in this case resulted in over 100 items being seized that were used in the investigation and prosecution of the petitioner, including petitioner's psychotherapist-patient medical records and personal writings that were required by the program in which he was a participant. Rigid adherence to the

particularity requirement is appropriate when confidential medical records and personal writings such as these are seized because when they are seized the privilege, for all practical purposes, is lost.

B. The Court should allow the writ to address the issue whether it is ineffective assistance of counsel under the Sixth Amendment for failing to move to suppress evidence seized pursuant to a search warrant that does not particularly describe any things to be seized, and lacks judicial authorization to seize any things.

The Oregon Supreme Court's failure to address the constitutionality of the seizure of the items means it did not address the issue of whether failing to move to suppress the evidence seized pursuant to the facially invalid search warrants constituted ineffective assistance of counsel under the Sixth and Fourteenth Amendments.

This Court in *Kimmelman v. Morrison*, 477 U.S. 365, 382-83 (1986), held that a habeas petitioner may assert a Sixth Amendment claim based on his counsel's failure to move for the suppression of evidence that should be excluded under the Fourth Amendment. In order to establish a Sixth Amendment claim, the petitioner must show his counsel performed deficiently and that the deficient performance

resulted in prejudice. *Strickland v. Washington*, 466 U.S. 668, 687 (1984).

Failing to know what a case this Court decided nearly a century ago stated is ineffective assistance of counsel. Being unfamiliar with the Fourth Amendment, which unequivocally states: “[N]o warrants shall issue, but upon probable cause . . . particularly describing [the] things to be seized,” is ineffective assistance of counsel. Failing to move to suppress evidence seized pursuant to search warrants that did not particularly describe *any* things to be seized, and did not provide judicial authorization to seize *any* things is ineffective assistance of counsel. Petitioner suffered prejudice as a result of over 100 items being seized, including journals and records protected by state and federal authority. The foregoing shows that counsel performed deficiently and that the deficient performance resulted in prejudice to petitioner.

C. Summary

This case presents the Court with the opportunity to address the Fourth Amendment search warrant requirement to particularly describe the things to be seized, and to provide judicial authorization

to seize things, to a criminal case and the applicability of the exclusionary rule announced in *Mapp v. Ohio*, 367 U.S. 643 (1961).

This case presents the Court with the opportunity to apply the principle announced in *Marron* and *Groh* that the Fourth Amendment requires a search warrant to particularly describe the things to be seized and to judicially authorize seizure of those things, within the context of the Sixth Amendment right to effective assistance of counsel when counsel fails to move to suppress evidence seized pursuant to warrants that do not meet these Fourth Amendment requirements.

CONCLUSION

For the foregoing reasons, the Petition for a Writ of Certiorari should be granted.

In the alternative, the Court should remand the case to the Oregon Supreme Court with instructions to decide the Fourth and

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Sixth Amendment issues presented in this Petition for a Writ of
Certiorari.

Respectfully submitted,

s/ Frank E. Stoller
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November 18, 2018

APPENDIX



Verified Correct Copy of Original 12/10/2015.

IN THE CIRCUIT COURT OF THE STATE OF OREGON
FOR THE COUNTY OF MARION

ROBERT PAUL LANGLEY JR, SID #,)	
)	
Petitioner,)	Case No. 03C10024
)	
vs.)	
)	
BRIAN BELLEQUE, Superintendent, Oregon)	GENERAL JUDGMENT
State Penitentiary,)	(After Trial)
)	
Defendant.)	

The above-entitled matter came before the Court on November 19, 2015 for a Trial on 3rd Amended for Post -Conviction Relief. Petitioner withdrew the following claims: _____

NOW, THEREFORE, IT IS HEREBY ORDERED AND ADJUDGED:

1. The 3rd Amended Petition for Post - Conviction Relief is:

Allowed and the following relief is granted: _____

The Petition is dismissed pursuant to ORS 138.525, as meritless, and this judgment is therefore not appealable.

X Denied.

2. The parties stipulated to Petitioner's Exhibits ad and Respondent's Exhibits _____
ad After considering objections Exhibits _____ were
admitted and Exhibits _____ were not admitted.

Verified Correct Copy of Original 12/10/2015

3. Pursuant to the burden of proof of ORS 138.620(2), the Court has considered the record evidence submitted by the parties, made determinations as to its relevancy and materiality, assessed the credibility of witnesses and testimony whether written or oral and ascertained for its purposes the probative significance of the evidence presented.

4. The Court makes the following findings and conclusions:

A. see attached

B.

C.

D.

E. With regard to any issues not specifically addressed above, the Court relies upon and adopts the facts and law in Petitioner's Trial Memorandum or Defendant's Trial Memorandum as the Court's findings of facts and conclusions of law. Petitioner has met his burden of proof failed to meet his burden of proof. Except as specifically provided herein, this judgment determines all issues presented.

5. This matter involves Federal and/or State Constitutional Issues.

DATED this 2 day of December 2015.


Linda L. Bergman, Senior Judge

Langley finding

- I. Petitioner has filed pcr claims against attorneys Abel and Okawa who represented him in the jury trial of this case. That conviction was reversed on appeal and remanded for a new trial. Procedurally, petitioner's claims fail since that representation did not result in a conviction and therefore pcr is not available under the statute. **Pcr is denied on all claims relating to that representation.**
- II. Petitioner's remaining claims are against attorney Steele who represented him in the stip-facts trial. The primary issue in Petitioner's claims against Steele rest on the claim of privilege and is a basis of the claims concerning all the searches, grand jury subpoenas, records and testimony from OSH, and prosecutorial misconduct. **Petitioner's claims are all denied based on the following findings:**
 1. Steele fully litigated the privilege issue in all of its facets, by filing timely motions. It was agreed with the DA that the motions would be heard before the trial and that waiving jury and stipulating to an agreed on set of facts would preserve the issues for appeal. The motions were thorough. They were fully and ably argued by both sides. They were preserved both by the decision to stip to the facts and by objections made by Steele to the testimony stipulated to. It is hard to imagine what else an attorney could have done to preserve the issues. The court denied all of the motions. It found that the only matters that were privileged were those that the Court of Appeals cited (documents written by petitioner as "homework").
 2. The DA did not rely on any waiver by the attorneys in the first trial. He greatly reduced the testimony from OSH staff that was used in the stipulation. He included observations and a minimum of conversation by petitioner to another patient.
 3. The rulings of the trial judge were appealed, completely briefed and the Court of Appeals affirmed.
 4. Petitioner had a number of conversations with the trial judge about what rights he was giving up by waiving a jury. After reading the transcript, there is no question in this court's mind that petitioner knew exactly what he was giving up. He chose not to further litigate the case and risk another death sentence. He put his hopes on a reversal of the trial judge.
 5. Steele briefed and argued the issue of written waivers. The trial court found that if the OSH records, testimony and observations were, in fact, privileged, the petitioner had signed waivers. He was a prison inmate, housed in a program at OSH. His waiver stated that OSH could release information to the Corrections Division. It is hard to believe he had an expectation of privacy concerning attendance, program compliance, observations of his physical activities, readiness to be released into the community or passes.

6. Petitioner argues that the search warrants in this case authorized search but not seizure and are therefore invalid. State v Miller was decided in 2003, years after this case. Petitioner's position is that Miller did not establish new law and that since State v Tanner in 1987, an attorney should have known the warrants were defective. This court disagrees. Although earlier cases discuss the difference between a search and a seizure, they do not point to the decision in Miller and at the time of this trial, a competent attorney had no way to predict Miller.
7. Steele argued there was prosecutorial misconduct. The trial court found there was none.
8. There was no contamination of the crime scene. The OSH staff who visited the locations went after the forensic work was done. Any motion on this issue would have been denied.
9. The family cards and photos seized but not disclosed were not Brady violations. They also had no ability to affect the outcome of a stipulated sentence, so even if not disclosed, there was no prejudice. There is no evidence that petitioner would have chosen a different strategy if he had those documents.
10. Much has been made of criminalist Johnson's opinion that someone else was in the garage and helped drag the body. It is not clear to this court that he ever told the trial DA's of his opinion. He testified at trial that only one set of shoe prints was conclusively tied to a pair of shoes found at the scene. All other prints were similar to other shoes found there, but not conclusively. His personal opinion was not based on any scientific evidence. Petitioner could have argued that the prints and shoes didn't match and that the prints were made by different but similar shoes worn by different people. The defense knew of other people who were with petitioner that night. By the time of the stip facts trial, Steele knew of Johnson's opinion and petitioner still went ahead with the stip facts trial.

