

District Attorney's Office

State of Colorado, County of Douglas

Affidavit For Arrest Warrant

DATE FILED: June 8, 2021 1:52 PM

I, Detective John Hastings

, of lawful age and being first sworn upon

oath, state that I have probable cause for believing that:

Defendant: BRIAN NEIL

DOB: 12/24/1973

did commit the crime(s) of:

18-3-206(a) Menacing w/deadly weapon Felony 5

10-8-70(B) 2nd degree official misconduct - Petty Offense 2

On or between 05/05/2021 AT 1130 HOURS

, including within 9830 LONE TREE PARKWAY, LONE TREE, DOUGLAS

County, Colorado and as

grounds therefore, state as follows: That this Affiant is a Peace Officer with the Lone Tree Police Department

and that the following information was obtained by me personally, and from the official records of this agency, as well as from documents received from other law enforcement personnel.

On 05/05/2021 at approximately 1159 hours, Lone Tree Police Officers were dispatched to a suspicious occurrence at 9428 Kemper Drive, Lone Tree. The reporting party, who resides at that address, was advising that a vehicle with a flat tire "flew" into the cul-de-sac. The reporting party asked the two younger males occupants if they were okay, and they told her that "some guy", claiming to be an officer in an unmarked vehicle, had pulled them over. One of the males told the reporting party that the guy tried to pull his passenger out of the vehicle and then they took off. The males advised that the guy had pulled his gun on them as they were driving away.

As Sergeant Travis Sneith arrived on scene, he observed a black Porsche SUV bearing Colorado License Plate MAIWAY, with the passenger side front tire deflated. An adult male advised that his son, identified as Mohid Saeed, was the driver of the black Porsche. When Sgt. Sneith asked, Saeed advised that he and his passenger, identified as Jhoen Colcheno, were at the light at Ridgeway and Lincoln Avenue when he observed a silver Hyundai cut him off. Saeed said he decided that he would cut the silver Hyundai off as well to "repay the favor". Saeed stated that the silver Hyundai chirped a siren at him. While traveling westbound on Lincoln Avenue, Saeed observed small police lights illuminate in the front windshield area of the Hyundai. Saeed pulled over into the church parking lot, which was later confirmed to be the Jubilee Fellowship Church located at 9830 Lone Tree Parkway in the City of Lone Tree, Douglas County, Colorado. Saeed said a male approached and asked him for his identification, to which he provided. Saeed advised the male was dressed in casual clothing and that he did not see a badge anywhere on the male but did see a handgun on his hip. Saeed said that the male then asked him why he shouldn't go to jail. Saeed again said he did not see a badge or credentials and when he requested to provide identification the male told them, "I don't have to show you shit". Saeed advised the male asked him where he was from, to which Saeed provided his address. Saeed stated that the male asked not where he lives but what country his parents were from due to his last name. Saeed told him Pakistan and the male told him that he had just gotten back from Pakistan. Saeed inferred the statement/inquiry as a racial slur towards his race, but could not articulate why the statement was racially biased. Saeed advised that his passenger started taking pictures and filming the male with his phone, which seemed to aggravate that male. Saeed said that the male asked the passenger not to film him, but his passenger kept filming him with his cell phone. Saeed said that the male then went over to the passenger side of the vehicle and asked for the phone. Saeed said when his passenger would not hand the male his phone, the male opened the passenger door in an attempted to make the passenger get out of the vehicle. Saeed advised that is when he started questioning the validity of the stop. Saeed then accelerated and fled the area. Saeed advised that when he drove off, he looked back in the mirror and he could see the male pointing a firearm at them. Saeed advised that as he was fleeing the area he collided with a curb thus flattening his tire. Saeed said he was scared of the male's actions.

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Sgt. Sneith interviewed Jhoen, who provided a similar statement about the incident. When Sgt. Sneith asked Jhoen if he ever saw the male draw a gun, he advised that he did not see the weapon. Jhoen advised that Saeed had told him to duck down because the male was pointing a gun at them as they fled. Jhoen then showed Sgt. Sneith a picture of the male and two small videos he had captured on his cell phone. In the first video, the male appears to be holding Saeed's driver's license, and tells Jhoen to turn off the phone. The second video is of Saeed driving away from the area and Jhoen is telling Saeed to relax and pull over.

While Sgt. Sneith was speaking with Saeed and Jhoen, dispatch advised cover officer, Commander Timothy Beals that a DEA Agent was calling in to advise them of a work contact that occurred inside the city limits. Commander Beals responded to the DEA Agent's residence. The agent was identified by his credentials as Brian Neil. Neil stated he was in his unmarked government issued vehicle, a silver Hyundai Santa Fe, when he observed two males in a black Porsche SUV trying to get into a lane next to his. Neil stated he moved his vehicle forward, to allow the Porsche to get into the lane and then the driver of the Porsche "sort of ran the red light as it was turning green". Neil stated that the driver's actions almost caused an accident and he felt they needed to be contacted. Agent Neil stated he got behind the vehicle and "chirped" his siren and tried to reach for his badge to display to the driver of the Porsche.

