

1 **IN THE SUPERIOR COURT OF THE STATE OF CALIFORNIA,**

2 **COUNTY OF SAN DIEGO**

3 **SEARCH WARRANT**

4 No. 104-10

5 The People of the State of California, to any peace officer in the County of San Diego:

6 Proof, by affidavit, having been this day made before my by Troy DuGal, a peace officer
7 employed by the San Diego Sheriff's Department, that there is substantial probable cause pursuant
8 to Penal Code section 1524 for the issuance of the search warrant, as set forth in the affidavit
9 attached hereto and made a part hereof as is fully set forth herein, you are, therefore, commanded to
10 make search at any time of the day, good cause being shown therefore;

11 **LOCATION, PROPERTY, AND/OR PERSON[S] TO BE SEARCHED**

- 12 A. The premises and all parts therein, including all rooms, safes, storage areas, containers,
13 surrounding grounds, trash areas, garages and outbuildings assigned to or part of the
14 residence located at **3473 Avocado Vista Lane in the City of Fallbrook in the County of**
15 **San Diego**; The residence is further described as a two story single detached family
16 residence; the exterior of the residence is primarily tan stucco with a red wood trim. The
17 roof of the residence is red tile. The numbers "3473" are affixed to the wall in between the
18 garage door and the front door. The numbers "3473" are also painted on the curb near the
19 driveway of the residence.
- 20 B. And, for a green 1999 Dodge Ram truck (5X14440), registered to Joseph B. Mestay (actual
21 legal spelling of owner's name is Joseph B. McStay), documents including the passenger
22 compartment, trunk, engine compartment, living areas and all parts and containers therein;
- 23 C. And, a white 1996 Isuzu Trooper (3TAE045), registered to Joseph B. McStay, which was
24 seized as evidence from the Western Towing tow yard in Chula Vista and is currently at the
25 Sheriff's Crime Lab , including the passenger compartment, trunk, engine compartment,
26 living areas and all parts and containers therein;

27



ITEMS TO BE SEIZED

For the following property, to wit:

1. Weapons capable of causing blunt trauma or stabbing injuries;
2. Firearms, including ammunition, holsters, targets, casings, cleaning equipment and reloading equipment and supplies;
3. Crime scene measurements and photographs;
4. Clothing or other objects bearing blood or blood stains;
5. Human hairs, tissues, secretions and parts thereof;
6. Personal journals and diaries, telephone records;
7. To seize view and forensically examine all computer hardware and software, and any other device capable of storing text or images in an electronic or digital format, including cellular phones, Blackberries, personal data assistants (PDAs), and the like;
8. Checkbooks and bank records, travel itineraries, travel brochures, tickets and/or departure schedules for airplanes, trains, buses, or ships;
9. And papers, documents and effects tending to show dominion and control over said premises, including keys, lease, rental, or mortgage agreements, utility bills, canceled mail, prescription bottles, fingerprints, clothing, photographs, photographic negatives, image disks, memory sticks, undeveloped film, homemade videotapes, handwritings, documents and effects bearing a form of identification such as a person's name, photograph, Social Security number or driver's license number; and to answer incoming phone calls, either landline or cellular, during execution of the warrant, and to view any video tapes seized pursuant to the warrant.

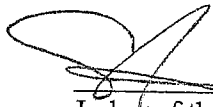
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1 and if you find the same, or any part thereof, to bring it forthwith before me at the Superior Court of
2 the State of California for the County of San Diego, or to any other court in which the offense in
3 respect to which the property or things is triable, or retain such property in your custody, subject to
4 the order of this Court, pursuant to section 1536 of the Penal Code.

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6 Given under my hand and dated this 17 day of February, 2010.

