

STATE OF MINNESOTA

DISTRICT COURT

COUNTY OF CARLTON
DIVISION

CRIMINAL

STATE OF MINNESOTA)
) SS.
COUNTY OF CARLTON)

APPLICATION FOR SEARCH WARRANT AND
SUPPORTING AFFIDAVIT

Special Agent Kenneth McDonald, being first duly sworn upon oath, hereby makes application to this Court for a warrant to search the premises 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 own knowledge, save as to such as are herein stated on information and belief, and as to those, he believes them to be true.

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

All described property pertains to inmate/client Duane Allen Hart DOB/07/30/47.

1. Signed consent to record calls to/from Minnesota sex offender program (MSOP)
2. All unredacted calls and contents of calls by or to this inmate/client from July 2013 to the present.
3. All unredacted behavioral expectation reports.
4. All unredacted investigative reports
5. All unredacted treatment records which may reflect discussions about sexual assaults, kidnapping, and storage of personal items outside of the sex offender program facility.
6. All unredacted visitor logs for the period July 2013 to the present

Are at the premises described as:

Minnesota Sex Offender Program
1111 Highway 73
Moose Lake MN 55767

Located in the City of Moose Lake, County of Carlton, and State of Minnesota.

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

1. 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 as follows:

Your affiant, Kenneth McDonald, is a Special Agent with the Minnesota Bureau of Criminal Apprehension. Special Agent McDonald has been a licensed police officer within the State of Minnesota for the past 27 years, the last 24 of which he has worked felony level investigations of crimes against people and property. SA McDonald has personally investigated and reviewed other law enforcement records related to this investigation and believes the following to be true and correct.

On October 22, 1989 at 9:32 p.m., the Stearns County Sheriff's Department received a 9-1-1 call reporting that Jacob Erwin Wetterling, DOB: 12/17/78, had been kidnapped by an unknown male abductor.

The initial police investigation revealed that Jacob Wetterling, age 11, his brother, Trevor Wetterling, age 10, and a mutual friend, Aaron Larson, age 11, were staying at the Wetterling residence at 9422 Kiwi Court, St. Joseph, Stearns County, Minnesota. That evening, Patty and Jerry Wetterling, the parents of Jacob and Trevor, were not home and were at a friend's house.

Jacob Wetterling had contacted his parents and requested permission for the three boys to travel from the Wetterling residence to the nearby Tom Thumb store to rent a video. The Tom Thumb store was approximately three-quarters of a mile away. The boys planned on traveling there using their bicycles and a scooter.

After obtaining permission, the boys did travel to the Tom Thumb store located in St. Joseph, Stearns County, Minnesota. Records reveal that they rented a movie video at 9:07 p.m. and bought some candy. Travelling to the Tom Thumb store was not a routine for the boys, and the only persons that knew they were travelling there were the Wetterling parents.

While returning to the Wetterling residence along 91st Avenue, the boys were approached by an unknown male at the end of the driveway of 29748 - 91st Avenue. This address is in St. Joseph Township, Stearns County, Minnesota and is the home of Robert, Rita and Daniel Rassier. The suspect/abductor was described as wearing dark or black clothing, a nylon stocking or mask pulled over his head, gloves, and was holding a silver handgun. He spoke with a raspy voice. The suspect/abductor ordered all three boys to go into the ditch across from the Rassier's driveway. The unknown male took Jacob Wetterling by force and told Aaron Larson and Trevor Wetterling to run into the woods.

Aaron Larson and Trevor Wetterling ran into the woods for a short distance, turned around, and did not see Jacob or the suspect/abductor, nor did they see any vehicles along 91st Avenue or along the driveway of 29748 - 91st Avenue.

Aaron Larson and Trevor Wetterling ran back to the Wetterling's next door neighbor, Merlin Jersak. At 9:32 p.m., Jersak placed a 9-1-1 call to Stearns County dispatch, reporting the abduction. During the 9-1-1 call, Aaron Larson also provided dispatch with his description of what had occurred as noted above.

At the time of his abduction, Jacob Wetterling was 11 years of age, five feet tall, 75 pounds, blue eyes, brown hair, with a mole on his left cheek. He was wearing a red hockey team jacket with the name "Jacob" stitched on the front, with the St. Cloud Police logo on the back, blue boy's sweat pants, a red t-shirt with CMYSA, a soccer ball logo, and St. Cloud MN on the front with the number 11 and the name "Wetterling" on the back, an orange traffic vest with silver trim with black draw strings on each side, a blue mesh jersey, boy's white tube socks, white boy's briefs, and boy's Nike high-top tennis shoes, white with a grey Nike swatch on the side, with the name Nike written on the bottoms. None of the described clothing has ever been found. Through your affiant's education and experience, he believes some perpetrators like to keep such items as souvenirs.

