

STATE OF COLORADO)
 COUNTY OF WELD) ss. AFFIDAVIT

DR#11-3924

FILED IN WELD COUNTY
 COMBINED COURTS

In support of a request for the issuance of a warrant for the arrest of Daniel Shepherd (hereinafter referred to as "Defendant"), the undersigned affiant, being first duly sworn upon oath deposes and says:

That affiant has knowledge of the following facts from which there is probable cause to believe that C.R.S. 18-3-402 (4)(a) Sexual Assault, a class 3 Felony, 18-8-403 (1)(a) Official Oppression, a class 2 Misdemeanor, hereafter described, was committed by the Defendant on or about the 13 day of March, 2011, in the County of Weld, State of Colorado, to-wit:

Your affiant is a police officer for the Greeley Police Department and has gained the following information from reading the reports and speaking to fellow officers, from reading the statements of the victim and witnesses and through personal investigation.

On Sunday, March 13, 2011, at approximately 5:44 a.m., Sgt. Todd Finch of the Greeley Police Department was dispatched to a call at [REDACTED] the victim's residence, in Greeley, Weld County, Colorado. The reporting party, [REDACTED], reported her sister, [REDACTED], had been sexually molested during a traffic stop by a police officer. It was further reported that the traffic stop had occurred in the area of 20th street and 28th avenue, Greeley, Weld County, Colorado.

Sgt Todd Finch and Officer Grady Jackson arrived at approximately 5:49 a.m., and first spoke to Ms. [REDACTED]. She explained that her sister, [REDACTED], had been at a party and had gotten intoxicated. As Ms. [REDACTED] was driving home, she was stopped by a police officer and the officer had "fingered" her. Sgt Todd Finch then contacted the victim; [REDACTED]. During this, contact Sgt Todd Finch observed Ms. [REDACTED] showed signs of being intoxicated, including the odor of an alcoholic beverage, bloodshot eyes, slurred speech and a flush face.

Sgt. Todd Finch spoke to Ms. [REDACTED] and asked what had happened. She explained she had been at a party earlier and said that when she drinks she likes to argue with people. Because of this she was asked to leave the party and an officer showed up at the party and told her to leave. As she was driving home a police officer had stopped her and grabbed her breasts and had put his hands down the front of her pants. Due to [REDACTED]'s intoxication level and being argumentative, Sgt. Todd Finch told her to come to the Police Department when she was sober and file a formal complaint.

Sgt Finch was able to determine through call and unit histories that it was most likely Officer Daniel Shepherd that had contacted Ms. [REDACTED] at the Party. Sgt. Todd Finch was also able to locate an address for that party at 401 N. 30th avenue. Sgt Todd Finch called Officer Daniel Shepherd and asked if he had contact with Ms. [REDACTED]. Officer Daniel Shepherd said he had contacted a female at a party located at 401 30th avenue and requested she leave. Officer Daniel Shepherd told Sgt Todd Finch that he had not identified her nor did he pat her down or stop her.

The next day, on March 14, 2011, Sgt Tymkowych arranged an appointment with Ms. [REDACTED] for March 15, 2011. Ms. [REDACTED], her mother, [REDACTED] and grandfather, [REDACTED], met with Professional Standards Sgt. Joe Tymkowych. Ms. [REDACTED] told Sgt. Tymkowych that she had been at a party in the early morning hours of March 13, 2011. Ms. [REDACTED] described the location as somewhere near 35th avenue and C Street in Greeley. At around 4:00 a.m. police arrived and she was told to leave by a cop. Ms. [REDACTED] told the cop she was waiting for a friend but the cop told her to leave right away. Ms. [REDACTED] got in her car and left going southbound on 35th avenue. Near 20th street a cop turned on his overhead lights and she turned eastbound on 20th street, eventually stopping in the 2000 block of 28th avenue.

[REDACTED] said the cop came to her car and asked about her ability to drive. She recognized him as the same cop who had contacted her at the party. After asking several more times about being o.k. to drive, the cop asked her to step from the vehicle so he could check for drugs or weapons. Ms. [REDACTED] said she did exit the car and the cop held her hands behind her back and began to frisk her. During this time the cop put his hand inside her bra and grabbed her "boobs." The cop then put his hand down the front of her pants and put in fingers in her vagina. [REDACTED] told after he did this she said "I really don't have anything" and he pulled his hand out and she sat back down in her car. She then called her sister and told the cop she would get a ride home and the cop went back to his car and left.

