

*Check
Stephan
210-7226* COPY

DANE COUNTY
CIRCUIT COURT

2011 APR 18 PM 2:31

PK

STATE OF WISCONSIN

CIRCUIT COURT
BRANCH

DANE COUNTY

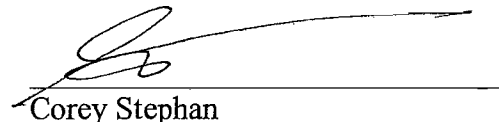
**In the matter of a request
to seal Search Warrant, DONALD AMECHE BRAXTON**

MOTION

COMES NOW the State of Wisconsin, by Assistant District Attorney Corey Stephan, and hereby moves this court for an Order sealing the Complaint for Search Warrant, Search Warrant, and Return of Search Warrant for the Donald Ameche Braxton DNA/Buccal swab Search Warrant, Grounds for this Motion are set forth in the attached Affidavit of Detective David Bongiovani pursuant to State v. Cummings, 199 Wis. 2d 721 (1996).

DATED at Madison, Wisconsin, this 18 day of April, 2011.

Respectfully submitted:



Corey Stephan
Assistant District Attorney
Dane County, Wisconsin
State Bar No. 1025138

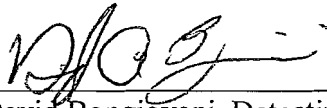
AFFIDAVIT

DANE COUNTY
CIRCUIT COURT


2011 APR 18 PM 2:31

Your Affiant, being duly sworn under oath, states as follows:

1. That your Affiant is a detective employed by the Town Madison Police Department involved in the investigation of a felony murder that occurred in Dane County.
2. That a warrant was signed on Monday April 11, 2011 by The Honorable Judge David Flanagan, Dane County Circuit Court, Branch 12 to obtain a Buccal swab containing cells/DNA from the mouth of Donald Ameche Braxton as potential evidence in this Felony Murder investigation;
3. That your Affiant was the Complainant in the Complaint for a Search Warrant relating to the collection of this Buccal swab/DNA.
4. That this is an ongoing Felony Murder investigation and the information contained in the Complaint for Search Warrant identifies a target of the investigation. Public disclosure of this information will jeopardize gathering further evidence and compromising the integrity of witness interviews.
5. That your Affiant requests that the search warrant, Complaint for search Warrant, Return of Officer and this motion and Affidavit be sealed for a period of up to 60 days due to the complexity of this investigation and the need for time to the examine the evidence resulting from the search warrant results; that should charges be issued in connection with this crime prior thereto, Affiant will notify the occur and ask that the Order authorizing the seal be lifted.



David Bongiovani, Detective
Town of Madison Police Department



Subscribed and sworn to before me
This 18 day of April, 2011.

My commission expires: permanent
St. Mary, # 1025/38-

STATE OF WISCONSIN

CIRCUIT COURT
BRANCH

DANE COUNTY

DANE COUNTY
CIRCUIT COURT

2011 APR 18 PM 2:31

In the matter of a request
to seal Search Warrant , DONALD AMECHE BRAXTON

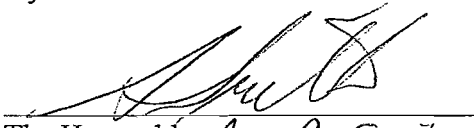
ORDER

IT IS HERBY ORDERED, on request of the State of Wisconsin, and for the
reasons stated, *in the Bongiovani Affidavit dated 4-18-11* that the Complaint for Search Warrant, Donald Ameche Braxton, and the
Return of Search Warrant, Donald Ameche Braxton, are sealed for a period not
exceeding 60 days.

AK Smith

DATED at Madison, Wisconsin, this 18th day of April, 2011.

By the Court:


The Honorable *Amy R. Smith*
Dane County Circuit Court
Branch 4

2011 APR 18 PM 2:31

DANE COUNTY
CIRCUIT COURT

SEARCH WARRANT

STATE OF WISCONSIN)
) ss.
COUNTY OF DANE)

**In the Circuit Court of the
County of Dane**

THE STATE OF WISCONSIN, to the Sheriff, or any other peace officer for said County:

WHEREAS, Detective David Bongiovani, has this day complained in writing to this Court of the County of Dane, upon oath that on April 11th in the City of Thornton, County of Adams, State of Colorado that there is now located and concealed in or upon a certain person, further described as follows:

Donald Ameche Braxton, Male Black, date of birth August 7, 1963,
five feet eleven inches tall, weighing 218 pounds.

