

IN THE DISTRICT COURT OF DOUGLAS COUNTY, NEBRASKA

THE STATE OF NEBRASKA,

Plaintiff,

v.

LEANDRE R. JENNINGS, III,

Defendant.

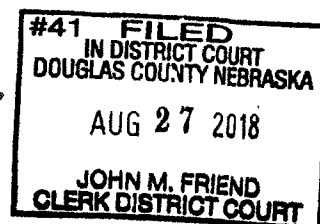
CR 17-903

**ORDER ON DEFENDANT'S
MOTIONS TO SUPPRESS**

This matter comes before the Court on Defendant's Motions to Suppress. A hearing on the motions was held on November 16, 2017. The State appeared by Deputy Douglas County Attorney Michael Jensen. The Defendant appeared with his counsel, Douglas County Public Defender Thomas Riley. Arguments were heard and evidence was adduced. The Defendant and the State submitted written briefs on December 8, 2017. The matter was taken under advisement. On January 10, 2018, the Defendant filed a motion requesting this Court to stay its rulings until the United States Supreme Court issued its decision in *Carpenter v. United States*, No. 16-402, 2018 WL 3073916 (U.S. June 22, 2018). After first holding a hearing on the issue, the Court granted the Defendant's Motion to Stay. (Order Granting Motion to Stay, January 17, 2018). Following the Supreme Court's decision in *Carpenter*, additional hearings on Defendant's Motions to Suppress were held on June 27, 2018 and July 13, 2018. The State appeared by Deputy Douglas County Attorneys Brenda Beadle and Amy Jacobsen. The Defendant appeared with his counsel, Douglas County Public Defender Thomas Riley and Assistant Public Defender, Natalie Andrews. Additional evidence was received, arguments were heard, and the matter was taken under advisement. Being fully advised, the Court finds and orders as follows:



Appendix F.



FACTS AND PROCEDURAL HISTORY

Leandre R. Jennings, III ("Defendant") is charged with: (I) Murder First Degree, a Class IA felony; (II) Use of a Deadly Weapon (Firearm) to Commit a Felony, a Class IC felony; and (III) Possession of a Deadly Weapon by a Prohibited Person, a Class ID felony.

Witnesses reported that at approximately 5:30 pm on December 23, 2016, two armed males entered the home of Michael Brinkman at 18139 Tammy Trail, Omaha, Douglas County, Nebraska and demanded money. (Ex. 1-6). During the ensuing confrontation, Michael Brinkman was fatally shot. (Ex. 1-6). The subsequent investigation into the homicide discovered items determined to have been dropped by one of the suspects during the physical altercation, including a partially eaten piece of bread believed to have originated from a Raising Canes Restaurant. (Ex. 1-6). Investigators also discovered video surveillance of a newer model white SUV vehicle parked in front of 18139 Tammy Trail during the time of the home invasion. (Ex. 1-6). Further investigation revealed that a 2016 Dodge Durango SUV (Texas plates GSB-1580) had been rented by Carnell Watt ("Watt") (phone number 402-739-4520) from December 13, 2016, through December 27, 2016. (Ex. 1-6). During an interview with investigators, Watt stated that she had loaned the rented vehicle on multiple occasions to family and friends, including the Defendant. (Ex. 1-6). DNA from the partially eaten piece of bread linked the Defendant to the crime scene. (Ex. 1-6). The Nebraska Criminal Justice Information System ("NCJIS") database informed investigators that Defendant was on U.S. Probation and his probation officer provided investigators with Defendant's cellular phone number (402-850-5695). (Ex. 1-6). Metropolitan Utilities District records revealed that Watt and the Defendant both resided at 7401 North 60th Street, Omaha, Douglas County, Nebraska. (Ex. 1-6). Clearly, the ongoing investigation portended an uncertain nexus between the Defendant, Watt, and an unknown second male intruder.

