

No. _____

IN THE
SUPREME COURT OF THE UNITED STATES

Kevin Griffin, Petitioner,

v.

N.Y.S. Department of Corrections, Respondent(s).

On Petition For A Writ Of Certiorari To The
New York State Court of Appeals

PETITION FOR A WRIT OF CERTIORARI

EXHIBITS 1-10

Kevin Griffin, 04A6249
P.O. Box 1000
Woodbourne, NY 12788-1000

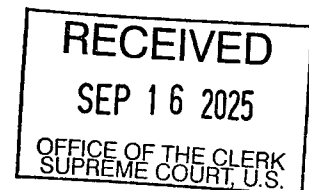


TABLE OF EXHIBITS

- Exhibit -1 Court of Appeals 10/22/24 Denial with Notice of Entry.
- Exhibit -2 Court of Appeals 4/14/25 Reconsideration denial with Notice of Entry.
- Exhibit -3 Court of Appeals 4/28/25 Enbanc Denial - No Notice of Entry Served.
- Exhibit -4 Judge Kim's March 1, 2024 Denial.
- Exhibit -5 Appellate Division - Second Dept.'s 6/28/24 Denial with Notice of Entry.
- Exhibit -6 Issues raised by Appellate Attorney Gary Grenwald.
- Exhibit -7 April 8, 2004 search warrants.
- Exhibit -8 April 8, 2004 search warrant application.
- Exhibit -9 District Attorney's Conviction Integrity Letter dated 6/21/17.
- Exhibit -10 Law Journal Article reference to trial Judge Rosenwasser.
FOIA Request dated 10/10/24.
FOIA Response dated 1/29/25.

Exhibit-1

State of New York Court of Appeals

BEFORE: HON. SHIRLEY TROUTMAN, Associate Judge

THE PEOPLE OF THE STATE OF NEW YORK,

- against - Respondent,

KEVIN GRIFFIN,

Appellant.

**ORDER
DISMISSING
LEAVE**

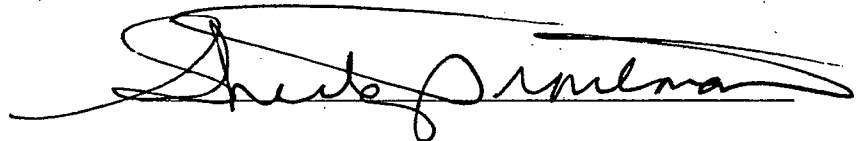
Ind. No. 328/2004

Appellant having applied for leave to appeal to this Court pursuant to Criminal Procedure Law (CPL) § 460.20 from an order in the above-captioned case;*

UPON the papers filed and due deliberation, it is

ORDERED that the application is dismissed because the order sought to be appealed from is not appealable under CPL § 450.90(1).

Dated: 10/22/2024



Associate Judge

*Description of Order: Order of a Justice of the Appellate Division, Second Department, dated June 28, 2024, denying leave to appeal to the Appellate Division from an order of County Court, Orange County, dated March 1, 2024.

STATE OF NEW YORK
COURT OF APPEALS

-----X
THE PEOPLE OF THE STATE OF NEW YORK,

Respondent,

-against-

KEVIN GRIFFIN,

Appellant.
-----X

NOTICE OF ENTRY

Court of Appeals No. CLA-2024-00765

IND NO. 2004-328

PLEASE TAKE NOTICE that the attached is a true copy of the **Order Dismissing Leave**, dated
October 22, 2024, for filing with the Office of the Clerk, County of Orange.

Dated: October 31, 2024
Goshen, New York

Yours, etc.

DAVID M. HOOVLER
District Attorney of Orange County
County Government Center
255-275 Main Street
Goshen, New York 10924

cc:
Kevin Griffin
04A6249
Woodbourne Correctional Facility
99 Prison Road
PO Box 1000
Woodbourne, NY 12788

State of New York Court of Appeals

BEFORE: SHIRLEY TROUTMAN, Associate Judge

THE PEOPLE OF THE STATE OF NEW YORK,

Respondent,

-against-

KEVIN GRIFFIN,

Appellant.

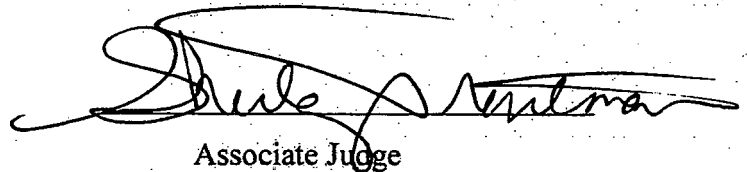
ORDER DENYING RECONSIDERATION

Appellant having moved for reconsideration in the above-captioned case of an application for leave to appeal dismissed by order dated October 22, 2024;

UPON the papers filed and due deliberation, it is

ORDERED that the motion for reconsideration is denied.

Dated: 4/14/2025



Associate Judge

STATE OF NEW YORK
COURT OF APPEALS

-----X
THE PEOPLE OF THE STATE OF NEW YORK,

Respondent,

-against-

KEVIN GRIFFIN,

Appellant.
-----X

NOTICE OF ENTRY

Court of Appeals No. CLA-2024-01050

IND NO. 2004-328

PLEASE TAKE NOTICE that the attached is a true copy of the **Order Denying Reconsideration**,
dated April 14, 2025, for filing with the Office of the Clerk, County Court, County of Orange.

Dated: April 28, 2025
Goshen, New York

Yours, etc.

DAVID M. HOOVLER
District Attorney of Orange County
County Government Center
255-275 Main Street
Goshen, New York 10924

cc:
Kevin Griffin
04A6249
Woodbourne Correctional Facility
99 Prison Road
PO Box 1000
Woodbourne, NY 12788



State of New York
Court of Appeals

Heather Davis, Esq.
Chief Clerk and
Legal Counsel to the Court

Clerk's Office
20 Eagle Street
Albany, New York 12207-1095
518-455-7700

April 28, 2025

Kevin Griffin
#04-A-6249
Woodbourne Correctional Facility
99 Prison Road, P.O. Box 1000
Woodbourne, NY 12788-1000

Re: People v Griffin (Kevin)

Dear Mr. Griffin:

Your letter dated April 24, 2025, and received on April 28, 2025, addressed to Chief Judge Rowan D. Wilson, has been referred to me for response.

On April 14, 2025, Judge Troutman denied your application for reconsideration. A copy of the order denying reconsideration is enclosed. Pursuant to Rule 500.20(f)(2) of the Court's Rules of Practice, only one application for reconsideration is permitted. There is no provision for review before the full court of an application for leave to appeal or reconsideration in a criminal case.

Very truly yours,

A handwritten signature in black ink that reads "H Davis".

Heather Davis

ch

State of New York Court of Appeals

BEFORE: SHIRLEY TROUTMAN, Associate Judge

THE PEOPLE OF THE STATE OF NEW YORK,

-against-

Respondent,

KEVIN GRIFFIN,

Appellant.

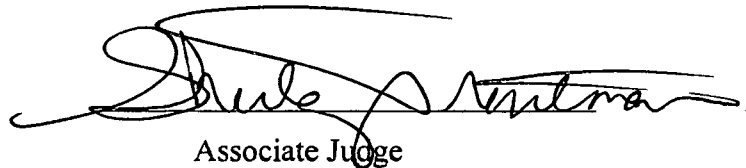
**ORDER
DENYING
RECONSIDERATION**

Appellant having moved for reconsideration in the above-captioned case of an application
for leave to appeal dismissed by order dated October 22, 2024;

UPON the papers filed and due deliberation, it is

ORDERED that the motion for reconsideration is denied.