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9 Judge of the Superior Court

10 **MARTIN STAVEN**
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RESIDENCE
DODGE TRUCK

SUPERIOR COURT OF CALIFORNIA
COUNTY OF SAN DIEGO

COUNTY OF SAN DIEGO

STATE OF CALIFORNIA

ss. *gk*

RECEIPT AND INVENTORY

10 FEB 23 PM 2:37

WARRANT NO. 104-10

CASE NO. 10018139

(name)

Receipt is hereby acknowledged, and the undersigned makes this inventory, of the following property and things seized by him/her this day in the search of the premises described in said warrant and taken pursuant thereto, to wit:

- #1 MULTIPLE DOCUMENTS FROM RECYCLE BIN ON SOUTH SIDE OF HOUSE
- #2 MULTIPLE DOCUMENTS FROM CHEST IN LIVING ROOM
- #3 THUMBDRIVE IN ENVELOPE FROM CHEST IN LIVING ROOM
- #4 VTECH TELEPHONE ON COUNTERTOP IN KITCHEN
- #5 NIKON D80 SER#3281563 IN PANTRY
- #6 KODAK EZSHARE Z740 SER#ACKHT80101513 IN PANTRY
- #7 HANDWRITTEN LETTER "MOMMA" IN DRAWER IN KITCHEN
- #8 DELL INSPIRON LAPTOP SER#07898349890328 ON SHELF IN KITCHEN
- #9 EMACHINE COMPUTER T2040 SER#QIP2A 70100376 IN DEN
- #10 HP COMPUTER HPMX10 SER#MXF6410WJ6 IN DEN
- #11 NOTICE TO VACATE-328 AVENIDA CARRILLO #B IN DEN
- #12 MOTOROLA T-MOBILE CELL PHONE IN DEN
- #13 UNIDEN HANDSET & BASE IN DEN
- #14 TWO CELL PHNS SAMSUNG & T-MOBILE IN DEN
- #15 CANON DM-BL2A VIDEO CAMERA IN DEN
- #16 CHECK (BUSINESS, EIP) UNION BANK OF CA ACCT# 0480043626 IN DEN
- #17 WESTERN EXTERNAL DIGITAL HARD DRIVE IN DEN

DATE: 2-19-10 TIME: 1041-1650

SIGNED: *T. Dugal*

DEPT./AGENCY: SDSO Homicide

ID NO.: 2425

I, STROY DUGAL, the officer by whom this warrant was executed, do swear that the above inventory contains a true and detailed account of all property taken by me on the warrant.

Subscribed and sworn to before me

this 23 day of Feb 2010

Troy Dugal
Officer Executing Search Warrant

R. G. Harris
Magistrate/Judge

RESIDENCE
DODGE TRUCK

SUPERIOR COURT OF CALIFORNIA
COUNTY OF SAN DIEGO

COUNTY OF SAN DIEGO

STATE OF CALIFORNIA

RECEIPT AND INVENTORY

WARRANT NO. 104-10

CASE NO. 10018139

(name)

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- #18 MULTIPLE DOCUMENTS FROM GARAGE
- #19 MULTIPLE DOCUMENTS FROM GARAGE
- #20 CHILDREN/SEXUAL BEHAVIOR DOCUMENTS FROM GARAGE
- #21 MULTIPLE DOCUMENTS FROM GARAGE
- #22 MULTIPLE DOCUMENTS FROM GARAGE
- #23 WHITE CONTAINER @ 5 PILLS FROM DODGE TRUCK (EX14440)
- #24 LEICA DVD VIDEO CAMERA @ 3 MINI DVDS FROM DODGE TRUCK
- #25 YELLOW METAL KNIFE IN METAL SHEATH FROM DODGE TRUCK
- #26 MULTIPLE DOCUMENTS FROM DODGE TRUCK
- #27 THREE POWER CORDS FOR CELL PHONES(?) FROM ~~DODGE TRUCK~~ FRONT SEAT OF DODGE TRUCK
- #28 POWER CORDS & ACC FOR NIKON D80 CAMERA FROM MASTER BEDROOM CLOSET
- #29 POWER CORDS & ACC FOR KODAK CAMERA & LEICA CAMCORDER FROM MASTER BEDROOM CLOSET
- #30 KEY #553544 FROM KITCHEN (FOR FRONT DOOR DEADBOLT)
- #31 NOKIA CELL PHONE FROM MASTER BEDROOM CLOSET
- #32 MEN'S BLACK WALLET @ CARDS & PAPERS & ID FROM MASTER BEDROOM CLOSET
- #33 2-PAGE HANDWRITTEN LETTER FROM MASTER BEDROOM CLOSET