On February 14, 2017, the Omaha Police Department (“OPD”) obtained a court order directing U.S. Cellular to turn over records and information pertaining to the cellular phone number 402-850-5695 pursuant to the federal Stored Communications Act 18 U.S.C. § 2703(d). (Ex. 1). On February 14, 2017, OPD also obtained a court order directing Sprint Corporation to turn over records and information pertaining to the cellular phone numbers 402-739-4520 and 402-850-5695 pursuant to the federal Stored Communications Act 18 U.S.C. § 2703(d). (Ex. 2). In the affidavits used to support the court orders, Officer Derek Mois of OPD (“Officer Mois”), detailed the above findings of the investigation into the murder and stated that “data held by [service provider] 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.” (Ex. 1 and 2). Also on February 14, 2017, digital forensic technicians were able to determine through cell tower data that Watt’s cell phone was in the area of 2422 W. Broadway, Council Bluffs, Iowa on December 23, 2016, at approximately 3:20 pm. (Ex. 3 and 4). Investigators knew this to be the location of a Raising Canes Restaurant. (Ex. 3 and 4).

On February 16, 2017, OPD recovered video surveillance from the Raising Canes Restaurant which showed a newer model white Dodge Durango SUV enter the drive through at the 2422 W. Broadway, Council Bluffs location at approximately 3:17 pm. (Ex. 3 and 4). A man matching the physical characteristics of the Defendant paid with cash at the pick-up window. (Ex. 3 and 4). Investigators discovered that an outgoing call was made from Defendant’s phone (402-850-5695) at 4:39 pm which connected to a tower in the area of South 168th Street and Q Street. (Ex. 3 and 4). Another outgoing voice call from the Defendant’s phone number at 5:44 pm connected to a tower in the area of South 144th Street and Q Street. (Ex. 3 and 4).

OPD arrested the Defendant on February 16, 2017. (Ex. 3). At the time of his arrest the Defendant had in his possession a LG K8 model cell phone with the MEID # 35604507019166 and a 402-850-5695 phone number. (Ex. 3).

On February 17, 2017, OPD obtained a warrant to search the Defendant's residence at 7401 North 60th Street, Omaha, Douglas County, Nebraska. (Ex. 4). In his affidavit supporting the application for a search warrant, Officer Mois detailed the above findings of the ongoing murder investigation. (Ex. 4). During the execution of the search warrant on the residence located at 7401 North 60th Street, OPD also seized, pursuant to the warrant, the following devices:

- Black LG cell phone MEID 35604507029510 (under EV# 89)
- Black Kyocera cell phone HEX 99000421524564 (under EV# 95)
- Black Samsung cell phone DEC 089656935104491589 which was seized from Watt (under EV # 100)

(Ex. 3). Following the seizure of the phones, OPD also obtained a warrant to search the content of the phones. (Ex. 3).

Defendant filed four separate motions to suppress. The first motion to suppress was filed on August 7, 2017, and seeks the suppression of evidence obtained as a result of the search of the residence located at 7401 North 60th Street, Omaha, Nebraska pursuant to the search warrant contained in Exhibit 4. The second motion to suppress was filed on November 6, 2017, and seeks the suppression of evidence stemming from the forensic search of cellular phone number 402-850-5695 which came about as a result of the court order contained in Exhibit 1 under the federal Stored Communications Act. The third motion to suppress was filed on November 13, 2017, and seeks the suppression of evidence resulting from the forensic search of cellular phone numbers 402-850-5695 and 402-739-4520 which came about as a result of the court order contained in Exhibit 2 under the federal Stored Communications Act. The fourth motion to suppress was also filed on

November 13, 2017, and seeks the suppression of evidence obtained as a result of a search of the substantive content of cellular phones identified as a Black LG cell phone MEID 35604507029510 and a Black Kyocera cell phone HEX 99000421524564, which was authorized by the search warrant contained in Exhibit 3.

On April 11, 2018 and May 11, 2018, during the interim period while the Court stayed its decision pending the Supreme Court's holding in *Carpenter v. United States*, OPD obtained search warrants directing Sprint Corporation to turn over records and information pertaining to the cellular phone numbers 402-739-4520 and 402-850-5695 (Ex. 5) and Sprint Corporation to turn over records and information pertaining to the cellular phone number 402-850-5695. (Ex. 6).

