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8 IN THE JUSTICE COURT OF RECORD
9 CITY OF HELENA, LEWIS AND CLARK COUNTY, MONTANA
Before MICHAEL SWINGLEY, Justice of the Peace

10 STATE OF MONTANA,)
11) Plaintiff.) Cause No. CR-2015
12 - vs -) LC131067
13 JAMES GEORGE STIFFLER,)
14) AFFIDAVIT OF
15) PROBABLE CAUSE
16 Defendant.)

ORIGINAL

17 STATE OF MONTANA)
18 : ss.
19 County of Lewis and Clark)

20 Lewis and Clark County Sheriff's Office Criminal Investigator Cory Olson affirms that
21 probable cause exists to support filing the charge of **COUNT I – DELIBERATE**
22 **HOMICIDE**, a felony, in violation of Mont. Code Ann. § 45-5-102(1)(a), alleged to have
23 occurred in Lewis and Clark County, Montana, on or about May 22, 2013, by JAMES
24 GEORGE STIFFLER based upon the reports of the Lewis and Clark County Sheriff's Office as
25 follows:

At approximately 2:40 p.m. on May 22, 2013, James George Stiffler (Stiffler) called the
Lewis and Clark County 911 Dispatch Center to report he had shot and killed a home intruder
who he said he had just confronted at the Stiffler residence at 4276 Canyon Ferry Road.

1 Emergency Responders found Stiffler waiting for them outside his residence. Stiffler's truck
2 was in the driveway as was a Ford *Taurus* which had behind its steering wheel the body of
3 Henry Thomas Johnson (Johnson) who was wearing a tie and a dress shirt and an apparent
4 gunshot wound to his chest. Stiffler did not know the intruder's name, but the intruder was
5 identified by subsequent investigation.
6

7 Stiffler said when he arrived home just prior to the shooting that afternoon he saw the
8 Ford *Taurus* parked outside and through a window he saw Johnson standing inside. Stiffler
9 said Johnson did not have authority to enter the home or take his property. Stiffler said he
10 armed himself with a handgun he had in his truck before entering his residence. Once inside,
11 Stiffler told investigators he confronted Johnson as Johnson stood in the computer room of the
12 residence, holding a pillow case containing items. Stiffler said he shot Johnson because
13 Johnson did not abide by Stiffler's instructions not to move. Stiffler said Johnson turned
14 toward Stiffler and began to walk toward him. Stiffler said after he shot Johnson, Johnson fled
15 to a window on the south side of the residence. Stiffler told investigators Johnson opened the
16 window and got out of the house. Stiffler said Johnson went to the Ford *Taurus* and started to
17 drive. Stiffler said he went through the residence's front door on its south side to pursue
18 Johnson and fired another shot at the vehicle's rear tire to prevent Johnson's escape.
19

20 Denelle Lee Waters was the registered owner of the Ford *Taurus* and her address was a
21 mobile home on Phillips Road where investigators found two pillow cases holding items
22 outside. Waters was not home, so investigators learned where she worked and met her there.
23 She gave them permission to search her car and her residence. She said she was romantically
24 involved with Johnson who had been living with her on Phillips Road. Waters said Johnson
25

1 worked as a door-to-door salesman for Kirby Vacuums and she thought he was working earlier
2 that day.

3 During searches of the *Taurus* and the pillow cases found at Waters' house,
4 investigators located numerous items associated with persons other than Johnson or Waters and
5 confirmed some of the property was stolen during recent daytime burglaries in Powell County,
6 Montana. Investigators also recovered pillow cases and other property stolen during daytime
7 burglaries earlier on May 22, 2013. Nearby residents told investigators they observed a car like
8 the Ford *Taurus* near the location of these burglaries as well as a man who generally matched
9 Johnson's description and he was with a woman. Investigators concluded Johnson was
10 involved in the commission of a series of daytime burglaries of homes which he may have
11 committed by approaching them as a vacuum cleaner salesman, but entering them as a burglar
12 after determining they were unoccupied.
13

14 When examining Johnson's vehicle, investigators noted apparent blood smears on the
15 outside of the driver's door, as well as the inside of the driver's door near the handle from which
16 they concluded Johnson used the door handle to pull the door shut. From this evidence,
17 investigators concluded Johnson was wounded prior to entering the vehicle. Tire marks in the
18 gravel driveway appeared to indicate the vehicle spun out as Johnson backed up before driving
19 forward and dying.
20

21 Investigators saw a pistol on the front or south-side porch of the residence which Stiffler
22 told officers he used to shoot at Johnson and the *Taurus*. Investigators determined the pistol
23 was an Interarms/Star model Ultrastar, caliber 9 mm handgun which was loaded with one
24 round in the chamber, and 4 live rounds in the magazine. Officers sent the gun and its
25

1 ammunition to the Montana State Crime Laboratory in Missoula for analysis. Officers located
2 a spent 9 mm casing on the ground in the gravel east of the front porch which they collected as
3 evidence.

