

STATE OF NORTH CAROLINA
COUNTY OF WAKE

IN THE GENERAL COURT OF JUSTICE
SUPERIOR COURT DIVISION

IN RE: SEARCH WARRANT OF)
ELECTRONIC DEVICES AND)
MEDIA FROM)
601 WALCOTT WAY)
CARY, NC 27519)

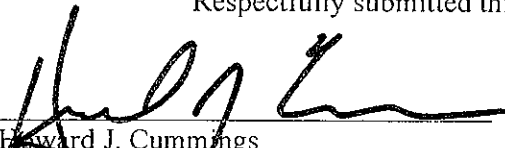
MOTION TO SEAL
SEARCH WARRANT AND
ITS RETURN NCGS 132-1.5 (e)

NOW COMES THE STATE of North Carolina by and through the undersigned Assistant District Attorney, hereby respectfully moves the Court to seal for a period of ninety days the above referenced search warrant, its return and this motion, and in support thereof, alleges:

1. That on December 2, 2008, the body of a white male was found at the unoccupied residence at 4221 Olive Branch Lane, New Hill, NC;
2. That identity of this deceased person has been confirmed to be that of Matthew Silliman;
3. That four persons have now been charged with first degree murder in connection with the investigation;
4. That the release of the contents of this search warrant and its return, will undermine an ongoing investigation by the Wake County Sheriff's Department.

WHEREFORE, The State of North Carolina respectfully moves the Court to seal this search warrant, its return and this motion for a period of ninety days.

Respectfully submitted this the 10th day of December, 2008.


Howard J. Cummings
Assistant District Attorney

File No.

SEARCH WARRANT

IN THE MATTER OF

Electronic Devices and Media from
601 Walcott Way
Cary, NC 27519

Date Issued Dec. 9, 2008 Time Issued 4:15 AM PM

Name of Applicant
Investigator J. Yoakum

Name of Additional Affiant

Name of Additional Affiant

RETURN OF SERVICE

I certify that this Search Warrant was received and executed as follows:

Date Received	<u>12-9-08</u>	Time Received	<u>6:15</u>	<input type="checkbox"/> AM	<input checked="" type="checkbox"/> PM
Date Executed	<u>12-10-08</u>	Time Executed	<u>10:23</u>	<input checked="" type="checkbox"/> AM	<input type="checkbox"/> PM

I made a search of the listed devices. The Inventory of seized property forms will be completed when the items are received by the Wake County Sheriff's Office.
_____ as commanded.

I seized the items listed on the attached inventory

I did not seize any items.

This Warrant WAS NOT executed within forty-eight (48) hours of the date of issuance and I hereby return it not executed.

Signature of Officer Making Return
[Signature]
Department or Agency of Officer
Wake County Sheriff's Office
Incident Number
01-08-124966

STATE OF NORTH CAROLINA

Wake County

District Court Division

In the General Court of Justice

To any officer with authority and jurisdiction to conduct the search authorized by this Search Warrant: I, the undersigned, find that there is probable cause to believe that the property and person described in the application on the reverse side and related to the commission of a crime is located as described in the application.

You are commanded to search the premises, vehicle, person, and other place or item described in the application for the property and person in question. If the property and/or person are found, make the seizure and keep the property subject to Court Order and process the person according to law.

You are directed to execute this Search Warrant within forty-eight (48) hours from the time indicated on this Warrant and make due return to the Clerk of the Issuing Court.

This Search Warrant is issued upon information furnished under oath by the person(s) shown.

Date Dec. 9, 2008 Signature [Signature]
 Deputy CSC Assistant CSC District Ct. Judge CSC Superior Ct. Judge

This Search Warrant was returned to me on the date and time shown below.

Date	<u>12-11-08</u>	Time	<u>5:45</u>	<input type="checkbox"/> AM	<input checked="" type="checkbox"/> PM	Signature	<u>[Signature]</u>	<input type="checkbox"/> Deputy CSC	<input type="checkbox"/> Assistant CSC
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APPLICATION FOR SEARCH WARRANT

1. CID Investigator J. Yoakum, Wake County Sheriff's Office
(Insert name and address, or if law enforcement officer, name, rank and agency)

being duly sworn, request that the court issue a warrant to search the person, place, vehicle, and other items described in this application and to find and seize the property and person described in this application. There is probable cause to believe that *(Describe property to be seized, or if search warrant is to be used for searching a place to serve an arrest warrant or other process, name person to be arrested)*

See Attached

constitutes evidence of a crime and the identity of a person participating in a crime,

(Name Crime) See Attached

and is located (check appropriate box(s) and fill-in specified information)

in the following premises (Give address and, if useful, describe premises)

(and)

on the following person(s) (Give name(s) and, if useful, describe person(s))

(and)

in the following vehicle(s) (Describe vehicle(s))

(and)
 (Name and/or describe other places or items to be searched, if applicable)
 See Attached

The applicant swears to the following facts to establish probable cause for the issuance of a search warrant:

See Attached

SWORN AND SUBSCRIBED TO BEFORE ME

Date 10-9-08

Signature of Applicant

Date 10-9-08

Signature [Handwritten Signature]

Magistrate Dep. CSC Asst. CSC Clerk of Superior Court Judge

In addition to the affidavit included above, this application is supported by additional affidavits, attached, made by _____

In addition to the affidavit included above, this application is supported by sworn testimony, given by _____

This testimony has been (check appropriate box) reduced to writing tape recorded and I have filed each with the clerk.

NOTE: If more space is needed for any section, continue the statement on an attached sheet of paper with a notation saying "see attachment." Date the continuation and include on it the signatures of applicant and issuing official.

