

FILED

UNITED STATES DISTRICT COURT

for the
District of Montana

DEC 19 2012

Clerk, U.S. District Court
District Of Montana
Billings

In the Matter of the Search of

*(Briefly describe the property to be searched
or identify the person by name and address)*

1999 Purple, Dodge Pickup, MT license #ACF760, VIN #
1B7KF23Z0XJ506560, registered to Mary Agnes Leider.

Case No. 12-38-BLG-CSO

APPLICATION FOR A SEARCH WARRANT

I, a federal law enforcement officer or an attorney for the government, request a search warrant and state under penalty of perjury that I have reason to believe that on the following person or property *(identify the person or describe the property to be searched and give its location)*:
1999 Purple, Dodge Pickup, MT license #ACF760, VIN # 1B7KF23Z0XJ506560, registered to Mary Agnes Leider, currently located at the Big Horn County Impound Yard, 803 North Center Avenue, Hardin, Montana.

located in the _____ State and _____ District of _____ Montana _____, there is now concealed *(identify the person or describe the property to be seized)*:

trace evidence (hair, fibers, etc.), and/or bodily fluids containing DNA and/or any item that may contain trace evidence and /or bodily fluids, and mechanical evidence related to the safety and operation of the pickup registered to Mary Agnes Leider.

The basis for the search under Fed. R. Crim. P. 41(c) is *(check one or more)*:

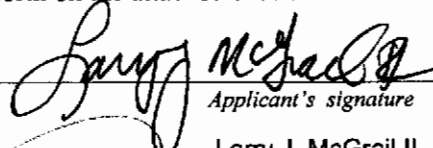
- evidence of a crime;
- contraband, fruits of crime, or other items illegally possessed;
- property designed for use, intended for use, or used in committing a crime;
- a person to be arrested or a person who is unlawfully restrained.

The search is related to a violation of:

| <i>Code Section</i> | <i>Offense Description</i> |
|-------------------------------|--|
| Title 18, U.S.C. Section 1111 | Murder |
| Title 18 Section 1153(a) | Offenses Committed Within Indian Country |

The application is based on these facts:

- Continued on the attached sheet.
- Delayed notice of _____ days (give exact ending date if more than 30 days: _____) is requested under 18 U.S.C. § 3103a, the basis of which is set forth on the attached sheet.

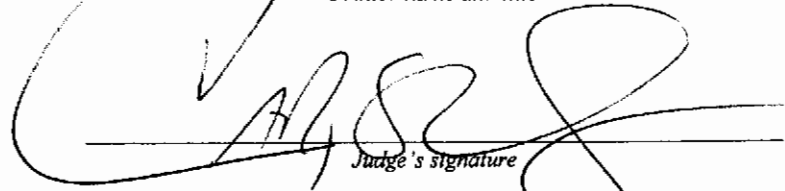


Applicant's signature

Larry J. McGrail II
Printed name and title

Sworn to before me and signed in my presence.

Date: Dec. 19, 2012



Judge's signature

Carolyn S. Ostby/U.S. Magistrate Judge
Printed name and title

City and state: Billings, Montana

AFFIDAVIT OF SPECIAL AGENT LARRY J. MCGRAIL II

STATE OF MONTANA

COUNTY OF YELLOWSTONE

I, Larry J. McGrail II, hereinafter referred to as the Affiant, being duly sworn, depose and say as follows:

1. That I am a Special Agent with the Federal Bureau of Investigation (FBI) assigned to the Billings, Montana Resident Agency. I have been a Special Agent for over 10 years and during that time have investigated numerous offenses involving violations of federal law, including offenses enumerated under Title 18 of the United States code.

2. This affidavit is made in support of an application for search warrant authorizing the search of a 1999, Purple Dodge Pickup, hereinafter referred to as "pickup", Montana License # ACF760, VIN # 1B7KF23Z0XJ506560, registered to Mary Agnes Leider, which is currently located at the Big Horn County Impound Yard, 803 North Center Avenue, Hardin, Montana. This search is in connection with the investigation of an alleged homicide that occurred on December 3, 2012, in which T.B., a 3 year old female, was allegedly thrown from a moving vehicle. The incident occurred on the Crow Indian Reservation in violation of Title 18, United States Code Sections 1153(a) and 1111.