4 Stiffler gave investigators written permission to search his property to conduct an
5 investigation.
6

7 Stiffler reported he returned home that afternoon where he noticed a strange vehicle
8 parked on the east side of his residence. Because the driveway looped around his house, he
9 said he drove around the back side of the house by the strange car before parking his truck in
10 the driveway on the south side of the house about even with his front door which was also on
11 the south side of his house. Stiffler told officers his vehicle was in the same place he had
12 parked it prior to encountering Johnson in his house. Stiffler said he saw the front door
13 standing open and through the dining room window he saw a man he did not recognize
14 standing in his house. Stiffler said he armed himself with a pistol he had in his truck before
15 entering the house through the front door on the south side of the house.
16

17 According to Stiffler, the front door appeared broken because the lock was lying on the
18 floor inside the house. Stiffler said he walked into the kitchen and saw a male he did not know
19 running towards the back door on the north side of the house. Stiffler said he yelled, "Stop"
20 and the man turned toward him in a "threatening manner." Stiffler said he fired once at the
21 intruder, but thought the man "veered away" at the last minute, so he did not know if or where
22 he hit him. He said the man went into a sewing room off the back computer room where he
23 jumped out its window on the south side of the house and to the west of the front door. Stiffler
24 told officers he ran back out the front door and down the front porch where he heard the car
25

1 trying to speed away. Stiffler thought he shot another time at the car's tires, and observed the
2 car crash over his fence before stopping. Stiffler said he then called 9-1-1 as he watched the
3 guy moving around in the car until law enforcement arrived.

4 Officers noted the window Stiffler said Johnson fled through was a crank out type
5 frame. The glass on the window was intact; however, the bottom metal hinge and crank
6 mechanism were broken. The window covering was hanging half out of the window and was
7 ripped and the pull cords were broken all of which was consistent with Johnson crashing or
8 jumping out of the window.

9
10 Lewis and Clark County Coroner Mickey Nelson helped supervise the removal of
11 Johnson's body and arranged for an autopsy by the State Medical Examiner in Missoula.

12 Officers noted most of the rooms of the residence had been ransacked and items such as
13 jewelry boxes and drawers were disturbed; the front door was kicked in and the lock
14 mechanism as well as the striker plate were laying in front of the front door on or near the stairs
15 leading to the second floor which indicated the door was kicked or pushed inside with
16 considerable force. Officers located a spent 9 mm shell casing in the back computer room, on
17 the floor near a garbage can and black file cabinet to the side of a computer desk generally on
18 the west and south side of the room. Near the back or north side of the residence, officers
19 located a white pillow case primarily containing jewelry and drugs. Investigators concluded
20 the items were likely collected by Johnson during his search of the residence and dropped by
21 Johnson as he was trying to get out the back or north door of the residence before turning and
22 fleeing out the south side window.

1 Stiffler demonstrated to Detective Olson and LCSO Sgt. Dave Peterson where he
2 thought he was standing when he confronted and fired at Johnson. According to Stiffler, he
3 was standing in a doorway between the kitchen and the computer room when he saw Johnson
4 holding the pillow case. Stiffler told detectives he fired a single shot at Johnson. Stiffler said
5 Johnson moved from right to left (north to south) in the computer room before turning toward
6 Stiffler and then Johnson possibly "veered off" to the side as Stiffler shot in a westerly direction
7 toward Johnson.
8

9 A preliminary X-Ray taken at Saint Peter's Hospital before Johnson was transported to
10 the Medical Examiner in Missoula indicated the bullet may have exited Johnson's body. Given
11 the lay-out of the computer room and the direction Stiffler said he fired toward Johnson,
12 investigators believed the bullet that killed Johnson was more than likely still in the computer
13 room if it had exited the body. Because Stiffler said he fired the shot in a westerly direction,
14 investigators began searching the west side of the computer room and all of its contents
15 thoroughly as well as the south, west, and east walls of the room from ceiling to floor.
16 Investigators could find neither a bullet nor a bullet hole and there were no marks or defects on
17 anything in the room which would be consistent with a bullet strike. Investigators did locate a
18 small amount of material which they concluded could have been blood which they collected for
19 analysis at the State Crime Laboratory. Realizing bullets can change course while exiting a
20 body or contacting other items, investigators searched the entire room, but failed to find a
21 bullet, bullet hole or bullet strike. Investigators searched two rooms adjacent to the computer
22 room, but could not find any sign of the bullet in these two rooms.
23
24
25

