

STATE OF NORTH DAKOTA)
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COUNTY OF MORTON)

AFFIDAVIT

I, Lori Flaten, am a Lieutenant with the Mandan Police Department in Mandan, North Dakota. I am a licensed peace officer and have served as a police officer for over 32 years. I am currently assigned to the Criminal Investigations Division of the Mandan Police Department. My duties include the investigation of criminal activity that occurs in the City of Mandan and enforcement of the criminal laws of the State of North Dakota.

I have probable cause to believe that on October 2, 2010, in the City of Mandan, Morton County, North Dakota, Steven Allen Voegele, committed the offenses of Aggravated Assault, Reckless Endangerment, and Terrorizing, and Nicholas Everett Reed committed the offenses of Hindering Law Enforcement and False Information to Law Enforcement.

My probable cause is based on the following:

- 1) On October 2, 2010, at approximately 2:05 a.m. Morton County 911 Emergency Dispatch received a phone call from Steven Allen Voegele stating that he was on 1st Street across from A&B Pizza, he had been shot, and someone else was dead. An unidentified male, later identified as Nicholas Everett Reed, was heard in the background asking Steven Allen Voegele to come with him and was also heard asking Steven Allen Voegele to give him the gun.
- 2) Patrol units from the Mandan Police Department were dispatched and arrived moments later. The residence was located at 200 5th Avenue NE across from A&B Pizza. Officers observed a female, later identified as Samantha Olson, who was kneeling near the body of a male, later identified as Xavier Thompson. Xavier Thompson was lying motionless on the sidewalk. Samantha Olson was crying and yelling that her boyfriend was shot. Farther to the west, officers observed another person, later identified as Steven Allen Voegele, lying motionless on the driveway. Officers also witnessed a person, later identified as Nicholas Everett Reed, flee through the fenced backyard.
- 3) Officers saw Xavier Thompson was not moving and had what appeared to be a bullet hole in his forehead. Xavier Thompson was holding a semi-automatic pistol in his right hand. His finger was on the trigger and the slide was open, indicating that all rounds had been fired from the pistol.
- 4) Officers approached and handcuffed Steven Allen Voegele and told him to stay on the ground.
- 5) Fire Department and Ambulance personnel arrived. Paramedics examined Xavier Thompson and determined that he was deceased. Steven Allen Voegele appeared to have

a bullet hole on the left side of his torso and blood on his shirt in the area of his upper chest. Steven Allen Voegele was taken by ambulance to St. Alexius Medical Center in Bismarck, North Dakota. Officer Rick Widicker rode in the ambulance with Steven Allen Voegele and took custody of his clothing at the hospital.