When Aaron Larson and Trevor Wetterling were interviewed, they described their journey from the Wetterling residence to the Tom Thumb store along the dark road 91st Avenue. They encountered three vehicles on the trip to Tom Thumb. Two vehicles came from town, passing them and headed in the opposite direction, and one vehicle came from behind them headed towards town. As they went by on the trip to the Tom Thumb store, they did hear what they thought to be some rustling in the weeds in the ditch near the Rassier farm driveway at 29748 91st Avenue.

Upon returning from the Tom Thumb store along 91st Avenue, they approached the Rassier farm at 29748 - 91st Avenue. Aaron described hearing footsteps in the gravel driveway as they approached. Aaron then described seeing the suspect/abductor coming from the driveway. He could see up the driveway with the help of a farm light. He saw no vehicles, and no dog was barking. The unknown gunman ordered the boys into the ditch as described earlier.

While in the ditch the boys were ordered onto their stomachs. The gunman told Trevor to shut off the flashlight he was carrying, which he did. The suspect/abductor asked what the boys' ages were. Trevor began to speak first, but he was ordered to stop. The suspect/abductor wanted the boys to speak in order from left to right. He tapped Aaron and he said his age, then Trevor, and then Jacob. He then told Trevor to run in the woods or he would shoot. Next he looked at Aaron's face and told him the same. The boys did as they were told.

Trevor and Aaron then described seeing Jacob being forcefully taken by the suspect/abductor towards the Rassier farm. After running for a short period of time, they turned and looked and did not see any vehicles on the road or the driveway of 29748 - 91st Avenue.

During the approximate timeframe of 1985 through 1988, there were numerous attempted abductions that included sexual groping of young boys in the Paynesville, Minnesota area. Duane Allen Hart DOB/07/30/47 lived in the Paynesville area during this timeframe. He also lived near New London, Minnesota in 1989. Both locations have close proximity to St. Joseph Minnesota. When the juveniles were approached the perpetrator did similar actions that were done when Jacob Wetterling was taken and the attempted abductions. For example, giving commands to get on the ground and to run and not look back.

Other criminal investigations in Stearns County and Kandiyohi County during the late 1980s subsequently resulted in charges and convictions of Duane Hart on six felony criminal sexual conduct violations involving juvenile males. He was charged with and convicted of two second-degree, two third degree, and two fourth degree criminal sexual conduct charges involving boys aged approximately 8 to 15. Hart was sent to prison in January 1990, and was committed as a sexual psychopathic personality in July 1995. He is presently is at the Minnesota sex offender program in City of Moose Lake, Carlton County, Minnesota. Since Hart's incarceration the attempted abductions and sexual assaults in the Paynesville area stopped.

During one of the sexual assaults and attempted kidnapping in Paynesville the perpetrator dropped a baseball cap. The baseball cap was kept as evidence, and in 2013 it was brought to the MN BCA laboratory for DNA analysis. A DNA profile was developed from the hat with a mixture of three or four more individuals. In December 2013, your affiant along with Capt. Pam

Jensen of the Stearns County Sheriff's office interviewed Duane Hart in which he denied any involvement in the crimes in Paynesville or the abduction of Jacob Wetterling. Hart voluntarily provided a known DNA sample to your affiant. In March 2014 the MN BCA lab reported that Duane Hart cannot be excluded from being a possible contributor.

In May 2014 WCCO news in the Minneapolis metro area did a feature story on the attempted abductions in Paynesville. In August 2014, your affiant along with Capt. Jensen re-interviewed Duane Hart and questioned him about the baseball cap. Once again Hart denied any involvement in the attempted abductions, the kidnapping of Jacob Wetterling nor did he have any knowledge of the baseball cap. Hart was aware of the recent news media and other media coverage, and he felt like he was suspect in the attempted abductions and the kidnapping of Jacob Wetterling.

Your affiant asked Hart what he did with all his personal belongings since he's been incarcerated. Hart told your affiant that he does not have any personal items that are kept outside of the Moose Lake facility.

In August 2014, your affiant spoke with investigator at the Moose Lake facility and made arrangements for a visit with Duane Hart. The investigator was aware this was the second interview with Hart regarding the disappearance of Jacob Wetterling. From the request of your affiant and in preparation for your affiant's appointment the investigator reviewed the files to see if Hart had had any visitors and or phone calls. The investigator listened to at least one of the phone calls and obtained information that Hart wanted someone to sell or get rid of the items in his storage locker. To obtain further information a court order would be needed.

Because of this information, your affiant seeks to listen to phone calls, determine if Hart communicated with anyone about the storage locker, changed his behavior at the facility, was the subject of any other investigations since this media and law enforcement attention, or may have talked further about involvement with these matters to treatment professionals at MSOP. Your affiant is requesting call records and visitor logs back to July 2013 to review his pattern of phone calls and visitors prior to being interviewed initially in December 2013 by law enforcement officials.