1 Stiffler escorted investigators through the residence and showed them a fully loaded Sig
2 P220 pistol and a scoped bolt action rifle which were untouched in the master bedroom. Stiffler
3 said he always kept the loaded Sig on his nightstand, but had only recently brought the rifle out.

4 State Medical Examiner Gary Dale conducted an autopsy on May 23, 2013. The
5 autopsy revealed Johnson was killed by a single gunshot wound. The bullet had exited the
6 body and it was not located on or within Johnson or Johnson's clothes. Dr. Dale determined
7 the bullet entered the body in the back, left of centerline and below the shoulder. Dr. Dale
8 determined the bullet exited the body on the chest about nipple line and just left of the sternum.
9 The entry wound was about 55 inches above the deceased's heel, and the exit wound was about
10 56 1/2 inches above the deceased's heel. Defects to Johnson's clothing generally matched the
11 wounds to Johnson's body.
12

13 Based on the information the wound would have been about 55 inches off the ground if
14 Johnson was standing, its passage through the body at a slight upward trajectory, and its exit
15 through the clothing, Investigator concluded the bullet should have left a mark at about that
16 height on a wall in or near the computer room. Officers, however, could not located any defect
17 or blemish on any wall in the computer room at about 55 inches or higher. Detectives began to
18 doubt that Stiffler shot at Johnson while Johnson was inside the computer room. Detectives
19 hypothesized Johnson was possibly shot in the back while exiting the window in the sewing
20 room after abandoning the property he was caught trying to steal. While Detective Olson was
21 attending Johnson's autopsy, Sgt. Peterson and other officers returned to Stiffler's residence to
22 search once again the computer room, adjoining sewing room and spare bedroom, as well as
23 the area outside the residence. Officers did not locate any bullets inside the house. In the
24
25

1 driveway, however, in front of the residence investigators found what appeared to be a very
2 recently fired 9 mm sized bullet like the type of ammunition found unfired in the magazine
3 from Stiffler's gun. The bullet was under the place where Stiffler said he parked his truck
4 before entering the house to confront Johnson which had been parked in the driveway during
5 the investigators' earlier searches.
6

7 Investigators believed the location of the bullet was consistent with where one would
8 expect to find the bullet if Stiffler was standing in the computer room when he fired his gun
9 toward Johnson's back as Johnson was fleeing out the south window and the bullet exited
10 Johnson's body. Investigators further determined the location of the empty 9 mm shell casing
11 found in the computer room was generally consistent with where one would expect to find the
12 casing after it was ejected from the weapon after the bullet was fired by someone standing in
13 the computer room firing toward the window through which Johnson was likely fleeing.
14

15 On May 24, 2013, Sgt. Peterson, Det. Olson, Evidence Technician Chad Day, Helena
16 Police Detectives Brett Petty and Nathan Casey returned to the Stiffler residence where
17 Detectives Petty and Casey measured and documented the computer room, sewing room, and
18 spare bedroom with the "Total Station" system, a forensic tool designed to precisely measure
19 and document crime scenes.
20

21 Evidence Technician Day swabbed the bullet found in Stiffler's driveway to collect
22 biological material and sent the swab to the Crime Lab for analysis. On September 12, 2013,
23 the Serology/DNA Division reported the material collected from the bullet yielded a DNA
24 profile which matched Johnson's DNA profile. The suspected biological material collected
25 from within the house did not match Johnson.

