

ORIGINAL

RB# AJ33174

IN THE COUNTY COURT OF OMAHA, DOUGLAS COUNTY, NEBRASKA

STATE OF NEBRASKA)  
)  
COUNTY OF DOUGLAS)

AFFIDAVIT AND APPLICATION  
FOR ISSUANCE OF A SEARCH WARRANT  
FOR CELLULAR PHONE RECORDS

The complaint and affidavit of Officer Derek MOIS #1573, on this 14<sup>th</sup> day of February, 2017, who, being first duly sworn, upon oath says:

That the officer has just and reasonable grounds to believe, and does believe that there is concealed or kept as hereinafter described, the following property, to wit:

- A. The following customer or subscriber account information for each account registered to or associated with the following number(s); **402-850-5695**, for the time period between the dates of Thursday December 1<sup>st</sup> 2016 and Tuesday February 14<sup>th</sup> 2017:
1. Subscriber names, user names, screen names, or other identities;
  2. Mailing addresses, residential addresses, business addresses, email addresses, and other contact information;
  3. Local and long distance telephone connection records, or records of session times and durations;
  4. Length of service (including start date) and types of services utilized;
  5. Telephone or instrument number or other subscriber number or identity, including any temporarily assigned network address;
  6. Means and source of payment for such service (including any credit card or bank account number) and billing records.
- B. All records and other information relating to account(s) and time period in Part A, including:
1. Records of user activity for any connections made to or from the account, including the date, time, length, and method of connections, data transfer volume, user name, and source and destination Internet Protocol address(es);
  2. Telephone records, including caller identification records, cellular site and sector information, global positioning system (GPS) data, Per Call Measurement Data (for Voice, SMS, Text Message, and Data), Reveal Report, roaming data, real time data (RTD), utilization of other networks data, and cellular network identifying information (such as the IMSI, MSISDN, IMEI, MEID, or ESN);
  3. Non-content information associated with the contents of any communication or file stored by or for the account(s), such as the source and destination email addresses and IP addresses;
  4. Correspondence and notes of records related to the account(s).
  5. Cellular site and sector guide, for the time period requested above.

That said property is concealed or kept in, on, or about the following described place or person, to wit:

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US Cellular  
One Pierce Place, Suite 800  
Itasca, Illinois 60143

FEB 21 2017

That said property is under the control or custody of:

Clerk of Court  
DOUGLAS COUNTY COURT  
OMAHA, NEBRASKA

Appendix B

## **Custodian of Records**

That the following are the grounds for issuance of a search warrant for said property and the reasons for the officers' belief to wit:

On December 23<sup>rd</sup> 2016 at approximately 1741 hours Omaha Police Officers were dispatched to 18139 Tammy Trail, Omaha, Douglas County, Nebraska in reference to the report of a shooting. Upon arrival Officers located a male victim identified as Michael R. BRINKMAN (W/M DOB: 09/17/1966) with a gunshot wound to the chest. BRINKMAN was transported to the University of Nebraska Medical Center where he later died as a result of his injuries.

Officers determined at the time of the shooting event the victim was home with his girlfriend Kim MILIUS (W/F DOB: 12/20/1971) and his son Seth BRINKMAN (W/M DOB: 11/08/2000). MILIUS would state that at approximately 5:30 pm the victim and their son Seth were getting ready to go out to eat when she answered a knock at the door. MILIUS would state when she answered the door and would be confronted by two unidentified masked suspects armed with guns who began demanding money. MILIUS stated one suspect was a black male about 5'10" to 6'0" in height, heavy set with a "thick neck" and stubble on his face. MILIUS would state this suspect was approximately 220 to 250 pounds. MILIUS stated the second suspect was a black male and described him as being taller and lighter than the first suspect. MILIUS described this suspect as being approximately 6'0" to 6'3" and approximately 180 pounds.

Seth BRINKMAN would state at approximately 5:30 pm he was taking a shower preparing to go out to dinner with his parent when he heard his mother screaming. Seth would state he would come to see two intruders armed with handguns. Seth would describe one suspect as being a black male approximately 6'0" to 6'1" in height and being heavy set with a big gut and wearing a mask. Seth would describe the second suspect as being approximately 6'1" to 6'2" and having a thinner build than the first suspect.

During the subsequent scene investigation Investigators would locate items determined to have been dropped by one of the suspects during the physical altercation with the victim. Investigators and Forensic Investigations personnel would locate remnants of fast food and packaging items, including a partially eaten piece of bread. Forensic Technicians would collect a swab for possible DNA from the bread under EV#20.