DATE: 2-19-10 TIME: 1041-1650

SIGNED: T. DUGAN

DEPT./AGENCY: SDSO Homicide

ID NO.: 2425

I, TROY DUGAN

, the officer by whom this warrant was executed, do swear that the above inventory contains a true and detailed account of all property taken by me on the warrant.

Subscribed and sworn to before me

this 23rd day of Feb 2010

Officer Executing Search Warrant

Magistrate/Judge

@ CRIME LAB

SUPERIOR COURT OF CALIFORNIA
COUNTY OF SAN DIEGO

COUNTY OF SAN DIEGO }
STATE OF CALIFORNIA } ss.

RECEIPT AND INVENTORY

WARRANT NO. 104-10

CASE NO. 10018139

(name)

Receipt is hereby acknowledged, and the undersigned makes this inventory, of the following property and things seized by him/her this day in the search of the premises described in said warrant and taken pursuant thereto, to wit:

- #41 METAL COFFEE CUP
- #42 GLASS 25.3 OZ "JANA" WATER BOTTLES
- #43 BUSINESS CARD
- #44 CANON VIDEO CAMERA @ CASE & CORD
- #45 CHECKBOOK - EARTH INSPIRED PRODUCTS #0480043626 UNION BANK CA.
- #46 BUSINESS CARD
- #47 ROSS BAG @ 4 DVDs

DATE: 2-20-10 TIME: 0900-1320

SIGNED: T. King

DEPT./AGENCY: SDSO HOMICIDES

ID NO.: 2425

I, Trey D. King, the officer by whom this warrant was executed, do swear that the above inventory contains a true and detailed account of all property taken by me on the warrant.

Subscribed and sworn to before me

this 23rd day of 2010

Officer Executing Search Warrant

Magistrate/Judge

1 IN THE SUPERIOR COURT OF THE STATE OF CALIFORNIA,

2 COUNTY OF SAN DIEGO

3 STATE OF CALIFORNIA,)

AFFIDAVIT FOR SEARCH WARRANT

4 (ss.

5 COUNTY OF SAN DIEGO)

No. 104-10

6 I, Detective Troy DuGal, do on oath make complaint, say and depose the following on this
7 19th day of February, 2010: that I have substantial probable cause to believe and I do believe that I
8 have cause to search:

9 LOCATION, PROPERTY, AND/OR PERSON[S] TO BE SEARCHED

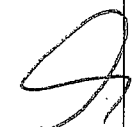
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22 seized as evidence from the Western Towing tow yard in Chula Vista and is currently at
23 the Sheriff's Crime Lab , including the passenger compartment, trunk, engine
24 compartment, living areas and all parts and containers therein;

25 ITEMS TO BE SEIZED

26 For the following property, to wit:

- 27 1. Weapons capable of causing blunt trauma or stabbing injuries;
- 

2. Firearms, including ammunition, holsters, targets, casings, cleaning equipment and reloading equipment and supplies;
3. Crime scene measurements and photographs;
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8. Checkbooks and bank records, travel itineraries, travel brochures, tickets and/or departure schedules for airplanes, trains, buses, or ships;
9. And papers, documents and effects tending to show dominion and control over said premises, including keys, lease, rental, or mortgage agreements, utility bills, canceled mail, prescription bottles, fingerprints, clothing, photographs, photographic negatives, image disks, memory sticks, undeveloped film, homemade videotapes, handwritings, documents and effects bearing a form of identification such as a person's name, photograph, Social Security number or driver's license number; and to answer incoming phone calls, either landline or cellular, during execution of the warrant, and to view any video tapes seized pursuant to the warrant.