1 On February 28, 2014 the Firearm and Toolmark Division of the Crime Lab reported
2 the shirt worn by Johnson when he was shot did not have gunshot residue on it. The lab further
3 determined the weapon used by Stiffler to shoot Johnson would not have deposited gunshot
4 residue on an object if it were more than 4-6 feet from the muzzle. Finally, the report indicated
5 the bullet found in Stiffler's driveway was consistent with bullets being fired from the
6 Interarms/Star model Ultrastar, caliber 9 mm, handgun Stiffler said he used to shoot Johnson.
7

8 The State hired William Schneck, of Microvision Northwest Forensic Consulting of
9 Spokane, Washington, to analyze the investigators' work in this case for the purpose of
10 determining the direction of the bullet as it struck Johnson. Schneck is the president and
11 principal scientist at the firm, and has experience in the microanalysis unit of the Washington
12 State Patrol Crime Lab. Schneck's expertise is in the area of microanalysis of many different
13 materials, crime scene analysis, and crime scene reconstruction, including blood splatter and
14 trajectory. Schneck provides peer review to scientists at the Montana State Crime Lab.
15

16 Schenk issued a report on January 4, 2015, concluding Stiffler shot Johnson in the back
17 as Johnson was trying to get out of the house via the sewing room window. Prior to reaching
18 his conclusion, Schenk reviewed the Report of Postmortem Examination of Johnson prepared
19 by Dr. Dale, the Serology/DNA dated September 6, 2013, the Firearm and Toolmark Report
20 dated February 21, 2014; the initial report and 22 supplemental reports prepared by LCSO
21 detectives and other officers; Total Station drawings of Stiffler's residence and property
22 prepared by HPD Detectives. Casey and Petty; and various pieces of evidence gathered during
23 the course of the investigation. Schenk also joined Investigators to inspect Stiffler's residence
24 and property on September 3, 2014 while Stiffler's attorney was present.
25

1 Schenk summarized Stiffler's account of shooting Johnson as follows: "Mr. Stiffler
2 reported to Detective Olson and Detective Peterson that he was standing in the doorway
3 between the kitchen and the computer room when he was confronted by an intruder and fired a
4 single shot toward him in a westerly direction. . . . He (Stiffler) stated the intruder moved from
5 right to left, turned toward him, and then possibly veered off to the side as he (Stiffler) fired."
6 "Mr. Stiffler reported to Detective Olson and Detective Peterson that after the shot was fired,
7 the intruder fled into the sewing room and exited out the window." Schenk states "That
8 scenario is not supported by the forensic evidence."

9
10 Schenk explains "[t]he autopsy report and photographs clearly show a perforating
11 gunshot wound through Mr. Johnson's body from back to front. Mr. Johnson therefore could
12 not have been facing Mr. Stiffler in the position and location he (Stiffler) reported when the
13 shot was fired. The fired bullet that perforated Mr. Johnson was not recovered in the computer
14 room down range of the reported firing position of Mr. Stiffler. However, the bullet fired from
15 the 9 mm handgun containing Henry Johnson's DNA was located along the grave driveway
16 south of the residence 96 feet from the sewing room doorway."

17
18 Regarding the ejected cartridge case Schenk notes "[t]he handgun ejects a fired
19 cartridge case to the right, therefore if the gun was fired in the location suggested by Mr.
20 Stiffler the cartridge case most likely would have been located either in the kitchen or the
21 eastern side of the computer room assuming it was not moved after the shot was fired."

22
23 Schenk's reconstruction determined "Henry Johnson was shot in the back as he was
24 exiting the sewing room window. . . . As Henry Johnson approached the window he cranked it
25 open and tore the window covering as he exited the window. The crank arm mechanism was

1 found on the floor in front of the window. The shot entered Mr. Johnson's back at an angle left
2 to right and slightly upward the moment he exited through the open window. There was no
3 blood or any evidence of a bullet impacting the window, window covering or screen, therefore
4 the window covering was already out of the bullet path before the shot was fired. If Henry
5 Johnson was in the room away from the window when the shot was fired there would likely
6 have been bloodstains with in the room."
7

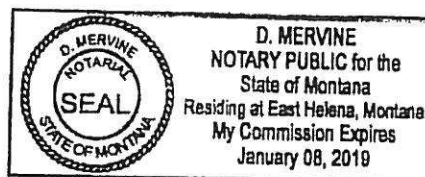
8 With respect to Stiffler's position when firing at Johnson, Schenk concluded "James
9 Stiffler was standing close to the computer room doorway when the single shot was fired at
10 Henry Johonson." "The cartridge case ejected to the right and was recovered on the floor in the
11 computer room. If James Stiffler was positioned within the sewing room when the shot was
12 fired, the cartridge case would have most likely been found in that room."
13

14 Further Affiant sayeth naught.

15
16 Cory Olson
Lewis and Clark County Criminal Investigator Cory Olson, Affiant

17 SUBSCRIBED AND SWORN to before me this 16th day of March, 2015.
18

19 D. Mervine
20 Notary



IN THE JUSTICE COURT OF RECORD
CITY OF HELENA, LEWIS AND CLARK COUNTY, MONTANA
Before MICHAEL G. SWINGLEY, Justice of the Peace
228 BROADWAY
HELENA, MONTANA 59601

PO Box
897
E. Helena

STATE OF MONTANA

Plaintiff,

Case No. CR-2015-

JAMES GEORGE STIFFLER

Defendant.