In the Matter of: Electronic Devices and Media from 601 Walcott Way, Cary, NC 27519

Continuation of: Constitutes evidence of a crime and the identity of a person participating in a crime;

Murder G.S. 14-17
Conspiracy to Commit Murder G.S. 14-17

Continuation of: Description of Property to be Seized;

Digital records of any type that may contain text, images, or video of content that may tend to identify the participants in the above crimes, the methods used, or research into how to commit the above crimes or any aspect of carrying out or concealing the above crimes, or any situations that may contribute to motive to commit the above crimes.

Including stored email, chat logs, internet activity, temporary internet files, images and video stored on the device or downloaded to the device, electronic journals or other text files.

Digital records that may tend to identify the user of the computer and others involved in the plot to commit murder or harm another person.

Continuation of: Items to be searched:

Two computers and one external hard drive, as follows:

Dell Inspiron 553 tower style computer, serial number: _____ ite and silver in color, including any internal disk drives, media cards or any other contained storage device.

Laptop style computer, serial number: unknown, identified by the following information: Service Tag# _____ Express Service Code# _____ silver in color, including any internal disk drives, media cards or any other contained storage device.

Western Digital My Book external hard drive, serial number: _____ lack in color.

These items were seized on 12-03-2008 during the course of service of a search warrant issued by Superior Court Judge Donald Stephens on 12-03-2008. These devices are currently in the custody of Wake County Sheriff's Office evidence control.

Continuation of: Probable Cause;

1 - This affiant is an Investigator for the Wake County Sheriff's Office. I have been employed with the Wake County Sheriff's Office since April of 2003. I was employed with the Crabtree Special Police Department for about three and a half years prior to my current employment. I am currently assigned to the Criminal Investigation Division and I have investigated and participated in investigations of adults and juveniles, both as suspects and victims of crime. I have investigated a wide variety of criminal activity including but not limited to property crimes, drug activity, violent and non-violent person crimes, and sexual crimes. I have worked as a

SWORN AND SUBSCRIBED TO BEFORE ME

DATE December 9, 2008

Donald Stephens
Signature of Magistrate / District Court Judge / Superior Court Judge [Signature]
Signature of Applicant

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patrol officer, an investigator, and a patrol sergeant during my above listed experience. During that time I had the opportunity to participate in numerous investigations and executions of search warrants for criminal activity. I have received, and continue to receive, specialized training through schools and seminars on the above-mentioned crimes and areas of work as well as training in the interview and interrogation of suspects, witnesses, and informants. During my law enforcement career, I have attended in excess of 1000 hours of in-service and specialized training in the above-mentioned areas of law enforcement including drug identification, detection of narcotics, tactical situations, fraud investigations, forensic entomology relating to death investigations, death investigations and covert law enforcement operations. I am familiar with the practices of individuals involved in the illegal use, sale, transportation and distribution of narcotics as well as methods of committing fraud and various property, violent and sexual crimes. I make this affidavit based on my personal knowledge together with information that I have received from other persons this affiant believes to be credible.

2 – On Tuesday, December 2, 2008 at 9:33pm the Wake County Sheriff's Office responded to 4221 Olive Branch Lane pursuant to a request from the Apex Police Department to attempt locating a missing person. Responding deputies arrived on the scene and located a deceased male inside the residence. The deceased appeared to be a young, white male contained in a plastic bag with duct tape over his mouth. It was unknown at the time if the deceased male found inside the residence was in fact the missing person. Officers from the Apex Police Department were able to locate and interview several people whom they believe could identify the deceased and also provide additional information in this case. One person who Apex Police interviewed subsequently confessed to participating in the death of the deceased, along with three other co-conspirators. The witness admitted to beating the deceased on his head with a hammer, tying the deceased with zip ties, suffocating him with duct tape and disposing of him in a plastic bag. The witness also stated they attempted to utilize medications commonly used for animals to plan the murder and read the deceased his fortune using tarot cards just prior to his death. The witness resides at 601 Walcott Way.

3 – The above reference devices were previously seized on 12-03-2008 during the course of service of a search warrant issued by Superior Court Judge Donald Stephens on 12-03-2008. These devices are currently in the custody of Wake County Sheriff's Office evidence control.

4 - Affiant expects that digital evidence further demonstrating the extent of this criminal activity will be located in the above listed devices. File formats expected are yet unknown and could be of a broad range of formats and possibly proprietary formats. Affiant requests authorization to search through any sorts of files that may be reasonably determined to possibly contain stored email, chat logs, internet activity, temporary internet files, images and video stored on the device or downloaded to the device, electronic journals or other text files.

5 - Affiant anticipates additional search warrants to be drawn for the search of other computers and devices seized in the December 3rd search warrants of co-conspirators as well as physical locations where additional evidence may be found.

A Search Warrant is needed to investigate the alleged crimes: Murder and Conspiracy to Commit Murder.

SWORN AND SUBSCRIBED TO BEFORE ME

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DATE Dec. 9, 2008

Donald W. Stephens
[Signature]

Signature of Magistrate / District Court Judge / Superior Court Judge / Signature of Applicant

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Based upon this affiant's training and experience, it is believed that preceding facts establish probable cause to believe the above-described item(s) obtained from 601 Walcott Way, Cary, NC 27519 will aid in identifying participants in the above reference crimes.

For these reasons, this affiant respectfully requests this warrant.

SWORN AND SUBSCRIBED TO BEFORE ME

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DATE

Dec. 9, 2008

Donald W. Stephens

Signature of Magistrate / District Court Judge / Superior Court Judge

Signature of Applicant