

ORIGINAL

DISTRICT COURT, LARIMER COUNTY, COLORADO

FILED IN CLERK OF COURTS
LARIMER COUNTY CO

COURT CASE NO. _____

MAR 04 2014

SHERIFF'S OFFICE
CLERK OF COURT

CAB

AFFIDAVIT IN SUPPORT OF WARRANTLESS ARREST

Affiant, Detective Christopher Kamoske, being duly sworn upon oath, deposes and says that there is probable cause for the warrantless arrest of the below named person for the crime(s) stated, and that the following facts are true and correct upon the Affiant's best knowledge, information, and belief:

CODYALAN POWELL Date of birth: June 7, 1990

LAW ENFORCEMENT AGENCY: City of Loveland Police Department, Larimer County, Colorado

AGENCY CASE NUMBER: 2014-1511

ARRESTING OFFICER: Det. Christopher Kamoske

ARREST DATE: March 4, 2014

ARREST TIME: 1600 hours

Charges: Attempted Murder in the First Degree CRS 18-3-102(1a) 18-2-101(1) 2F
Assault in First Degree CRS 18-3-202(1a) 3F

On March 2, 2014 at approximately 1948 hours, Loveland Police Officer Garret Osilka conducted a traffic stop on a blue Jeep Cherokee for displaying unreadable license plates. Officer Osilka conducted this traffic stop in the 2300 block of West 17th street.

When Officer Osilka approached the driver's side of the blue Jeep, he was shot by a person from within the Jeep. It is suspected that Osilka was shot with a shotgun as evidence has been recovered showing that a 12 gauge shotgun was used in the commission of this crime.

Officer Osilka reported to officers on scene that the Jeep Cherokee had dark colored lenses over the rear taillights and very tinted windows, and a temporary registration in the rear window.

Minutes after Officer Osilka was shot, Loveland Officer Wilbert Howard located the suspect vehicle traveling on W 29th street by the Loveland Golf Course. Officer Howard

1/02/14

attempted to contact the vehicle but lost contact with the vehicle as it turned off of 29th and onto Antero Drive.

At approximately 0100 hours Loveland Officer Nelson Spence located a blue Jeep Cherokee matching the description given by Officer Osilka. The vehicle was parked on Aspen Drive and Taft Avenue which is only several blocks away from where the vehicle was last seen by Officer Howard.

The vehicle was unoccupied and the engine was off but the keys were in the ignition and turned to the on position. There appears to be a fired shot gun round in the front passenger's seat of the Jeep. On March 3, 2014, pursuant to a search warrant authorized by Larimer County Judge Schoon, a search warrant was executed on this Jeep and a spent "Royal Buck" brand 12 gauge 21 pellet shotgun shell was located on the passenger seat.

The vehicle was towed to the Loveland Police Department at 810 E 10th street, vehicle evidence bay for processing. This location is within the City of Loveland, County of Larimer and State of Colorado.

This information generated in Loveland Police case # 14-1511.

Loveland Detectives requested a registration check of the Colorado temporary plate 822499L which was located in the rear window of the Jeep Cherokee. This check showed this plate is listed to a Tim Bailey on a 2005 Hyundai.

Loveland Detectives contacted Bailey and confirmed that he does own the 2005 Hyundai license number 822499L. Bailey told Detectives that his vehicle with that temporary plate is located inside of a body shop in Loveland called Kar Kare which is located at 162 SW 2nd street in Loveland. Bailey was asked by Detectives if he knew if there was a blue Jeep Cherokee at the shop also being worked on. Bailey told Detectives that he has information that his friend Samuel Wright owns a blue Jeep Cherokee and that vehicle is also down at Kar Kare in Loveland.

Loveland Detectives then contacted Samuel Wright who confirmed that his 2001 Jeep Cherokee is down at Kar Kare getting work done. Wright confirmed that his vehicle should not have a temporary registration on the vehicle, and should have a dealer, transportation plate on the vehicle. Bailey told Detectives that he parked his vehicle outside of this business 2 weeks ago. Bailey reported that on Saturday 03-01-2014 he checked on his Jeep and reported that the vehicle was still parked outside of the business with the dealer plate attached.

