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MONTANA THIRTEENTH JUDICIAL DISTRICT COURT, YELLOWSTONE COUNTY

STATE OF MONTANA,
Plaintiff,

vs.

ZACHARY DAVID O'NEILL,
Defendant.

CAUSE NO. DC C 19 - 0900

JUDGE: JESSICA T. FEHR

**MOTION FOR LEAVE TO FILE
INFORMATION WITH SUPPORTING
AFFIDAVIT**

The undersigned Deputy Chief County Attorney of Yellowstone County, Montana, being first duly sworn upon his oath, moves the Court for Leave to File an Information based upon an investigation conducted by law enforcement officers charging the above-named Defendant with the offense of:

DELIBERATE HOMICIDE (FELONY)

committed at Yellowstone County, State of Montana, on or about November 15, 1998.

That law enforcement officers have made a full and careful investigation of all the facts and circumstances surrounding the commission of said offense, so far as they are known or ascertainable; that he believes it a proper case for filing of an Information and that for this reason, and none other, the foregoing motion is made.

The Court is informed that a Laurel Police Department (LPD) and Yellowstone County Sheriff's Office (YCSO) investigation revealed the following:

On Sunday, November 15, 1998, at about 2023 hours, Laurel Police Officers were dispatched for a reported shooting at *The Movie Store*, a video rental store, then located at 419 West Main Street, in Laurel. The caller advised he was driving by and saw a body lying in front of

the store and he stopped. The caller said he thought the female had been shot in the neck. Officers Wells, Guy, Pitts, and Hatton arrived. They located three people out front near a female victim, who sitting up and was directly to the right of the front door. The citizens out front with the victim are identified here as E.R., G.B., and L.B. Officer Pitts and Officer Wells began attending to the victim. Officers observed her front was completely covered in blood. Officers took over emergent medical care from the three citizens and requested medical personnel respond to the area. They observed the female had a wound to her neck. The amount of blood made it difficult for them to determine where she was hurt. As the officers attempted to help her, she was unconscious, unresponsive and did not communicate with them. She had only a weak pulse. The officers noted the victim had slashing injuries to her neck.

Laurel Ambulance personnel arrived and officers helped get her into the ambulance and they left. The ambulance transported her a nearby location where a waiting HELP Flight helicopter then took her to St. Vincent Hospital (now St. Vincent Healthcare) in Billings. Upon arrival, the victim was transported directly to an operating room for attention to her wounds.

The victim was identified as Miranda Fenner (born in December 1979).

Officer Hatton went to the back of the building and positioned himself by the rear door. He did not see anyone in that area, but did observe the back door was slightly open. Officer Hatton remained by the rear door for scene security. Officer Guy entered and cleared the interior. He found no one inside. Officer Guy observed a trail of blood within the store, from the rear to the front, where the victim had evidently crawled to the front door and then outside. Officer Guy could see that an area toward the rear of the store was in disarray. Officer Guy exited and the store was secured. The officers notified command staff and detectives with the Laurel Police Department and the Yellowstone County Sheriff's Office began to arrive.

Officer Guy took a statement from E.R. and he said that he and G.B. were together driving north on 5th Avenue. They saw the victim out in the front of the store and stopped to help. E.R. said he went inside and used the phone to call for help. He said that was the only time anyone went in. He said L.B. arrived shortly after they did. Officer Guy also took recorded statements from G.B. and L.B.

As detectives arrived on scene, measurements and sketches were done of the outside of the store. Detectives then moved inside and began to process the crime scene. They checked for fingerprints, documented areas of apparent blood and photographed the scene. Several physical items were seized and removed from the store as well. Meanwhile, patrol officers began going door-to-door in the area to identify any other witnesses.

Officer Wells went from the scene to St. Vincent Hospital in Billings to check on the condition of the victim and to secure her clothing and other evidence. Officer Wells arrived at the hospital and was escorted to the emergency department. From there, he put on gown material and entered the operating room. Shortly after this, at 10:01 p.m., medical personnel pronounced the

victim dead. Officer Wells secured her clothing and secured it in separate bags and it was eventually secured in evidence.

An autopsy was conducted on November 16, 1998. Dr. Tom Bennett conducted the autopsy and Dr. Ken Mueller assisted. YCSO Detective Weston and LPD Sgt. Zuhoski attended and documented the findings. The exam showed the victim had been stabbed and slashed in the throat area. The only other injury noted was a laceration to her right index finger, classified as a defensive type wound. The manner of death was classified as a homicide.

Detectives and area law enforcement continued their work in the following days and weeks, but were unable to locate a suspect or suspects in the homicide of Miranda Fenner. The case remained open and investigators continued their work. Investigators have interviewed hundreds of people since.