Dated: 4/14/2025



Associate Judge

COUNTY COURT: ORANGE COUNTY
STATE OF NEW YORK

-----X
THE PEOPLE OF THE STATE OF NEW YORK,

IND. NO. 2004-328

-against-

KEVIN GRIFFIN,

DECISION AND ORDER

Defendant.

-----X
KIM, H.

Defendant, Kevin Griffin, moves pursuant to CPL § 440.10 to vacate judgment entered after an Orange County jury convicted defendant after trial on the charges of Murder in the Second Degree, Criminal Possession of a Weapon in the Fourth Degree and Stalking in the Fourth Degree. Defendant was sentenced on November 22, 2004 to an indeterminate state prison incarceration term of twenty-five (25) years to life on the murder count. Defendant was sentenced to concurrent one (1) year terms of imprisonment on each of the two remaining counts.

Upon reading and filing the within Notice of Motion to Vacate Judgment, Affidavit in Support with annexed exhibits and accompanying Memorandum of Law in Support submitted by defendant, *pro se*; Affirmation in Opposition submitted by Andrew R. Kass, Esq., Assistant District Attorney, Orange County District Attorney's Office; Reply Affirmation submitted by defendant, *pro se*; and all other papers and proceedings had herein, defendant's application is decided as follows.

By Orange County Indictment 2004-328, defendant was charged with, *inter alia*, Murder in the Second Degree, Criminal Possession of a Weapon in the Fourth Degree, and Stalking in the Fourth Degree. It was alleged that on or about March 13, 2004 defendant shot and killed Timothy Ruiz with a .22 caliber rifle. Defendant was arraigned on the Indictment in Orange County Court (Rosenwasser, J.) on April 22, 2004 and entered a plea of not guilty. Thereafter, in his pretrial

submissions, defendant moved to suppress his statements and moved to suppress the physical evidence that was recovered from his residence as well as his vehicle, pursuant to a duly obtained search warrant. In a written Decision and Order dated September 10, 2004 the Court (Rosenwasser, J.) granted in part and denied in part, defendant's pretrial motions. The Court denied the motion to controvert the search warrant and motion to suppress other physical evidence without a hearing. The Court, however, ordered a hearing on defendant's motion to suppress statements. The hearing was held on September 21, 2004 whereafter the Court denied defendant's motion in its entirety.

On October 7, 2004 after a jury trial, an Orange County jury convicted defendant of the crimes of Murder in the Second Degree, Criminal Possession of a Weapon in the Fourth Degree and Stalking in the Fourth Degree. Defendant was sentenced on November 22, 2004 to an indeterminate state prison incarceration term of twenty-five (25) years to life on the murder count and received a one (1) year sentence of imprisonment on each of the remaining misdemeanor counts, to be served concurrently with the sentence on the murder count. Defendant remains incarcerated.

Defendant took a direct appeal challenging, *inter alia*, the summary denial of his pretrial motions to suppress as well as the sufficiency of the search warrant. On April 11, 2006 the Appellate Division affirmed defendant's judgment. *People v. Griffin*, 28 AD3d 578 (2nd Dept, 2006). The Court of Appeals denied defendant's application for leave to appeal on July 17, 2006. *People v. Griffin*, 7 NY3d 789 (2006). Defendant thereafter filed a writ of habeas corpus in December, 2006 and on May 2, 2007 the United States District Court (Lynch, U.S.D.J.) summarily denied the petition. *Griffin v New York State Department of Corrections*, No. 06 Civ.

14217 (GEL), 2007 WL 1296203 (SDNY 2007). The Court of Appeals further denied defendant's motion for reconsideration in 2009.

In 2013, defendant filed his first motion to vacate judgment claiming that he was denied effective assistance of counsel. Defendant alleged a long list of failures by trial counsel including but not limited to a failure to call certain witnesses at trial, failure to secure an expert pathologist, failure to challenge issues surrounding the operability of the .22 caliber rifle and ammunition recovered, failure to appropriately challenge the Search Warrant Order and failed to assert additional theories on his behalf. His motion was denied without a hearing by Order dated December 16, 2013. *See People's Exhibit 1.*

Defendant's second motion to vacate was denied by Order dated October 16, 2015 after the court found that, contrary to defendant's claims, he was provided with all *Rosario* and *Brady* materials, that defendant failed to submit sufficient evidence of his actual innocence, that defendant failed to raise the claim of an improperly sworn jury on direct appeal and that such a claim was otherwise unpreserved, and that defendant's ineffective assistance of counsel claim could have been raised on direct appeal or on his first CPL § 440.10 motion. *See People's Exhibit 2.* Defendant was also cautioned by the court that defendant "may not now or in the future bring repeated CPL 440.10 applications which he could have or should have with due diligence raised the issue earlier."

Defendant's third motion to vacate judgment was summarily denied by Order dated February 21, 2019 citing defendant's two prior CPL § 440.10 motions which were denied and his exhausted right to appeal. *See People's Exhibit 3.*

Defendant now moves this Court to vacate his conviction pursuant to CPL §§ 440.10(1)(h), arguing that he was denied effective assistance of counsel because trial counsel, 1) failed to

challenge the basis of the issuance of the search warrant and the propriety of its execution; 2) failed to argue defendant was exempt from prosecution for Criminal Possession of a Weapon in the Fourth Degree; and 3) failed to put forth an intoxication defense.

INEFFECTIVE ASSISTANCE OF COUNSEL

It is well settled that a defendant is guaranteed the effective assistance of counsel under both the federal and state constitutions. *See* U.S. Const., amend VI; NY Const., art. I, § 6; *People v. Turner*, 5 NY3d 476, 479 (2005). When a defendant challenges a conviction on the ground of ineffective assistance of counsel, under the federal standard, a defendant must show that counsel's performance was deficient and that the deficient performance prejudiced the defense. *See Strickland v. Washington*, 466 US 668, 687 (1984). The first prong of this standard requires a showing that counsel's representation fell below an objective standard of reasonableness. *See Strickland v. Washington*, 466 US at 687. Under the second prong, a defendant must show that the outcome of the case would have been different but for counsel's errors in representation. *See Strickland v. Washington*, 466 US at 694.

In analyzing a state law claim, the standard is more generous, focusing on "the fairness of the process as a whole rather than its particular impact on the outcome of the case". *People v. Benevento*, 91 NY2d 708, 714 (1998). The core of the inquiry is whether defendant received "meaningful representation." A showing of prejudice, though significant, is not an indispensable element under a state analysis. *People v. Georgiou*, 38 AD3d 155, 161 (2d Dept. 2007). "So long as the evidence, the law, and the circumstances of a particular case, viewed in totality and as of the time of the representation, reveal that the attorney provided meaningful representation, the constitutional requirement will have been met." *People v. Baldi*, 54 NY2d 137, 147 (1981).

Defendant alleges he was denied effective assistance of counsel by his retained counsel, Gary Greenwald, Esq., because counsel failed to challenge the propriety of the search warrants issued and the execution of the search warrants, failed to argue defendant was exempt from prosecution for Criminal Possession of a Weapon in the Fourth Degree, and failed to put forth an intoxication defense. Defendant asserts that it is because Mr. Greenwald did not effectively conduct an appropriate investigation of varying matters that he now stands convicted of Murder in the Second Degree and other related charges.

On a CPL § 440.10 motion to vacate his judgment, defendant has the burden of coming forward with allegations sufficient to create an issue of fact as to matters not appearing on the record of the underlying conviction to prevail on the instant motion. *See* § 440.30(1)(a); *People v. Session*, 34 NY2d 254, 255-256 (1974). Defendant cannot rely on his conclusory assertions. Instead, defendant must submit evidentiary support of his arguments or risk that his claim will be denied. *See* CPL § 440.30(4)(b) and (6); *see also People v. Tiger*, 32 NY3d 91, 100-101 (2018) (no hearing where defendant fails to submit a clear indication whether his claims are outside of the record or could be found in the record not otherwise provided to the court).