STANDARD OF REVIEW

A ruling on a motion to suppress is a question of fact to be determined by the trial court as the finder of fact. *State v. Tucker*, 262 Neb. 940, 946, 636 N.W.2d 853, 859 (2001). On a claim of insufficiency of the affidavit supporting the issuance of a search warrant, the trial court's ruling on a motion to suppress will be upheld unless its findings are clearly erroneous. *State v. Ball*, 271 Neb. 140, 150, 710 N.W.2d 592, 602 (2006). The State bears the burden of proof at a suppression hearing, but that burden is only by a preponderance of the evidence. *United States v. Matlock*, 415 U.S. 164, 177 n. 14, 94 S. Ct. 988, 996 (1974).

ANALYSIS

A. COURT ORDERS PURSUANT TO FEDERAL STORED COMMUNICATIONS ACT (Ex. 1 and 2) AND SUBSEQUENT SEARCH WARRANTS (Ex. 5 and 6) (Second and Third Motions to Suppress):

In the matter at bar, the court orders compelled US Cellular (Ex. 1) and Sprint Corporation (Ex. 2) to turn over records and information which is commonly referred to as historical cell site

location information (“CSLI”) for the time period between December 1, 2016, through February 14, 2017. The CSLI was not used to track the users of the phones prospectively or in real time. Defendant contends: (i) the State’s acquisition of CSLI constituted a search under the United States and Nebraska Constitutions and required a warrant (Second and Third Motions to Suppress, November 6 and 13, 2017, ¶ 18); (ii) the supporting affidavits were insufficient (Second and Third Motions to Suppress, November 6 and 13, 2017, ¶¶ 3, 4, 12, and 15); and (iii) the court orders lack the requisite specificity and do not find probable cause (Second and Third Motions to Suppress, November 6 and 13, 2017, ¶¶ 5, 13, and 17).

i. The State’s acquisition of CSLI constituted a search under the Fourth Amendment:

The Fourth Amendment to the United States Constitution and article I, § 7 of the Nebraska Constitution protect individuals from unreasonable searches and seizures by the government. *State v. Knutson*, 288 Neb. 823, 835, 852 N.W.2d 307, 319 (2014). “The Fourth Amendment’s protections are implicated whenever state action intrudes on a citizen’s reasonable expectation of privacy.” *Id.* The United States Supreme Court has long held that determining whether a reasonable expectation of privacy exists normally embraces two discrete questions. “The first is whether the individual, by his conduct, has exhibited an actual (subjective) expectation of privacy . . . [t]he second question is whether the individual’s subjective expectation of privacy is one that society is prepared to recognize as reasonable” *Smith v. Maryland*, 442 U.S. 735, 740, 99 S. Ct. 2577, 2580 (1979) (internal quotes and citations omitted).

The first issue to address is whether the State’s acquisition of the Defendant’s CSLI amounts to a search under the United States Constitution. This question was recently decided by the United States Supreme Court in *Carpenter v. United States*, No. 16-402, 2018 WL 3073916

(U.S. June 22, 2018). The Court in *Carpenter* held that “an individual maintains a legitimate expectation of privacy in the record of his physical movements as captured through CSLI.” *Id.*, at *9. In declining to extend the third-party doctrine to CSLI over a protracted period of time, the Court ruled that the government’s acquisition of CSLI constituted a search within the meaning of the Fourth Amendment. *Id.*, at *12. As such, the government must generally obtain a warrant supported by probable cause before acquiring CSLI. *Id.*, at *13.