On 03-03-2013 at approximately 0730 hours owner of Kar Kare shop, Steven Frauenhofer arrived at the business and was contacted by Loveland Detectives. Frauenhofer gave Detectives written consent to search the business. Steven Frauenhofer told Detectives that he could confirm the 2001 blue Jeep Cherokee and keys were gone from the business. Frauenhofer also confirmed that the 2005 Hyundai owned by Tim Bailey was inside of his shop in the paint booth being worked on.

Frauenhofer confirmed to Loveland Detectives that it appears his business was not broken into and was locked upon his arrival.

Frauenhofer reported that his employee Cody was at work on 03-02-2014 from 1pm to 7pm according to a hand written document filled out by Cody documenting his work schedule.

A co-worker named Jeff Montgomery reported to Detectives that he text messaged Cody at 0747 hours today, Monday 03-03-2014, asking Cody if he needed a ride to work. Cody did not respond to this text message. Montgomery told Detectives the last time he saw Cody was at work on Sunday 03-02-2014 from approximately 3:00 pm to 4:30pm.

Montgomery reported that Cody was working in the shop on Sunday with a Brandon Ralston who is Cody's step father. Loveland Detectives contacted Ralston at work. Ralston told Detectives that he went to work at the shop on Sunday at approximately 1:00 pm. Ralston reports that Cody arrived at work shortly after he arrived. Ralston reports that Cody worked on the 2005 Hyundai which was in the paint booth.

Loveland Detective locate where the 2001 Jeep Cherokee was parked by matching tire impressions with the suspect vehicle located in Loveland evidence with tire impressions in new snow located at the business. There were also shoe impressions in the snow leading up to where the Jeep Cherokee was parked.

Montgomery showed Detectives shoes belonging to Cody which were DC brand shoes. These shoes, commonly referred to as "skater shoes", are unique to Cody and were located inside of the business. Cody uses these shoes while working in the shop. Loveland Detective matched the shoe sole patterns from Cody's shoes left in the shop to the shoe impressions in the paint booth where Cody was working and also the same type of "skater type" shoe impressions were found in the snow where the Jeep Cherokee was parked. These impressions all matched the shoes worn by Cody. No other shoe impressions were found around the Jeep Cherokee. It appeared that the person who had taken the Jeep Cherokee wore the same type of shoes that Cody wore. Montgomery said that Cody is the only person who wears "skater type" shoes in this auto shop.

It has also been confirmed through Police Interviews with relatives of Cody that Powell has made several unusual contacts with family members beginning a short time after the traffic stop in which Officer Osilka was shot.

Powell texted his step father, Brandon Ralston on 03/02/14, at 2029 hours. in that text conversation, Powell said conveyed his love for his mother, and then texted "Thanks man. I've never got the chance to tell you I look up to you like my own dad. I think you're a kick ass person and I've been a lucky guy to have you as family"

Powell then texted his brother, Shane Liedka. That text came in on 03/02/14 at 2103 hours. In that text Powell said "Hey man. You know we haven't been too close in the past, but you know I've always looked up to you bro. I love you man." Liedka asked if everything was ok. Powell responded that he has been stressed lately and had been drinking a lot more than he should, and he was "fucking my shit up".

Ralston and Liedka both said that this type of communication was not normal for Powell. The texts seemed strange to both of them and they were worried about Cody.

During a preliminary statement Officer Osilka made to Loveland Police Detective Robert Pride, he described the driver of the vehicle as wearing what appeared to be a dark colored skull cap type "beanie" hat.

On March 3, 2014, Sabrina Reed, a roommate of Cody, identified Cody as residing with her at 348 Terri Dr. #5, Loveland Colorado. Reed participated in a voluntary interview at the Loveland Police Department on March 3, 2014 with your Affiant. Reed told your Affiant that POWELL pays rent to live at 348 Terri Dr. #5, Loveland Colorado and occupies a bedroom within this apartment and shares the remaining common areas within the apartment.