ORDER FOR CONDITION
NOTICE OF HEARING
SENTENCING CON

Offense Description: 45-5-102 Deliberate Homicide; C1XCP3

[] Video/Skype/Vision Net/Telephonic Arraignment [X] In-Person Arraignment [] Preliminary/Felony
[X] Advised of rights: bond/ remain silent/right to counsel/enter plea of guilty/not guilty/penalties/ trial-judge or jury

PLEA: [] GUILTY [] NOT GUILTY: PUBLIC DEFENDER [] yes [X] no

____ Days Susp. Execution of Sentence. ____ Credit Time Served ____ days to [] Fines [] Jail [] Consecutive [] Concurrent
Count #1 Jail: ____ Days ____ Days Susp. Fine: \$ ____ \$ ____ suspended + \$ ____ surcharge = \$ ____
Count #2 Jail: ____ Days ____ Days Susp. Fine: \$ ____ \$ ____ suspended + \$ ____ surcharge = \$ ____
Count #3 Jail: ____ Days ____ Days Susp. Fine: \$ ____ \$ ____ suspended + \$ ____ surcharge = \$ ____
Count #4 Jail: ____ Days ____ Days Susp. Fine: \$ ____ \$ ____ suspended + \$ ____ surcharge = \$ ____

SENTENCE IMPOSED - DATE: ____ / ____ / ____ [] Community Service for Fines [] Time Pay Ok
____ Hours Community Service beginning on or before ____ / ____ / ____, completed within 90 days.

[] PFMA Order: 40 hours Anger Management Counseling. Enroll within 30 days. Complete/Comply/Waive confidentiality with CT/CA
[] DUI/Possession of Alcohol/Drugs Order: PFL - enroll within 30 days. Complete/Comply/Waive confidentiality with CT/CA
[] Chem. Dep. Evaluation. Complete/Comply with recommendations. [] Mental Health Evaluation. Complete/Comply with recommendations.
[] Register with victim services and pay monthly monitoring fees. [] 24/7 Program, register and comply, breath or SCRAM
[] Pay Restitution of \$ ____ through () Court () C. Attorney & pay fees () Right to restitution hearing reserved.

DEFENDANT SHALL NOT

(X) Not leave the State without permission from the court () No drugs/alcohol (prescriptions only)
() Not leave L&C County without permission from the court () Not enter bars/casinos except for employment
(X) Not possess firearms/weapons () Not drive unless legal
() No contact with victim(s)/witness(s)-permanent until lifted by the Court.

Victim's Name: _____ Date of Birth: ____ / ____ / ____

DEFENDANT SHALL

() Post bail of \$ ____ () Notify the court & county attorney of any address/phone change.
(X) Be released on own recognizance. () Maintain weekly contact with attorney and/or probation officer.
(X) Make all court appearances in PERSON. (X) Remain Law Abiding, obey all laws: local, state & federal.

SET FOR HEARING: () OMNIBUS HEARING () CHANGE OF PLEA () SENTENCING () PTR () PTR SENTENCING

(X) PRELIMINARY HEARING (Felony): FRIDAY the 24 day of April, 2015 at 2:00 P.M.

Other Conditions of Release / Sentence: _____

I have read the above and agree to abide by all conditions in this court order, and understand that violating these conditions may result in additional charges being filed against me, such as contempt of court and/or bail jumping. I understand if I do not abide by them or appear for trial, the trial will be held in my absence and if found guilty I will be sentenced, my bond will be forfeited, and a warrant issued for my arrest and/or my license may be suspended for failing to appear or pay fines. I further agree that if I am arrested outside Montana while this matter is pending, I hereby waive extradition and I hereby agree, consent and elect to return to Lewis and Clark County, Montana and waive my right to consent extradition.

Defendant: _____ Signature of Judge: _____
Dated: 03/26/2015 MICHAEL G. SWINGLEY, Judge

COPIES TO: Court Defendant Defense Attorney Detention Center SSD County Attorney