Sgt Tymkowych checked unit and call histories and could not find where any Greeley Police Officers had made a stop in that area in the early morning hours. Sgt Tymkowych checked the AVL (automated vehicle locator) to see if the GPS system showed anyone in the area during the time Ms. [REDACTED] said she was stopped. Sgt Tymkowych found that the vehicle that Officer Shepherd was driving left the area of the party followed the exact route that [REDACTED] described and then showed stationary for approximately 5 minutes in the area [REDACTED] said she was stopped at 5:06:33 a.m. to 5:11:34 a.m. March 13, 2011. While Ms. [REDACTED] reports at approximately 4:00 a.m., this was the beginning of daylight savings time and could explain the hour difference.

On March 16, 2011, Sgt Tymkowych met with Sgt Bill West of the Investigation Section and provided Sgt. Bill West with the information [REDACTED] had told him. Sgt. Tymkowych also had arranged for Ms. [REDACTED] to bring the clothing she was wearing that night and vehicle she was driving to the Greeley Police Department for evidence processing. Investigator Buckingham placed the clothing into evidence and processed the vehicle for trace evidence.

On March 17, 2011, at approximately 9:00 a.m., Sgt Bill West had a detailed interview with [REDACTED]. During this interview Ms. [REDACTED] told Sgt. Bill West she had been at a party with her friend [REDACTED]. Sgt Bill West asked her if a police officer had asked her to leave. Ms. [REDACTED] said that not only did the police officer tell her to leave, but got in her car and started it for her when she couldn't. Sgt. Bill West asked Ms. [REDACTED] if she felt the police officer would have known she had been drinking. Ms. [REDACTED] said she was slurring her speech and was sure she had an alcohol odor about her. Ms. [REDACTED] said she was nervous about being stopped for driving drunk, so when she left the party she went into a neighborhood close by and parked for a short time to be sure the police officer wasn't following her. Ms. [REDACTED] then left the area and started driving home.

Ms. [REDACTED] explained her route, which Sgt. Bill West later confirmed when he drove it with Ms. [REDACTED]. She described leaving the area of N. 30th avenue and C Street headed west to 35th avenue. Ms. [REDACTED] then went south on 35th avenue and approximately the 1900 Block she

noticed police lights behind her. Ms. [REDACTED] then went eastbound on 20th street, eventually stopping in the entry way of a cul-de-sac, in the 2000 block of 28th street. Ms. [REDACTED] said the officer who contacted her never asked for any identification or vehicle information but asked several times about her condition to drive. The officer then told her he needed to check her for drugs and weapons. Ms. [REDACTED] had a purse in the car but the officer never inquired about it.

After exiting the car the officer held her hands behind her back. She was facing her car and felt she had nowhere to go. The officer held her hands with one hand while he touched her breast with the other then switched hands. Sgt. Bill West confirmed that the officer had his hand on her skin and she confirmed it was inside her bra touching her breast. The officer then put his right hand down her pants and placed at least one finger inside her vagina. Sgt. Bill West asked Ms. [REDACTED] if she felt she was being touched in a sexual manner and she was. Ms. [REDACTED] said the officer moved his hand in a circular motion while his hand was in her vaginal area.

After the police officer removed his hand, Ms. [REDACTED] said she quickly sat back in her car. The officer again asked her about her condition to drive and inquired what they should do about this. Ms. [REDACTED] grabbed her cell phone and quickly called her sister, [REDACTED], and told the officer she would have her sister come pick her up. Ms. [REDACTED] began speaking to her sister and the officer commented he needed to go back to his car. As Ms. [REDACTED] spoke to her sister she realized the officer had left the area. Ms. [REDACTED] relayed the information to Ms. [REDACTED]. Ms. [REDACTED] has the ability to record calls on her phone as she receives them. During this call Ms. [REDACTED] started recording the call, which Sgt. Bill West later listened to. Sgt. Bill West could hear that Ms. [REDACTED] was slurring her speech and had mood changes and he also heard how surprised Ms. [REDACTED] was when she was told the officer had left the stop. Ms. [REDACTED] told Ms. [REDACTED] she would just drive home at that time which she did.