3. The information set forth in this affidavit is based on investigation conducted by the Affiant, and Bureau of Indian Affairs (BIA) Special Agent (SA), Gary Lamere. The information provided herein does not include all information known by your Affiant and other investigators, but it contains those facts believed to be necessary to establish probable cause for the issuance of a search warrant.

RELEVANT STATUTES

4. Title 18, United States Code Section 1111(a) Murder is the unlawful killing of a human being with malice aforethought. Every murder perpetrated by poison, lying in wait, or any other kind of willful, deliberate, malicious, and premeditated killing; or committed in the perpetration of, or attempt to perpetrate, any arson, escape, murder, kidnapping, treason, espionage, sabotage, aggravated sexual abuse or sexual abuse, child abuse, burglary, or robbery; or perpetrated as part of a pattern or practice of assault or torture against a child or children; or perpetrated from a premeditated design unlawfully and maliciously to effect the death of any human being other than him who is killed, is murder in the first degree.

Any other murder is murder in the second degree.

Title 18 Section 1153(a) Offenses Committed Within Indian Country makes it illegal for "Any Indian who commits against the person or property of another Indian or other person any of the following offenses, namely, murder, manslaughter, kidnapping, maiming, a felony under chapter 109A, incest, assault with intent to commit murder, assault with a dangerous weapon, assault resulting in serious bodily injury (as defined in section 1365 of this title), an assault against an individual who has not attained the age of 16 years, felony child abuse or neglect, arson, burglary, robbery and a felony under section 661 of this title within the Indian country, shall be subject to the same law and penalties as all other persons committing any of the above offenses, within the exclusive jurisdiction of the United States."

BACKGROUND OF THE INVESTIGATION

5. On December 3, 2012, at approximately 4:06 AM, 911 operators from the Big Horn County Sheriff's Department began receiving calls from individuals who were distraught, and crying. Operators were not able to obtain very much information but did identify that the calls were coming from an area near mile marker 11 on Highway 313, south of Hardin, Montana, located within the exterior boundaries of the Crow Indian Reservation. Operators dispatched law enforcement to the area, as well as an ambulance.

6. Big Horn County Sheriff's Deputy, Zach Wallis, was the first officer to arrive at Highway 313, near mile marker 11, and found Mary Leider, and her brother Arland Leider, sitting off to the side of the road, crying uncontrollably. Arland had a cell phone in his hand, and appeared to be talking to someone. Deputy Wallis took the cell phone from Arland, and put it on the ground to try to get Arland to talk with him. Mary told Deputy Wallis that her baby was "gone", and had been hit by a vehicle. As additional law enforcement officers arrived, Wallis was dispatched to mile marker 19, Highway 313, to respond to a 911 emergency call regarding a deceased 3 year old child. Deputy Wallis

arrived at mile marker 19, and was met by Georgina Denny, and Wally Leider. Denny is the mother of Mary, Arland, and Wally, as well as the grandmother of T.B., the deceased child. Denny directed Deputy Wallis to her car where the body of T.B. had been placed. Deputy Wallis examined T.B. but was unable to detect any signs of life.

7. On December 3, 2012, SA Lamere, and Affiant, interviewed Georgina Denny. Denny advised that her daughter, Mary Leider, and two sons, Wally Leider, and Arland Leider, had been out partying while T.B. was with them. Denny had repeatedly called, and text messaged her children in order to get Mary to return home with T.B., but Mary refused. Early in the morning of December 3, 2012, Denny decided to go to Hardin to start looking for them. As she was traveling north on Highway 313, she saw Mary's pickup traveling towards her. As she slowed down and stopped, she saw that the pickup was being driven by Wally who immediately told her that something was wrong with T.B. Denny looked in the back seat of the pickup and saw T.B. in the back, not breathing and unresponsive. Wally told her that Mary had thrown T.B. out of the pickup. When Denny removed T.B. from the back seat, Denny saw blood coming from the back of T.B.'s head. Denny then called an ambulance and put T.B. in her car.