One cannot read this file and think that Steele failed to defend. This court FINDS that in all regards the representation was more than constitutionally adequate in all respects.

There was no prejudice resulting from the representation.

This court has considered all of the claims and all of the evidence and arguments and denies post conviction relief.

FILED: October 04, 2017

IN THE COURT OF APPEALS OF THE STATE OF OREGON

ROBERT PAUL LANGLEY, JR.,
Petitioner-Appellant,

v.

JEFF PREMO, Superintendent, Oregon State Penitentiary,
Defendant-Respondent.

Marion County Circuit Court
03C10024

A161154

Linda Louise Bergman, Senior Judge.

Argued and submitted on September 12, 2017.

Before Egan, Presiding Judge, and DeVore, Judge, and Aoyagi, Judge.

Attorney for Appellant: Frank E. Stoller.

Attorney for Respondent: Timothy A. Sylwester.

AFFIRMED WITHOUT OPINION

DESIGNATION OF PREVAILING PARTY AND AWARD OF COSTS

Prevailing party: Respondent

- No costs allowed.
 Costs allowed, payable by Appellant.
-

IN THE SUPREME COURT OF THE STATE OF OREGON

ROBERT PAUL LANGLEY, JR.,
Petitioner-Appellant,
Petitioner on Review,

v.

JEFF PREMO, Superintendent, Oregon State Penitentiary,
Defendant-Respondent,
Respondent on Review.

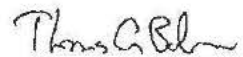
Court of Appeals
A161154

S065540

ORDER DENYING REVIEW

Upon consideration by the court.

The court has considered the petition for review and orders that it be denied.



Balmer, C.J., and Kistler and Duncan, JJ., not participating.

THOMAS A. BALMER CHIEF JUSTICE, SUPREME COURT 3/22/2018 11:20 AM
--

c: Frank E Stoller
Ryan P Kahn
Timothy A Sylwester

jr

ORDER DENYING REVIEW

REPLIES SHOULD BE DIRECTED TO: State Court Administrator, Records Section,
Supreme Court Building, 1163 State Street, Salem, OR 97301-2563

IN THE SUPREME COURT OF THE STATE OF OREGON

ROBERT PAUL LANGLEY, JR.,
Petitioner-Appellant,
Petitioner on Review,

v.

JEFF PREMO, Superintendent, Oregon State Penitentiary,
Defendant-Respondent,
Respondent on Review.

Court of Appeals
A161154

S065540


ORDER DENYING PETITION FOR RECONSIDERATION

Upon consideration by the court.

The court has considered the petition for reconsideration and orders that it be denied.

Balmer, C.J., and Kistler and Duncan, JJ., not participating.

c: Frank E Stoller
Ryan P Kahn
Timothy A Sylwester


MARTHA L. WALTERS
PRESIDING JUSTICE, SUPREME COURT
6/21/2018 10:44 AM

jr

ORDER DENYING PETITION FOR RECONSIDERATION

REPLIES SHOULD BE DIRECTED TO: State Court Administrator, Records Section,
Supreme Court Building, 1163 State Street, Salem, OR 97301-2563

IN THE COURT OF APPEALS OF THE STATE OF OREGON

ROBERT PAUL LANGLEY, JR.,
Petitioner-Appellant,

v.

JEFF PREMO, Superintendent, Oregon State Penitentiary,
Defendant-Respondent.

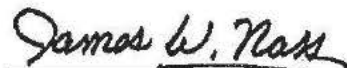
Marion County Circuit Court No. 03C10024

Court of Appeals No. A161154

**ORDER RECALLING THE APPELLATE JUDGMENT AND HOLDING REISSUANCE
IN ABEYANCE**

Petitioner moves to recall the appellate judgment issued July 3, 2018, or to stay its enforcement pending the filing and disposition of appellant's petition for writ of certiorari in the United States Supreme Court. The motion to recall the appellate judgment is granted.¹

The appellate judgment dated July 3, 2018, is recalled, and the court will hold reissuance of the appellate judgment in abeyance pending resolution of petitioner's petition for writ of certiorari.


JAMES W. NASS
APPELLATE COMMISSIONER
7/12/2018 2:53 PM

c: Frank E Stoller
Ryan P Kahn
Timothy A Sylwester
Marion County Circuit Court

ej

¹ For the following reason, the alternative request to stay enforcement of the appellate judgment is denied: Petitioner appealed the trial court's judgment denying his petition for post-conviction relief. The Court of Appeals affirmed the trial court's judgment; and the Oregon Supreme Court denied review of the Court of Appeals decision. Since the trial court's judgment granted no affirmative relief, neither staying it nor the appellate court decisions affirming that judgment would have any legal effect.

ORDER RECALLING THE APPELLATE JUDGMENT AND HOLDING REISSUANCE IN ABEYANCE

REPLIES SHOULD BE DIRECTED TO: State Court Administrator, Records Section,
Supreme Court Building, 1163 State Street, Salem, OR 97301-2563

1044 021

IN THE DISTRICT COURT OF THE STATE OF OREGON
FOR THE COUNTY OF MARION
IN THE NAME OF THE STATE OF OREGON

SEARCH WARRANT

To Any Police Officer of the State of Oregon:

Upon information given under oath to me by an affidavit signed and sworn to by
..... Terry Lane Crawford this Court finds probable cause to believe that the
items described below are presently located in the area described.

YOU ARE THEREFORE COMMANDED to make immediate search of:
The residence, garage and curtilage located at 2660 Greenwood Dr. NE,
Cottage # 18, Salem, Marion Co., OR. It is a brown wood-frame house with
two stories and a full basement, and an attached garage on the SE side.

TO SEARCH FOR:
Blood, hair, fibers, mud, weapons, digging instruments, evidence of
indicia, or evidence which could be associated with the crime of Murder,
or that which may identify the victim or the perpetrator(s).

and you shall return to this Court within five (5) days of the date of execution a signed list of those things
seized, setting forth the date and time of the search. You are further commanded to open closed containers.
You are further commanded to subject substances seized to analysis.

This warrant shall be executed not later than 3:15 P.M. on the 19th day of
April 19 88

[Signature]
.....
Judge
4-14-88
Date

This search warrant may be executed at any time of the day or night.

.....
Judge

I hereby certify that I have compared this copy with the original Search Warrant placed in my hands for
execution and that this copy is a true and correct transcript of the whole thereof.

[Signature]
.....

IN THE DISTRICT COURT OF THE STATE OF OREGON
FOR THE COUNTY OF MARION
No. 164

IN THE MATTER OF THE APPLICATION)
FOR A SEARCH WARRANT)

AFFIDAVIT

STATE OF OREGON)
County of Marion)

I, Terry Lane Crawford, do hereby depose and say that I am a police officer employed with the Oregon State Police. I have been so employed with the Oregon State Police for a period in excess of sixteen years. I also say I am empowered to make application for a search warrant.

During your affiant's tenure I have had formal training in all phases of field police investigations. These phases include and are not limited to collection of evidence from crime scenes, investigations arising from murders, rapes, burglaries and thefts. Your affiant has personally been involved in over 1,000 burglary investigations, over 50 rape investigations and in excess of 30 murder investigations.

That your affiant is familiar with Jocards Principles in which upon entry into a scene by a criminal element that the criminal element will leave behind evidence and will also leave the scene taking evidence with him.

I know from my training and experience that it is possible to gather trace evidence of various types which can assist in identifying persons involved in the crime and in reconstructing the course of the crime. This evidence can consist of, but is not limited to, hair, blood, fibers, fingerprints, saliva, and trace evidence.

I also know that tests exist which can analyse such evidence for identification of persons involved in criminal acts and in reconstruction of those acts. Tests can also be conducted on weapons, bullets, shells, and other articles to determine their origin and for other reasons pertinent to criminal investigations.