In about 2012, YCSO Detectives Frank Fritz and Shane Bancroft eventually became the primary investigators and continued to work on the case. In October 2013, a woman identified here as B.S. contacted the YCSO and advised she had information on the Fenner homicide. Det. Bancroft contacted her by telephone. She said she used to be married to a man identified here as D.S. and he had children from a previous marriage. She said they lived in Laurel at the time of the homicide. She advised that she believed D.S.' stepson, Zachary O'Neill, was involved in the Fenner homicide. She said she was unable to provide specifics, but instead described aspects of his personality that deeply concerned her. She said he was a very violent person when they lived in Laurel. She described a few specific incidents that troubled her. She said on several occasions over the years, her husband mentioned that Zach rented a movie on the night of the homicide. She said she left Montana shortly after the homicide, but was now returning and the move brought up many memories and she thought she should call in. Det. Bancroft thanked her for the information. Det. Bancroft followed up on the call and confirmed that Zachary O'Neill did live in the area at the time of the homicide, but there was no other evidence at that time linking him to the homicide.

On March 19, 2017, ZACHARY DAVID O'NEILL (born in February 1980), the Defendant here, walked into the Yellowstone County Detention Facility and asked to speak to deputies to confess to a crime. YCSO Deputies Ellis, Skinner and Juhl made contact with O'Neill. O'Neill said he murdered Miranda Fenner in November 1998 at *The Movie Store* in Laurel. O'Neill said he and Miranda were the only ones in the store at the time. O'Neill said he went to the store and rented some movies, then returned one of the movies later and that is when he killed her. He said the account was under his mother's name and they lived at the time at 702 West 12th Street in Laurel. O'Neill said when he went in, he had a gun and a knife. He said the gun was a small .22 semi-automatic pistol and he later sold the gun in Spokane, WA for some crack. O'Neill said he forced Fenner into the backroom at gunpoint. He said he did not want her to be a witness, so he killed her by slitting her throat. O'Neill said he then left out the back door to the store. He said he later threw the knife out the window of a vehicle when he and his stepdad went hunting near Jordan, Montana.

O'Neill said he had been in and out of jails and prison over the past several years. He said he tried telling medical staff in Spokane, but they did not take him seriously and released him a day or two later. O'Neill said he had recently used methamphetamine and used that day. Deputy Ellis observed the Defendant appeared to be coming down off meth. Deputy Skinner contacted Det. Fritz to advise him of what O'Neill said. Det. Fritz advised they would contact O'Neill the next day. Deputy Juhl gave O'Neill a ride to the Crisis Center. Deputy Ellis told O'Neill that detectives would reach out to him the next day and to have his cell phone charged and ready. O'Neill said he would.

On March 21, 2017, O'Neill went to the YCSO and met with Detectives Fritz and Bancroft. The detectives escorted O'Neill to a conference room. When he came in, it was apparent he had been crying. Det. Fritz asked O'Neill about that and O'Neill replied that he had seen the pictures in the lobby. The Sheriff's Office had Miranda Fenner reward posters in the lobby. O'Neill told the detectives he was unemployed and had just been discharged from treatment.

Before starting the interview, the detectives told O'Neill that he was not going to be arrested that day. Det. Fritz told O'Neill that under the circumstances, where he had just walked into YCDF and confessed to a murder, it was important for him to understand his rights. They advised him of his *Miranda* rights and O'Neill said he understood. The detectives told O'Neill that they would need time to corroborate anything he told them. O'Neill said he wanted time to tell his parents before anything went public. They assured him there would be time.

O'Neill began by saying he had lived in Spokane for a period of time, then returned to Laurel in approximately May 1998. He said he lived with his stepfather, D.S., and said they lived at 702 West 12th Street. He said that during this time, he was committing thefts and burglaries to support his drug habit. He said his drugs of choice were methamphetamine, marijuana and crack cocaine. He began to talk about the day of the homicide. He said he was home with his mother and had smoked methamphetamine that day. He said his mother asked him to rent some movies. He said he went to *The Movie Store* and rented four or five movies, one of which was a pornographic movie. He described the car he drove at the time and said he thought he paid cash. Investigators later confirmed that the account linked to O'Neill's stepdad, D.S., was used to rent four movies at 5:04 p.m. that night. O'Neill said he thought Miranda was wearing a blue shirt and he remembered glasses. Investigators confirmed later she was wearing glasses and a blue shirt. O'Neill said there were no problems between himself and Miranda when he rented the four movies. He said he drove home and began watching one of the movies. O'Neill said his mother discovered he had rented a pornographic movie and told him to take it back. He said he returned to the store and described the area where he parked, which Det. Fritz was later able to corroborate as accurate. O'Neill said when he went back to the store the second time, he thought he knew he was going to rob it. He said there were other customers in the store at the time, so he waited around in the store for a few minutes to buy some time.

O'Neill told the investigators what happened next after the other customers left the store. He described some particular details, which were corroborated by crime scene photos and records, unreleased to the public at any time. O'Neill said he pulled out his gun and told Miranda, "Give me

the money.” He said she complied and then put her hands up. O’Neill said he took the money, but nothing else and nothing from Miranda. O’Neill said he then took Miranda to a back room, which he described. O’Neill said he decided to tape her up and he described where he got the tape and where he put it. He said he taped her up so he could leave; but then he said he thought she knew him. He said as he taped her up, he thought, “I don’t want to get in trouble for this, that’s when I decided to do it.” He said as he was taping her up, “That’s when I pulled out this knife that I had.”