In support of his claims, defendant submits his own affidavit, a Search Warrant order signed by the Hon. Nicholas De Rosa, County Court Judge, on April 8, 2004 at 9:37 a.m. and an Amended Search Warrant order signed by Judge De Rosa on April 8, 2004 at 2:45 p.m., (collectively *Defendant's Exhibit 1*), one page entitled Supporting Allegations of Fact depicting paragraphs four (4) through nine (9), (*Defendant's Exhibit 2*), and the Search and Seizure Inventory. (*Defendant's Exhibit 3*).¹

¹ Defendant's Exhibits 1 through 3 are attached to the Memorandum of Law and not to the Affidavit in Support of the Motion.

a) Search Warrants and Execution Thereof

Defendant alleges he received ineffective assistance of counsel because trial counsel failed to challenge the sufficiency of the Search Warrant Order as it omitted a declaration of specific penal law crimes under investigation, that the Order itself did not contain language incorporating the Affidavit in Support of the Search Warrant by reference, and that the Order failed to particularly describe the items to be seized. Defendant further alleges that counsel failed to challenge what he believes was an inappropriate execution of the Order in that items were seized which were not otherwise described therein.

Defendant's allegations are belied by the record. Initially, defendant's counsel prior to trial, Paul Trachte, Esq., moved by way of Omnibus Motion, to controvert the Search Warrants which, if successful, would have suppressed all evidence recovered as a result of the execution of the Order. By Decision and Order dated September 10, 2004 the Hon. Stewart A. Rosenwasser, Judge of the County Court, denied defendant's motion to controvert the Search Warrant after a review finding that "it was issued upon an application which set forth facts which establish probable cause to search the locations and person set forth in the warrant." On direct appeal, defendant duplicated the claims he now makes in the instant motion when he claimed the Search Warrant Order was issued on less than probable cause, that Judge Rosenwasser erroneously denied his motion to suppress physical evidence and that certain physical evidence was admitted at trial erroneously. These claims were rejected entirely. See *People v. Griffin*, 28 AD3d 578, 578-579 (2d Dept. 2006), *lv. denied* 7 NY3d 789 (2006).² Further, defendant attacked the execution of the Order by his first CPL § 440.10 motion which was denied by Order dated December 16, 2013.

² Defendant later claimed appellate counsel was ineffective by Writ of Error coram Nobis, which was denied. *People v. Griffin*, 160 AD3d 660 (2018), *lv. denied* 31 NY3d 1117 (2018).

It is clear that defendant's motion to vacate his judgment on this issue includes issues raised by way of his direct appeal and his first CPL § 440.10 motion to vacate his conviction. Further, sufficient facts existed on the record which would have permitted a full review on direct appeal of the instant issue and upon defendant's first CPL § 440.10 motion. *See* CPL §§ 440.10(2)(a) and 440.10 (3)(a); *see also* *People v. DiGuglielmo*, 75 AD3d 206, 211 (2d Dept. 2010), *aff'd* 17 NY3d 771, *cert. denied* 565 US 1014 (2011); *People v. Wiggins*, 126 AD3d 921 (2d Dept. 2015).

Notwithstanding, defendant failed to submit the search warrant application along with the Orders rendering this Court without an evidentiary basis to conduct any review of the Search Warrant Application and resulting Orders. Defendant's submission entirely fails to meet the requisite evidentiary burden. *See* CPL § 440.30(4)(b) and (d).

As to defendant's allegations that items were seized which were otherwise not described in the warrant, this claim, even if established, fails to demonstrate how, if counsel had challenged the seizure of such items, the outcome would have been different, especially where, as here, defendant confessed to the crime in writing and on video. This branch of defendant's motion is therefore denied.

b) Legal Exemption from Prosecution for Criminal Possession of a Weapon in the Fourth Degree

Defendant alleges he received ineffective assistance of counsel because trial counsel failed to challenge the legality of his prosecution for Criminal Possession of a Weapon in the Fourth Degree, in violation of Penal Law section 265.01, subdivision 2, under count seven (7) of the Indictment. Defendant argues he is legally exempt from prosecution under this law since, at the time of the crimes, he was a duly sworn police officer in the State of New York. *See* PL §§ 265.01 and 265.20(a)(1)(c). The People oppose defendant's motion, asserting that defendant shot the

victim with a rifle at a time when he was suspended from duty, following a car accident rendering him unable to serve as a police officer. Of note, defendant fails to submit any evidence of his status as a police officer at the time of the murder. Defendant's submissions fail to meet the requisite burden. See CPL § 440.30(4)(b) and (d).

Moreover, assuming *arguendo*, defendant submitted sufficient evidence establishing that he was a sworn police officer at the time of the murder, defendant was in possession of this information at the time of his first CPL § 440.10 motion or on direct appeal. Defendant, however, failed to raise the instant issue. See CPL §§ 440.10(2)(a) and 440.10 (3)(a). Based on the foregoing, defendant's motion is denied.

c) Failure to Advance Intoxication Defense

Defendant further alleges he did not receive effective assistance of counsel because his counsel failed to interpose an intoxication defense at trial. Defendant claims he was taking Vicodin for pain without specificity of date, time or place, and further alleges his counsel should have called an expert witness to testify to same.

On a CPL 440.10 motion to vacate judgement based upon a claim that counsel failed to advance an intoxication defense, defendant must point to proof that such a defense "should have been pursued." See *People v. Roberts*, 28 AD3d 589 (2d Dept. 2006) (evidentiary proof to support argument that intoxication defense should have been interposed must be present to support ineffective assistance of counsel claim). "A charge on intoxication should be given if there is sufficient evidence of intoxication in the record for a reasonable person to entertain a doubt as to the element of intent on that basis." *People v. Pagan*, 155 Add 779, 781 (2d Dept. 2017). Here, defendant fails to submit sufficient evidence to establish that he was entitled to a charge on intoxication. Defendant points to the People's argument that he was "jonsing" for his medication

yet such an argument is indicative of the absence of an impairing substance and does not support a claim of intoxication. Based on the record, it was reasonable for defense counsel not to request an intoxication defense. *See id*; *see also People v. Duffy*, 119 AD3d 1231, 1234 (2d Dept. 2014) (there must be an evidentiary basis for an intoxication defense and on an ineffective assistance of counsel claim defendant must prove an absence of strategy or other explanation for failure to request the charge); *People v. Hammond*, 107 AD3d 1156, 1156 (2d Dept. 2013).

Regardless, similar to the claims above, defendant could have made such arguments on his direct appeal and at the time of his first CPL § 440.10 motion. Based on the foregoing, defendant's motion is denied.

Conclusion

As defendant has alleged ineffective assistance of counsel on matters already decided or matters known to defendant which should been previously raised, and defendant failed to sustain his burden of proof that issues of fact exist sufficient to entitle him to relief, defendant's motion is denied in its entirety without a hearing.

The above constitutes the Decision and Order of the Court.

Dated: Goshen, New York
March 1, 2024

ENTER.



HON. HYUN CHIN KIM
COUNTY COURT JUDGE

Supreme Court of the State of New York
Appellate Division: Second Judicial Department

M297403
JR/

CARL J. LANDICINO, J.

2024-04367

DECISION & ORDER ON APPLICATION


The People, etc., plaintiff,
v Kevin Griffin, defendant.

(Ind. No. 328/2004)

Application by the defendant pursuant to CPL 450.15 and 460.15 for a certificate granting leave to appeal to this Court from an order of the County Court, Orange County, dated March 1, 2024, which has been referred to me for determination.