Although the captions of the supporting affidavits and subsequent orders are couched as search warrants, the Douglas County Court found that the State had “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.” (Ex. 1 and 2). This is the standard for a court order under 18 U.S.C. § 2703(d). Additionally, the charging language in the orders state that the authority for the orders is pursuant to 18 U.S.C. § 2703(d). (Ex. 1 and 2). The Nebraska Supreme Court in *State v. Jenkins* encountered similar inconsistencies but stated that the § 2703(d) order is properly characterized as a court order and not a search warrant. *State v. Jenkins*, 294 Neb. 684, 692-93, 884 N.W.2d 429, 438 (2016). “[A]lthough the Stored Communications Act authorizes governmental entities to obtain cell phone records using either warrants or court orders, the records in this case were obtained using a court order issued pursuant to § 2703(d). *Id.* (internal citations omitted). As such, the court orders issued pursuant to the federal Stored Communications Act 18 U.S.C. § 2703(d), which requires only articulable facts showing reasonable grounds to believe that the information sought is relevant and material to an ongoing criminal investigation, rather than a warrant supported by probable cause, were insufficient under the standard recently articulated by the Supreme Court in *Carpenter*. The Court notes, however, that OPD subsequently obtained warrants to acquire CSLI for cell phone numbers

402-850-5695 and 402-739-4520 (Ex. 5 and 6). Accordingly, the April 11, 2018, search warrant (Ex. 5) and the May 8, 2018, search warrant (Ex. 6) cure the constitutional infirmities associated with the February 14, 2017, court order pursuant to 18 U.S.C. § 2703(d).

ii. Sufficiency of Affidavit and Probable Cause (Ex. 5 and 6):

The Defendant also challenges the sufficiency of the supporting affidavits for the § 2703(d) court orders and the probable cause of the supporting affidavits for the April 11th and May 8th 2018 search warrants. As stated above, the § 2703(d) court orders permitting CSLI collection were insufficient per *Carpenter*. Accordingly, the Court needs only to consider the sufficiency of the probable cause of the supporting affidavits for the April 11th and May 8th 2018, search warrants.

In reviewing the strength of an affidavit, the question is whether, under the totality of the circumstances illustrated by the affidavit, the issuing magistrate had a substantial basis for finding that the affidavit established probable cause. *State v. Henderson*, 289 Neb. 271, 286-87, 854 N.W.2d 616, 631 (2014). “Probable cause sufficient to justify issuance of a search warrant means a fair probability that contraband or evidence of a crime will be found.” *Id.*, 289 Neb. at 287, 854 N.W.2d at 631. A magistrate’s determination of probable cause to issue a search warrant should be paid great deference by reviewing courts and should not take on after-the-fact scrutiny in the form of a de novo review. *State v. Bossow*, 274 Neb. 836, 744 N.W.2d 43 (2008)

In its affidavits filed in support of the search warrants to obtain CSLI from Sprint and U.S. Cellular, OPD detailed the nexus between Watt, the newer model white SUV parked in front of 18139 Tammy Trail during the time of the home invasion, the 2016 Dodge Durango SUV rented by Watt during that time, Watt’s statements that she allowed the Defendant to use the Dodge Durango, and the Defendant’s DNA at the crime scene. (Ex. 5 and 6). The affidavits further state

that the data held by Sprint and U.S. Cellular would aid in determining the possible relationship between the Defendant, Watt, and the other individual who invaded the residence of Michael Brinkman. (Ex. 5 and 6). After reviewing the supporting affidavits, the Court finds that under the totality of the circumstances illustrated by the affidavits, the issuing magistrate had a substantial basis for finding that the affidavits established probable cause.

iii. Sufficiency of the Particularity in Search Warrants (Ex. 5 and 6):

The Defendant argues that the search warrants lack specificity and particularity. (Second and Third Motions to Suppress, November 6 and 13, 2017, ¶¶ 5, 13, and 17). First, the Court notes that the April 11th and May 8th 2018 search warrants do make probable cause findings. Second, regarding specificity, contrary to the Defendant's assertions, the search warrants were sufficiently particularized. The probable cause established in the ongoing investigation clearly provided a nexus between the Defendant, Watt, and an unknown second male intruder. The officer's belief that the data held in the phones would aid the investigation in determining the possible relationship between the individuals and provide details on the events leading to the death of Michael Brinkman was reasonable and supported by the circumstances. The search warrants also explicitly delineated what records were to be turned over, they did not include the substantive contents of communications, and the warrants imposed temporal limitations and did not permit prospective or real time tracking. (Ex. 5 and 6). Defendant's arguments concerning deficiencies in the search warrants is unpersuasive.

