

AFFIDAVIT FOR ARREST WARRANT

I, Jonathan D. Grusing, upon being duly sworn, depose and state that the following is true to the best of my knowledge and belief:

I am a Special Agent (SA) with the Federal Bureau of Investigation (FBI), and have been so employed for over 13 years. I also have been sworn as a Peace Officer with the State of Colorado through the Colorado Bureau of Investigation for the past four years.

My experience as an FBI agent has included the investigation of cases involving crimes of violence to include bank robberies, kidnappings, homicides, and fugitive investigations. I have personally participated in the execution of search warrants involving the search and seizure of evidence and arrest warrants related to these crimes.

I make this affidavit in support of an application for the arrest of Scott Lee Kimball for one count of the offense of Murder in the Second Degree, of victim Terry Kimball, in violation of Section 18-3-103(1), C.R.S., and one count of the offense of Murder in the Second Degree, of victims Jennifer Marcum, LeAnn Emry, and Kaysi McLeod, in violation of Section 18-3-103(1), C.R.S. Your affiant has conducted this investigation with the assistance of Lafayette Police Department (LPD) Detective Gary Thatcher and multiple other federal, state and local law enforcement agencies in Colorado and in other states. The affidavit is a condensed summary of the investigation, limited to pertinent evidence of Kimball's involvement in these offenses.

For the purpose of maintaining chronological order of the investigation, Count 1, involving victim Terry Kimball, will be described in this affidavit after Count 2.

Count 2: Jennifer Lynn Marcum (Victim 1)

On November 9, 2006, your affiant was assigned by the Denver office of the FBI to investigate a murder-for-hire case, involving a victim named Jennifer Marcum. Your affiant reviewed the FBI case file and located a federal search warrant, signed on July 10, 2003, in the State and District of Colorado for the search of a 1996 Saturn sedan, Colorado license plate 208HFW, under the federal violation of Title 18, United States Code, Section 1958(a), Use of Interstate Commerce Facilities in the Commission of Murder-for-Hire. This vehicle was last known to be occupied by Jennifer Marcum, a potential witness for the Government in a Drug Enforcement Administration (DEA) methamphetamine case against Steven Ennis. Jennifer Marcum was the girlfriend of Ennis at the time of his arrest in New York. Ennis, a former cellmate of Scott Kimball, was incarcerated on federal drug charges during the time of Marcum's disappearance.

Upon further review of the FBI case file, your affiant learned that Scott Kimball provided Special Agent (SA) Carle Schlaff, of the Denver FBI, with information, on June 29, 2003, that Marcum had been murdered by an associate of Ennis because of her potentially damaging testimony against Ennis. Specifically, Kimball was listed in the federal search

warrant affidavit of Marcum's Saturn as a Cooperating Witness (CW) of the FBI. Kimball reported to the FBI that Jason Price, an associate of Ennis, asked him to dig up Marcum's dead body located near Rifle, Colorado. Kimball reported to the FBI that he was asked by Price to do such a task to prevent Marcum from being identified by the serial numbers on her breast implants and IUD.

The following summarizes the historical investigation by the FBI regarding Scott Kimball's involvement in the disappearance of Jennifer Marcum:

Jennifer Marcum's cell phone was last used on February 17, 2003 at 9:30 pm. Marcum's Saturn was first noted to be in the parking lot of Denver International Airport (DIA), by the Denver Police Department, in the early morning hours of February 18, 2003. Marcum was not listed by the airlines to be on any outbound flight from Denver. Both the cell phones for Jennifer Marcum and Scott Kimball were inactive from February 17, 2003 through February 20, 2003, though both had significant activity on them in the days prior to February 17, 2003.

On February 21, 2003, Scott Kimball reported to the Denver FBI that Jennifer Marcum had traveled to New York City to purchase a handgun and shoot Genero Brigante, a federal witness against Steven Ennis.

On July 15, 2003, Scott Kimball informed the Denver FBI that between February 17, 2003 and February 20, 2003 he took a trip to the mountains, specifically to Craig, Colorado.

Interviews 2006 to Present

On November 18, 2006, your affiant assisted in an interview of Robert Marcum at the Denver Police Department. Robert Marcum, the father of Jennifer Marcum, advised that he and Jennifer's mother, Mary Willis, met with Scott Kimball in August 2005. Robert Marcum knew, at the time of the meeting with Kimball, that Kimball was a CW for the FBI, in the case regarding Jennifer Marcum's disappearance. In the meeting, Kimball told Robert Marcum and Mary Willis that he knew exactly where Jennifer's body was buried and that he could take them to her body in the mountains. Kimball told Robert Marcum that while he was in jail, he portrayed himself as a "hit man" to other people in jail. Despite Kimball's statements to the Marcum's about the whereabouts of Jennifer Marcum's body, Kimball never reported to the FBI that he knew the precise location of Jennifer Marcum's body.