Upon the papers filed in support of the application and the papers filed in opposition thereto, it is

ORDERED that the application is denied.



CARL J. LANDICINO
Associate Justice

June 28, 2024

PEOPLE v GRIFFIN, KEVIN

SUPREME COURT OF THE STATE OF NEW YORK
APPELLATE DIVISION: SECOND DEPARTMENT

-----X
THE PEOPLE OF THE STATE OF NEW YORK,

Respondent,

-against-

KEVIN GRIFFIN,

Appellant.
-----X

NOTICE OF ENTRY

APPELLATE CASE NO. 2024-04367

Orange County IND. NO. 2004-328

PLEASE TAKE NOTICE that the attached is a true copy of the **Decision and Order on**

Application, dated June 28, 2024, for filing with the Office of the County Clerk, County of Orange.

Dated: July 1, 2024

Goshen, New York

Yours, etc.

DAVID M. HOOVLER
District Attorney of Orange County
County Government Center
255-275 Main Street
Goshen, New York 10924

cc:

Kevin Griffin

04A6249

Clinton Correctional Facility

1156 Rt. 374

PO Box 2001

Dannemora, NY 12929

SEARCH WARRANT

County Court
State of New York
County of Orange

Pursuant to Section 690 of the CPL

TO ANY MEMBER OF THE, THE NEW YORK STATE POLICE

YOU ARE HEREBY AUTHORIZED AND DIRECTED TO SEARCH FOR AND SEIZE THE FOLLOWING PROPERTY:

Any .22 caliber firearm and .22 caliber ammunition; a personal computer, including data contained in all attached electronic data processing and storage devices, hard disc, disc drives, compact disc (CD) drive, information storage discs, modems; and/or other storage devices, as well as any diskettes, cds, tape drives and tapes, optical storage devices or other memory storage and printers; a center punch; any and all typewriters; any and all large brown envelopes; a Provident ATM card issued to Deborah Griffin, as well as any correspondence from Provident Bank to Deborah Griffin; utility bills; correspondence and other evidence that links Kevin Griffin to the residence and vehicle searched.

YOU ARE AUTHORIZED AND DIRECTED TO SEARCH THE FOLLOWING PREMISES:

The residence of Kevin Griffin located at 14 Bartlett Street in the Village of Ellenville, Sullivan County, New York. Said premises are described as a two-story, single-family blue house with white trim, with a red porch on the left side of the dwelling. The property also includes a blue one-car garage to the rear of the residence.

YOU ARE AUTHORIZED AND DIRECTED TO SEARCH THE FOLLOWING VEHICLE:

A blue, 2004 Chevrolet Trailblazer, NY reg. AGA 2747, VIN 1GNET16S146146526.

YOU ARE AUTHORIZED AND DIRECTED TO SEARCH THE FOLLOWING PERSON:

Kevin Griffin, dob 8-18-1963

YOU ARE THEREFORE COMMANDED; to conduct said search between the hours of 6 AM and 9 PM, and the Court further finds that special circumstances exist so that the executing police officers may make entry to the residence WITHOUT giving notice of their authority and purpose

AND upon recovery of evidence, a search warrant return is to be made to me listing and identifying the property seized which I further direct be safeguarded by the New York State Police.

Dated at the 16th day of April, 2004, New York

@ 9:30 Am.

Orange County Court Judge

HON. NICHOLAS DE ROSA
COUNTY COURT JUDGE

AMENDED
SEARCH WARRANT

County Court
State of New York
County of Orange

Pursuant to Section 690 of the CPL

TO ANY MEMBER OF THE NEW YORK STATE POLICE

YOU ARE HEREBY AUTHORIZED AND DIRECTED TO SEARCH FOR AND SEIZE THE FOLLOWING PROPERTY:

Any .22 caliber firearm and .22 caliber ammunition; a personal computer, including data contained in all attached electronic data processing and storage devices, hard disc, disc drives, compact disc (CD) drive, information storage discs, modems, and/or other storage devices, as well as any diskettes, cds, tape drives and tapes, optical storage devices or other memory storage and printers; a center punch; any and all typewriters; any and all large brown envelopes; a Provident ATM card issued to Deborah Griffin, as well as any correspondence from Provident Bank to Deborah Griffin; utility bills, correspondence and other evidence that links Kevin Griffin to the residence and vehicle searched.

YOU ARE AUTHORIZED AND DIRECTED TO SEARCH THE FOLLOWING PREMISES:

The residence of Kevin Griffin located at 14 Bartlett Street in the Village of Ellenville, Ulster County, New York. Said premises are described as a two-story, single-family blue house with white trim, with a red porch on the left side of the dwelling. The property also includes a blue one-car garage to the rear of the residence.

YOU ARE AUTHORIZED AND DIRECTED TO SEARCH THE FOLLOWING VEHICLE:

A blue, 2004 Chevrolet Trailblazer, NY reg. AGA 2747, VIN 1GNET16S146146526.

YOU ARE AUTHORIZED AND DIRECTED TO SEARCH THE FOLLOWING PERSON:

Kevin Griffin, dob 8-18-1963

YOU ARE THEREFORE COMMANDED, to conduct said search between the hours of 6 AM and 9 PM, and the Court further finds that special circumstances exist so that the executing police officers may make entry to the residence WITHOUT giving notice of their authority and purpose

AND upon recovery of evidence, a search warrant return is to be made to me listing and identifying the property seized which I further direct be safeguarded by the New York State Police.

Dated at the Orangetown New York
the 14 day of April, 2004. @ 14:45

Orange County Court Judge

HON. NICHOLAS DE ROSA
COUNTY COURT JUDGE

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COUNTY COURT
COUNTY OF ORANGE

IN RE THE APPLICATION FOR A SEARCH WARRANT
FOR CERTAIN PREMISES KNOWN AS
14 BARTLETT STREET, VILLAGE OF ELLENVILLE
ULSTER COUNTY, NEW YORK

AFFIDAVIT AND
APPLICATION FOR
SEARCH WARRANT

Pursuant to Section
690.35 of NYCPL

STATE OF NEW YORK :
COUNTY OF ORANGE : SS.:
VILLAGE OF GOSHEN :

JAN GOLDING being duly sworn deposes and says:

1. I am the applicant herein and I am a public servant of the kind specified in the Criminal Procedure Law, Section 690.05 (1) , my title being Investigator, and I am employed by the New York State Police.

2. That I do hereby state that there is reasonable cause to believe that property of a kinds and characters as described in section 690.10 of the Criminal Procedure Law, to wit: property that is stolen, unlawfully possessed, or has been used in the commission of a crime or provides evidence that a crime has been committed or that a particular person committed a crime; and that it will be found in or upon the premises of 14 Bartlett Street in the Village of Ellenville, Ulster County, New York. Said premises are described as a two-story, single-family blue house with white trim, with a red porch on the left side of the dwelling. The property also includes a blue one-car garage to the rear of the residence. The search shall also include a search of a blue, 2004 Chevrolet Trailblazer, NY reg AGA 2747, VIN 1GNET16S146146526.

The warrant is requested to search for a .22 caliber firearm and .22 caliber ammunition; a personal computer, including data contained in all attached electronic data processing and storage devices, hard disc, disc drives, compact disc (CD) drive, information storage discs, modems, and/or other storage devices, as well as any diskettes, cds, tape drives and tapes, optical storage devices or other memory storage and printers; a center punch; any and all typewriters; any and all large brown envelopes; a Provident ATM card issued to Deborah Griffin, as well as any correspondence from Provident Bank to Deborah Griffin; utility bills, correspondence and other evidence that links Kevin Griffin to the residence and vehicle searched.