I am also aware that some evidence of the type described above can be gathered from the body and clothing of persons who have been involved in criminal

DALLAS PEN
DISTRICT ATTORNEY FOR MARION COUNTY, OREGON
MARION COUNTY COURTHOUSE
SALEM, OREGON 97301

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2 acts. Some evidence, including blood stains, fibers, and gunshot residue, can be
3 gathered despite the lapse of many days.

4 I know from my training and experience that tests and procedures exist
5 which can be useful in the investigation of a homicide or assault: Comparison of
6 unknown substances with known substances; comparison of hair samples; blood typing
7 of dried and fluid blood; determination of the alcohol and controlled substances
8 content of blood and bodily fluids; fingerprint comparison and analysis; microscop-
9 ic comparisons of fibers; comparison of bodily fluids such as saliva; comparisons
10 of other trace evidence.

11 That on April 14, 1988 your Affiant was informed by Detective Sgt. Karl
12 Nelson. That he'd been informed of a possible grave site located on the grounds
13 of the Oregon State Hospital.

14 That on April 14, 1988 your affiant arrived at 2660 Greenway Dr. NE,
15 Salem, Marion County, Oregon, also known as Cottage #18 on the grounds of the
16 Oregon State Hospital.

17 That your affiant was shown by Security Technician, Kirk Buckley, an
18 employee of the Oregon State Hospital, drag marks and what appeared to be blood
19 marks from the inside of the garage located at 2660 Greenway Dr. NE Salem, Marion
20 county, Oregon.

21 That these drag marks left the garage and went to the South of the resi-
22 dence to an open field approximately 75 feet Southwest of the aforesaid resi-
23 dence. That your affiant viewed a hole in the ground which was covered by a sheet
24 of plywood. The dirt in the hole appeared to your affiant to be freshly dug.

25 That at 10:20 am April 14, 1988, your affiant proceeded to dig the fresh-
26 ly tilled dirt from this same hole, and at 10:30 am your affiant stopped digging
27 upon coming to what appeared to be the hand of a Caucasian human.

28 That your affiant on April 14, 1988 had a conversation with Kirk Buckley
who told your affiant that on April 13, 1988, at about 3:20 pm he had viewed the
hole where the body was found. Buckley said that on April 13, 1988 the hole was 6
feet long, 3 feet wide and 4 feet deep and empty. Buckley also said that the dirt
from the hole was piled beside the hole.

Buckley also said that he'd checked the garage on April 13, 1988 and did
not notice any tire tracks inside the garage. Buckley also said he saw a shovel
next to the house near the water hoses.

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2 Buckley told your affiant that on April 14, 1988, he saw the shovel
3 sticking in the ground in the rear of the residence located at 2660 Greenway Dr.
4 NE, Salem, Marion County, Oregon. He also saw a pair of muddy shoes on the West
5 side of the garage. He saw that a vehicle had been parked in the garage and that
6 the tire tread was consistent with a passenger vehicle. He also saw a drag mark
7 with what appeared to be blood leaving the garage and going towards the hole in
8 the ground located to the South of the residence. He also viewed the hole and saw
9 that it had been filled up since he first saw it on April 13, 1988.

10 That Buckley on April 14, 1988, as he approached the front of the house
11 saw and recognized Robert Paul Langley Jr, DOB 12/22/59, a resident of 2660
12 Greenway Dr. NE, Salem, Marion County, Oregon, in a late model Pontiac Firebird,
13 grey in color, rapidly back out of the driveway then leave the residence and pro-
14 ceed West on Greenway Dr. at a rapid speed.

15 That your affiant was told by Dallas Northcott, Oregon State Hospital
16 Security Manager, that Robert Paul Langley, Jr. DOB 12/22/59 was a resident at
17 2660 Greenway Dr. NE, Salem, Marion County, Oregon, while placed in the Mentally
18 and Emotionally Disturbed program, hereinafter referred to as the MED program.
19 The MED program is operated by the Oregon Department of Corrections, and is housed
20 on the grounds of the Oregon State Hospital. That this program treats people
21 personality disorders, including but not limited to sociopaths, and those exhibit-
22 ing anti-social behavioral patterns.

23 That your affiant talked to Lee Anne Samson, After Care Therapist in the
24 MED program. That she told your affiant that Robert Paul Langley, Jr. , DOB
25 12/22/59, had on April 13, 1988, requested permission to grow a garden and needed
26 a shovel. That Lee Ann Samson was present on April 13, 1988 at approximately
27 11:00 am when Robert Paul Langley, Jr., DOB 12/22/59, obtained a shovel from the
28 plant operator while at Cottage # 18, 2660 Greenway Dr. NE, Salem, Marion County,
Oregon.

That your affiant believes that evidence of the crime of Murder, ORS
163.115, presently exists in the residence and garage and curtilage located at
2660 Greenway Dr. NE, Salem, Marion County, Oregon. That your affiant believes
the evidence includes hair, blood, fibers, mud, weapons, digging instruments, and
any other evidence of the crime of Murder. Your affiant believes evidence of
indicia also is present in the aforesaid residence and requests permission to

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seize any such papers or anything which could be associated with identifying either the perpetrator(s) or victim.

Terry Lane Crawford
Terry Lane Crawford, Detective
Oregon State Police

Subscribed and sworn to before me this 14 day of April, 1988.

/s/ John Wilson
DISTRICT COURT JUDGE

DALE W PENN
DISTRICT ATTORNEY FOR MARION COUNTY, OREGON
MARION COUNTY COURTHOUSE
SALEM, OREGON 97301

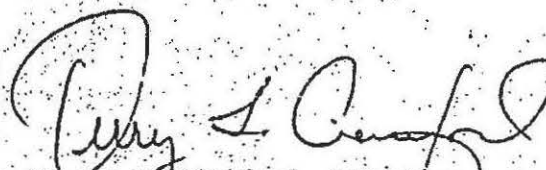
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SEARCH WARRANT RETURN

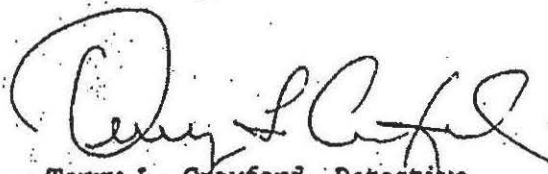
STATE OF OREGON)
) ss.
COUNTY OF MARION)

I hereby certify that I received the within Marion County District Court Search Warrant #164 on the 14th day of April, 1988, at 3:15 p.m. and executed the same on the 14th day of April at 4:18 p.m. This warrant was executed by searching the residence at 2660 Greenway Drive NE, Cottage #18, Salem, Marion County, Oregon. The attached list of items were seized.


Terry L. Crawford, Detective
Criminal Investigations Division
Oregon State Police

STATE OF OREGON)
) ss.
COUNTY OF MARION)

I, Terry L. Crawford, the officer by whom this search warrant was executed, do swear the attached list of items is a true and detailed account of all items taken on the search warrant.


Terry L. Crawford, Detective
Criminal Investigations Division
Oregon State Police

TLC/njs
04-19-88

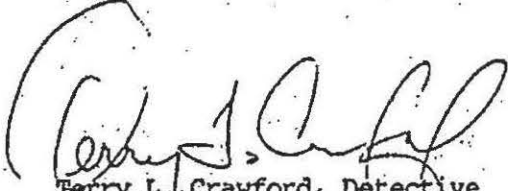
Search Warrant Return
Page 2

The following items were seized from the address of 2660 Greenway Drive NE,
Salem, Marion County, Oregon, on April 15, 1988:

1. Miscellaneous clothing and carpet
2. Two white towels
3. One blue denim clothes bag
4. One pair New Balance shoes
5. One piece of paper and plastic bag
6. One pair "B B" blue jeans
7. One pair "Wrangler" ss shirt
8. One blue/white stripped "GR" long sleeve shirt
9. One pair "Jerzees" gray sweat pants
10. Four soiled white towels
11. One white towel
12. One pair gray shoes (no brand)
13. One small beige bathroom carpet
14. Two white wash rags
15. One white towel
16. One pair gray/white Nike tennis shoes
17. One pair white "Puma" tennis shoes
18. One white towel
19. One double pair white socks
20. One pair white "Haines" shorts
21. One white "Health Knit" t-shirt
22. One pair white with blue stripe men's shorts
23. One pair gray "New Balance" shoes with baggie of marijuana inside
24. Paint and debris samples
25. Stain samples
26. One green "Longlife" marking pen