AFFIANT'S QUALIFICATIONS

I am a peace officer employed by the County of San Diego Sheriff's Department and have been so employed for approximately 14 years. During my tenure, I have been assigned to the jail, patrol, the Community Oriented Policing and Problem Solving Unit and Area Investigations. I am currently a detective assigned to the Sheriff's Homicide Detail and have been so assigned for over 1 year.

1 While working in these different positions, I have conducted numerous investigations
2 related to crimes of violence ranging from battery to murder. I have been involved in
3 approximately 40 homicide investigations in various capacities. I have also investigated several
4 cases of missing persons, natural deaths, suspicious deaths, suicides and officer involved
5 shootings. Additionally, I have worked closely and consulted with criminalists and other
6 specialized consultants in the field of criminal investigations.

7 I have received training available to law enforcement to keep proficient in my profession.
8 This training includes, but is not limited to: the Investigation of Homicide and Deaths; Officer
9 Involved Shootings; Domestic Violence; Sexual Assault; Kidnappings; Gangs and Narcotics;
10 Interview and Interrogations courses; Arrest and Search Warrant Preparation courses; Court Room
11 Testimony courses; and Basic Criminal Investigations courses.

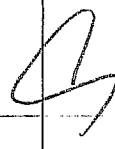
12 I possess an Advanced Certificate from the California Department of Justice on the
13 Commission of Peace Officer Standards and Training.

14 15 PROBABLE CAUSE

16 During the course of my duties, I have learned the following information based upon my
17 discussions with the named witnesses or by having read the reports of or talked with other San
18 Diego Sheriff's Department deputies and detectives who have spoken directly with the named
19 witness. All references to dates refer to the current calendar year unless otherwise stated.

20 At approximately 0939 a.m the morning of Monday, February 15th, 2010, SDSO
21 communications received a call from Michael McStay. Michael McStay was calling from the
22 Huntington Beach area of California and he wanted to report that his brother, Joseph McStay and
23 Joseph's family; Summer McStay (wife, 43 years old), Gianni McStay (son, 4 years old) and
24 Joseph McStay Jr (son, 3 years old) had not been seen or heard from since Thursday, February 4th,
25 2010.

26 When we arrived we were briefed by Deputy M. Tingley who told us that he initially spoke
27 to the reporting party, Micheal McStay on the telephone. Michael was very concerned as he had



1
2 During the homicide briefing in which the deputies who have secured the scene inform the
3 homicide unit of what had occurred, Deputy Tingley apologized as he told me he inadvertently
4 forgot to check the garage area of the residence during his welfare check. He described the initial
5 welfare check as a cursory search of the residence for persons. Based on my training and
6 experience, I realized the search for bodies and any sign of foul play during a welfare check is
7 crucial to determining if a person has been harmed. I asked Deputy Tingley to lead a secondary
8 welfare check into the residence to complete the welfare check of the garage and to focus on the
9 aforementioned circumstances. This check would include looking in closets, under beds, and in
10 locations where small children could be.

11 After entering the residence, I noticed in the living room there was a small couch with two
12 small bowls that were half filled with popcorn. The popcorn was slightly spilled near the bowls.
13 In the kitchen there was a carton of raw eggs and a bag of microwave popcorn on the counter. In
14 the upstairs master bedroom there was a tall lamp that was lying on the floor. In the walk-in closet
15 of the master bedroom there were several suitcases in the open position with folded clothing inside
16 of the suitcases. There was a large quantity of clothing tossed on the center of the floor in the
17 closet. I did not see a ladies purse anywhere in the residence. There were no apparent signs of
18 foul play.

19 On Tuesday, February 16th, 2010, I went to 1187 Walnut Avenue in Chula Vista to seize
20 the white 1996 Isuzu Trooper (3TAE045) from the Western Tow yard as evidence under authority
21 22655.5(b) CVC. I had the vehicle towed and stored at the San Diego Sheriff's Crime Lab.

22 During my investigation cell phones known to be associated with Joseph McStay and
23 Summer McStay were identified. Law enforcement officers were able to determine that no cell
24 phone activity had occurred since February 4th, 2010 on either phone.