8. Mary's pickup, that Mary, Wally, Arland, and T.B., had been riding in was secured on scene, at mile marker 19, on Highway 313, by SA Lamere, and Deputy Wallis. Prior to leaving the scene at approximately 9:05 AM, on December 3, 2012, SA Lamere had Mary's pickup, towed to the Big Horn County Impound Yard, in Hardin, Montana, located at 803 North Center Avenue. The pickup has been continuously secured at that location since that time.

9. On December 3, 2012, Wally Leider was interviewed by SA Lamere, and Affiant, and stated that his sister, Mary, had thrown T.B. out of the pickup while he was driving. Wally advised that Mary was sitting in the front seat with T.B. on her lap. T.B. was quiet, but awake, when Mary opened the front passenger door with her right hand, and threw T.B. out of the pickup. He immediately stopped, and got Mary out of the pickup. Wally then walked behind the pickup where he found T.B. He knew she was dead but he carried T.B. to the pickup where he put her in the back seat, and drove towards his mother's house where he also lives.


10. On December 3, 2012, Mary Leider was interviewed by SA Lamere, and Affiant. During the interview, Mary stated that she had been driving around, and drinking with her brothers, and T.B. On the way home, Wally, and Arland began arguing. Mary advised that she kept telling Wally to slow down and at some point Wally stopped the pickup, and she hit her face on the dash. Mary recalled that prior to hitting the dash, T.B. was sitting on her lap. Mary could not recall what happened to T.B. when the pickup stopped, and could not recall how T.B. was injured.

11. Based on the foregoing, Affiant submits probable cause exists to believe that on or within a 1999, Purple Dodge Pickup, Montana License # ACF760, VIN # 1B7KF23Z0XJ506560, registered to Mary Agnes Leider, which is currently located at the Big Horn County Impound Yard, 803 North Center Avenue, Hardin, Montana, there exists

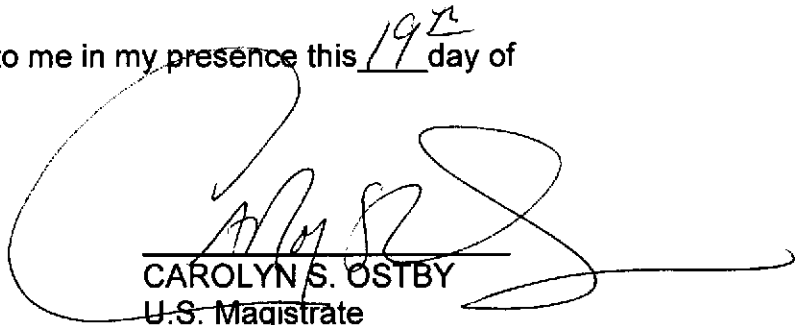
items which may constitute evidence of the crime of Murder, in violation of Title 18, United States Code, Sections 1111 and 1153(a). The items to be seized include trace evidence (hair, fibers, etc.) and/or bodily fluids containing DNA and/or any item that may contain trace evidence and/or bodily fluids, and mechanical evidence related to the safety and operation of the pickup.

12. Therefore, Affiant respectfully requests a search warrant be issued to search the following; a 1999, Purple Dodge Pickup, Montana License # ACF760, VIN # 1B7KF23Z0XJ506560, registered to Mary Agnes Leider, which is currently secured at the Big Horn County Impound Yard, 803 North Center Avenue, Hardin, Montana.

Respectfully submitted,


Larry J. McGrail II
Special Agent
Federal Bureau of Investigation
Billings, Montana

SUBSCRIBED AND SWORN to me in my presence this 19th day of
December, 2012.


CAROLYN S. OSTBY
U.S. Magistrate