With Hart's sexual psychopathic personality, the fact that he residing in the area of the abduction, along with his convictions of similar crimes to that of the abduction of Jacob Wetterling and the attempted abductions of other young individuals in Paynesville, Minnesota in the late 1980s, Hart is a viable suspect for these crimes. Your affiant is requesting the described property to aid in determining Hart's possible involvement in these crimes.

Therefore, your affiant has good reason to believe, and does believe, that the following described property and things, to-wit:

All described property pertains to inmate/client Duane Allen Hart DOB/07/30/47.

1. Signed consent to record calls to/from Minnesota sex offender program (MSOP)
2. All unredacted calls and contents of calls by or to this inmate/client from July 2013 to the present.

3. All unredacted behavioral expectation reports.
4. All unredacted investigative reports
5. All unredacted treatment records which may reflect discussions about sexual assaults, kidnapping, and storage of personal items outside of the sex offender program facility.
6. All unredacted visitor logs for the period July 2013 to the present

Are at the premises described as:

Minnesota Sex Offender Program
1111 Highway 73
Moose Lake MN 55767

Located in the City of Moose Lake, Carlton County, Minnesota.

WHEREFORE, Affiant Kenneth McDonald requests a search warrant be issued, commanding your affiant, a peace officer and/or Capt. Pam Jensen, , and all other personnel under their direction and control, to search the hereinbefore described premises 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.

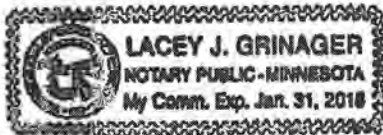
Jay Gr 8/22/14

Subscribed and sworn to before me this

22nd day of August 2014

SA Ken McDonald
Affiant

Judge of District Court



SEARCH WARRANT

STATE OF MINNESOTA

DISTRICT COURT

COUNTY OF CARLTON
DIVISION

CRIMINAL

TO: KENNETH MCDONALD, AND/OR CAPTAIN PAM JENSEN, PEACE OFFICER(S) OF THE STATE OF MINNESOTA.

WHEREAS, KENNETH MCDONALD has this day on oath, made application to the said Court applying for issuance of a search warrant to search the following described PREMISES:

Minnesota Sex Offender Program
1111 Highway 73
Moose Lake MN 55767

Located in the City of Moose Lake, County of Carlton, State of Minnesota, for the following described property and things:

All described property pertains to inmate/client Duane Allen Hart DOB/07/30/47.

1. Signed consent to record calls to/from Minnesota sex offender program (MSOP)
2. All unredacted calls and contents of calls by or to this inmate/client from July 2013 to the present.
3. All unredacted behavioral expectation reports.
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5. All unredacted treatment records which may reflect discussions about sexual assaults, kidnapping, and storage of personal items outside of the sex offender program facility.
6. All unredacted visitor logs for the period July 2013 to the present

WHEREAS, the application and supporting affidavit of KENNETH MCDONALD 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 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 premises described.

NOW, THEREFORE, YOU, KENNETH MCDONALD, AND/OR PAM JENSEN, THE PEACE OFFICER(S) AFORESAID, AND ALL OTHER PERSONNEL UNDER YOUR DIRECTION AND CONTROL ARE HEREBY COMMANDED TO SEARCH THE ABOVE-DESCRIBED PREMISES 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:

JUDGE OF DISTRICT COURT

Dated: August 22, 2014

COPIES TO: COURT • PRO.ATTY • PEACE OFFICER • PREMISES/PERSON

STATE OF MINNESOTA, COUNTY OF CARLTON DISTRICT COURT

RECEIPT, INVENTORY, AND RETURN

I, Kenneth McDonald , received the attached search warrant issued by the Honorable Macaulay , on August 22, 2014 , and have executed it as follows:

Pursuant to said warrant, on, at, I searched the (premises) described in said warrant, and left a true and correct copy of said warrant) (at) Moose Lake

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

Records from Minnesota Sex Offender Program, Moose Lake, pertaining to Duane Hart

Strike when appropriate:

- I left a receipt for the property and things listed above with a copy of the warrant.
-
- I shall (retain) or (deliver) custody of said property as directed by Court order.

I, Kenneth McDonald, being first duly sworn, upon oath, depose and say that I have 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
_____ day of _____, _____.

Notary Public _____ County, MN

My commission expires _____

Signature

STATE OF MINNESOTA

IN DISTRICT COURT

COUNTY OF CARLTON

SIXTH JUDICIAL DISTRICT

COURT FILE NO. N/A

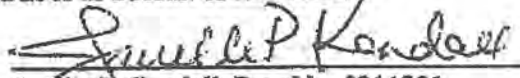
In Re: Disappearance of Jacob Wetterling.