Search Warrant Return
Page 3

27. Sample of soiled footprints
28. One plastic bag with assorted clothing
29. One plastic bag with soiled clothing
30. One strip of white cloth
31. One box with miscellaneous papers, etc.
32. One hourley work sheet ID Robert P. Langley
33. One 4x8 $\frac{1}{2}$ " piece of plywood
34. Two shovel impressions
35. One sack with debris
36. One sack with soil sample
37. One piece of bloody cloth
38. One shoe impression
39. One shoe impression
40. Blood stain samples
41. One pair gray/red Nike shoes, size 11
42. One shovel
43. One sample of soil from shovel location



Terry L. Crawford, Detective
Criminal Investigations Division
Oregon State Police

000520

IN THE DISTRICT COURT OF THE STATE OF OREGON

FOR THE COUNTY OF MARION

IN THE NAME OF THE STATE OF OREGON

SEARCH WARRANT

To Any Police Officer of the State of Oregon:

Upon Information given under oath to me by an affidavit signed and sworn to by Terry Lane Crawford, Oregon State Police, this Court finds probable cause to believe that the items described below are presently located in the area described.

YOU ARE THEREFORE COMMANDED to make immediate search of:

Room 119, Ward 41A, Oregon State Hospital, 2600 Center Street N.E., Salem, Marion County, Oregon;

TO SEARCH FOR:

Evidence of the present whereabouts of Robert Paul Langley, Jr., DOB 12/22/59 and evidence linking Robert Paul Langley, Jr., DOB 12/22/59 and Larry Richard Rockenbrant, DOB 7/5/63 via financial and/or drug transactions and any other evidence of a crime of homicide.

and you shall return to this Court within five (5) days of the date of execution a signed list of those things seized, setting forth the date and time of the search. You are further commanded to open closed containers. You are further commanded to subject substances seized to analysis.

This warrant shall be executed not later than 1:55 PM on the 26 day of

April 19 88

Santa Barbara Municipal Court

FILED

APR 25 1988

TAMARA L. BEARD
Clerk/Adm. Officer

/s/ John A. Wilson
Judge

4-15-88
Date

This search warrant may be executed at any time of the day or night.

By

Judge

I hereby certify that I have compared this copy with the original Search Warrant placed in my hands for execution and that this copy is a true and correct transcript of the whole thereof.

Ann Jane A. Hill

000521

IN THE DISTRICT COURT OF THE STATE OF OREGON
FOR THE COUNTY OF MARION
No. 167

IN THE MATTER OF THE APPLICATION)
FOR A SEARCH WARRANT)

SUPPLEMENTAL AFFIDAVIT

STATE OF OREGON)
County of Marion)

I, Terry Lane Crawford, do hereby depose and say that I am a police officer employed with the Oregon State Police. I have been so employed with the Oregon State Police for a period in excess of sixteen years. I also say I am empowered to make application for a search warrant.

During your affiant's tenure I have had formal training in all phases of field police investigations. These phases include and are not limited to collection of evidence from crime scenes, investigations arising from murders, rapes, burglaries and thefts. Your affiant has personally been involved in over 1,000 burglary investigations, over 50 rape investigations and in excess of 30 murder investigations.

That your affiant is familiar with Jocard's Principles in which upon entry into a scene by a criminal element that the criminal element will leave behind evidence and will also leave the scene taking evidence with him.

I know from my training and experience that it is possible to gather trace evidence of various types which can assist in identifying persons involved in the crime and in reconstructing the course of the crime. This evidence can consist of, but is not limited to, hair, blood, fibers, fingerprints, saliva, and trace evidence.

I also know that tests exist which can analyse such evidence for identification of persons involved in criminal acts and in reconstruction of those acts. Tests can also be conducted on weapons, bullets, shells, and other articles to determine their origin and for other reasons pertinent to criminal investigations.

LEWIS
DISTRICT ATTORNEY FOR MARION COUNTY, OREGON
MARION COUNTY COURTHOUSE
SALEM, OREGON 97301

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2 I am also aware that some evidence of the type described above can be
3 gathered from the body and clothing of persons who have been involved in criminal
4 acts. Some evidence, including blood stains, fibers, and gunshot residue, can be
5 gathered despite the lapse of many days.

6 I know from my training and experience that tests and procedures exist
7 which can be useful in the investigation of a homicide or assault: Comparison of
8 unknown substances with known substances; comparison of hair samples; blood typing
9 of dried and fluid blood; determination of the alcohol and controlled substances
10 content of blood and bodily fluids; fingerprint comparison and analysis; microscop-
11 ic comparisons of fibers; comparison of bodily fluids such as saliva; comparisons
12 of other trace evidence.

13 I make this affidavit as a supplement to the affidavit I submitted for
14 signature April 14, 1988. It is attached hereto as Exhibit 1, and incorporated by
15 reference herein.

16 That your affiant on April 14, 1988, uncovered the body of a white male
17 adult at 2660 Greenway Dr. NE, Salem, Marion County, Oregon.

18 That this white male adult was subsequently identified as Larry Richard
19 Rockenbrant, DOB 7/5/63, through positive identification of fingerprints by Senior
20 Trooper Jon Painter, Oregon State Police Bureau of Identification in your affiant's
21 presence.

22 That your affiant was told by Kirk Buckley, a security staff member at
23 the Oregon State Hospital, that he saw Robert Paul Langley, Jr., DOB 12/22/59 on
24 April 14, 1988 at 9:27 am leaving the residence located at 2660 Greenway Dr. NE,
25 Salem, Marion County, Oregon in a grey Pontiac Firebird with no front license
26 plate. ~~That he thought the license on the Pontiac Firebird was Oregon LVT 492~~

27 That your affiant was told on April 14, 1988, by Sgt. Merle Hart of the
28 Oregon State Police that he located a 1982 grey Pontiac Firebird, Oregon license
29 CVZ 430, registered owner Larry Richard Rockenbrant, DOB 7/5/63 at the KOA parking
30 lot located at 1595 Lancaster Dr. SE, Salem, Marion County, Oregon on April 14,
31 1988 at 11:40 am.

32 That on April 14, 1988 your affiant was told by Kirk Buckley that he
33 viewed the 1982 Pontiac Firebird, Oregon license CVZ 430, at the Oregon State Po-
34 lice office located at 2960 State Street, Salem, Marion County, Oregon and he felt
35 that it was similar to the one he saw Robert Paul Langley, Jr., DOB 12/22/59,

000523

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2 driving April 14, 1988 at 9:27 am at 2660 Greenway Dr. NE, Salem, Marion County, Oregon. He also pointed out that the Oregon license CVZ 430 was also missing the front license plate.

3
4 That your affiant was told by Detective Loren Glover of the Oregon State
5 Police that he interviewed Julie Riggi, DOB 2/6/63, on April 14, 1988. She told
6 Detective Glover that she was the girlfriend of Larry Richard Rockenbrant, DOB
7 7/5/63. She said that on April 14, 1988 at 12:40 am, Larry Richard Rockenbrant,
8 DOB 7/5/63, left to meet Robert Paul Langley, Jr., DOB 12/22/59, to engage in a
9 Narcotics transaction.

10 That your affiant was told by Dallas Northcott, OSH Security Manager,
11 that Robert Paul Langley, Jr., DOB 12/22/59, was a resident at 2660 Greenway Dr. NE,
12 NE, Salem, Marion County, Oregon, while placed in the Mentally and Emotionally
13 Disturbed Program hereinafter referred to as the MED program. The MED program is
14 operated by the Oregon Department of Corrections and is housed on the grounds of
15 the Oregon State Hospital. That Robert Paul Langley, Jr., DOB 12/22/59 had dual
16 residency at both 2660 Greenway Dr. NE, Salem, Marion County, Oregon, and Room
17 119, Ward 41A, Oregon State Hospital, 2600 Center St. NE, Salem, Marion County,
18 Oregon.