Certain things, to-wit:

Buccal swab containing cells/DNA from the mouth of Donald Ameche Braxton in sufficient quantity for DNA analysis,
which things may constitute evidence of a crime, to-wit: First Degree Intentional Homicide, committed in violation of Section(s) 940.01 of the Wisconsin Statutes; and prayed that a Search Warrant be issued to obtain DNA via oral swab from aforesaid person.

NOW, THEREFORE, in the name of the State of Wisconsin, you are commanded forthwith to obtain DNA via oral swab from aforesaid person, and return this Warrant within forty-eight hours, before the said Court.

WITNESS, the Honorable Daniel F. Finnegan Judge
of Circuit, Branch 12, Dane County, Wisconsin, this 11th day of April, 2011.

D. F. Finnegan
Judge

ENDORSEMENT

Received by me this 11th day of April, 2011, at 839A o'clock

D. J. G. [Signature]
(Peace Officer)

Return of officer

Dated this 18th day of April, 2011 at Madison Wisconsin.

I hereby certify that by virtue of the within warrant, I searched the within named person and received the following:

2 cotton tip swabs containing cells from mouth

and have same now in my possession subject to the disposition of the court.

D. J. G. [Signature]
(Police Officer)

2011 APR 18 PM 2:32

DANE COUNTY
CIRCUIT COURT

COMPLAINT FOR SEARCH WARRANT

STATE OF WISCONSIN
) ss.
COUNTY OF DANE)

**In the Circuit Court of the
County of Dane.**

THE STATE OF WISCONSIN, TO THE SHERIFF, OR ANY OTHER PEACE OFFICER
FOR SAID COUNTY:

WHEREAS, Detective David Bongiovani, has this day complained in writing to this Court of the County of Dane, upon oath that on April 11, 2011, in the City of Thornton, County of Adams, State of Colorado that there is now located and concealed in or upon a certain person, further described as follows:

Donald Ameche Braxton, Male Black, date of birth August 7, 1963,
Five feet eleven inches tall, weighing 218 pounds.

Certain things, to-wit:

Buccal swab containing cells/ DNA from the mouth of Donald Ameche Braxton in
Sufficient quantity for DNA analysis,

which things may constitute evidence of a crime, to-wit: First Degree Intentional
Homicide, committed in violation of Section(s) 940.01 of the Wisconsin Statutes; and
prayed that a Search Warrant be issued to obtain DNA via oral swab from aforesaid
person.

Which may constitute or contain evidence of a crime, to-wit: First Degree Homicide, in
violation of Chapter 940.01 of the Wisconsin Statutes, and prayed that a Search Warrant
be issued to obtain DNA via oral swab from aforesaid person.

FACTS: Your complainant is a Detective employed by the Town of Madison Police Department and has been a Law Enforcement Officer for 31 years. Your complainant bases this complainant upon personal knowledge, and information, as well as information provided to your complainant by Dane County Deputy Sheriff's Ron George, David Mahoney, Larry Lathrop, and William Ludwig. Town of Madison Police Officer's Tom Hickox, Lloyd Ratliffe, Paul Worner, Pete Brown, and Jim McCarthy as well as Madison Police Officer Martin Micke, which reports your complainant believes to be truthful and reliable inasmuch as they were prepared during the course of the officer (s) official duties.

As well as Doctor Billy Bauman, whom your complainant knows is a Wisconsin licensed physician who is a forensic pathologist, and whom your complainant has worked with on previous investigations, and whom your complainant knows has testified as an expert witness regarding causes of death in courts in the State of Wisconsin.

Also Jane Thuesen and Charmaine Smith whom your complainant believes to be truthful and reliable because they are citizen witnesses to the events that occurred.

Your complainant believes the information provided by the State of Colorado parole agent Amiee Tate to be truthful and reliable inasmuch as it was provided in her capacity as a parole agent whose job it is to keep track of parolees under her supervision.

Your complainant believes the information provided by State of Wisconsin Crime Lab. Analysis Ryan Gajewski is truthful and reliable inasmuch it is information he provided during his official duties as a Chemist for the Wisconsin State Crime Laboratory.

Your complainant is investigating a report of an armed robbery and homicide, which occurred in the Town of Madison, Dane county, Wisconsin on April 22, 1986. Your complainant states that your complainant has reviewed all reports written under Town of Madison Police Department (TMPD) case number 1986-1610, Dane County Sheriff's Office (DCSO) case number 1986-182234 and Wisconsin state Crime Laboratory (WSCL) case number 1986-581 which are reports compiled during the investigation of this armed robbery and homicide.

Your complainant states that your complainant reviewed a written statement authored by Jane Thuesen who wrote that at approximately 4:15am on April 22, 1986 she arrived in the parking lot of the Open Pantry and observed a young male staggering towards the street with blood all over his face and shirt. Jane Thuesen reported that she saw this young male clasp and fall to the ground.