In the process of reaching for his phone, it fell in between his seat and the center console. Neil stated while he was behind the Porsche SUV, both occupants of vehicle appeared to be "hunched over" and he believed that they could have been hiding something, possibly marijuana. After running the light at Lincoln and Fairview, Neil advised that the driver pulled into the Jubilee Fellowship Church parking lot. Neil approached the vehicle and asked driver why he did not immediately yield to his vehicle. The driver responded to Neil that he didn't know he was a cop and then Neil asked the driver for his ID. Neil stated that during the contact, his gun was in his holster, on his waistband and his badge was on his belt in front of the gun. Neil claimed that his shirt was tucked in behind the gun and badge, so that it would have been visible to the driver. Later, Neil stated he believed that the occupants had been smoking marijuana.

The passenger then asked Neil to provide his credentials and then the passenger took a picture of him. Neil walked around to the passenger side of the vehicle to contact the passenger. Neil asked the passenger to step out from the vehicle, and that was when the passenger told the driver to "take off". The vehicle proceeded to flee over a curb as they exited the church parking lot.

Commander Beals asked Neil if at any time he drew his weapon or pointed it at the occupants of the Porsche, to which he denied. Neil claimed that he put his hand on his weapon when the vehicle fled away, but that it never left his waistband. Neil then further stated that while he was talking to the driver during the original contact, he noticed he had foreign name and asked the driver where he was from. Neil stated he thought they were just going to have a casual conversation about where he was from. Neil stated he recently returned from Pakistan and was hoping to have a conversation with him about Pakistan because the driver ended up stating that his parents were from Pakistan.

Neil advised Commander Beals that he contacted his supervisor after the incident.

Commander Beals returned to the location of Sgt. Sneith and when he asked, both males denied any marijuana use and stated there was no marijuana in the car and that Commander Beals could search the vehicle, in which Commander Beals elected not to search the vehicle. Sgt. Sneith and Commander Beals cleared the contact with an information report disposition.

Sgt. Sneith responded to the Jubilee Church, to inquiry about any parking lot video surveillance footage of the incident. When Sgt. Sneith arrived to the church, Neil was also there. Neil claimed that he was also inquiring about any video. Neil advised Sgt. Sneith that he remembered removing his gun, while still in the holster from his waistband, as the Porsche sped away.

Sgt. Sneith was advised that a single camera captured the incident, but it was partially blocked by several trees.

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However, at approximately 1153 hours, Saeed's vehicle drives off from a parked position with a male chasing after the vehicle. The individual appears to assume a shooting stance. The video was not clear enough to determine if there was a gun in his hand. The individual returned to his vehicle and then drives off. Sgt. Sneith was advised that a copy of the video would be provided at a later time.

Later when Commander Beals returned to the police department, he received a message from Neil requesting that he contact him. Neil stated that when the kids in the Porsche drove away from him in the parking lot of the Jubilee Church, he did in-fact grab his gun and pulled it out of his waistband, but it was still in the holster. Commander Beals asked Neil if he ever pointed it at the vehicle and Neil stated that he was 99% sure that he did not.

On 05/06/2021, I was asked to review this incident and conduct additional investigation and interviews with the involved parties. After reviewing the responding officer's reports, I determined additional questions to be asked for both parties. I contacted Saeed and requested to schedule a follow-up interview. Saeed advised that he was suffering from a migraine and that he could not participate in an interview on that day. I requested that he contact me when he felt better, so that we could schedule a time for the interview. I attempted to call him a second time and never received a return phone call. Over the proceeding weekend, I received a voicemail message from Saeed's father, confirming that his son was suffering from a migraine and he requested that I contact them the following Monday (5/10/2021). On that day at approximately 0830 hours, I attempted to contact Saeed and was forwarded to his voicemail prompt. I left a message requesting a return phone call.

On 05/11/2021, I contacted Saeed by phone and was able to conduct a phone interview with him. The phone conversation was recorded. I asked several questions about the incident and Saeed provided similar statements that he had on the date of the incident. When asked specifically about being asked about the racial questions that Neil asked, Saeed stated he was confused by the question and that he thought it was racially motivated because of Neil's demeanor and tone. Saeed did not believe that the question was to develop rapport, as Neil had claimed. When asked how he feels now, several days after the incident, Saeed stated he was scared for his life at the time but now is "fine". Saeed stated that Neil should be held accountable for his actions and he will be a cooperating victim.

On 05/06/2021, I contacted Neil by phone and requested to schedule a time to conduct a follow-up interview at the police department. Neil was accommodating and a time was scheduled for 0900 hours on 05/10/2021. When Neil asked what was going to be discussed during the interview, I explained that there were conflicting statements provided by both parties that I want to address. Neil advised that he had contacted his supervisor and he would assist with the investigation. Over the proceeding weekend, I received a voicemail message from the law office of B. Landcaster, who advised that he is representing Neil and that Neil would not be participating in the interview without me first speaking with him. I attempted to contact the law office, leaving a message with my availability. It should be noted, in the voicemail Mr. Landcaster advised that he would be in a trial for a portion of the week of May 10, 2021.