The Defendant's Motion to Suppress evidence resulting from the acquisition of CSLI from cellular phone numbers 402-850-5695 and 402-739-4520, kept by Sprint Corporation, which came about as a result of the April 11, 2018, search warrant contained in Exhibit 5 is denied. The Defendant's Motion to Suppress evidence resulting from the acquisition of CSLI from cellular

phone number 402-850-5695, kept by U.S. Cellular Corporation, which came about as a result of the May 8, 2018, search warrant contained in Exhibit 6 is also denied.

B. SEARCH WARRANT: 7401 N. 60TH STREET RESIDENCE (Ex. 4) (First Motion to Suppress):

Defendant also seeks the suppression of evidence obtained from the search of the residence located at 7401 North 60th Street, Omaha, Nebraska pursuant to the search warrant contained in Exhibit 4. Defendant argues (i) the affidavit and search warrant did not establish probable cause to believe that evidence of a criminal offense was located inside the residence. (First Motion to Suppress, August 7, 2017, ¶¶ 2 and 5); (ii) the search warrant authorized and the police conducted a general search (First Motion to Suppress, August 7, 2017, ¶¶ 3-4); and (iii) the magistrate improperly authorized the search to be conducted as a no-knock search without sufficient cause to authorize a no-knock search warrant (First Motion to Suppress, August 7, 2017, ¶ 6).

i. Sufficiency of Affidavit and Probable Cause Finding:

“[A] search warrant, to be valid, must be supported by an affidavit which establishes probable cause.” *State v. Nuss*, 279 Neb. 648, 653, 781 N.W.2d 60, 65 (2010). “Probable cause sufficient to justify issuance of a search warrant means a fair probability that contraband or evidence of a crime will be found.” *Id.*, 279 Neb. at 653, 781 N.W.2d at 65-66. “To establish probable cause for the issuance of a search warrant, it must be probable that (1) the described items are connected with criminal activity and (2) they are to be found in the place to be searched.” *State v. Sprunger*, 283 Neb. 531, 540, 811 N.W.2d 235, 243-44 (2012).

The Court finds that probable cause existed for the challenged affidavit and search warrant. The supporting affidavit detailed the physical description of the suspects, the clothes they wore

during the commission of the crime, the instruments used during the home invasion and murder, that the suspect vehicle at the crime scene was believed to be rented to Watt, that Watt stated in an interview with OPD that she allowed the Defendant to use the 2016 Dodge Durango SUV rented in her name, that Defendant's DNA was linked to the crime scene, that outbound phone calls from Defendant's phone number were made both shortly before and shortly after the time of Michael Brinkman's murder, that these outbound calls connected with towers in the vicinity of the crime scene, that a partially eaten piece of bread believed to have originated from a Raising Canes Restaurant was recovered from the crime scene, and video surveillance from a Raising Canes Restaurant showed a newer model white Dodge Durango SUV enter the drive through at the 2422 W. Broadway, Council Bluffs location on the afternoon of the murder with a man matching the physical characteristics of the Defendant paying in cash at the pick-up window. (Ex. 4). The supporting affidavit also detailed that Metropolitan Utilities District records revealed that both Watt and the Defendant resided at 7401 North 60th Street. (Ex. 4). The Court finds that there was probable cause to believe that the described items were connected with criminal activity and would be found at the Defendant's residence. As such, there was a probable cause basis for the affidavit and warrant for the search of the residence at 7401 North 60th Street.

ii. Particularity:

The Defendant argues that the search warrant authorized a general search of the residence and did not specify with particularity the items to be seized. (First Motion to Suppress, August 7, 2017, ¶¶ 3-4). Specifically, Defendant objects to the second enumerated paragraph in the search warrant which authorizes OPD to search for and seize:

Cellular phone(s), computer(s) recording device(s) including audio and video, companion equipment, records, whether stored on paper, magnetic media such as tape, cassette, disk, diskettes, or on memory storage devices such as optical disks,

programmable instruments such as telephones, “electronic address books”, or any other storage media, together with indicia of use, ownership, possession or control of the aforementioned residence;

(Ex. 4, pg. 8, ¶ 2).