Your complainant states that this young male was later identified as Andrew M. Nehmer ,male white, DOB 03-13-66, the clerk at the Open Pantry at 2201 S. Park St, Town Of Madison, Dane County, Wisconsin. Your complainant states that the Open Pantry is located adjacent to the Park Village Apartment complex which includes 2243 Woodview Ct.

Your complainant states that your complainant read a report authored by DCSO Deputy Ron George who reported arriving at the scene of this armed robbery at approximately 4:20am and assisted with CPR on the victim. Deputy George reports that he accompanied the victim to St Mary's hospital where the attending physician Dr. Erskine pronounced Andrew Nehmer dead at 5:16am.

Your complainant states that your complainant read a report authored by DCSO Deputy David Mahoney who reported attending the autopsy of Andrew Nehmer on April 22, 1986 at 1:53pm.

Your complainant states that Det. Mahoney reports that he was advised by pathologist Dr. Billy Baumann that the only apparent injury to the victim was an incision to the left side of the victims neck, adjacent to jaw, running between his left ear and jaw. Det. Mahoney reports that Dr. Baumann noted that the injury was the result of a stab wound, resulting from a single edged knife measuring 2.6 centimeters in size with approximately an 8-9 inches blade.

Your complainant states that Det. Mahoney reports that Dr. Billy Baumann that the knife blade passed through the left jugular vein, running along the esophagus and aorta, entering the upper portion of the lower lobe of the left lung, resulting in death from exsanguinations (heavy hemorrhaging).

Your complainant states that your complainant read a report authored by DCSO Lt. William Ludwig who reports arriving at the Open Pantry Store at 2201 S. Park Street on April 22, 1986 at 5:12Am. Lt. Ludwig reports his assignment was to assist with the processing of the crime scene.

Lt. Ludwig reports numerous blood spatter areas behind the counter, some dollars bills and change lying on the floor below the cash register. Lt. Ludwig reports the safe behind the counter was unlocked and found to be full of money.

Lt. Ludwig reports that the cash register was out of place as if it had been bumped during a struggle. Lt. Ludwig reports a trail of blood leading from behind the counter out the front door to where the victim was lying.

Your complainant states that a red bandana was recovered from the scene and placed under property tag number 6598.

Your complainant states that your complainant reviewed a report authored by TMPD Officer Tom Hichox of an armed robbery that was reported on 2-11-86 at 9:25pm under TMPD case number 86-0599 by the Citgo Quik Mart, 2200 S Park St, Town of Madison. The clerk reported being robbed by a black male with a gun. Your complainant states that Donald Ameche Braxton was arrested and charged under court case number 86-CF499 for this armed robbery.

Your complainant states that your complainant reviewed a report authored by TMPD Officer Paul Worner of an armed robbery that was reported on 2-17-86 at 9:25pm under TMPD case number 86-672 by a Badger Cab driver at 2207 Woodview Ct, Town of Madison. The Cab driver reported being robbed by a black male with a gun. Your complainant states that Donald Ameche Braxton was arrested and charged under court case number 86-CF450 for this armed robbery.

Your complainant states that your complainant reviewed a report authored by TMPD Officer Lloyd Ratliffe of an armed robbery that was reported on 2-21-86 at 2:30am under TMPD case number 86-722 by the Open Pantry, 2504 Rimrock Rd, Town of Madison. The clerk reported being robbed by a black male with a gun wearing a handkerchief type bandana over his face.

Your complainant states that Donald Ameche Braxton was arrested and charged under court case number 86CF485 for this armed robbery.

Your complainant states that your complainant reviewed a report authored by TMPD Officer Pete Brown of an armed robbery that was reported on 2-22-86 at 8:40pm under TMPD case number 86-750 by the Sunrise Liquor, 714 W. Badger, Town of Madison. The clerk reported being robbed by a black male with a gun wearing a purple scarf over his face. Your complainant states that Donald Ameche Braxton was arrested and charged under court case number 86CF485 for this armed robbery.

Your complainant states that your complainant reviewed a report authored by MAPD Officer Martin Micke of an armed robbery that was reported on 2-23-86 at 7:50pm under MAPD case number 86-934387 by the Super America, 1101 N. Sherman Ave, Madison. The clerk reported being robbed by a black male with a gun wearing handkerchief type bandana over his face. Your complainant states that Donald Ameche Braxton was arrested and charged under court case number 86-CF613 for this armed robbery.