- 6) An unknown male approached the residence from the west across the 5th Ave. and 1st Street intersection. He was identified as Kenwan Thompson. He indicated he was checking on his cousin, Xavier Thompson. He was searched for weapons and placed in the back of a patrol vehicle. Detective Patrick Haug spoke with Kenwan Thompson in the back of the patrol vehicle. Kenwan Thompson stated that there was a party at the residence and the home owner, later identified as Nicholas Everett Reed, became upset because he thought someone stole his roommate's IPOD. Kenwan Thompson stated that a fight broke out between Xavier Thompson and Nicholas Everett Reed. Kenwan Thompson stated that he was attempting to break up the fight when he saw a gun on the ground. He attempted to pick the gun up but a tall skinny guy, later identified as Steven Allen Voegele, grabbed the gun and pointed it in his face. Kenwan Thompson was taken to the Mandan Police Department and formally interviewed. He told Detective Haug that he was outside smoking when the fight started. He saw a gun on the ground and attempted to get it when Steven Allen Voegele, picked the gun up and struck Kenwan Thompson in the face with it. Steven Allen Voegele threatened to shoot Kenwan Thompson, so Kenwan Thompson stated he was leaving and backed away. When the shooting started, he took off running and was returning when he was detained by police. Kenwan Thompson had a visible cut across his face consistent with his statement that he was struck in the face by Steven Allen Voegele with the gun.
- 7) At around 3:50 a.m. Dannis Schmalz came to the Mandan Police Department. He was interviewed by Detective Casey Miller. Dannis Schmalz stated that he knew Xavier Thompson. Dannis Schmalz stated that he was at the residence located at 200 5th Avenue NE while the party was going on. He stated that an individual later identified as Nicholas Everett Reed became upset about a missing IPOD and was telling people at the party that it needed to be returned. Xavier Thompson and Kenwan Thompson started to leave. Dannis Schmalz went outside and observed Xavier Thompson on top of someone on the ground. Xavier Thompson was not hitting the person but was holding the person down. Nicholas Everett Reed kicked Xavier Thompson in the face. Dannis Schmalz asked Nicholas Everett Reed why he kicked Xavier Thompson in the face and Nicholas Everett Reed stated it was because Xavier Thompson had punched him. Dannis Schmalz was going to intercede when he saw a tall guy, later identified as Steven Allen Voegele, pull a gun out and point it at Kenwan Thompson and Xavier Thompson. Dannis Schmalz heard Steven Allen Voegele yell "Do you want to die tonight? Do you want to die tonight?" Dannis Schmalz stated that Xavier Thompson walked away with Steven Allen Voegele following him to the east. Steven Allen Voegele then began to walk back towards the main group of people in the yard. Dannis Schmalz then went back into the residence at which point he heard gun shots. He came out and saw Xavier Thompson lying on the ground. Dannis Schmalz then ran from the residence.

- 8) At approximately 4:45 a.m. Nicholas Everett Reed was interviewed by Officer Lori Stack at the Mandan Police Department. Nicholas Everett Reed stated that he resides at 200 5th Avenue NE. He indicated that there was a party at the residence with many people there. He thought someone had taken his roommate's IPOD so he began confronting people at the party telling them that no one could leave. Nicholas Everett Reed claimed he was outside of the residence smoking a cigarette when an individual, later identified as Xavier Thompson, struck him in the face. Two of his friends grabbed Xavier Thompson. Nicholas Everett Reed then claimed that Xavier Thompson went across the street and came back with a gun and began shooting. He claimed that another person returned fire but he did not know who. He claimed he did not know if Steven Allen Voegelé had a gun and could not see him having a gun. He claimed that when he saw the police coming he fled.
- 9) At approximately 5:36 a.m. Detective Patrick Haug re-interviewed Nicholas Everett Reed at the Mandan Police Department. Nicholas Everett Reed restated that there was a party at his residence and at some point he began confronting people at the party about his roommate's IPOD that he thought had been taken. He was struck in the face by Xavier Thompson. Nicholas Everett Reed claimed Xavier Thompson walked across the street and returned with a gun. He again claimed that he did not know who the other shooter was and he did not see anyone else with a gun.
- 10) The Western Dakota Swat Team as well as officers of the Morton County Sheriff's Department and North Dakota Highway Patrol were called in to help secure the residence and surrounding area. A Search Warrant was obtained for the residence. SWAT team members cleared the residence at approximately 7:04 a.m.
- 11) As soon as the area was cleared officers began to process the scene. The gun in Xavier Thompson's hand was identified as a Springfield .45 caliber ACP semi-automatic pistol. A records check revealed that the gun in Xavier Thompson's hand was reported stolen from a residence in Bismarck, North Dakota, on September 17, 2010. Xavier Thompson was reported as one of the individuals attending a party at the residence on the evening the gun was stolen. Three spent .45 caliber shell casings were located in the driveway leading up to the residence. Blood spatter was found on the garage, a white car parked in the driveway, and on the fender of a pickup truck near where Xavier Thompson's body was located. An open black back pack was found in the alley behind the pickup truck along with a black CD case that was setting on the ground. The back pack contained several items belonging to Xavier Thompson's including his wallet and mail addressed to him.
- 12) A bullet hole was located in the gutter on the south side of the garage. Officers used a wooden dowel and a laser to estimate the trajectory of the bullet. It appeared that the bullet had been fired from the south east which was near where Xavier Thompson's body was found. The bullet was removed from the garage.
- 13) At approximately 10:30 a.m. Deputy Chief Paul Leingang located a black and white .38 caliber Taurus revolver on the north side of the garage. The revolver was on the ground