Sgt. Bill West asked Ms. [REDACTED] what she felt the officer meant when the officer was continually asking her "what should we do about this." Ms. [REDACTED] felt he was asking for some type of sexual favor to let her go. Ms. [REDACTED] said she felt trapped during the pat down and felt if she wouldn't have quickly grabbed her phone and called her sister, it would have gotten worse. Sgt. Bill West asked her to explain and Ms. [REDACTED] said she felt the officer could have raped her and the only thing that saved her was her call to her sister. Ms. [REDACTED] said it appeared the phone call made the officer nervous and that is why he left. Sgt. Bill West confirmed with Ms. [REDACTED] she was positive about the fact the officer had digitally penetrated her vagina. Ms. [REDACTED] explained she was confused at the time of the pat down when the officer was feeling her breast. She had never been patted down by a police officer and thought this might be normal but when he put his finger inside her she knew this was wrong.

At the end of the interview Sgt. Bill West showed Ms. [REDACTED] a photo lineup which contained 6 photos of Greeley Police Officers all dressed in uniforms and consistent facial features. Officer Daniel Shepherd was in position number 3 and when this lineup was shown to Ms. [REDACTED] she almost immediately pointed to Officer Daniel Shepherd and identified him as the one who sexually assaulted her.

After the interview with Ms. [REDACTED], she directed Lt. Brad Goldschmidt, [REDACTED] and Sgt. Bill West on the route she had taken that night she left the party. Additionally, during the interview with Sgt. Bill West, she told him she took a glass of beer in the car with her when she left the party and that it was still in her car during the traffic stop. As soon as the officer left she threw it out of the car. Ms. [REDACTED] described the cup as a bright orange plastic cup.

When Ms. [REDACTED] directed Sgt. Bill West to the location where the stop had taken place, a cup as Ms. [REDACTED] described, a bright Yellowish plastic cup was found in the gutter pan. She identified it as the cup she threw out of the car that night. It was collected for evidence. The area was consistent with the position Officer Daniel Shepherd's car is stationary for 5 minutes, as indicated by the AVL system.

In the mid afternoon on March 19th, 2011 Sgt. Roy Smith and Sgt. Bill West contacted Erika Macias at her residence, 401 N. 30th avenue. Macias was the person having the party that Ms. [REDACTED] was asked to leave from. Ms. Macias confirmed that she did have a party on March 13th, 2011 and she did have the police tell a girl to leave because she was causing problems and Macias was afraid the girl would get beat up. Macias didn't know the girl but said it was a friend of [REDACTED]'s. Macias referred to the officer as Daniel. Sgt Bill West asked how she knew his name. Macias said she had asked the cop his name and he said he goes by Daniel. It is known that Officer Daniel Shepherd prefers Daniel over Dan. Macias provided a drinking cup which was used at the party and it was consistent with the type and color collected from the gutter pan.

On March 25, 2011, at approximately 0850 hours, Sergeants Bill West and Steve Black contacted Daniel Shepherd at his residence. He was informed of the investigation and asked if he was willing to give a statement. Shepherd said that he would make a statement and voluntarily accompanied the Sergeants to the Greeley Police Department. The defendant was advised by Sgt. Bill West that he was going to be questioned regarding a criminal case. During the initial stages of the interview, Shepherd continually denied that he had pulled the victim over during a traffic stop stating the only contact he had with her was at the aforementioned party. Subsequently, however, Daniel Shepherd admitted that he was lying and that he did, in fact, pull her over using his overhead lights. When she stopped he turned off his emergency equipment. Shepherd denied there was any sexual contact. He said that he pulled her over because he knew she was drunk and did not want her to drive but to call for a ride. Shepherd admitted that he drove away from the scene prior to any ride arriving.

The Defendant's date of birth is July 28, 1982. The Defendant, Daniel Shepherd, is a white male, HEIGHT -6'3", WEIGHT - 200 Pounds, BROWN HAIR, HAZEL EYES. The Defendant's driver's license is [REDACTED] CO. The Defendant's social security number is [REDACTED]. The Defendant's last known address is [REDACTED] Greeley, Colorado 80634.

The above-described events took place in Weld County, Colorado.

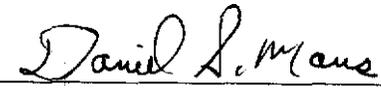


, AFFIANT

Subscribed and sworn to before me this 25th day of March, 2011.

NOTARY PUBLIC
MY COMMISSION EXPIRES: _____

Let a warrant be issued for Defendant's arrest; Bond set in the amount of \$ 50,000.00.



DISTRICT JUDGE
3/25/11

DATE