Your complainant states that your complainant reviewed a report authored by TMPD Detective James McCarthy of an interview conducted on 6-26-96 at 10:15am of Charmaine Smith. Charmaine Smith provided Det. McCarthy with the following information. Smith advised Det. McCarthy that she was staying at an apartment in Woodview Ct in the Town of Madison rented by Hershel and Jonathan Stanley with an Emma Wilson in April of 1986.

Smith stated that she and Emma were selling drugs from that apartment and that there was a steady stream of people coming and going from that apt. during that time. Smith stated that Ameche Braxton bought drugs from them on numerous occasions. Smith advised Det McCarthy that on the morning of the homicide of the clerk at the Open Pantry she was at that apt. Smith advised that night that she, Hershel Stanley, Jon Stanley, Malcolm Kendrick, Michael Kendrick, And Emma Wilson was at that apt. playing cards at the kitchen table.

Smith advised McCarthy that in the early hours morning hours of the homicide she heard someone pounding on the apt. door. Smith stated that Emma Wilson and Jon Stanley answered the door. Smith stated that after answering the door Emma came into the kitchen and stated that it was Ameche at the door and wanted to borrow a shirt because the one he was wearing had blood on it. Smith stated that she went and got him a shirt she saw him getting into the shower in her.

Smith advised Det. McCarthy that after Ameche got out of the shower he sat around drinking and socializing. Smith stated that Ameche bought a quarter bag of cocaine from Emma and smoked it in the living room.

Smith stated that after Ameche smoked that cocaine he was out of money and Emma fronted him more cocaine. Smith stated Jon Stanley told her that Ameche paid for some of the cocaine with a \$2 dollar bill. Smith advised McCarthy that when Ameche was going leave there were police cars all over so he stayed at the apt.

Your complainant states that your complainant reviewed a report authored by DCSO Lt. Lathrop who was advised by the Open Pantry manager that a \$2 dollar bill was part of the bait money from the cash register.

Your complainant states that on 10-19-10 your complainant submitted the red bandana under property tag number 6598 to the Wisconsin State Crime Laboratory (WSCL) to be tested for the presence of DNA.

Your complainant states that he received a confidential report of laboratory findings from the WSCL dated 3-1-11 from Analyst Ryan Gajewski of the WSCL. Your complainant states that Analyst Ryan Gajewski was interviewed on March 25, 2011 in a phone conference call with ADA Corey Stephan, Deforest PD Sgt Jim Pertzborn and your complainant and on April 7, 2011 with ADA Corey Stephan and your complainant. Your complainant states that Analyst Gajewski advised that due to the limited amount of genetic information gained from the partial DNA mixture he was not able to provide an inclusionary statement. Your complainant states that he was advised by Analyst Gajewski that if provided a DNA sample from Donald Ameche Braxton he may be able to exclude Braxton as a contributor of that DNA and could also say that the results are inconclusive. Your complainant he was further told that a more positive comparison could not be made because of the thresholds the WSCL uses to determine whether or not statistics can be drawn from the profile. Analyst Gajewski advised your complainant that there may be evidentiary value of a partial match because there would be similar DNA types present in the profile; however the possible contribution cannot be determined due to the lack of statistical comparison.

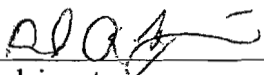
Analyst Gajewski states that there may still be persuasive evidence from an inconclusive result.

Analyst Gajewski advised your complainant that male DNA was present in the sample from the bandana. Your complainant states that he was advised by Analyst Gajewski that if provided a DNA sample from Donald Ameche Braxton he would be able to either include or exclude Braxton as a contributor of that DNA.

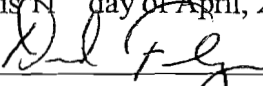
Your complainant knows that there are certain minimum standards that the WSCL has before its analysts can make statistical claims about evidence, however the sample may show some probability that Donald Ameche Braxton was involved in this homicide.

Your complainant states that on 3-29-11 you spoke over the phone with a person who identified herself as Parole Agent Amie Tate. Amie advised your complainant that she is a State of Colorado Department of correction Parole Agent. Your complainant states your complainant was advised by Amie that she is the supervising Agent for Donald Ameche Braxton, male black, DOB 8-7-63. Your complainant states that your complainant asked Agent Tate for Braxton's current address and she advised your that his current address is 5933 East 113th Ave., Thornton, Colorado. Your complainant states that your complainant asked Agent Tate if that address was in the City of Thornton, county of Adams, State of Colorado and she advise your complainant it was.

WHEREFORE, complainant prays that a Search Warrant be issued to search said person
for the property aforesaid.


Complainant

Subscribed and sworn to before me
this 11th day of April, 2011.


Judge of Circuit Court, Branch 12