In addition to the requirement of probable cause, the Fourth Amendment contains a particularity requirement. See *State v. Sprunger*, 283 Neb. 531, 539, 811 N.W.2d 235, 243 (2012). “Simply put, the Fourth Amendment prohibits ‘fishing expeditions.’” *Id.* “A warrant satisfies the particularity requirement if it leaves nothing about its scope to the discretion of the officer serving it.” *State v. Tyler*, 291 Neb. 920, 934, 870 N.W.2d 119, 130 (2015). The particularity requirement also protects against warrants that permit seizure of items other than what is described. *Henderson*, 289 Neb. at 289, 854 N.W.2d at 633.

In reviewing the search warrant for the search of Defendant’s residence, the Court finds there is sufficient particularity. The search warrant specifies items which witnesses stated were used in the commission of the crime (i.e. firearms and companion equipment, masks, clothes, and gloves). Regarding the second paragraph’s authorization for the search and seizure of cellular phones, computers, and recording devices, the Court finds it to be sufficiently particularized. The warrant did not leave the scope of the search to the discretion of the officer, nor did it permit seizure of items other than what is described. This was not a generalized search warrant that permitted the seizure of “any and all information,” and it did not equate to a fishing expedition. Indeed, the supporting affidavit detailed that CSLI from the Defendant’s phone indicated that outbound calls from the vicinity of the crime scene were made both shortly before and shortly after the time of Michael Brinkman’s murder.

iii. No-Knock Search Warrant:

The Defendant also argues that the magistrate improperly authorized the search to be conducted as a no-knock search without sufficient cause to authorize a no-knock search warrant. (First Motion to Suppress, August 7, 2017, ¶ 6). ““In order to justify a ‘no-knock’ entry, the police must have a reasonable suspicion that knocking and announcing their presence, under the particular circumstances, would be dangerous or futile, or that it would inhibit the effective investigation of the crime by, for example, allowing the destruction of evidence.”” *State v. Kelley*, 265 Neb. 563, 570, 658 N.W.2d 279, 286 (2003) (citing *Richards v. Wisconsin*, 520 U.S. 385, 394, 117 S. Ct. 1416, 1421 (1997)). At the time of the search warrant, the Defendant was a suspect in the violent home invasion and murder of Michael Brinkman. As such, OPD indeed had reasonable suspicion that knocking and announcing their presence would be dangerous. The Defendant’s August 7, 2017, Motion to Suppress the evidence obtained as a result of the search of the residence located at 7401 North 60th Street in Omaha, Nebraska is denied.

C. SEARCH WARRANT FOR PHONES SEIZED DURING THE SEARCH OF DEFENDANT’S RESIDENCE (Ex. 3) (Fourth Motion to Suppress):

Defendant’s fourth motion to suppress seeks the suppression of evidence obtained as a result of searches of the substantive content of cellular phones identified as a Black LG cell phone MEID 35604507029510 and a Black Kyocera cell phone HEX 99000421524564, which was authorized by the search warrant contained in Exhibit 3. These phones were seized pursuant the search warrant of Defendant’s residence.

“To establish probable cause for the issuance of a search warrant, it must be probable that (1) the described items are connected with criminal activity and (2) they are to be found in the place to be searched.” *Sprunger*, 283 Neb. at 540, 811 N.W.2d at 243-44. In reviewing the strength

of an affidavit, the question is whether, under the totality of the circumstances illustrated by the affidavit, the issuing magistrate had a substantial basis for finding that the affidavit established probable cause. *Henderson*, 289 Neb. at 286-87, 854 N.W.2d at 631. “Probable cause sufficient to justify issuance of a search warrant means a fair probability that contraband or evidence of a crime will be found.” *Id.*, 289 Neb. at 287, 854 N.W.2d at 631.