3. I make this affidavit in support of an application for a search warrant to search the premises as described below and to seize the property set forth in the warrant submitted. This application is based upon information and belief, the source of the information and the basis for my belief being my training and experience as a police officer, examination of police and other official records, as well as conversations with civilian witnesses and fellow officers hereinafter identified.

SUPPORTING ALLEGATIONS OF FACT

4. On March 13, 2004, at approximately 7:15 PM, Timothy Ruiz was shot in the Galleria Mall parking lot in the Town of Wallkill, Orange County, NY after leaving his job at Old Navy in the Mall. Emergency personnel transported Ruiz to the hospital, where he later died from his wound. Subsequent investigation revealed that Ruiz had been shot with a .22 caliber weapon. The bullet was recovered from the body and submitted to the NYSP Laboratory for analysis. Examination revealed that it was a .22 caliber that was consistent with having been fired from a Marlin rifle, or from a weapon that had been manufactured using a Marlin .22 rifle caliber barrel.

5. In the ensuing investigation, conducted by the members of the New York State Police, it was learned that Ruiz and other employees at Old Navy had been the victims of a pattern of criminal mischief and harassment over the several months. By reviewing previous police reports, and speaking with witnesses, your affiant and other New York State Police investigators pieced together a timeline of events.

6. On January 3, 2003, Ruiz had reported that someone had smashed the driver's side window of his vehicle while it was parked at the mall.

7. On January 9, 2004, Troopers Hujus and Reyes responded to the TGI Friday restaurant in the Town of Wallkill regarding a criminal mischief complaint and met with Timothy Ruiz. Ruiz told the troopers that on January 8, 2004, at approximately 7:15 PM, Ruiz had gone to the TGI Fridays restaurant with a co-worker, Deborah Panzera-Calabrese [Calabrese]. When they left at approximately 12:30 PM, Ruiz discovered that someone had scratched the entire length of the driver's side of his vehicle, as well as parts of the passenger side. In addition, the passenger side window was smashed in. The troopers confirmed the damage and filed a report. In a later interview, Timothy Ruiz's father, Jose, noticed that there were several marks on the front windshield as well, but that it had not shattered. The windshield was later examined by Ted Laruffa, who is a member of the Forensic Investigation Unit of the NYSP. According to Laruffa, the front windshield of a motor vehicle is constructed differently from the side windows, and will not easily shatter. However, Laruffa stated that the marks on the front windshield were consistent with an individual attempting to break the windshield by using a "center punch." Laruffa also states that a center punch is commonly carried by police officers, firemen and other emergency personnel who use them to break the side windows of vehicles to rescue occupants.

8. On January 9, 2004, Kevin Griffin, the boyfriend of Deborah Panzera-Calabrese, called NYSP Ellenville regarding criminal mischief to Calabrese's car. According to Griffin, someone had torn off a piece of molding and had left some sexual content on the rear of Calabrese's car. In a later interview by Inv. Michael Long, Calabrese explained that the "sexual content" was a flyer that was left on the rear window of her Chevrolet Blazer. The flyer, which appears to have been created on a personal computer, stated "ALL WELCOME CUM IN DEB'S OR LAURA'S ASS 845-692-8000". The phone number given is the phone number for the Old Navy store where Calabrese and Ruiz worked. Calabrese told Inv. Michael Long that someone must have followed her from TGI Fridays that evening and placed the flyer and done the damage at the Ellenville location. Calabrese noted that her vehicle had been parked directly next to Ruiz's vehicle at TGI Fridays, but that it did not sustain any damage in the parking lot.

9. On January 23, 2004, Trooper Crowe responded to the Galleria Mall in the Town of Wallkill, Orange County and met with Timothy Ruiz. Ruiz reported that he had parked his vehicle at the mall at approximately 12:00 PM on that date. When he returned to his vehicle two hours

later, he discovered someone had again damaged his vehicle, this time by smashing in the front and rear driver's side windows. In addition to reporting the damage to his vehicle on this date, Ruiz also reported to Trooper Hujus that he had been receiving harassing phone calls on his cell phone, and two harassing messages on his voice mail for his cell phone.

10. On January 24, 2004, records from the NYSPIN show that someone from the Town of Crawford Police Department submitted a DMV request for information regarding a vehicle registered to Timothy Ruiz. The information provided included age and address of the registered owner, Timothy Ruiz. However, the information obtained showed Ruiz's address as a Post Office Box in Burlingham, but without a street address. Although the inquiry was attributed to Town of Crawford Police Officer Gary Cooper, Cooper told Investigators that he could not recall making such a request. Cooper further noted that it was unlikely that he ran the request because it is his practice is to run the license information on a subject in conjunction with a registration search.

11. On January 30, 2004, Calabrese left her work at the Galleria Mall and found that someone had written on her car windows with chalk, soap or some other white, chalk-like substance. The person had drawn a penis and a breast, and had written "FUCK DEB'S ASS" and "THANKX TIM."

12. On February 23, 2004, Tim Ruiz went to his mailbox at home and found a copy of the same flyer that had been left on Calabrese's vehicle on January 9, 2004. On the same date, Calabrese returned to her home in Johnson, Orange County, New York to find a copy of the same flyer taped to the window of her next door neighbor in her two-family house.

13. On February 28, 2004, the Ruiz family discovered a bullet hole in one of their front windows of the house. The bullet lodged in the back wall of the house. The State Police later investigated the report and recovered the spent round. According to information obtained from the NYSP Laboratory, ballistics determined that the round was likely a .22 caliber and, based upon the rifling, was likely to have been fired from a Marlin rifle, or other .22 manufacturer that used Marlin barrels. Analysts also compared the bullet with the bullet that was subsequently recovered from Ruiz's body and determined that the two bullets were consistent with having been fired from the same weapon. On the same date, Ruiz received a threatening voice mail, and also received a copy of the same flyer previously received, as well as a copy of Playgirl magazine which had been sent to him in a large brown envelope. The envelope and its contents were given to the New York State Police. In the voice mail, called in to his cellular phone, the male caller told Ruiz, "See you at the party, dead man. Tonight you die." According to Ruiz, he was invited to attend a party for a former employee at her house in Bloomingburg. In a later interview of Deborah Calabrese, she stated that she had discussed going to the party with Ruiz. At first Ruiz had not intended to go, but on the 28th he told her that he was planning to attend. Ruiz received the threat after this conversation with Calabrese. In addition, pursuant to the investigation your affiant received the records of the phone calls made to Timothy Ruiz telephone on February 28, 2004. The call received on Ruiz voice mail came back to having been made from a bank of phones at the Galleria Mall.

14. On March 13, 2004, Ruiz was shot at the mall and was taken to Horton Hospital. According to Trooper Walter Grieg, Kevin Griffin showed up at the hospital shortly after Ruiz was brought in.

15. On March 4, 2004, your affiant became involved in an investigation into the theft and use of a Provident Bank ATM card belonging to Deborah Griffin of [REDACTED] [REDACTED] [REDACTED]. According to Griffin, Provident Bank had taken over her home bank, and had sent her an new ATM card in January, preceded by sending her a Personal Identification Number (PIN). In a subsequent statement from Provident, Griffin learned that someone, without permission, had used her ATM card at the Galleria Mall in the Town of Wallkill, Orange County, NY on several occasions in late February and early March, taking a combined total of \$1366.50 from her account. Pursuant to a subsequent investigation, Inv. Joseph Hunt contacted Provident Bank, who reported that they had, in fact, mailed Griffin two separate ATM cards in two separate mailings, and sent them to her home address. Griffin told police that she did not receive the other card. Griffin receives her mail at a mailbox next to the road by her house in [REDACTED]. Representatives from Provident Bank also explained that to activate the ATM card, a person uses the Bank's automated system by calling the number in the correspondence. Although the call can be made from any phone, the person attempting to activate the card would have to know and enter personal information of the owner of the card, including the owner's Social Security number and the owner's personal identification number.