**MOTION PURSUANT TO MINNESOTA
RULE OF CRIMINAL PROCEDURE 33.04**

The undersigned Stearns County Attorney hereby moves the Court, pursuant to Minnesota Rule of Criminal Procedure 33.04(d) for an Order that the attached Application for Search Warrant and supporting Affidavit, the actual Search Warrant, and the Receipt, Inventory, and Return Form, the attached Affidavit of Special Agent Ken McDonald, the attached Order, and this Motion Pursuant to Minnesota Rule of Criminal Procedure 33.04 not be filed as required by Minnesota Rule of Criminal Procedure 33.04(b) within the ten (10) day time period after authorization.

This Motion is based on the attached Affidavit of Ken McDonald, Minnesota Bureau of Criminal Apprehension, an investigator involved in the investigation of activities involving the disappearance of Jacob Wetterling as referenced in the attached Search Warrant. Said documents contain information which, if filed, could cause a future, related search to be unsuccessful, create a substantial risk of injury to an innocent person, and could severely hamper this ongoing investigation. It is requested that the documents be filed upon commencement of any criminal prosecution utilizing evidence obtained in or as a result of said search.

Dated: August 28, 2014


Janelle P. Kendall, Reg. No. 0211291
Stearns County Attorney
Administration Center, RM 448
705 Courthouse Square
St. Cloud, MN 56303
(320) 656-3880

STATE OF MINNESOTA

IN DISTRICT COURT

COUNTY OF CARLTON

SIXTH JUDICIAL DISTRICT

COURT FILE NO. N/A

In Re: Disappearance of Jacob Wetterling.

**AFFIDAVIT OF SPECIAL
AGENT KEN MCDONALD**

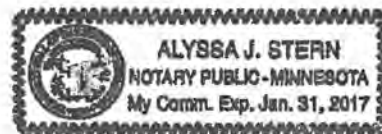
State of Minnesota)
)ss.
County of Carlton)

The undersigned Special Agent Ken McDonald, Minnesota Bureau of Criminal Apprehension, states that he is one of the investigators involved in the investigation of the disappearance of Jacob Wetterling as summarized in the attached Search Warrant. Your affiant also states that the investigation is ongoing, that no arrests have been made, and that several avenues of the investigation are being pursued. Your affiant further states that the release of the information contained within the Application for Search Warrant and supporting Affidavit, the actual Search Warrant and Receipt, Inventory, and Return Form, this Affidavit of Ken McDonald, the attached Order, and the Motion Pursuant to Minnesota Rule of Criminal Procedure 33.04, could cause future related searches to be unsuccessful, create a substantial risk of injury to an innocent person, and could create a substantial risk of severely hampering this ongoing investigation.

State of Minnesota)
)ss.
County of Carlton)

514 KPM
Special Agent Ken McDonald
MN Bureau of Criminal Apprehension

Subscribed and sworn to before me this 28th
day of August, 2014, by Special Agent Ken McDonald.
Alyssa J. Stern
Notary Public



STATE OF MINNESOTA
COUNTY OF CARLTON

IN DISTRICT COURT
SIXTH JUDICIAL DISTRICT
COURT FILE NO. N/A

In Re: Disappearance of Jacob Wetterling.

ORDER

Based upon the attached Motion submitted by Stearns County Attorney Janelle P. Kendall and the Affidavit of Investigator Ken McDonald, Minnesota Bureau of Criminal Apprehension, the Court finds reasonable grounds to believe that the filing of the Application for Search Warrant and supporting Affidavit, the actual Search Warrant, the Receipt, Inventory, and Return Form, the Affidavit of Ken McDonald, this Order and the Motion Pursuant to Minnesota Rule of Criminal Procedure 33.04 could cause future, related searches to be unsuccessful, create a substantial risk of injury to an innocent person, and could create a substantial risk of severely hampering the ongoing investigation of the disappearance of Jacob Wetterling.

Accordingly, **IT IS ORDERED** that the original of the Application for Search Warrant and supporting Affidavit, the actual Search Warrant, the Receipt, Inventory, and Return Form, the Affidavit of Ken McDonald, this Order, and the Motion Pursuant to Minnesota Rule of Criminal Procedure 33.04 be withheld from filing and be retained by Investigator Ken McDonald, Minnesota Bureau of Criminal Apprehension. **IT IS FURTHER ORDERED** that upon commencement of any criminal proceeding utilizing evidence obtained in or as a result of said searches, or at any time as directed by the Judge, that said documents shall be filed forthwith.

Dated: _____

 Macaulay, Robert
Aug 28 2014 1:15 PM
Judge of District Court