19 That on April 14, 1988 your affiant was told by Mick Rakoczy, DOB
20 1/20/47, Physical Aid II - OSH, that he is the Swing Shift Supervisor for Ward 41A
21 Oregon State Hospital. That Robert Paul Langley, Jr., DOB 12/22/59, was assigned
22 to Room 119 which is a single occupancy room on Ward 41A, OSH, Salem, Marion County,
23 Oregon.

24 That on April 15, 1988 your affiant was told by Wesley Allen Todd, DOB
25 5/23/63 that he knows Larry Richard Rockenbrant, DOB 7/5/63 and Robert Paul
26 Langley, Jr., DOB 12/22/59. He further stated that on April 9, 1988 in the evening
27 hours that Robert Paul Langley, Jr., DOB 12/22/59, told him that Larry Richard
28 Rockenbrant, DOB 7/5/63, owed him a large amount of money and that he was mad
at Larry Richard Rockenbrant, DOB 7/5/63.

That your affiant and other officer have attempted to locate Robert Paul Langley, Jr., DOB 12/22/59, with no success and his present whereabouts are unknown.

That your affiant believes that evidence of the present whereabouts of Robert Paul Langley, Jr., DOB 12/22/59, and evidence linking Robert Paul Langley, Jr.,

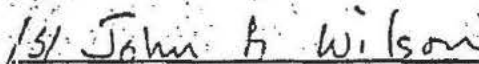
DISTRICT ATTORNEY FOR MARION COUNTY, OREGON
MARION COUNTY COURTHOUSE
SALEM, OREGON 97301

1.
2 Jr., DOB 12/22/59, and Larry Richard Rockenbrant, DOB-7/5/63, via financial and/or
3 drug transactions and any other evidence of the crime of homicide presently exists
4 in Room 119, Ward 41A, Oregon State Hospital, 2600 Center St. NE, Salem, Marion
5 County, Oregon.

6 

7 Terry Lane Crawford, Detective
8 Oregon State Police

9 Subscribed and sworn to before me this 15 day of April, 1988.

10 
11 DISTRICT COURT JUDGE

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AFFIDAVIT - Page 4
TLC:jlc
04/15/88

030713

SEARCH WARRANT RETURN

STATE OF OREGON)
) ss.
COUNTY OF MARION)

I hereby certify that I received the within Marion County District Court Search Warrant #167 on the 15th day of April, 1988, at 2:25 p.m. This warrant was executed by searching Room 119, Ward 41A, Oregon State Hospital, 2600 Center Street NE, Salem, Marion County, Oregon. The attached list of items were seized

Curt Curtis
Curt Curtis, Sergeant
General Headquarters
Oregon State Police

STATE OF OREGON)
) ss.
COUNTY OF MARION)

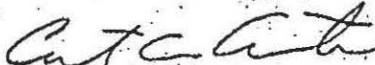
I, Curt Curtis, the officer by whom this search warrant was executed, do swear the attached list of items is a true and detailed account of all items taken on the search warrant.

Curt Curtis
Curt Curtis, Sergeant
General Headquarters
Oregon State Police

Search Warrant Return
Page 2

The following items were seized from Room 119, Ward 41A, Oregon State Hospital, 2600 Center Street NE, Salem, Marion County, Oregon, on April 15, 1988:

1. One note pad with red marks
2. One envelope with soil sample
3. One large blue notebook
4. One envelope containing worksheets with carbon papers
5. One wrapped gift with card to Ericka from Bob.
6. One "New Balance" shoe box with miscellaneous papers
7. Miscellaneous notebooks and papers
8. One piece carbon paper
9. One sack with miscellaneous papers
10. One sack with miscellaneous papers
11. One sack with miscellaneous papers
12. One pair blue/white Pro Jogs shoes
13. One pair blue shorts


Curt Curtis, Sergeant
General Headquarters
Oregon State Police

IN THE DISTRICT COUIT OF THE STATE OF OREGON
FOR THE COUNTY OF MARION
IN THE NAME OF THE STATE OF OREGON

SEARCH WARRANT

To Any Police Officer of the State of Oregon:

Upon information given under oath to me by an affidavit signed and sworn to by Detective Terry.....
Lane Crawford, Oregon State Police,..... this Court finds probable cause to believe that the
items described below are presently located in the area described.

YOU ARE THEREFORE COMMANDED to make immediate search of:

a 1977 Toyota Celica, Oregon license ELA 930 and VIN number RA24082556,
at the Oregon State Police Crime Detection Laboratory located at
3620 Gateway Loop, Springfield, Oregon;

TO SEARCH FOR:

Hair, blood, fibers, mud, weapons, digging instruments, and any other
evidence of the crime of homicide;

and you shall return to this Court within ten days of the date of execution a signed list of those things
seized, setting forth the date and time of the search. You are further commanded to open closed containers.
You are further commanded to subject substances seized to analysis.

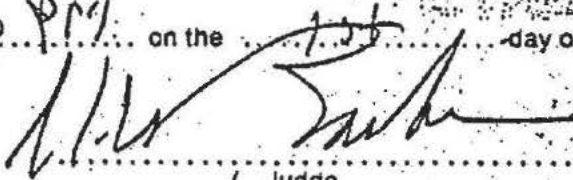
This warrant shall be executed not later than 5:00 PM on the 1st day of

May, 1988 Santa Barbara Municipal Court

FILED

APR 25 1988

TAMARA L. BEARD
Clerk/Adm. Officer



Judge

4/21/88

Date

This search warrant may be executed at any time of the day or night.

Judge

I hereby certify that I have compared this copy with the original Search Warrant placed in my hands for
execution and that this copy is a true and correct transcript of the whole thereof.

IN THE DISTRICT COURT OF THE STATE OF OREGON

FOR THE COUNTY OF MARION

No. 174

IN THE MATTER OF THE APPLICATION)

FOR A SEARCH WARRANT)

SUPPLEMENTAL AFFIDAVIT

STATE OF OREGON)

County of Marion)

I, Terry Lane Crawford, being first duly sworn do depose and say that I am a police officer with the Oregon State Police. On April 14th and 15th, 1988, I was the affiant for three (3) Marion County, Oregon, search warrants, numbers 164, 167, and 168. I have read each of the affidavits and am familiar with the information contained therein. I submit this supplemental affidavit, and the aforementioned affidavits and search warrants as exhibits 1, 2, and 3, which are by this reference incorporated herein.

On April 14, 1988 a female by the name of Sacha Thayer contacted the Oregon State Hospital with information regarding the subject Robert Paul Langley, Jr. I know that Sacha Thayer was subsequently interviewed by Detective Loren Glover of the Oregon State Police. Detective Glover, whom I have always found to be truthful and reliable, related the following conversation between himself and Sacha Thayer.

Detective Glover told me that Sacha Thayer explained she was a girlfriend to the subject Robert Paul Langley, Jr., and has had a relationship with him dating back to at least December, 1987. Sacha Thayer told Detective Glover that she saw Robert Paul Langley, Jr. on a regular basis and was familiar with his vehicle, a 1977 Toyota Celica, Oregon license ELA 930.

Santa Barbara Municipal Court

FILED

APR 25 1988

TAMARA L. BEARD
Clerk/Adm. Officer

Rv

AFFIDAVIT - Page 1
TLC:jlc
04/21/88

DALE W. PENN.
DISTRICT ATTORNEY FOR MARION COUNTY, OREGON
MARION COUNTY COURTHOUSE
SALEM, OREGON 97301

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2 Sacha Thayer told Detective Glover that the last time she saw Robert
3 Paul Langley, Jr. on April 13th was at approximately 10:00 p.m. Sacha Thayer
4 said Robert Paul Langley, Jr. told her that he had an appointment in West Salem
5 and Robert Paul Langley, Jr. left in his Toyota Celica. Sacha Thayer next saw
6 the Toyota at approximately 3:30 a.m. on April 14, 1988. Sacha Thayer told Detec-
7 tive Glover she was awakened by the sound of her screen door closing. Sacha
8 Thayer said she got up and looked outside and saw Robert Paul Langley, Jr.'s
9 Toyota parked in the driveway. Sacha Thayer found the keys to Robert Paul
10 Langley, Jr.'s Toyota between the screen and the door. Sacha Thayer told Detec-
11 tive Glover this was the usual way Robert Paul Langley, Jr. left the keys for her
12 as Sacha Thayer does not have a car. Sacha Thayer said she has oftentimes used
13 Robert Paul Langley, Jr.'s car to get to and from work at The Club Wholesale on
14 3795 Hagers Grove Road, Salem, Marion County, Oregon. Sacha Thayer did not see
15 Robert Paul Langley, Jr. when the car was returned at approximately 3:30 a.m. on
16 April 14, 1988.