16. On April 2, 2004, your affiant met with Deborah Griffin at NYSP Ellenville. Griffin repeated the information that she had previously provided the police. In response to further questioning, Griffin suggested as a possible suspect her ex-husband, Kevin Griffin, who is a Town of Crawford Police Officer who has been out on disability since July 18, 2001. According to Deborah Griffin, she met Kevin Griffin in 1986, when she was working at Caldor's with Kevin and Deborah Calabrese. She and Kevin were married in 1987, and Kevin started work at the Town of Crawford Police in 1988. *

17. In 1990, Deborah Griffin stated that she had an affair with a man by the name of James Spink. Shortly thereafter, Deborah Griffin began receiving threatening phone calls from someone who was disguising his voice. She also received a note stating "I'll be watching you."

18. In 2001, Deborah Griffin began working at A.C. Moore in the Town of Wallkill, Orange County. Her boss at the time was a man named Howard Graham.

19. On July 17, 2001, Deborah Griffin told Kevin Griffin that she wanted a divorce.

20. On July 18, 2001, Kevin Griffin ran his Town of Crawford Police car off the road, suffering an injury that resulted in his going out on disability from the police department.

21. Subsequent to the accident, Kevin Griffin began appearing at the A.C. Moore store while Deborah Griffin was working. According to Graham, Kevin had not been at the store prior to his wife asking for a divorce. In addition, subsequent to the accident, both Deborah Griffin and Howard Graham became the focus of several instances of criminal mischief and harassment. According to Howard Graham, who gave a sworn statement Inv. William Nuzzo, his car was regularly damaged in the parking lot at work after July 17, 2001. On one occasion, his driver's side mirror was broken off. On another occasion, one of his tires went flat. The mechanic who checked it determined there was no leak, and surmised that someone must have let the air out. Approximately a week after that incident, Graham went to his car and found that someone had used a nail to puncture the side of his tire. On two other occasions, Graham found notes under the windshield wiper of his car. In one of the notes, contained in an envelope, the writer had warned Graham to "Stay away from her, she's trouble." In a second note, left approximately one month later, the writer warned Graham that the writer knew where he lived and also again

warned him to "stay away from her" (without saying who "her" was). Graham also received a letter sent to his home address in Westchester County. In the letter, which was purportedly written by Deborah Griffin (on a typewriter), Graham was warned that if he did not quit his job, Deborah would go to his employer and tell them that she and Graham were having an affair. The writer also warned that she would tell Graham's wife "Betty" about the affair. According to Graham, his wife's name is Beth. However, on his vehicle he had a license plate frame that said "Howard and Beth". Due to the fact that the license frame was bent, it appeared to read "Betty" rather than Beth. Graham took the letter to work and confronted Deborah Griffin, who denied that she wrote the letter. Graham recalled that the typing on both the letter and the previous notes appeared to be written on an old typewriter, with keys out of alignment. According to Graham, the harassment stopped in December of 2001, at approximately the same time that Deborah Griffin told him that she was seeing someone.

22. In the subsequent investigation, the records of NYSPIN showed that on August 16, 2001, a "group search" was submitted out of the Town of Crawford Police Department, seeking information on a "Howard Graham". The group search is done to obtain information on anyone named Howard Graham, and will provide basic information such as date of birth and address. Immediately after that search, another specific search was done for Howard Graham, with the date of birth, for driver's license information, which included additional information concerning height, weight and eye color. The records also showed that the person who initiated the second search used the badge number "108". According to records from DCJS, badge 108 in the Town of Crawford Police Department is issued to Kevin Griffin.

23. Deborah Griffin also reported numerous incidents of mischief and harassment following Kevin's accident. On one occasion, someone wrote on her car in a white chalky or soapy substance, stating "WANT SEX. CALL AC MOORE ASK FOR DEB". On another occasion, someone left a dildo on her car, with a note "Use this instead of my husband." In addition, Deborah Griffin confirmed that, prior to July 17, 2001, Kevin Griffin never set foot in AC Moore. However, after she asked for a divorce, Kevin Griffin would constantly come to her job and pester her. In addition, he would continually call and harass her. On one occasion, Kevin called her at work and told her that he was in Goshen getting physical therapy. However, one of Deborah's co-workers told her that, at the time of the call, she saw Kevin using the payphone outside AC Moore. Later that day, after work, Deborah was driving home and noticed that Kevin was behind her in his vehicle.

24. In December of 2001, Deborah Griffin began dating Wayne Whitehead, who lived in ██████████ County. According to Whitehead, who was interviewed by Inv. Nuzzo, on December 27, 2001, Kevin Griffin appeared at Whitehead's residence. Whitehead had just pulled into his driveway in his own vehicle when Kevin pulled in right behind him. Kevin Griffin approached Whitehead, who was with his young son. Kevin told Whitehead that he and Deborah were trying to work out their differences and get back together. Kevin asked Whitehead to stop seeing Deborah. Whitehead told Kevin that Deborah and Kevin were not getting back together, and ordered him to leave his property. Kevin got in his vehicle and left without incident. However, later that evening, Deborah Griffin received a phone call from Kevin Griffin who stated that he was upset about her relationship with Whitehead. During the phone call, Deborah Griffin heard what appeared to be a gunshot in the background, and Deborah Griffin stated that Kevin sounded extremely distraught.

25. On December 28, 2001, at approximately 3:00 AM, Town of Crawford Police Officer John Avery observed Kevin Griffin as he returned home to his house on Bartlett Street. The police took Griffin into custody and transported him to Arden Hill Hospital for a 72 hour psychiatric evaluation. Some time after his release, Kevin Griffin confided in Deborah Griffin that he had been armed when he had gone to Whitehead's house and had intended to shoot him. However, Kevin decided not to shoot Whitehead because Whitehead's son was with him.

26. On December 31, 2001, Deborah Griffin returned to her home at 15 Hermance Street in the Village of Ellenville to find that someone had entered her house without her permission, but the entry did not appear to have been forced. The person who entered did not steal anything, but had placed pepper spray on her toothbrush. In addition, the trespasser had left a voice activated tape recorder under Deborah's dresser in her bedroom.

27. In 2002, Deborah Griffin was working a second job at Stewart's Restaurant on Route 209 in Ellenville. On several occasions, someone committed a criminal mischief by damaging her car. During this time, her car had windows broken. On one occasion, she drove Wayne Whitehead's car to work, and both the front and rear windows of his car were smashed while parked in the parking lot at Stewart's.

28. During the course of the investigation, your affiant and fellow investigators with the New York State Police interviewed co-workers of Timothy Ruiz and Deborah Calabrese at Old Navy. The co-workers described the relationship between Ruiz and Calabrese as close, but not necessarily romantic. However, they did note that Ruiz and Calabrese would regularly take breaks together. The workers reported that Kevin Griffin was regularly at the Galleria Mall in the vicinity of Old Navy, and would often wait for Calabrese to get out of work. According to Sherry Casey, one of the managers at Old Navy, Kevin Griffin was at the store so often and for so long that management asked him to leave the store. After he was banned from the store, Casey reported that she still would see him in the mall, outside the store. In addition, records from Provident Bank revealed that the person who was illegally using Deborah Griffin's ATM card used the ATM card to withdraw money from an ATM machine at the Galleria Mall on two separate occasions on February 28, 2004 - once at 1:56 PM and once at 3:27 PM. This was the same date that the male caller used a phone at the Galleria Mall to make the threat to Timothy Ruiz regarding the party that evening. On March 13, 2004, at approximately 6:30 PM, Casey observed Kevin Griffin on the second level of the mall, watching the front of the Old Navy store from over the banister.