During a canvass of the neighborhood Officers located exterior cameras on 18230 Tammy Trail. Investigators were able to determine those cameras did cover the victim's residence. Crime lab personnel were able to recover footage from that system which upon review did capture what appeared to be a newer model white SUV traveling eastbound on Tammy Trail and pull into 18139 Tammy Trail parking facing westbound at 5:33 pm at the victim's residence( just prior to the shooting event). Video then captures the same vehicle leaving at approximately 5:41 pm.

Video also shows what appears to be the same vehicle slowed in front of the victims residence at 4:55 pm continues eastbound into the circle, turn around and drive back by 18139 Tammy Trail at 4:56 pm.

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Investigators believe the vehicle in the video is a white 2015-2016 Dodge Durango SUV. Investigators believed from prior experience that it was possible suspects could have used a rented vehicle while committing this crime.

On December 27<sup>th</sup> 2016 EV#20, the possible DNA swab collected from the partially eaten bread, was submitted to UNMC Human DNA Laboratory for testing.

On December 28<sup>th</sup> 2016 Officer CAHILL served a subpoena to Budget Car rental requesting information related to any leased 2016 Dodge Durango SUV in the Omaha area during the time frame of December 23<sup>rd</sup> 2016. Budget Car rental would return information that included a rental agreement to a Carnell WATT (B/F DOB: 03/17/1979) of a 2016 Dodge Durango SUV bearing Texas plates GSB-1580 from the dates of December 13<sup>th</sup> 2016 to December 27<sup>th</sup> 2016 (Rental Agreement : AVIS RA 608359032). Affiant Officer observed within the provided rental agreement that WATT provided a contact number of 402-739-4520.

On January 14<sup>th</sup> 2017 Officer CAHILL would conduct an interview with WATT. WATT would acknowledge renting the aforementioned 2016 Dodge Durango SUV from Avis/Budget on December 13<sup>th</sup> 2016. WATT would also state that during the course of her having that vehicle she loaned the vehicle out on multiple occasions to family and friends. WATT would state one of those people was an acquaintance by the name of "Lee JENNINGS".

On January 23<sup>rd</sup> 2017 Investigators were notified of a mainly single source male DNA profile was located from testing of EV#20.

On January 27<sup>th</sup> 2017 the UNMC Human DNA Laboratory submitted their findings to the Nebraska State Patrol for CODIS entry and search.

On February 13, 2017 Investigators were notified of a possible CODIS identification to the submitted sample was that belonging to LeAndre R. JENNINGS III (B/M DOB: 09/30/1987).

On February 13, 2017 subsequent research utilizing the NCJIS database, Affiant Officer observed that JENNINGS has a physical of 6' and being approximately 300 pounds. Affiant Officer also observed that JENNINGS was currently on US Probation beginning 04/10/2015. Affiant Officer observed JENNINGS was currently assigned to the Omaha US Probation Office under Officer Mike SLIVA. Affiant Officer spoke to Officer SLIVA and he would provide a current cell phone number for JENNINGS of **402-850-5695**. Affiant Officer learned this number is also currently assigned to **US Cellular**.

Affiant Officer believes data held by Sprint Corporation will aid in determining the possible relationship between the aforementioned individuals and provide details on the events which lead to the death of Michael R. BRINKMAN.

When cell phones are used they create a digital record of the user's activity. This relevant data can come from data produced by the operator when they input information as well as inconspicuous data files which are created and saved automatically by the device. This information can remain stored on the device for multiple years provided there has not been intervention which removes the data. Even some data which has been deleted can be recovered using forensic tools.

From training, experience and research Affiant Officer is aware that the data on cell phones can provide invaluable insight for criminal investigations. Cell phones are used for communication.

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access to information, socialization, research, entertainment, shopping and other functionality. In addition to personal use, cell phones are often used as tools in criminal activity. Affiant Officer is aware of numerous instances where cell phones were used by participants in crimes to communicate via voice and text messaging, occasions when they took photographs of themselves with weapons and/or illegal narcotics, times when they created videos of their criminal activity and instances when the Internet was used to research crimes they participated in, just to name a few. As such a cell phone can serve both as an instrument for committing a crime, as well as a storage medium for evidence of the crime.

Cell phone data can assist investigators in determining the culpability of participants in criminal investigations. This is because the data can potentially provide a wealth of information that can assist in determining the motivation, method and participants involved in an incident. Information on the devices can provide invaluable insight to the who, what, when, where and why an incident occurred.