17 Sacha Thayer told Detective Glover that she had driven Robert Paul
18 Langley, Jr.'s Toyota to work on April 14, 1988. Sacha Thayer said Robert Paul
19 Langley, Jr. had contacted her at work on April 14th at approximately 10:00 a.m.
20 Sacha Thayer said that Robert Paul Langley, Jr. wanted her (Sacha Thayer) to
21 drive him to Eugene - Sacha Thayer refused. Robert Paul Langley, Jr. then asked
22 her to drive him to Silver Creek Falls - Sacha Thayer again refused. Sacha
23 Thayer said that Robert Paul Langley, Jr. dropped her off near her house and left
24 in his white 1977 Toyota Celica, Oregon license plate ELA 930. Sacha Thayer said
25 she has not seen Robert Paul Langley, Jr. since that date.

26 On April 21, 1988 I spoke with Detective Terry Locke of the Salem Po-
27 lice Department whom I have always found truthful and reliable. Detective Locke
28 told me that he had spoken with a Joseph H. Johnson. Joseph H. Johnson told him

AFFIDAVIT - Page 2
TLC:jlc
04/21/88

Santa Barbara Municipal Court
FILED

APR 25 1988

TAMARA L. BEARD
Clerk/Adm. Officer

000513

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that he had talked to Robert Paul Langley, Jr. on April 13, 1988, at approximately 9:40 p.m. Joseph H. Johnson said the conversation took place at the Thriftway store at 935 Commercial Street S.E., Salem, Oregon, near the apartments where Sacha Thayer lives. Robert Paul Langley, Jr. told Joseph H. Johnson that he had to hurry and get a "seltzer" back to Sacha Thayer so he (Robert Paul Langley, Jr.) could make a 10:00 p.m. appointment in West Salem.

On April 20, 1988, at about 6:15 p.m., Sgt. Thomas Dixon of the Oregon State Police Springfield Office, received a phone call from a Mrs. Kristen Dowty in Eugene, where her husband, Vernon Dowty Sr., owns a roofing company for which Robert Paul Langley, Jr. was formerly employed. She stated that she had received a phone call a few minutes earlier from the Holiday Lodge in Santa Barbara, California. She was told that a man claiming to be one of Vernon Dowty's employees had checked in a few days earlier but had not paid his bill. The motel person also indicated that the man was driving a 1977 white Toyota.

Sgt. Karl Nelson of the Oregon State Police, whom I have always found to be truthful and reliable in our dealings, related the following to me. Based upon the information provided by Sgt. Dixon, Sgt. Nelson called the Santa Barbara Police Department (SBPD) and spoke with a Lt. John Thayer to verify this information. Lt. John Thayer had Sgt. David Tonello of the SBPD go to the Holiday Lodge to confirm the presence of the 1977 Toyota. This was confirmed by the SBPD and related back to Sgt. Karl Nelson.

I have run a computer check and found that Robert Paul Langley, Jr. is the registered owner of a 1977 Toyota Celica, Oregon license ELA 930 and VIN number RA24082556. On April 21, 1988 at 12:02 p.m. I contacted Sgt. Richard Abney of the SBPD. He gave me the VIN number of the 1977 Toyota Celica parked at the Holiday Lodge as RA24082556, which is the same as the number registered in Santa Barbara Municipal Court.

DALE W PENN

DISTRICT ATTORNEY FOR MARION COUNTY, OREGON
MARION COUNTY COURTHOUSE
SALEM, OREGON 97301

FILED

APR 25 1988

TAMARA L. BEARD
Clerk/Adm. Officer

By _____

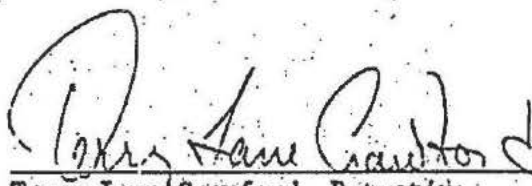
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1
2 the State of Oregon to Robert Paul Langley, Jr's 1977 Toyota Celica, Oregon li-
3 cense ELA 930.

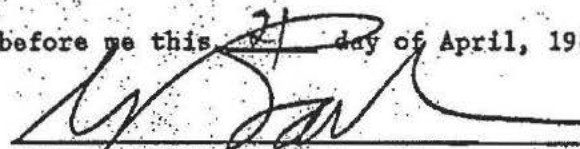
4 He also told me that a positive identification of Robert Paul Langley,
5 Jr. in Santa Barbara, California, was made by Ann Sykes, DOB 6-13-29, from an
6 Oregon State Police/Salem Police Department "wanted" poster. A copy of the post-
7 er is attached as exhibit 4.

8 That as the 1977 Toyota Celica, Oregon license ELA 930, is located in
9 Santa Barbara, California and will have to be transported to Springfield, Oregon
10 at the Oregon State Police Crime Detection Laboratory for examination. Therefore
11 your affiant requests, due to the distance needed to travel and the time neces-
12 sary to traverse this distance, that this warrant be granted the maximum of ten
13 (10)-days under ORS 133.565 (3) for execution.

14 Based upon the above information, your affiant has probable cause to
15 believe that the above described Toyota Celica contains evidence of the crime of
16 homicide, including hair, blood, fibers, mud, weapons, digging instruments, and
17 any other evidence of the crime of homicide. Your affiant believes evidence
18 could be present in the aforesaid vehicle and requests permission to search said
19 vehicle and seize any of the aforementioned items as evidence of the crime of
20 homicide.

21
22 
23 Terry Lane Crawford, Detective
24 Oregon State Police

25 Subscribed and sworn to before me this 21 day of April, 1988.

26 
27 DISTRICT COURT JUDGE

Santa Barbara Municipal Court

FILED

APR 25 1988

TAMARA L. BEARD
Clerk/Adm. Officer

DISTRICT ATTORNEY FOR MARION COUNTY, OREGON
MARION COUNTY COURTHOUSE
SALEM, OREGON 97301


W. F. ...

000717

SEARCH WARRANT RETURN

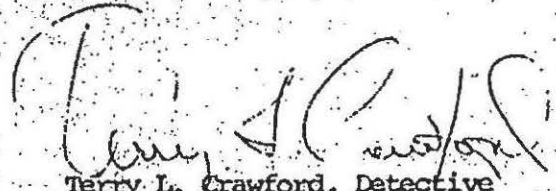
STATE OF OREGON)
) ss.
COUNTY OF MARION)

I, Terry L. Crawford, who on April 21st, 1988, obtained the Marion County Search Warrant #174, do swear that on April 24, 1988, at 7:00 a.m., served the aforementioned search warrant on the listed vehicle at the Oregon State Police Crime Laboratory in Springfield, Oregon.


Terry L. Crawford, Detective
Criminal Investigations Division
Oregon State Police

STATE OF OREGON)
) ss.
COUNTY OF MARION)

I, Terry L. Crawford, the officer by whom this search warrant was executed, do swear the attached list of items is a true and detailed account of all items taken on the search warrant.