On 05/06/2021, I attempted to contact Neil's supervisor, David Smith, leaving a message advising him that I had been assigned to the incident and requested that he provide me with any DEA policies regarding off-duty traffic/criminal enforcement. I received the following email from Special Agent James Stroop:

Detective Hastings,

Good afternoon! My name is James Stroop and I am an Assistant Special Agent in Charge assigned to the Denver Field Division of the Drug Enforcement Administration.

Thank you for contacting our office yesterday May 6, 2021, via Group Supervisor David Smith. I wanted to advise that we are presently working through our policies/procedures in regards to your earlier inquiry. I am hopeful to have a final response to you by the beginning of next week. I will advise further as soon as practical.

Thank you for your time and patience,

James Stroop

District Attorney's Office

C: 314-393-6929

On 05/06/2021, I responded to the Jubilee Church, in regard to the associated video surveillance. I was advised that the Chris Leigh, Lead Production Director, was not in the office and the video was not available at that time. I left my business card and requested that he notify me when the video was available. At approximately 1719 hours, I received a forwarded email from Sgt. Sneith. The email contained an internet link to the associated video surveillance. I reviewed the video and observed the following:

The camera is a fixed, single shot of the front entrance of the church. The video player does not allow the user to zoom or manipulate the view. The camera captured video of the front parking lot and a small portion of the adjacent Lone Tree Parkway street. At approximately 1133 hours, I observed a black SUV enter the parking lot from Lone Tree Parkway. The vehicle is depicted at the top portion of the camera view. The vehicle is moving at a high rate of speed, as compared to other vehicle's seen entering/exiting. As the vehicle travels into the parking lot, I observed an individual running behind the vehicle. As the vehicle increases its distance from the individual, the individual stops pursuing the vehicle and they assume a stationary position. The position and posture of the individual is somewhat obscured by a large tree, but the individual appears to momentarily assume a semi-squatted position. The position is consistent to a stationary firearms shooting position, but I am unable to observe if the individual is holding a firearm. The individual then turns back around and walks back towards the direction they had ran from. Due to the trees and shrubs next to Lone Tree Parkway, I was unable to observe neither the black SUV nor the fleeing individual prior to the captured 1133 time. Through the explanation of the incident provided by Saeed and Neil, it appears that the black SUV is the vehicle that was driven by Saeed and the individual pursuing the vehicle is Neil.

On 05/10/2021, I responded to the DEA field office in Centennial. Special Agent James Stroop provided me with the DEA policy and procedure regarding DEA Authority. I was allowed to review the policy and take notes. The associated policy, in-part, states that DEA agents are federal officers, whose primary responsibility is to enforce Title 22 of Drug Abuse Prevention Act. DEA agents enforce/investigate drug related offenses. DEA agents have authority to enforce state statutes, 18 code, under limited basis. It is my interpretation of the policy that DEA agents are authorized to enforce state statutes under joint ventures and exigent circumstances. When I asked, Agent Stroop confirmed that such authorization is specific and limited in time/duration. Agent Stroop confirmed that their office does not have a "standing" declaration of "deputized authority". I was unable to locate any authority for DEA agents to enforce traffic, Colorado Revised Statutes 42 code, while on or off duty. I was advised in order to obtain a copy of their policies and procedures, a formal request needs to be submitted by the District Attorney's Office. Agent Stroop advised that his agency's Internal Affairs policy stipulates that their agency cannot compel Neil to participate in criminal investigation interview and that their interval investigation is initiated when the criminal investigation is concluded.

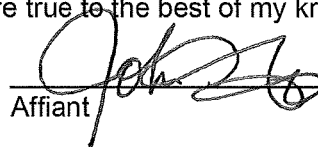
Based on the DEA policy, the limited information/statements obtained during interviews and the review of the video surveillance there is probable cause that Neil acted outside the scope of his authorized authority. Neil is a public servant, as defined in Colorado Revised Statutes, and he arbitrarily and capriciously violated a lawfully adopted rule or regulation (CRS18-8-405(1)(b)). In addition, since Neil was not acting within the scope of his authority, his actions placed Saeed in imminent fear of serious bodily injury by the use/display of his handgun. (CRS 18-3-206(1)(a). A arrest affidavit for the associated offenses was sent to the District Attorney's Office for their review.

Based on the foregoing facts and circumstances your Affiant has probable cause to believe that the above offense(s) have been committed and respectfully requests an arrest warrant for:

BRIAN NEIL

I have read the foregoing statement, and the matters stated therein are true to the best of my knowledge and belief.

Affiant



District Attorney's Office

Subscribed and sworn to before me this 11 day of May, 2021

Notary Public

S. Jones

12-14-2022
My commission expires

SHANNON L. JONES
NOTARY PUBLIC
STATE OF COLORADO
NOTARY ID 20184047752
MY COMMISSION EXPIRES 12/14/2022