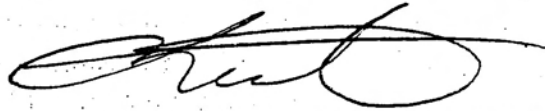
beside a tree. The hammer was back and there was blood on the gun. Inside the revolver there were two spent .38 caliber shell casings. A records check revealed that the gun was purchased by Steven Allen Voegele's brother.

- 14) On October 3, 2010, Nicholas Everett Reed was re-interviewed by Detective Patrick Haug. He initially stated that the only gun he saw was the one possessed by Xavier Thompson. Nicholas Everett Reed then admitted that he had not been truthful with law enforcement. He stated that after the shooting he approached Steven Allen Voegele and took the gun used by Steven Allen Voegele in the shooting and hid it behind the garage where it was found by Deputy Chief Paul Leingang. He then ran from the residence.
- 15) On October 4, 2010, Arianna Nygaard was interviewed by Lieutenant Christopher Miller. Arianna Nygaard stated that she was at the party on the night of the shooting. She indicated that Nicholas Everett Reed became upset because he thought someone had taken his roommate Trevor Miller's IPOD. This escalated into a physical fight between Xavier Thompson and Nicholas Everett Reed. Trevor Miller became involved in the fight and ended up on the ground with Xavier Thompson on top of him. While Xavier Thompson was on top of Trevor Miller, Nicholas Everett Reed kicked him in the head. Arianna Nygaard heard someone yell about a gun and saw Steven Allen Voegele pointing a gun at Xavier Thompson and yelling "Do you want to fuckin, die nigger?" Arianna Nygaard went inside the residence and once inside heard shooting.
- 16) On October 4, 2010, Thomas Sweeney was interviewed by Deputy Chief Paul Leingang. Thomas Sweeney indicated that he was at the party on the night of the shooting. He stated that he was outside when Nicholas Everett Reed came outside and began questioning people about an IPOD. Thomas Sweeney stated there were two African American males outside. Thomas Sweeney stated that the male wearing grey, which is consistent with Xavier Thompson, had a black back pack. Thomas Sweeney saw Xavier Thompson walk to the east and come back without the back pack. When Xavier Thompson returned he punched Nicholas Everett Reed in the face which caused a physical fight. Thomas Sweeney stated that he then saw Steven Allen Voegle exchanging punches with a male with dreadlocks which is consistent with Kenwan Thompson. Thomas Sweeney stated that he heard Kenwan Thompson state he was leaving. Thomas Sweeney stated he then saw Xavier Thompson go to the east and come running back across the street. Thomas Sweeney stated Xavier Thompson started shooting in the middle of the street and then Thomas Sweeney saw Steven Allen Voegele whip around and began shooting back at Xavier Thompson. Thomas Sweeney then ran from the residence.
- 17) On October 5, 2010, Corey Schulz was interviewed by Detective Casey Miller. Corey Schulz indicated he was at the party on the night of the shooting. He was inside the house and went outside when everyone else did. He stated that when he went outside there were approximately ten people in the yard and there was a physical fight occurring. He witnessed Steven Allen Voegele "pistol whipping" two African-American males with a .38 caliber snub nosed revolver. Corey Schulz was inside the house when the shooting occurred.