Terry L. Crawford, Detective
Criminal Investigations Division
Oregon State Police

Search Warrant Return
Marion County Search Warrant #174
Page 2

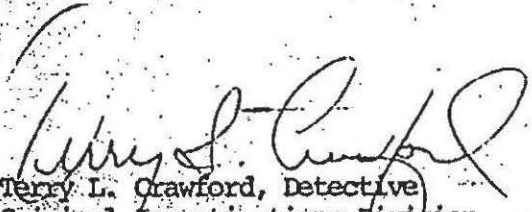
The following items were seized from a 1977 Toyota GT Coupe 2-door hardtop, white in color with red and black pinstriping, Oregon license ELA930, currently stored at the Oregon State Police Crime Laboratory, Springfield, Oregon:

1. One (1) pair of athletic shoes, Adidas brand, size 10½, white with black shoelaces
2. One (1) blue and white shoe box, Brooks brand, containing several cassette tapes
3. One (1) spiral memo pad
4. One (1) tape head cleaner kit
5. One (1) Santa Barbara restaurant and shopping guide
6. One (1) plastic toy gun, black and brown, Larami Company brand
7. One (1) store package, cardboard with plastic
8. One (1) Santa Barbara Independent newspaper dated April 14, 1988
9. One (1) pair of gloves, blue and gray stripes
10. Two (2) T-shirts
11. Two (2) T-shirts
12. One (1) Santa Barbara street map
13. One (1) white soiled towel
14. One (1) pair of sunglasses
15. One (1) gray plastic comb
16. One (1) box of Doan's Pills with 12 pills
17. Miscellaneous papers
18. Trace items from floorboards
19. Vacuum sweepings from the interior of the vehicle
20. One (1) vinyl floor mat from the trunk
21. One (1) particle board floor spacer from the trunk
22. One (1) left rear tail light assembly from the trunk
23. Carpet fibers
24. One (1) sample of blood under rubber strip
25. Two (2) cans of paint

Search Warrant Return
Marion County Search Warrant #174
Page 3

26. One (1) Plaid Pantry coffee mug
27. One (1) parking ticket
28. One (1) strand of hair
29. One (1) piece of grass
30. One (1) piece of smoked curved glass
31. Seventeen (17) separate latent prints

~~One (1) piece of smoked curved glass~~


Terry L. Crawford, Detective
Criminal Investigations Division
Oregon State Police

TLC/njs
04-28-88

IN THE DISTRICT COURT OF THE STATE OF OREGON
FOR THE COUNTY OF MARION
IN THE NAME OF THE STATE OF OREGON

SEARCH WARRANT

To Any Police Officer of the County of Marion, State of Oregon:

Upon information given under oath to me by an affidavit signed and sworn to by Terry Lane Crawford,
Oregon State Police, this Court finds probable cause to believe that the
items described below are presently located in the area described.

YOU ARE THEREFORE COMMANDED to make immediate search of:

Robert Paul Langley, Jr., DOB 12-22-59, presently housed at the Oregon
State Penitentiary, 2605 State Street, Salem, Marion County, Oregon;

TO SEARCH FOR:

Blood, body hairs, saliva, foot casts and photographs of the feet;

and if you find the same, you shall return to this Court a signed list of those things seized, setting forth the
date and time of the search.

This warrant shall be executed not later than 1:05 PM on the 20th day of
July, 1988.

JWB. Wil
Judge
7-15-88
Date

This search warrant may be executed at any time of the day or night.

.....
Judge

I hereby certify that I have compared this copy with the original Search Warrant placed in my hands for
execution and that this copy is a true and correct transcript of the whole thereof.

1 IN THE DISTRICT COURT OF THE STATE OF OREGON

2 FOR THE COUNTY OF MARION

3 No. 239

4
5 IN THE MATTER OF THE APPLICATION)

6 FOR A SEARCH WARRANT)

7 SUPPLEMENTAL AFFIDAVIT

8 STATE OF OREGON)

9 County of Marion)

10 I, Terry Lane Crawford, being first duly sworn do depose and say that:
11 I am a police officer with the Oregon State Police. On April 14th, 15th and 21st,
12 1988, I was the affiant for four (4) Marion County, Oregon, Search Warrants, num-
13 bers 164, 167, 168, and 174. I have read each of the affidavits and am familiar
14 with the information contained therein. I submit this supplemental affidavit, and
15 the aforementioned affidavits and search warrants as exhibits numbered 1, 2, 3,
16 and 4, respectively, which are by this reference incorporated herein.

17 Your affiant has been the lead investigator investigating the homicide
18 of Larry Richard Rockenbrant, DOB 7-5-63, which started on April 14, 1988 with the
19 discovery of Larry Richard Rockenbrant's, DOB 7-5-63, body buried in Salem, Marion
20 County, Oregon. During this investigation information as outlined in exhibits #1,
21 #2, #3, and #4 have come to light which points to Robert Paul Langley, Jr., DOB
22 12-22-59, as a focal suspect in this crime.

23 Your affiant was involved on April 25, 1988 in the service of the search
24 warrant #174 where blood, hair, and shoes were found in the listed 1977 Toyota
25 Celica, Oregon license ELA 930, VIN RA24082556, registered owner Robert Paul
26 Langley, Jr., DOB 12-22-59.

DALE W. PENN
DISTRICT ATTORNEY FOR MARION COUNTY, OREGON
MARION COUNTY COURTHOUSE
SALAM, OREGON 97301

001943

1 Your affiant was accompanied to Yuma, Arizona by Detective Terry Locke,
2 Salem Police Department where on Saturday, May 28, 1988 at 7:00 a.m. Robert Paul
3 Langley, Jr., DOB 12-22-59, was taken into custody on authority of an escape war-
4 rant issued by the State of Oregon Department of Corrections, Oregon State Peniten-
5 tiary, Salem, Marion County, Oregon, and transported to Salem, Oregon, after he
6 fled from the State of Oregon.

7 That your affiant is familiar with the "Jocards Principle" in which upon
8 entry into a scene by a criminal element that the criminal element will leave
9 behind evidence and will also leave the scene taking evidence with him.

10 I know from my training and experience that it is possible to gather
11 trace evidence of various types which can assist in identifying persons involved
12 in the crime and in reconstructing the course of the crime. This evidence can
13 consist of, but is not limited to, hair, blood, fibers, fingerprints, saliva, and
14 trace evidence.

15 I also know that tests exist which can analyse such evidence for identi-
16 fication of persons involved in criminal acts and in reconstruction of those
17 acts. Tests can also be conducted on weapons, bullets, shells, and other articles
18 to determine their origin and for other reasons pertinent to criminal investiga-
19 tions.

20 I am also aware that some evidence of the type described above can be
21 gathered from the body and clothing of persons who have been involved in criminal
22 acts. Some evidence, including blood stains, fibers, and gunshot residue, can be
23 gathered despite the lapse of many days.

24 I know from my training and experience that tests and procedures exist
25 which can be useful in the investigation of a homicide or assault: Comparison of
26 unknown substances with known substances; comparison of hair samples; blood typing
27 of dried and fluid blood; determination of the alcohol and controlled substances

28 AFFIDAVIT - Page 2
TLC:jlc
07/12/88

DALE W. PENN

DISTRICT ATTORNEY FOR MARION COUNTY, OREGON
MARION COUNTY COURTHOUSE
SALISBURY, OREGON 97301

001944

1 content of blood and bodily fluids; fingerprint comparison and analysis; microscop-
2 ic comparisons of fibers; comparison of bodily fluids such as saliva; comparisons
3 of other trace evidence.

4 That certain types of examinations that can be conducted by the Oregon
5 State Police Crime Laboratory need standards or samples from the alleged suspect,
6 that being Robert Paul Langley, Jr., DOB 12-22-59. These standards consist of
7 head, facial, body, including pubic, leg hairs, saliva, and blood. Also requested
8 are casts of Robert Paul Langley, Jr's feet. These casts would be utilized to
9 determine if in fact they matched the imprints inside the shoes utilized to walk
10 through blood found at the burial scene of Larry Richard Rockenbrant on April 14,
11 1988, that being 2660 Greenway Dr., NE, Salem, Marion County, Oregon, and the
12 residence of Robert Paul Langley, Jr., DOB 12-22-59. These shoes are also the
13 same ones found in the 1977 Toyota Celica, Oregon license ELA 930, on April 25,
14 1988.

15 On July 7, 1988, I contacted Thomas J. Loomer, Doctor of Podiatric Medi-
16 cine, DOB 12/05/21, in Eugene, Oregon, by telephone. Dr. Loomer advised that he is
17 a licensed podiatric physician and has had a professional practice as such for
18 some 31 years. He retired from practice in 1985 and has since kept professionally
19 active as an expert in podiatry. Podiatry is the study of the treatment and disor-
20 ders of the human foot. He has been recognized as an expert in his given profes-
21 sion of podiatry by the Circuit Court, Marion County, Oregon. He told me that
22 upon his examination and study of the feet and shoes of an individual he is able
23 to identify certain "land marks" found in the shoes which can be compared. He can
24 thereupon match the feet with the shoes, of the shoe wearer. These land marks
25 include pressure spots, worn spots, stain spots and particular foot pathologies
26 which are associated with the feet of the shoe wearer. To accomplish this compari-

001945

1 son procedure, it is necessary to photograph the feet of the subject being com-
2 pared as well as the preparation of a cast of the subject's feet.