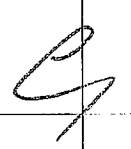
25 The local media and national media have showed intense interest in this case and several
26 news stories have been running on local television for the last several days. Those stories have
27 included a plea for anyone with knowledge of the whereabouts of the McStay family to come

1 forth. As of this date there has been no response to this plea as to the whereabouts of the family
2 and the family has not contacted law enforcement.
3

4 **OPINIONS AND CONCLUSIONS**

5 Based on my training and experience and the facts stated above, it is my opinion the
6 McStay family is the victim of foul play. In my opinion a family does not just up and leave under
7 the circumstances detailed above. Based on the initial observations of San Diego deputy sheriffs
8 and my observations of the scene during a more thorough welfare check, it is my opinion that the
9 family members left the house very quickly. Due to the investigation disclosing that the family
10 members have not heard from them for some time, business associates have not heard from them
11 for some time, the family car was abandoned near the international border, the family pets were
12 abandoned without providing for their care and cell phones owned by Mr. and Mrs. are not
13 currently working I believe that some or all of the McStay family has been kidnapped or killed.
14 This belief has been bolstered by the intense media attention that this case has received including
15 several days of pleas to the public through local and national television without the family or
16 anyone coming forward who are aware of their whereabouts. At this time the investigation has not
17 revealed if Joseph McStay or Summer McStay are a potential suspect in this case. Because the
18 locations to be searched are the residence and vehicles of Joseph McStay a search warrant is
19 sought to preserve the admissibility of any evidence gathered during the service of the warrants
20 and any other evidence that flows from the information gathered during the searches.

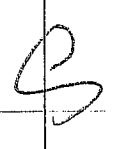
21 If the family was killed in the residence or taken from the residence or transported in the
22 abandoned vehicle there may be trace evidence that has been left behind such as human hairs,
23 tissues, secretions as well as other forensic evidence that is often located at the scene and can be
24 used to identify possible perpetrators, victims and potential witnesses. Also in my experience the
25 crime scene must be properly documented so the taking of Crime scene measurements and
26 photographs are critical to the proper documentation of the scene. During the investigation of this
27 case we have contacted numerous individuals as well as contacted individuals that have



1 communicated on-line with Joseph and Summer McStay. I have found that there are numerous
2 internet relationships from reviewing social networks. From my training and experience I know
3 that individuals that use internet social networks are usually very computer literate. As such I
4 believe that a search of any computers associated with Joseph and Summer McStay and associated
5 storage devices may lead me to additional witnesses and suspects as well as to provide me with
6 additional leads to find who may be involved in the disappearance. A search of the computers will
7 provide me with access to information that I am not currently aware of including other internet
8 networking sites, chatrooms, blogs and e-mails that may shed light on the disappearance.
9 Additionally individuals often keep computer records of their financial transactions and in my
10 experience financial gain often plays a role in a crime. By searching the computers and storage
11 devices I believe that I will be able to establish the financial relationships between Joseph and
12 Summer McStay those that may have a motive to do them harm.

13 Based on my training and experience, I know some attackers will plan or memorialize the
14 event for future reference by writing about it in a diary or journal. Nowadays, such records are
15 maintained in computer files not only because computers have largely replaced paper records, but
16 also due to the ability to more quickly erase (destroy) such records if the attacker believed he was
17 being investigated or was otherwise compromised. Likewise, computers and the like may contain
18 e-mails or other text messages between the perpetrator and the victim providing a link between
19 them and possibly a motive.

20 The evidence of dominion and control as described is necessary in establishing who was
21 present at the premises and who controlled the premises. Such evidence is necessary to the
22 identification of the perpetrator, and such evidence is normally left or maintained within premises
23 by those in control or by those visiting such premises. Handwritings and fingerprints are subject
24 to positive identification by experts. Also, clothing, photographs, canceled mail and the like are
25 routinely maintained in a person's premises as necessary and incident to maintaining such
26 premises. Persons frequently have taped voice messages on answering machines, home videos,
27 and pagers which also will reveal identification. In addition, by answering phone calls at the



1 premises while the search warrant is being executed, I expect to talk with persons who are familiar
2 with the persons in control of the premises and will so testify. Such callers and described
3 dominion and control evidence is vital to proving control over the described property to be seized.