Because most operations can be performed on a cell phone almost instantly data can be created in a matter of moments which would be germane to the incident being investigated. The data can be created intentionally or accidentally by the user, or automatically by the device itself as a part of its regular functioning. Affiant Officer seeks to complete a comprehensive and unbiased examination of the data on the device for information which could aid in the investigation; seeking only prescribed information would jeopardize the completeness of the search as it is typically unknown how the cell phone was used or the technical ability and intent of the user before the device has been examined.

The below examples are only a sample of the many ways a cell phone can assist investigators and types of data which are being sought by Affiant Officer. A full all-inclusive list would be impossible due to the ever-increasing development of cell phones and their applications.

- Phone information, configurations, calendar events, notes and user account information which can be used to identify or confirm who owns or was using a cell phone. Because of their small size, cell phones can easily be passed from one person. As such it is necessary to document evidence that reveals or suggests who possessed or used the device. This evidence is akin to the search for venue items when executing a search warrant at a residence.

- Call logs which establish familiarity between people involved in an incident. These records are consistently stamped with dates and times which can be significant regarding the reconstruction of the timeline of events regarding an investigation. Associated contact lists stored in the device can provide names to correspond with voice calls as well as other forms of communication. This information can also be invaluable to establish conspirators, witnesses and suspect information.

- Communication records from SMS and MMS messaging, chats, instant messages and E-Mails can provide invaluable insight to establish an individual's level of culpability and knowledge regarding an investigated incident. It is not uncommon for users to send and receive dozens and even hundreds of messages a day which document the person's activities and can aid in completing an investigation.

- Data from associated supplemental software applications (apps), both standard and manually installed, stored on the cell phone can demonstrate the user's association with investigated people, locations and events. Cell phones have the ability to run apps which allow them to increase their functionality. Common programs include social media applications such as Facebook and Twitter as well as messaging applications Kik and Hello SMS to name a few. These applications are increasingly used as alternative methods for users to communicate from the standard messaging service as they offer additional functionality. Many of these applications are able to determine the user's geographic location which can be instrumental to completing an investigation.

- Media files such as images, videos, audio and documents which provide a first-hand documentation of actions regarding an event. Additionally files can contain embedded metadata that show additional information which is valuable to investigators such as when and where the

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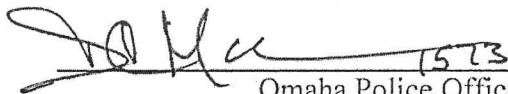
DOUGLAS COUNTY COURT  
JANUARY 2017

file was created. Cell phones have the ability to create, store and exchange media with other devices and computers.

- Internet browsing history including bookmarks, browser cookies and other associated cache files stored on cell phones can demonstrate the planning or desire to participate in a crime by documenting the viewing of websites associated with the incident.
- Cell tower connections, GPS data WiFi, Bluetooth and synchronization logs can associate the cell phone with being in proximity of a location or other digital devices. Viewing of this data can demonstrate that the device, and thus also its user, was in a location associated with an incident.
- The user dictionary on a phone contains user inputted entries such as names and uncommon words. Presence of these records can demonstrate familiarity with the crime being investigated.

Affiant Officer believes there to be pertinent information contained within the requested records and request that this Court issue a search warrant for the information provided in Part A and Part B which is stored with **US Cellular**, for the communications data from the aforementioned phone number will aid in ascertaining the location of the subscriber for phone number(s) **402-850-5695** and confirm the identity of the subscriber(s).

WHEREFORE, the officers pray that a Search Warrant may be issued according to law.

 1573

Omaha Police Officer

SUBSCRIBED AND SWORN to me this 14<sup>th</sup> day of February, 2017.



Judge of the Douglas County Court

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OMAHA, NEBRASKA

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RB# AJ33174

IN THE COUNTY COURT OF OMAHA, DOUGLAS COUNTY, NEBRASKA

STATE OF NEBRASKA )  
 )  
COUNTY OF DOUGLAS)

SEARCH WARRANT FOR  
CELLULAR PHONE RECORDS

TO: OMAHA, NEBRASKA POLICE OFFICER Derek MOIS #1573.

This matter came on for hearing on the 14<sup>th</sup> day of February, 2017, upon the sworn application and affidavit for issuance of a search warrant of Officer Derek MOIS, and the Court, being fully advised in the premises finds as follows:

That the Court has jurisdiction of this matter pursuant to the Sections 29-812, Nebraska Revised Statutes, 1943, as amended.