3 Therefore based on the foregoing information your affaint requests that
4 a search warrant be issued to seize blood, body hairs, saliva, and foot casts and
5 photographs of the feet of Robert Paul Langley, Jr., DOB 12-22-59, presently
6 housed at the Oregon State Penitentiary, 2605 State Street, Salem, Marion County,
7 Oregon:

Terry Lane Crawford

Terry Lane Crawford, Detective
Oregon State Police

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9
10
11 Subscribed and sworn to before me this 15th day of July, 1988.

JWB, WJ
DISTRICT COURT JUDGE

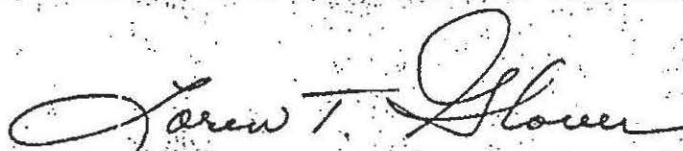
DALE W. FENN

District Attorney for Marion County, Oregon
MARION COUNTY COURTHOUSE
SALEM, OREGON 97301

SEARCH WARRANT RETURN

STATE OF OREGON)
) ss.
 COUNTY OF MARION)

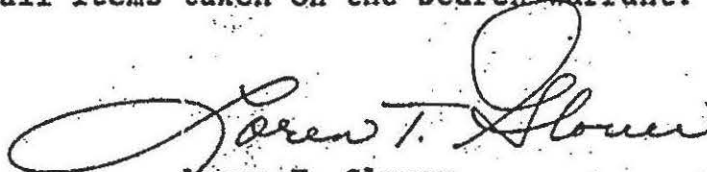
I hereby certify that I received the within Marion County District Court Search Warrant #239 on the 18th day of July, 1988, at 8:00 a.m. and executed the same on the 18th day of July, 1988, at 9:30 a.m. This warrant was executed by taking blood, body hairs, saliva, foot casts and photographs of the feet, from Robert Paul Langley. The attached list of items were seized.



Loren T. Glover
 Criminal Investigation Division
 Oregon State Police

STATE OF OREGON)
) ss.
 COUNTY OF MARION)

I, Loren T. Glover, the officer by whom this search warrant was executed, do swear the attached list of items is a true and detailed account of all items taken on the search warrant.



Loren T. Glover
 Criminal Investigation Division
 Oregon State Police

LTG/njs
 07-19-88

Search Warrant Return
Search Warrant #239
Page 2

The following items were seized from Robert Paul Langley on July 18, 1988:

1. Three (3) blood samples
2. Two (2) oral swabs
3. Two (2) oral swabs
4. Body hair
5. Body hair
6. Body hair
7. Body hair
8. Body hair
9. Body hair
10. Body hair
11. Foot casts
12. Photographs of feet

IN THE DISTRICT COURT OF THE STATE OF OREGON 002299

FOR THE COUNTY OF MARION

IN THE NAME OF THE STATE OF OREGON

SEARCH WARRANT

To Any Police Officer of the State of Oregon:

Upon information given under oath to me by an affidavit signed and sworn to by Robert Terence... Locke, Salem Police Department..... this Court finds probable cause to believe that the items described below are presently located in the area described.

YOU ARE THEREFORE COMMANDED to make immediate search of:

Robert Paul Langley, DOB 12-22-59, presently housed at the Oregon State Penitentiary, 2605 State Street, Salem, Marion County, Oregon.

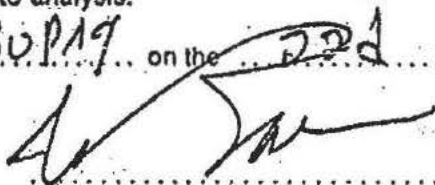
TO SEARCH FOR:

X-Rays of Robert Paul Langley, Jr.'s feet

and you shall return to this Court within five (5) days of the date of execution a signed list of those things seized, setting forth the date and time of the search. You are further commanded to open closed containers. You are further commanded to subject substances seized to analysis.

This warrant shall be executed not later than ... 2:30 PM ... on the ... 22nd ... day of

Aug..... 19 88...



Judge

8/17/88

Date

This search warrant may be executed at any time of the day or night.

Judge

I hereby certify that I have compared this copy with the original Search Warrant placed in my hands for execution and that this copy is a true and correct transcript of the whole thereof.

002300

IN THE DISTRICT COURT OF THE STATE OF OREGON

FOR THE COUNTY OF MARION

No.

IN THE MATTER OF THE APPLICATION)

FOR A SEARCH WARRANT)

SUPPLEMENTAL AFFIDAVIT

STATE OF OREGON)

County of Marion)

I, Robert Terence Locke, being first duly sworn do depose and say that:

I am a Police Officer with the City of Salem, Oregon Police Department. Since April 15, 1988, I have been jointly working with police officers of the Oregon State Police investigating the murders of Larry Richard Rockenbrant, DOB/070563 and Anne Louise Gray, DOB/020648. I am familiar with and have read Marion County, Oregon, Search Warrant Affidavits numbered 164, 167, 168, 174 and 239. I submit this supplemental affidavit and the aforementioned affidavits and search warrants as exhibits numbered 1, 2, 3, 4 and 5, respectively, which are by this reference incorporated herein.

On August 16, 1988, I spoke with Dr. Thomas D. Loomer. AT that time he advised me that to complete the comparison procedure it would be necessary for him to make x-ray pictures of the feet of Robert Paul Langley, Jr., DOB/122259. This x-ray procedure would be used to

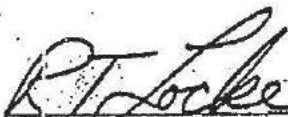
DALE W. TENN
District Attorney for Marion County, Oregon
MARION COUNTY COURTHOUSE
SALEM, OREGON 97301

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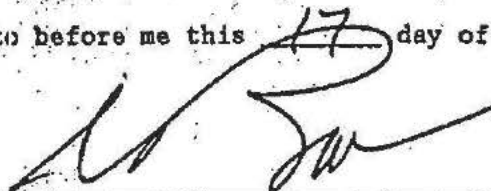
1 ensure a most accurate comparison of the feet and the shoes of Mr.
2 Langley.
3

4 Therefore, based on the foregoing information you affiant
5 requests that a search warrant be issued for the taking of x-ray
6 pictures of the feet of Robert Paul Langley, Jr., DOB/122259 presently
7 housed at the Oregon State Penitentiary, 2605 State Street, Salem,
8 Marion County, Oregon.
9

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11 

12 Robert Terence Locke
13 Salem Police Department

14 Subscribed and sworn to before me this 17 day of
15 August, 1988.

16 

17 DISTRICT COURT JUDGE
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SALEM, OREGON
DISTRICT ATTORNEY FOR MARION COUNTY, OREGON
MARION COUNTY COURTHOUSE
SALEM, OREGON 97301

002295

SEARCH WARRANT RETURN

STATE OF OREGON)
) ss.
COUNTY OF MARION)

I, Robert T. Locke, Detective, Salem Police Department, certify that I received the within Marion County District Court Search Warrant on the 17th day of August, 1988, and executed the same on August 18th, 1988, accompanied by Detective Loren Glover, Oregon State Police. The warrant was executed by taking x-ray pictures of the feet of Robert Paul Langley, Jr., dob 12-22-59, at the Family Foot Clinic, a business located at 180 East 18th street, Eugene, Lane County, Oregon.

The following items were seized:

- 1. (six) x-ray pictures.

Brian A. Riley
Chief of Police

R.T. Locke

R. T. Locke
Criminal Investigations Section
Salem Police Department

STATE OF OREGON)
) ss.
COUNTY OF MARION)

I, Robert T. Locke, the officer by whom this search warrant was executed, do swear the above property is a true and accurate account of all property esized on this warrant.

Brian A. Riley
Chief of Police

R.T. Locke

R. T. Locke
Criminal Investigations Section
Salem Police Department