- 18) On October 5, 2010, officers executed a Search Warrant at Steven Allen Voegelé's residence. In the basement living room near Steven Allen Voegelé's bedroom officers located the box and receipt for the .38 caliber Taurus revolver found behind the garage and identified as having been possessed by Steven Allen Voegelé.
- 19) On October 7, 2010, North Dakota State Forensic Medical Examiner Dr. William Massello III performed an autopsy of Xavier Thompson's body. Dr. Masello diagnosed two gunshot wounds fired from greater than close range. One gunshot wound was to the center of the forehead with no exit. This wound was determined to be fatal. The other wound was to the right lower flank with the bullet passing completely through the body without lethal effect. Fingernail clippings were taken for analysis.
- 20) On October 19, 2010, Casey Diehl was interviewed by Lieutenant Lori Flaten. Casey Diehl stated that he was at the residence on the night of the party. Casey Diehl stated he was inside the residence when he heard Nicholas Everett Reed yelling about a missing IPOD. Casey Diehl went outside of the residence where he saw a male, identified as Xavier Thompson, on top of Trevor Miller. Casey Diehl stated that he saw Nicholas Everett Reed kick Xavier Thompson in the face. Casey Diehl indicated that after this occurred Xavier Thompson left the yard. Casey Diehl then observed Steven Allen Voegelé with a gun arguing with another male, later identified as Kenwan Thompson. Casey Diehl stated he then saw Xavier Thompson jogging back towards the residence from the street and observed a series of muzzle flashes. He then fled the residence.
- 21) On October 25, 2010, Officers received Steven Allan Voegelé's medical records from St. Alexius Medical Center pursuant to a Search Warrant. Steven Allan Voegelé's medical records indicate that he was shot twice. He had one gunshot wound in the right chest. A second gunshot wound was found in the left flank.
- 22) Both guns found at the scene were sent to the North Dakota State Crime Lab along with swabs of the blood found on the garage, swabs of the blood found on the white car in the driveway, and swabs of the blood found on the pickup truck near where Xavier Thompson's body was found. Xavier Thompson's finger clippings were also sent to the State Crime Lab. Search Warrants were obtained for individuals who were believed to be sources of the blood. Lab analysis indicated that the blood found on the .38 caliber Taurus Revolver matched that of Kenwan Thompson. The blood on the garage and on the white car in the driveway also matched that of Kenwan Thompson. This is consistent with information provided by Kenwan Thompson and others that Steven Allen Voegelé struck Kenwan Thompson in the face with the .38 caliber Taurus Revolver thereby cutting his face. Xavier Thompson's fingernail clippings were analyzed and were found to contain DNA matching that of Trevor Miller. This is consistent with information provided that Xavier Thompson was involved in a physical altercation with Trevor Miller and was holding him down on the ground.
- 23) The North Dakota State Crime Lab performed a forensic analysis of the Springfield .45 caliber ACP semi-automatic pistol found in Xavier Thompson's hand and the bullet that

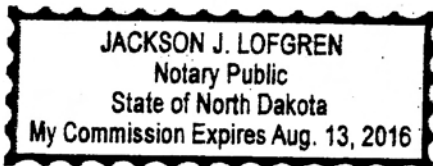
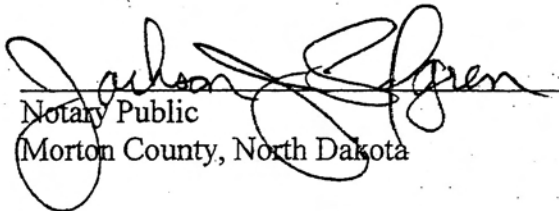
was located through the gutter on the south side of the garage. The State Crime lab determined that the bullet that was located in the gutter had been fired from the Springfield .45 caliber ACP semi-automatic pistol. The North Dakota State Crime Lab performed a forensic analysis of the clothing worn by Steven Allen Voegelé during the shooting. The bullet hole in the left back side of Steven Allen Voegelé's sweatshirt tested positive for the presence of lead in the margin around the bullet hole which is consistent with a rear bullet entry. All other holes tested negative for the presence of lead. Steven Allen Voegelé's t-shirt was similarly analyzed. Bullet wipe was observed around the hole in the upper right front side of the t-shirt. All other holes were negative. This suggests that Steven Allen Voegelé was shot from the back on the lower left side and from the front on the upper right side.

Dated this 7 day of March, 2011.



Lieutenant Lori Flaten
Mandan Police Dept.

Subscribed and sworn before me this 7 day of March, 2011.



Notary Public
Morton County, North Dakota