

14-064

STATE OF MINNESOTA, COUNTY OF DAKOTA

DISTRICT COURT

STATE OF MINNESOTA )  
 ) SS.  
COUNTY OF DAKOTA )**APPLICATION FOR SEARCH WARRANT AND  
SUPPORTING AFFIDAVIT.**

Sean McKnight, being duly sworn upon oath, hereby makes application to this Court for a warrant to search the Premises, Motor Vehicle(s), Person, hereinafter described, for the property and things hereinafter described.

Affiant knows the contents of this application and supporting affidavit, and the statements herein are true of his/her own knowledge, save as to such as are herein stated on information and belief, and as to those, he/she believes them to be true.

Affiant has good reason to believe, and does believe, that the following described property and things, to wit:

- Documents, papers and notes related to the e-mail address of the victim, B.N.B. and/or her personal yahoo.com e-mail address (fully identified in police reports). Including but not limited to passwords, printed personal e-mails and photographs from the victim's yahoo.com account.
- Documents, papers and notes related to the victim, G.S. including printed personal e-mails and photographs sent by G.S. to the account of B.N.B's yahoo.com account.
- Computer systems, including but not limited to: the main computer box, laptops, netbooks, hard drives, monitors, scanners, printers, modems, and/or other peripheral devices,
- All data contained on either hard drives or removable media, including, but not limited to: existing and deleted files that may show the production, storage, and/or distribution of photographs of the victim G.S.
- Contents of volatile memory related to computers and other digital communication devices that would tend to show the current and recent use of the computer, use of encryption, use of other communications devices, routes of Internet and other digital communications traffic and passwords, encryption keys or other dynamic details necessary to preserve the true state of running evidence,
- Computer software, hardware or digital contents related to the sharing of Internet access over wired or wireless networks allowing multiple persons to appear on the Internet from the same IP address.
- Media in whatever form, including but not limited to: magnetic (i.e., floppy disks and tapes), optical (i.e., CDs and DVDs), and/or solid state (i.e. Flash Drives and Memory Cards),
- Papers and effects that tend to show the possession or distribution photographs of the victim G.S.
- Programs and manuals relating to operating systems or applications,
- Items containing or displaying passwords, access codes, usernames or other identifiers necessary to examine or operate items, software or information seized,
- Proof of residency and documentation relating to the internet, including but not limited to: bills from Internet Service Providers (ISP),
- Photos and/or video taken of the areas and person to be searched during the search.
- Papers, letters or other pieces of identification showing ownership, or control over, the areas to be searched.

RECD APR 16 2010

2:27 p.m.

C. Jensen

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are at the premises, in the motor vehicle(s), on the person, described as:

- The apartment and garage space rented by David Ayers at the address [REDACTED] in the city of Apple Valley.
- Ford Explorer with MN license plate [REDACTED] listing to David Ayers.
- Ford Ranger pick up with Mn License plate [REDACTED] listing to David Ayers
- David Bruce Ayers DOB/ 12/11/1963
- Elizabeth Sue Ayers DOB 11/30/1956

located in the City of Apple Valley, County of Dakota, and State of Minnesota.

This affiant applies for issuance of a search warrant upon the following grounds:

1. The property above-described was stolen or embezzled.
2. The property above-described was used as means of committing a crime.
3. The possession of the property above-described constitutes a crime.
4. The property above-described is in the possession of a person with intent to use such property as a means of committing a crime.
5. The property above-described constitutes evidence which tends to show a crime has been committed, or tends to show that a particular person has committed a crime.

The facts tending to establish the foregoing grounds for issuance of a search warrant are as follows:

Affiant, Sean McKnight, has been a police officer with the City of Apple Valley for over 16 years. Affiant is currently assigned to the investigative division of the Apple Valley Police Department. Affiant has read reports and conducted interviews while investigating this case, and believes the following to be true;

On 03/26/2010 I received investigative reports from Detective Melinda Clark of the Los Angeles County Sheriff's Department. She had been investigating a report that someone had accessed the personal email account of B.N.B. B.N.B reported that the suspect had accessed her email account (fully identified in police reports), changed the passwords and accessed personal email correspondence and photographs. Some of the photographs she stored on in her email files were revealing photographs of her boyfriend, G.S. (fully identified in police reports). These photographs were posted on various websites on the internet. The posting and viewing by people other than B.N.B. and G.S., was embarrassing and offensive to B.N.B and G.S. The victim, B.N.B felt that they could be damaging to her career as well as the career of G.S.