Your affiant has interviewed Mary Willis on multiple occasions since November 2006. She confirmed Robert Marcum's account of Kimball telling them that Jennifer was buried near Rifle, Colorado and that he could take Willis to the exact spot where Jennifer was buried. She provided the Denver FBI an audio recording of one such conversation she had with Kimball in 2005.

On January 25, 2007, your affiant and Detective Thatcher interviewed Brett Lee Gamblin, at the Missoula County Detention Facility in Missoula, Montana. Gamblin, Scott Kimball's former cellmate, related that, in 2005, Kimball asked him to come to Colorado to

work with him in the cattle business. Gamblin said he was with Kimball at a Sonic restaurant in Colorado when Kimball asked Gamblin if he thought that "fake tits" could be traced. Gamblin replied that the serial number and manufacturer's name were inside of the implants due to liability tracing and lawsuit filing. Kimball told Gamblin, "I know a guy that will pay you to cut implants out of a dead body." Gamblin asked why anyone would be concerned about breast implants when the body would have fingerprints, footprints, teeth and a skull. Kimball replied, "You cut off the feet, head and hands and there's no trace of it." Kimball further told Gamblin that the person killed was a female and that she was buried in the mountains.

On February 6, 2007, your affiant and Detective Thatcher interviewed Jason Price, in the presence of his attorney at the Denver FBI office. Price stated that he did not know Jennifer Marcum was missing until 2005, when a friend who knew Jennifer Marcum told him she was missing. Price assumed that Marcum had moved back to New York, in 2003, and given up on waiting for Steve Ennis to get out of jail. Price stated that once he found out Marcum was listed as a missing person on the Internet, he contacted the FBI and was interviewed. Price told the FBI, in 2005, that he suspected Scott Kimball was involved in Marcum's disappearance, as did Ennis' father, Patrick Ennis. Your affiant confirmed that Price contacted the Denver FBI Office, on August 28, 2005, and reported that he had pertinent information regarding Jennifer Marcum.

On March 14, 2007, your affiant contacted Heather Price, who advised that she was friends with Matt Dunafon, owner of Shotgun Willie's, and was also friends with some of the dancers at Shotgun Willie's during the time period following Marcum's disappearance. Jennifer Marcum had been employed at Shotgun Willie's before she disappeared. Heather Price recalled Dunafon telling her, in 2005, that Mary Willis, the mother of Marcum, was in the bar and was talking about the disappearance of her daughter. Willis and Price discussed rumors they had heard of Marcum being dead. Heather Price went home and looked up Jennifer Marcum's name on the Internet. She found Marcum to be listed as a missing person and told Jason Price what she had found on the Internet. They decided to call the police and Jason eventually went to the FBI office with his lawyer. As documented in a separate interview with Robert Marcum, Marcum and Willis visited Shotgun Willie's and placed "Missing Person" flyers of Jennifer Marcum up around that area, in August 2005. Heather Price contacted the Denver office of the FBI on August 27, 2005.

On October 8, 2008, your affiant contacted Patrick Ennis regarding the abandonment of the Saturn last driven by Jennifer Marcum. Ennis and his wife, Kathy Ennis, told your affiant that they were waiting to pick up Marcum and Scott Kimball at the airport, in Seattle, on a Friday in February 2003. Kimball had convinced Patrick Ennis that he had an opening in a high-paying job with a timber company for Patrick. Marcum had called Patrick and Kathy at least once per day for weeks leading up to her pending arrival in Seattle. Marcum was excited about beginning training for work in a coffee shop business in Washington, which Kimball had set up for her. Kimball said that he and Marcum would spend time with Kathy and Patrick in Kimball's cabin in Couer de Alene, Idaho while Marcum completed her training. Kimball called the Ennis' that weekend and said that Marcum never showed at the airport, but went to New York instead. Kimball called Patrick two weeks later and said that Steve Ennis car was still at the Denver airport and that Patrick needed to come pick it up. Steve Ennis had previously given Jennifer Marcum the Saturn to drive and Marcum had registered the vehicle under her name.

Kimball thus told the Ennis family about Jennifer Marcum's car being at DIA in late February or early March 2003, at least three months prior to reporting her disappearance and death to the Denver FBI. Kimball was arrested and booked into Denver Police Department City jail, on June 19, 2003, for an outstanding check fraud violation from the state of Washington. Upon arrest, he told FBI SA Schlaff and DEA Agents that Jason Price had strangled Marcum and placed her body in a creek bed near Rifle, Colorado. From this information, SA Schlaff subsequently determined that Marcum's car was abandoned in the DIA parking lot between February 19, 2003 and February 20, 2003.

On April 10, 2007, your affiant and Detective Thatcher interviewed Lori McLeod at her residence in Westminster, Colorado. Lori McLeod is the ex-wife of Scott Kimball and the mother of Kaysi McLeod. McLeod stated that sometime in 2003, while she was traveling with Kimball from Denver to Las Vegas, Nevada, and passing through Rifle, Colorado, Kimball pointed to the Rifle road sign and told her, "That's where Jennifer's body is." During their relationship, Kimball told McLeod that he worked for the FBI and was involved in a case involving the murder of Jennifer Marcum. Kimball said that Jason Price had killed Marcum and was willing to pay Kimball to remove her breast implants and IUD.