On March 3, 2014, pursuant to a search warrant authorized by Larimer County Judge Schoon, a search warrant was executed at 348 Terri Dr. #5, Loveland Colorado. A search was conducted and 2 empty boxes of 12 gauge shotgun shells with the brand label "Royal Buck" were located. Additionally these shotgun shells are described as 12 gauge 21 pellet, 4 buck. This was the same brand of shotgun shell located on the front passenger seat of the blue Jeep Cherokee referenced earlier in this Affidavit.

On March 3, 2014 Det. Henry Stucky interviewed as a potential witness in this case named Jessica Morris. She explained to Det. Stucky that she knows Cody, and is best friends with Cody's roommate Sabrina Reed. Morris told Det. Stucky that she has seen a "saw-off" shotgun and a "sawed-off .22 caliber rifle" in a bedroom that Cody occupies at 348 Terri Dr. #5, Loveland Colorado. Morris said that she has known Cody for approximately one year.

On March 3, 2014, Det. Brian Koopman received and analyzed call detail records for Cody's phone number through AT&T Cingular Wireless. These records included cell tower locations, in the form of Latitude/Longitude, where calls and/or messages and data had been sent and received by Cody's cell phone. Analysis and comparison of the data contained within these records compared to the date and time stamps of the events that led to Officer Garret Osilka being shot show that Cody's cell phone was in close proximity to the area of this event. Cody's cell phone shows cell tower locations consistent with Cody's cell phone being used in Loveland within several city blocks prior to the traffic stop made by Officer Garrett Osilka.

Immediately following the shooting, Cody's cell phone shows calls made to a female identified as Melany Schinke of Fort Collins, Colorado. Included in the phone records are cell tower locations and calls made to Schinke showing that Cody's cell phone was

used to call Schinke within minutes following the shooting and cell tower data showing that Cody's cell phone ultimately ended up being in the area of Trilby Rd. and HWY 287 in south Fort Collins. For the remainder of the evening following the shooting, Cody's cell phone registered staying in the area of Trilby Rd. and HWY 287. This location has been further identified as being a cell tower near Schinke's apartment located at 6675 S. Lemay Ave., #A11 Fort Collins Colorado.

On March 3, 2014 Schinke participated in a voluntary interview at the Loveland Police Department and admitted that Cody had called her at approximately 2000 hours on March 2, 2014 and requested her to pick him up in Loveland. Schinke stated that Cody was picked up in Loveland by her and her mother at 29th ST and Butternut Ave. This location where Cody was picked up is approximately 4 tenths of a mile from where the Jeep Cherokee was found abandoned. After picking Cody up, he ultimately stayed the night at Schinke's apartment at 6675 S. Lemay #A11 Fort Collins Colorado. Schinke was reserved in the amount of information she wished to provide but she did verify that Cody uses a cell phone bearing phone number 970-231-9046 and that he was using this phone on the evening of March 2 - March 3, 2014. She also verified that he stayed the night at her apartment the remainder of the night of March 2- March 3, 2014 as shown in the call detail records.

On March 4, 2014, Cody was at the Wal-Mart in north Fort Collins, called 911, and told Police that he wished to turn himself in. Cody was taken into custody and upon his arrest, told Officers that he had the shotgun and that it was in a backpack approximately ten feet from where he was standing. Cody had placed the shotgun in the backpack, along with his cell phone and a black "beanie" type cap that was similar to what he was described wearing on the night he was suspected of shooting Officer Osilka.

Ch. Jah
Affiant

Subscribed and sworn to before me this 4 day of MARCH, 2014.

Joh P. [Signature]
Notary Public
410 E. 5th St.
Loveland, Co. 80537

My commission expires on 7-1 2015.

BY THE COURT:

Probable Cause Found: Yes No

[Signature]
Judge MALSTADT

3/5/14 @ 9⁰⁰ A
Date and Time