Through a series of subpoenas with Yahoo.com and Frontier Communications, Detective Clark was able to obtain the internet protocol (IP) address that was used at the times that the victim's email address was illegally accessed. According to Frontier communications, at the time of the illegal access, the IP address was assigned to David Ayers at [REDACTED] Apple Valley, MN. I have confirmed through Minnesota Department of Motor Vehicle records, and through information provided to the police department by the management of the apartment complex, that Ayers is currently living at that address. Other computerized records also show David has lived at that address since 2006.

Frontier communications also lists "Suzie Ayers" as an authorized user on this account. This person was identified as Elizabeth Sue Ayers, DOB 11/30/1956. The Minnesota Department of Motor Vehicles shows that David and Elizabeth Ayers both live at that address and have vehicles registered jointly. Other computerized records also show Elizabeth has lived at that address since 2006.

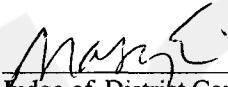
Access was made to the email account during six separate sessions. During these sessions the IP address assigned to David Ayers was captured by Yahoo.com as the address from which the access was gained.

Based on the above listed facts I am requesting this search warrant the listed address, vehicles and persons in this warrant to seize evidence of the illegal access to the email account of B.N.B. and the dissemination of photographs of G.S. I have included the motor vehicles and persons because many storage units and computer equipment is very small and portable and could be carried or hidden on a person or in a motor vehicle.

WHEREFORE, Affiant requests a search warrant be issued, commanding **Sean McKnight**, (a) peace officer(s), of the State of Minnesota, **and all other personnel under your direction and control between the hours of 7:00 a.m. and 8:00 p.m. only** to search the hereinbefore described Premises, Motor Vehicle(s), Person, for the described property and things and to seize said property and things and keep said property and things in custody until the same be dealt with according to law.

  
\_\_\_\_\_  
Affiant: Sean McKnight

Subscribed and sworn to before me this 6  
day of April, 2010 10:00 a.m.

  
\_\_\_\_\_  
Judge of District Court  
Mary J. Theisen

## SEARCH WARRANT

STATE OF MINNESOTA, COUNTY OF DAKOTA  
TO: **SEAN MCKNIGHT, (A) PEACE OFFICER(S) OF THE STATE OF MINNESOTA.**

DISTRICT COURT

WHEREAS, **SEAN MCKNIGHT** has this day on oath, made application to the said Court applying for issuance of a search warrant to search the following described Premises, Motor Vehicle(s), Person, :

- The apartment and garage space rented by David Ayers at the address 12645 Germanc Avenue # 7 in the city of Apple Valley.
- Ford Explorer with MN license plate TPP275 listing to David Ayers.
- Ford Ranger pick up with Mn License plate TPP280 listing to David Ayers
- David Bruce Ayers DOB/ 12/11/1963
- Elizabeth Sue Ayers DOB 11/30/1956

located in the City of Apple Valley , County of Dakota STATE OF MINNESOTA for the following described property and things:

- Documents, papers and notes related to the e-mail address of the victim, B.N.B. and/or her personal yahoo.com e-mail address (fully identified in police reports). Including but not limited to passwords, printed personal e-mails and photographs from the victim's yahoo.com account.
- Documents, papers and notes related to the victim, G.S. including printed personal e-mails and photographs sent by G.S. to the account of B.N.B's yahoo.com account.
- Computer systems, including but not limited to: the main computer box, laptops, netbooks, hard drives, monitors, scanners, printers, modems, and/or other peripheral devices,
- All data contained on either hard drives or removable media, including, but not limited to: existing and deleted files that may show the production, storage, and/or distribution of photographs of the victim G.S.
- Contents of volatile memory related to computers and other digital communication devices that would tend to show the current and recent use of the computer, use of encryption, use of other communications devices, routes of Internet and other digital communications traffic and passwords, encryption keys or other dynamic details necessary to preserve the true state of running evidence,
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- Papers and effects that tend to show the possession or distribution photographs of the victim G.S.
- Programs and manuals relating to operating systems or applications,
- Items containing or displaying passwords, access codes, usernames or other identifiers necessary to examine or operate items, software or information seized,
- Proof of residency and documentation relating to the internet, including but not limited to: bills from Internet Service Providers (ISP),
- Photos and/or video taken of the areas and person to be searched during the search.
- Papers, letters or other pieces of identification showing ownership, or control over, the areas to be searched.