Cell Phone Activity

Your affiant obtained cell phone records for Scott Kimball that had been previously subpoenaed by SA Schlaff, for mobile number 303-619-7878. The following analysis was performed, in August 2007, with the assistance of an FBI Intern:

Frequent and persistent calls to Marcum's cell phone (719) 201-1120 from Kimball's, (303) 619-7878, herein (Phone1), occurred January 2003 until February 17, 2003. Kimball made no calls to Marcum from February 18, 2003 to February 20, 2003 and then called Marcum once on February 21, twice on February 25, once on March 2, and once on March 4, 2003.

On February 17, 2003, Kimball activated a cell phone (303) 980-1646, herein (Phone2). Kimball called this number from Phone1, on February 17, 2003 at 4:21 pm, with the call lasting 1 minute. There were no other outgoing calls between the time of activation and March 23, 2003. Incoming calls were not shown for this number.

Both Marcum's cell phone and Kimball's primary cell phone, Phone 1, ceased activity on the evening of February 17, 2003, the same evening Marcum's car was abandoned in the DIA parking lot. On February 20, 2003 at 10:41 pm, Phone 2 was dialed from Marcum's cell phone, along with fourteen other attempted calls within a thirty-minute time frame. Phone records for Marcum do not indicate she had ever called Phone 2 before that night. Denver FBI Agents contacted the registered owners of these phone numbers, which were dialed from Marcum's phone, and determined that none of the fifteen calls appear to have been connected calls. Eight of the numbers, some of which were dialed twice, were persons previously called by Marcum. One number appeared to have been a random number dialed, to the cell phone of a man named Cyrus Rajabi. Rajabi attempted to call back Marcum's phone twice without reaching anyone. When interviewed by your affiant, Rajabi stated that he did not know Kimball or Marcum.

Kimball's Phone 1, after showing no activity from February 17, 2003 since 7:06 pm, also became active on February 20, 2003, at 7:59 pm, when a call was placed to customer service in the Vernal, Utah area, per the March 2003 AT&T phone bill for Phone 1.

Your affiant believes that the person responsible for Marcum's disappearance and death was in possession of her cell phone and dialed these numbers for the purpose of misdirecting law enforcement in an attempt to make it appear as if she was still alive on February 20, 2003. Your affiant found similar misdirections perpetrated by Scott Kimball in the disappearances and deaths of LeAnn Emry, Kaysi McLeod, and Terry Kimball.

Kimball Interview

On June 30, 2007, your affiant, and Detective Thatcher, contacted Scott L. Kimball at the Cascade County Detention Facility in Great Falls, Montana. Kimball waived his Miranda rights and was told by your affiant of the investigation into the disappearances of Kaysi McLeod, Terry Kimball, and Jennifer Marcum. Kimball replied that he believed Kaysi was still alive. He added that he could provide information to assist in finding out what happened to Jennifer Marcum and Terry Kimball, but only if he was given immunity for white-collar crimes. Throughout the six-hour interview, Kimball made statements like, "I can't incriminate myself any further" and "I wish I could be honest with you."

Memorandum of Understanding

On December 17, 2008, in case 08CR351, in Boulder County District Court, Boulder, Colorado, Scott Kimball was sentenced to 48 years imprisonment in the Colorado Department of Corrections, after pleading guilty to one count of Theft Over \$15,000, in violation of Section 18-4-401, C.R.S., and admitting he was a Habitual Offender. Kimball was being detained during this time period for the federal offense of Felon in Possession of a Firearm. Prior to Kimball entering into this plea agreement, your affiant was involved in multiple discussions with Kimball, his federal and state defense attorneys, and the federal and state prosecutors assigned to his multiple offenses, regarding the whereabouts of Jennifer Marcum and other missing persons associated with Scott Kimball.

Following the sentencing in Boulder, your affiant and Detective Thatcher met with Kimball, his defense attorneys, Boulder prosecutors, and Judge James C. Klein, while a Memorandum of Understanding was signed by Kimball and the appropriate attorneys. This Memorandum of Understanding required Kimball to lead law enforcement to the remains of Jennifer Marcum, LeAnn Emry, and Terry Kimball. The remains of Kaysi McLeod had been previously recovered without any assistance from Kimball. Following the successful recovery of these remains, Kimball would plead guilty to one count of Second Degree Murder in Boulder County, but would be immune from further prosecution for these murders. Upon signing the agreement, Kimball told your affiant that the remains of Emry and Marcum were within 15 miles of each other in Grand County, Utah. He stated that the remains were in the Sulphur Wash area, approximately 15-20 miles north of I-70 near Exit 225. Kimball later told your affiant that Terry Kimball's remains were located close to Vail Pass in Eagle County, Colorado.