That based upon the sworn affidavit and application of issuance of a search warrant of Officer Derek MOIS dated the 14<sup>th</sup> day of February, 2017, that there is probable cause to believe that located at **US Cellular**, an electronic communications service provider as defined by 18 U.S.C. §2510(15) and Nebraska Revised Statute 86-277, AND/OR the authorized or designated agent for the custodian of records of the electronic communications service provider, the following described records and other information for the following number(s); **402-850-5695**, to-wit:

- A. The following customer or subscriber account information for each account registered to or associated with the following number(s); **402-850-5695**, for the time period between the dates of Thursday December 1<sup>st</sup> 2016 and Tuesday February 14<sup>th</sup> 2017:
1. Subscriber names, user names, screen names, or other identities;
  2. Mailing addresses, residential addresses, business addresses, email addresses, and other contact information;
  3. Local and long distance telephone connection records, or records of session times and durations;
  4. Length of service (including start date) and types of services utilized;
  5. Telephone or instrument number or other subscriber number or identity, including any temporarily assigned network address;
  6. Means and source of payment for such service (including any credit card or bank account number) and billing records.
- B. All records and other information relating to account(s) and time period in Part A, including:
1. Records of user activity for any connections made to or from the account, including the date, time, length, and method of connections, data transfer volume, user name, and source and destination Internet Protocol address(es);
  2. Telephone records, including caller identification records, cellular site and sector information, global positioning system (GPS) data, Per Call Measurement Data (for Voice, SMS, Text Message, and Data), Reveal Report, roaming data, real-time data (RTD), utilization of other networks data, and cellular network identifying information (such as the IMSI, MSISDN, IMEI, MEID, or ESN);

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3. Non-content information associated with the contents of any communication or file stored by or for the account(s), such as the source and destination email addresses and IP addresses;
4. Correspondence and notes of records related to the account(s).
5. Cellular site and sector guide, for the time period requested above.

The Court finds that the applicant has offered specific and articulable facts showing that there are reasonable grounds to believe that the records or other information sought are relevant and material to an ongoing criminal investigation.

AND, if found, to seize and deal with the same as provided by law, and to make return of this warrant to me within ten days after receiving the requested information set forth in Part A and Part B.

**YOU ARE, THEREFORE, ORDERED**, pursuant to Title 18, United States Code, Section 2703(d) that **US Cellular** will, within fourteen (14) days of the date of this Order, turn over to the Omaha, Nebraska Police Department the records and other information as set forth in Part A and Part B.

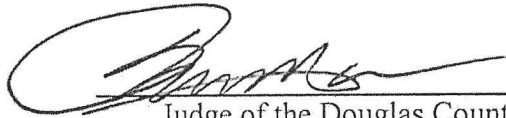
**IT IS FURTHER ORDERED**, that any other person, device, computer, and/or number that is in communication with the target device shall be considered part of the criminal investigation and shall require the disclosure of the data in Part A and Part B from any provider of electronic communications services as defined by 18 U.S.C. §2510(15) and Nebraska Revised Statute 86-277. This shall also include the target device roaming or utilizing any electronic communications service provider's network and/or antennas, regardless of carrier or provider.

**IT IS FURTHER ORDERED** that **US Cellular** or any other person/company, shall not disclose the existence this Order of the Court, or the existence of the investigation, to the listed subscriber or to any other person, unless and until authorized to do so by the Court.

**IT IS FURTHER ORDERED**, that execution of the Search Warrant be forthwith during the daytime hours.

**IT IS FURTHER ORDERED**, that Omaha, Nebraska Police Officer Derek MOIS, make return of this Search Warrant to me within ten days after receiving the requested information from the electronic communications service provider.

Given under my hand this 14<sup>th</sup> day of February, 2017.



Judge of the Douglas County Court

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RETURN AND INVENTORY


STATE OF NEBRASKA    )  
                                  )SS  
COUNTY OF DOUGLAS    )

Officer Derek MOIS #1573, being first duly sworn, deposes and says that, on Tuesday February 14<sup>th</sup> 2017, I served the within warrant and made a diligent search for the property described therein at the place, or person, mentioned therein, and seized and am in possession of the following described property, to wit:

See Attached Property Reports


Said property was inventoried in the presence of N/A, and a copy of said Warrant was given to/left with **One Pierce Place, Suite 800, Itasca, Illinois 60143.**

DATED this 21<sup>st</sup> day of February, 2017.

 1573  
\_\_\_\_\_  
Omaha Nebraska Police Officer

SUBSCRIBED AND SWORN TO before me this 21<sup>st</sup> day of February, 2017.

Warrant and inventory returned on this 21<sup>st</sup> day of February, 2017.

  
\_\_\_\_\_  
Judge of the Douglas County Court  
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