WHEREAS, the application and supporting affidavit of Sean McKnight was/were duly presented and read by the Court, and being fully advised in the premises.

NOW, THEREFORE, the Court finds that probable cause exists for the issuance of a search warrant upon the following grounds:

1. The property above-described was stolen or embezzled.
2. The property above-described was used as means of committing a crime.
3. The possession of the property above-described constitutes a crime.
4. The property above-described is in the possession of a person with intent to use such property as a means of committing a crime.
5. The property above-described constitutes evidence which tends to show a crime has been committed, or tends to show that a particular person has committed a crime.

The Court further finds that probable cause exists to believe that the above-described property and things are at the above-described premises, in the described motor vehicle(s), on the person of .

NOW, THEREFORE, YOU SEAN MCKNIGHT THE PEACE OFFICER(S) AFORESAID, AND ALL OTHER PERSONNEL UNDER YOUR DIRECTION AND CONTROL ARE HEREBY COMMANDED BETWEEN THE HOURS OF 7:00 A.M. AND 8:00 P.M. ONLY TO SEARCH THE DESCRIBED PREMISES, THE DESCRIBED MOTOR VEHICLE(S), THE PERSON OF , FOR THE ABOVE-DESCRIBED PROPERTY AND THINGS, AND TO SEIZE SAID PROPERTY AND THINGS AND TO RETAIN THEM IN CUSTODY SUBJECT TO COURT ORDER AND ACCORDING TO LAW.

BY THE COURT:

Dated: 4/6/10 10:00am

  
\_\_\_\_\_  
JUDGE OF DISTRICT COURT

Mary J. Theisen

STATE OF MINNESOTA, COUNTY OF DAKOTA

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**COURT**

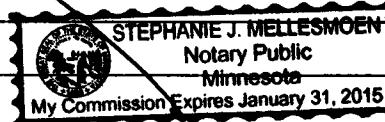
## **RECEIPT, INVENTORY AND RETURN**

I, John W. Gough, received the attached search warrant issued by the Honorable John H. Elsen, on 4/6/2010, and have executed it as follows:

Pursuant to said warrant, on 4/9, 20 10, at 0700 o'clock ~~A~~ m., I searched the (premises) (motor vehicle) (person) described in said warrant, and left a true and correct copy of said warrant (with) (in) (at) 12645 Germane Av. #7 Apple Valley, mn

I took into custody the property and things listed below: (attach and identify additional sheet if necessary)

E' Machine CPU - Model T5062 SN GC476100 04848 - Mstr Bedroom  
6 CDs - Master bedroom - Near computer stand  
Sintay fire Safe  
Indianapolis Motor Speedway Post card to David Ayers - Living Room 941  
IBM Thinkpad Laptop Power Cable, <sup>ASML Asset Tag #:</sup> LT102336 Living Room 922  
3 homemade DVDs - Blue in Orange Case - HP 941 - Living room  
DVD - Staples "Ali-G in da house" - Black Backpack 922  
Assorted DVD-R, CD-R/RW located next to TV - 941  
Blank or recorded DVDs from Tivo in Garage



**Strike when appropriate:**

- I left a receipt for the property and things listed above with a copy of the warrant.
- ~~None of the items set forth in the search warrant were found.~~
- I shall ~~retain~~ or (deliver) custody of said property as directed by Court order.

I, John Smith, being first duly sworn, upon oath, deposes and says that he has read the foregoing receipt, inventory and return and the matters stated are true and correct, except as to such matters stated therein on information and belief, and as to those, I believe them to be true.

Subscribed and sworn to before me this  
14 day of April, 2010

**Notary Public** **County, Minn.**

My commission expires 1-31-15

Stephanie J. Mellesmoen  
Signature