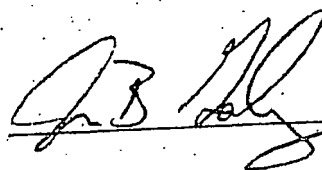
29. During the course of the investigation, Invs. Michael Long and Joseph Alma interviewed Kevin Griffin at his home at 14 Bartlett Street in Ellenville, Ulster County, NY. Said premises are described as a two-story, single-family blue house with white trim, with a red porch on the left side of the dwelling. The property also includes a blue one-car garage to the rear of the residence. Inv. Long also noted a vehicle in the driveway of the residence and ran the license through the NYS DMV. Records from DMV reveal that Kevin Griffin is the registered owner of a blue, 2004 Chevrolet Trailblazer, NY reg AGA 2747, VIN 1GNET16S146146526. In addition, on March 16, 2004, Cooper Brian Shortall was at Kevin Griffin's residence and observed at the residence at personal computer.

Based upon all of these facts and circumstances, there is reasonable cause to believe that Kevin

Griffin committed the various acts of criminal mischief and harassment against Howard Graham and Deborah Griffin in 2001 and 2002. As a part of that pattern of harassment, Griffin utilized a typewriter to write several notes and the letter purportedly from Deborah Griffin to Graham. In addition, based upon the nature and targets of the harassment and the striking similarities between the 2001 and 2002 incidents, there is reasonable cause to believe that Kevin Griffin also committed the various mischiefs and harassments against Timothy Ruiz and Deborah Calabrese. Based upon the evidence recovered and the observations of Trooper Shortall, there is reasonable cause to believe that Kevin Griffin utilized his personal computer to compose and print the flyers that were distributed to the victims and at the mall. Based upon the nature of the criminal mischief to Ruiz vehicle, which showed evidence of a center punch, there is reasonable cause to believe that a search of Griffin's house or his vehicle will result in the recovery of such a punch. Furthermore, based upon the history of Kevin Griffin, his prior stalking behavior, the escalating criminal mischiefs and harassment and the fact that one of the mischiefs involved a shooting with a .22 caliber weapon and the slug recovered from the mischief was consistent with the slug recovered from the body of Timothy Ruiz, and the presence of Kevin Griffin at the mall just prior to the shooting and the hospital just after the shooting, there is reasonable cause to believe that a search of the residence and/or vehicle will result in the recovery of the .22-caliber weapon used in the mischief and the homicide, as well as associated ammunition. In addition, based upon the facts set forth herein, there is reasonable cause to believe that a search of the house, vehicle or person on Kevin Griffin will result in the recovery of the ATM card belonging to Deborah Griffin, as well as the accompanying information from Provident Bank.

FURTHERMORE, REQUEST is also made for determination, pursuant to C.P.L. Section 690.40 (2), that the executing officers be authorized to enter said premises to be searched **WITHOUT** giving notice of their authority or purpose on the grounds that there is reasonable cause to believe that there is at least one firearm on the premises, and the giving notice of authority and purpose would tend to endanger the life and safety of the executing police officers.

WHEREFORE, your deponent requests that this Court, issue a warrant of search and seizure in the form annexed, authorizing the search of the target residence, vehicle and person, and directing that should such property or evidence or any part thereof be found, that it be seized and retained and be stored by the New York State Police and, if so ordered be made accessible to the Court together with such other and further relief as this Court may deem just and proper.


Applicant

Sworn to before me this
day of April, 2004

Notary Public

HON. NICHOLAS DE ROSA
COUNTY COURT JUDGE

OFFICE OF THE
ORANGE COUNTY DISTRICT ATTORNEY

LOCAL CRIMINAL COURT UNIT

18 SEWARD AVENUE, MIDDLETOWN, NEW YORK 10940

TEL: 845-615-3640 • FAX: 845-346-1189

www.orangecountygov.com



DAVID M. HOOVLER
District Attorney

June 21, 2017

Kevin Griffin, DIN 04A6249
Clinton Correctional Facility
P.O. Box 2001
Dannemora, New York 12929

RE: Conviction Integrity Program Review
Ind. No. 04-328

Dear Mr. Griffin:

Pursuant to this office's Conviction Integrity Program, as a result of claims that you made in a recent Criminal Procedure Law Article 440 motion, we have reviewed your conviction in the above case. Following that review and my consultation with the District Attorney, I write to inform you that this office will not be taking any action to support the vacating your conviction. Your submissions and our records do not support any claim of actual innocence with respect to that conviction. As a result, relief under the Conviction Integrity Program would be inappropriate.

Please be aware that the provisions of Criminal Procedure Law Article 440 may be available to you to further challenge your convictions.

Sincerely,

Robert J. Conflitti
Counsel to the District Attorney
Conviction Integrity Program Coordinator

Ex-Prosecutor and Judge Fatally Shot During Attempted Arrest on Federal Corruption Charges

New York Law Journal Online

This article also appears in the following ALM publications:

Law.com

September 25, 2024 Wednesday

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New York Law Journal

Length: 841 words

Body

A former Orange County prosecutor and acting state Supreme Court justice was fatally shot on Tuesday as FBI agents attempted to arrest him in connection with a federal corruption case.

Retired Judge **Stewart Rosenwasser** died Tuesday morning at his home in Campbell Hall, New York, according to a law enforcement source. The death has been widely reported as a suicide.

A spokesperson for the Federal Bureau of Investigation said the bureau is reviewing "an agent-involved shooting" in Campbell Hall on Tuesday, but was unable to provide further information as a review is ongoing.

The incident occurred a day after an indictment was unsealed in the U.S. District Court for the Southern District of New York that alleged **Rosenwasser** received \$63,000 in bribes while working for the Orange County District Attorney's Office.

Rosenwasser was overseeing the Orange County DA's Conviction Integrity Unit before his resignation from the office in June, according to public records.

He also previously served as a referee for the New York State Commission on Judicial Conduct. In that role he presided over the formal disciplinary hearings of two former judges who resigned following the hearings.

"He was very straight-laced," Commission Administrator Robert Tembeckjian said of **Rosenwasser**, who oversaw the hearings of ex-judges Thomas Keefe of Albany in 2016 and Deanna Siegel of Schenectady in 2018. Both resigned before any discipline.

While the two never met, Tembeckjian said **Rosenwasser** was perceived by those at the CJC as very "by the book," without chitchat or informality during his stints as a referee.

"He seemed to be just a facts man," Tembeckjian added.

Rosenwasser was elected to the bench and served as a judge himself in Orange County from 1999 to 2006, as well as an acting Supreme Court justice for the Ninth Judicial District.

He then served as both a referee for the CJC and as a special referee for the New York State Grievance Committee for the Ninth Judicial Circuit.

Ex-Prosecutor and Judge Fatally Shot During Attempted Arrest on Federal Corruption Charges

Rosenwasser joined the Orange County DA's Office in 2019 as a special counsel of policy, research and legal development and as part of the executive staff. In that role he authorized charges by indictment and advised on ethical issues, according to court records.

The 43-page indictment accuses him of abusing that position from October 2022 to May 2024.

Prosecutors allege that Rosenwasser conspired with "self-proclaimed millionaire" and former restaurant owner Mout'z Soudani to investigate and prosecute two relatives of Soudani in exchange for \$63,000 in bribes paid to Rosenwasser.

Soudani was also indicted and entered a "not guilty" plea on Tuesday. His lawyer did not return a request for comment.