4 A thorough search of the premises is necessary in order to establish the exact location of
5 any assault, its extent, and the circumstances surrounding the assault.

7 REQUEST TO SEAL

8 Pursuant to People v. Hobbs (1994) 7 Cal.4th 948, I respectfully request this affidavit and
9 search warrant be sealed pending further order of court. Without sealing, the affidavit and search
10 warrant will become a matter of public record within ten days (Penal Code section 1534(a)).
11 Sealing is justified even against discovery by the defendant based on the governmental privilege
12 allowing for the protection of the identity of informants pursuant to Evidence Code section 1041
13 (Swanson v. Superior Court (1989) 211 Cal.App.3d 332). The sealing requested herein, however,
14 is not based on denying discovery to the defendants when and if they are charged, but is being
15 requested to merely prohibit public disclosure which could surely undermine the continuing
16 investigation herein, jeopardizing the ongoing cooperation of certain individuals who are currently
17 cooperating with law enforcement in this case. Much of the information that is contained in this
18 affidavit has not been made public and has not been made available to the media. Putting this
19 information in the public domain, will jeopardize the investigation by advising the public and
20 more specifically any suspects. Doing so could cause a suspect to dispose of evidence that he is
21 otherwise keeping while under the belief that he is not under suspicion. There is no other way, but
22 for sealing the entire affidavit and search warrant, to ensure that all identifying information remain
23 private.

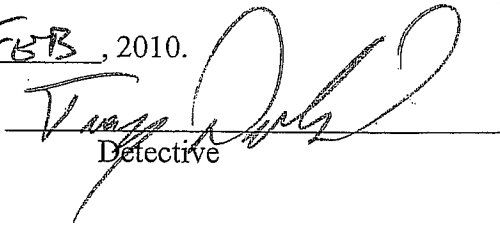
24
25 Therefore, based on my training and experience and the above facts, I believe that I have
26 substantial cause to believe the above described property, or a portion thereof, will be at the above
27 described premises when the warrant is served.

1 Based on the aforementioned information and investigation, I believe that grounds for the
2 issuance of a search warrant exist as set forth in Penal Code 1524.

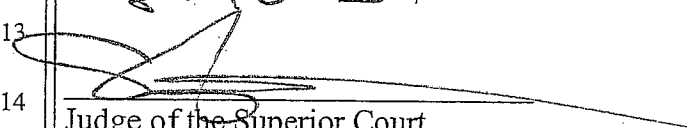
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4 I, the affiant, hereby pray that a search warrant be issued for the seizure of said property, or
5 any part thereof, from said premise, good cause being shown therefore, and that the same be
6 brought before this magistrate or retained subject to the order of this Court.

7 This affidavit has been reviewed for legal sufficiency by Deputy District Attorney
8 Robert O. Amador.

9 Given under my hand and dated this 19 of FEB, 2010.

10 
Detective

11 Subscribed and sworn to before me
12 this 19 day of February 2010,
13 at 8:40 a.m./p.m.

14 
Judge of the Superior Court

15 **MARTIN STAVEN**
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1 IN THE SUPERIOR COURT OF THE STATE OF CALIFORNIA,

2 COUNTY OF SAN DIEGO

3 SEARCH WARRANT

4 No. 104-10

5 The People of the State of California, to any peace officer in the County of San Diego:

6 Proof, by affidavit, having been this day made before my by Troy DuGal, a peace officer
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1 and if you find the same, or any part thereof, to bring it forthwith before me at the Superior Court of
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3 respect to which the property or things is triable, or retain such property in your custody, subject to
4 the order of this Court, pursuant to section 1536 of the Penal Code.

5
6 Given under my hand and dated this 17 day of February, 2010.

7
8 
Judge of the Superior Court

9 **MARTIN STAVEN**