After reviewing the supporting affidavit, the Court finds that under the totality of the circumstances illustrated by the affidavit, the issuing magistrate had a substantial basis for finding that the affidavit established probable cause and were sufficiently particular. The supporting affidavit states that the Defendant’s probation officer provided a current cell phone number for the Defendant. (Ex. 3). The Defendant’s phone number was 402-850-5695. (Ex. 3). The affidavit also states that outbound phone calls from Defendant’s phone number (402-850-5695) were made both shortly before and shortly after the time of Michael Brinkman’s murder. (Ex. 3). The affidavit states that these outbound calls connected with towers in the vicinity of the crime scene. (Ex. 3). The affidavit further states that when the Defendant was arrested for the murder of Michael Brinkman, the Defendant had a LG K8 model cell phone with the MEID# 35604507019166 in his possession. (Ex. 3). The phone number for the phone in the Defendant’s possession at the time of his arrest was 402-850-5695. (Ex. 3).

Regarding the second paragraph’s authorization for the search and seizure of cellular phones, computers, and recording devices, the Court finds it to be sufficiently particularized as to the seizure of cellular phones. The supporting affidavit detailed that CSLI from the Defendant’s phone indicated outbound calls from the vicinity of the crime scene made both shortly before and shortly after the time of Michael Brinkman’s murder. It is reasonable to believe that the phones could possibly contain data relevant to the ongoing investigation and were potentially in the

possession of Jennings or Watt around the time of the homicide. The data held by the phones could also aid in determining the possible relationship between the Defendant, Watt, and the other individual who invaded the residence of Michael Brinkman. The Defendant's November 13, 2017, Motion to Suppress the evidence obtained as a result of searches of the substantive content of cellular phones identified as a Black LG cell phone MEID 35604507029510 and a Black Kyocera cell phone HEX 99000421524564 is denied.

CONCLUSION

IT IS THEREFORE ORDERED, ADJUDGED, AND DECREED that the Defendant's November 6, 2017, Motion to Suppress the CSLI evidence from phone number 402-850-5695, obtained from U.S. Cellular pursuant to the May 8, 2018, search warrant is **denied**.

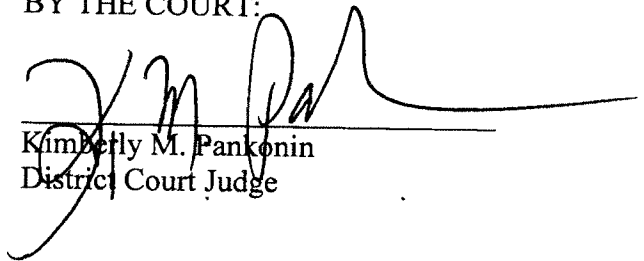
IT IS FURTHER ORDERED, ADJUDGED, AND DECREED that the Defendant's November 13, 2017, Motion to Suppress the CSLI evidence from phone numbers 402-850-5695 and 402-739-4520, obtained from Sprint Corporation pursuant to the April 11, 2018, search warrant is **denied**.

IT IS FURTHER ORDERED, ADJUDGED, AND DECREED that the Defendant's August 7, 2017, Motion to Suppress the evidence obtained as a result of the search of the residence located at 7401 North 60th Street in Omaha, Nebraska is **denied**.

IT IS FURTHER ORDERED, ADJUDGED, AND DECREED that the Defendant's November 13, 2017, Motion to Suppress the evidence obtained as a result of searches of the substantive content of cellular phones identified as a Black LG cell phone MEID 35604507029510 and a Black Kyocera cell phone HEX 99000421524564 is **denied**.

DATED this 27th day of August, 2018.

BY THE COURT:



Kimberly M. Pankonin
District Court Judge

cc: Brenda Beadle, Amy Jacobsen
Thomas Riley, Natalie Andrews

CERTIFICATE OF SERVICE

I, the undersigned, certify that on August 28, 2018 , I served a copy of the foregoing document upon the following persons at the addresses given, by mailing by United States Mail, postage prepaid, or via E-mail:

Thomas C Riley
thomas.riley@douglascounty-ne.gov

Brenda D Beadle
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KETV
NEWS@KETV.com

Date: August 28, 2018

BY THE COURT:

John M. Friend
CLERK