O’Neill then became emotional. “I tried to slit her throat, but it was too jagged. I could hear her gurgling on her own blood.” O’Neill broke down crying at this point. As he was crying, he said, “I can still hear that sound....” O’Neill said at that moment he thought he heard someone coming through the front door and he described how he ran out the back. He thought Miranda was breaking free of some of the tape at this moment. He described what happened as he ran out the door, a detail detectives later corroborated by crime scene photos.

Detectives then asked O’Neill to describe how he cut the victim in as much detail as he could. He showed the detectives how he did it and described the nature of the wounds he inflicted, which the detectives determined was consistent with the medical and autopsy records. O’Neill told the detectives that he was interviewed by investigators shortly after it happened. He said that he did not admit any involvement at that time. He said he “didn’t care too much” at first about what he had done, but that later changed. He said he had attempted to turn himself in a couple times. He said now felt “ashamed and regret.”

Detectives asked O’Neill whether he had ever hurt anyone else. O’Neill said approximately one month prior to the homicide, he raped and attempted to kill a female on Broadwater. O’Neill told the investigators, “I see this lady and I decided to rape her.” He described what he did and said he wore a condom. He said he ran away and thought he left it behind. The Defendant said he cut her throat and she screamed. He said he believed she lived, because the paper did not report that she died. He said he was trying to kill her to avoid going to prison.

Later in the interview, detectives asked O’Neill to explain why after all this time he was trying to confess to these things. O’Neill referenced that after his brother had been killed—the detectives knew about that case—he began trying to turn himself in. He expressed that he was depressed and suicidal and said again, “I killed her and I raped a couple more girls, you know.” The detectives asked why they should believe him. O’Neill replied that he knew more details than were ever released in the paper. Before they released him, O’Neill consented and the detectives obtained buccal swabs to obtain a DNA sample. The YCSO detectives took a buccal swab from the Defendant and it was sent to the Montana Forensic Division for analysis.

Following this interview, detectives Fritz and Bancroft began to determine whether they could corroborate any of what O’Neill told them. Among their first actions was to find out whether the other rape and attempted homicide case O’Neill referenced had occurred. They quickly learned that it had in fact occurred and was in fact an unsolved cold case with the Billings Police Department. They provided the information to Detective Kruger, who believed O’Neill’s admissions matched up with an unsolved rape case that occurred on September 5, 1998. Det.

Kruger had the evidence from the case compared with the new DNA sample obtained from O'Neill. On April 18, 2017, the crime lab reported the DNA profile obtained from the condom recovered near the scene matched that of Zachary O'Neill. That case is pending as DC 19-0044.

Additionally, the detectives began contacting certain witnesses again with the benefit of new information. In May 2017, detectives interviewed S.B., who O'Neill referenced in his statement. S.B. confirmed he had known O'Neill since he was about 12. S.B. said they had remained close over the years. S.B. told the detectives O'Neill had violent tendencies and he told of a couple specific instances he knew about. S.B. told the detectives that O'Neill had also confessed killing Miranda Fenner to him, about two months prior to O'Neill meeting with Fritz and Bancroft in March 2017. He said O'Neill broke down and told him. S.B. said his jaw dropped and he began to sob because he knew Miranda and her family. He said he became upset and told O'Neill that he did not want to hear any details. S.B. then said over the years, he had his suspicions about O'Neill's involvement. S.B. told the detectives that O'Neill was related to T.S., who died in a fire in April 2013. He said O'Neill wanted justice for the death of his step-brother and when the people involved in T.S.'s death were convicted, O'Neill thought justice had been done. He said he told O'Neill that the Fenner family also deserved to have justice done and he said he encouraged O'Neill to turn himself in. S.B. said he was the one who drove O'Neill to the Sheriff's Office in March 2017 for the interview.

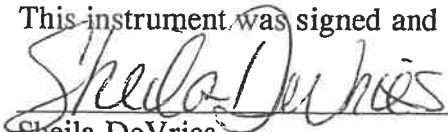
In May 2017, Detectives Fritz and Bancroft travelled to Spokane, WA and again interviewed O'Neill. O'Neill reiterated his confession from March. During this interview, O'Neill told the detectives more details about a third woman he said he'd raped. He described how he found the woman and how he'd taken her to Riverfront Park and raped her. He said he did not otherwise hurt or kill her. In early 2019, based on the information O'Neill provided, Det. Fritz requested a records search of all rape cases that were reported in 1998. YCSO Records Supervisor Autumn Frey located a reported rape that occurred in Riverfront Park on September 12, 1998. This was one week after the rape on Broadwater Avenue occurred, the case presently charged as DC 19-0044. As Det. Fritz reviewed the case file, he observed several similarities in the reports of the victim and O'Neill's account of events. In that case, the victim was examined at a hospital following the rape and DNA evidence was recovered. Det. Fritz had it tested against the DNA evidence collected from O'Neill and it also turned out to be a match. This further corroborated what O'Neill told them. The victim in this case passed away in 2013.

The investigation continues.



Ed Zink
Deputy Chief County Attorney
Yellowstone County, Montana

This instrument was signed and sworn to before me on July 22, 2019 by Ed Zink.


Sheila DeVries