The indictment alleges Soudani approached Rosenwasser in October 2022 about alleged embezzlement by Soudani's relatives. The two had a prior attorney-client relationship from Rosenwasser's days in private practice and Soudani had previously loaned Rosenwasser \$40,000 that had not been repaid, the document states.

Rosenwasser oversaw the indictment, arrest and prosecution of Soudani's relatives on felony larceny charges, according to the indictment, even traveling to Colorado where they lived to oversee the execution of the search warrant.

The two texted frequently, court papers show.

"I will always protect you," one message from Rosenwasser to Soudani reads.

At one point, Rosenwasser was confronted by counsel for one of the relatives, who told the former judge that he should recuse himself due to his relationship with Soudani. Rosenwasser declined to do so, according to the indictment.

While he informed the DA's office of the request, Rosenwasser allegedly misled his colleagues by claiming that he did not recall representing Soudani in the past and only knew of him because he had occasionally bought bags from the restaurateur.

Rosenwasser was ultimately removed from the case, yet allegedly continued to attempt to access case information, according to the indictment.

The indictment charges both Rosenwasser and Soudani with conspiracy to commit bribery, bribery, conspiracy to commit honest services wire fraud and honest services wire fraud.

Rosenwasser is also charged with extortion under color of official right and false statements for lying on disclosure forms and in an interview with federal law enforcement.

The case will proceed before U.S. District Judge Cathy Seibel of the Southern District of New York.

The cases against Soudani's relatives were ultimately disposed of through plea agreements, the indictment says.

Messages left with the Orange County DA's Office were not immediately returned.

It was not immediately clear who was representing Rosenwasser in connection with the investigation.

A spokesperson for the U.S. attorney for the Southern District of New York declined to comment.

The 988 Suicide and Crisis Lifeline is a hotline for individuals in crisis or for those looking to help someone else. To speak with a trained listener, call 988. Visit 988lifeline.org for crisis chat services or for more information.

Read the indictment:

Kevin Griffin, 04A6249
P.O. Box 1000
Woodbourne, NY 12788-1000

October 10, 2024

Director Christopher Wray
Federal Bureau of Investigations
J. Edgar Hoover Bldg.
935 Pennsylvania Ave. N.W.
Washington, DC 20535-0001

Re: FOIA Request
Former Orange County Supreme Court Judge and A.D.A. Stewart
Rosenwasser

Dear Mr. Wray:

This is a request under the Freedom of Information Act as amended (5 U.S.C. §552), the Privacy Act (5 U.S.C. §552A).

I am requesting the following pertaining to former Orange County Supreme Court Judge and Assistant District Attorney Stewart Rosenwasser who on 9/24/24 committed suicide when the FBI attempted to arrest him on corruption charges.

- (A) How far back in time was former Orange County Supreme Court Judge and A.D.A. Stewart Rosenwasser corrupt or taking bribes.
- (B) Requesting the names of everyone (subjects, targets, persons of interest or suspects) involved in the above captioned corruption case and investigation.
- (C) Requesting the names of any members of the Orange County District Attorney's Office who were (subjects, targets, persons of interest or suspects) in the above captioned corruption case and investigation.
- (D) Requesting the names of any of the New York State Police members (subjects, targets, persons of interest or suspects) in the above captioned case and investigation.
- (E) Requesting to know if the following persons District Attorney Francis Phillips, District Attorney David Hoovler, Attorney Paul Trachte, A.D.A. Craig Brown, Orange County Judge Craig Brown, Attorney Douglas Jones or A.D.A. Eric Conflitti were (suspects, targets, persons of interest or suspects) or involved in the above captioned corruption case and investigation.

If all or part of this request is denied, please list the specific exemptions which are being claimed to be withheld.

If you determine that some portions of the requested material are exempt, I will expect as the Act provides, that you will provide me with the remaining non-exempt portions, I of course, reserve the right to appeal any

decision to withhold information and expect that you will list the address and the office where such an appeal can be sent.


If there are any further questions regarding this request, please do not hesitate to contact me at the above-stated address.

As provided by the Freedom of Information Act. I will expect a reply within 10 business days.

I respectfully thank you in advance for your time and consideration regarding this request.

I declare under penalty of perjury the forgoing to be true.

Respectfully submitted,



Kevin Griffin, 04A6249



U.S. Department of Justice

Federal Bureau of Investigation
Washington, D.C. 20535

January 29, 2025

KEVIN GRIFFIN
**04A6249
WOODBOURNE CORRECTIONAL FACILITY
POST OFFICE BOX 1000
99 PRISON ROAD
WOODBOURNE, NY 12788-1000

FOIPA Request No.: 1650380-000
Subject: ROSENWASSER, STEWART

Dear Kevin Griffin:

This responds to your Freedom of Information/Privacy Acts (FOIPA) request. Please see the paragraphs below for relevant information specific to your request as well as the enclosed FBI FOIPA Addendum for standard responses applicable to all requests.

The FBI has completed its search for records subject to the FOIPA that are responsive to your request. The material you requested is located in an investigative file which is exempt from disclosure pursuant to 5 U.S.C. § 552(b)(7)(A). 5 U.S.C. § 552(b)(7)(A) exempts from disclosure:

records or information compiled for law enforcement purposes, but only to the extent that the production of such law enforcement records or information ... could reasonably be expected to interfere with enforcement proceedings...

The records responsive to your request are law enforcement records; there is a pending or prospective law enforcement proceeding relevant to these responsive records, and release of the information could reasonably be expected to interfere with enforcement proceedings. Therefore, your request is being administratively closed. For a further explanation of this exemption, see the enclosed Explanation of Exemptions.

Please refer to the enclosed FBI FOIPA Addendum for additional standard responses applicable to your request. "Part 1" of the Addendum includes standard responses that apply to all requests. "Part 2" includes additional standard responses that apply to all requests for records about yourself or any third party individuals. "Part 3" includes general information about FBI records that you may find useful. Also enclosed is our Explanation of Exemptions.

Additional information about the FOIPA can be found at www.fbi.gov/foia. Should you have questions regarding your request, please feel free to contact foipaquestions@fbi.gov. Please reference the FOIPA Request number listed above in all correspondence concerning your request.

If you are not satisfied with the Federal Bureau of Investigation's determination in response to this request, you may administratively appeal by writing to the Director, Office of Information Policy (OIP), United States Department of Justice, 441 G Street, NW, 6th Floor, Washington, D.C. 20530, or you may submit an appeal through OIP's FOIA STAR portal by creating an account following the instructions on OIP's website: <https://www.justice.gov/oip/submit-and-track-request-or-appeal>. Your appeal must be postmarked or electronically transmitted within ninety (90) days of the date of my response to your request. If you submit your appeal by mail, both the letter and the envelope should be clearly marked "Freedom of Information Act Appeal." If possible, please provide a copy of your original request and this response letter with your appeal.

You may seek dispute resolution services by emailing the FBI's FOIA Public Liaison at foipaquestions@fbi.gov. The subject heading should clearly state "Dispute Resolution Services." Please also cite the FOIPA Request Number assigned to your request so it may be easily identified. You may also contact the Office of Government Information Services (OGIS). The contact information for OGIS is as follows: Office of Government Information Services, National Archives and Records Administration, 8601 Adelphi Road-OGIS, College Park, Maryland 20740-6001, e-mail at ogis@nara.gov; telephone at 202-741-5770; toll free at 1-877-684-6448; or facsimile at 202-741-5769.

Sincerely,

A handwritten signature in black ink, appearing to read "M. G. Seidel", with a stylized flourish at the end.

Michael G. Seidel
Section Chief
Record/Information Dissemination Section
Information Management Division

Enclosures