

SEARCH WARRANT

IN THE MATTER OF

172 West Everett St Spring Lake, NC 2015 NOV 16 10:15

Date Issued 11/15/2015 Time Issued 9:00 AM AM PM

Name Of Applicant Detective B M Stevens

Name Of Additional Affiant

Name Of Additional Affiant

RETURN OF SERVICE I certify that this Search Warrant was received and executed as follows:

Date Received	11-15-2015	Time Received	9:00 AM <input checked="" type="checkbox"/> AM <input type="checkbox"/> PM
Date Executed	11-15-2015	Time Executed	9:40 AM <input checked="" type="checkbox"/> AM <input type="checkbox"/> PM

I made a search of 122 West Everett St Spring Lake NC

_____ as commanded.

I seized the items listed on the attached inventory.

I did not seize any items.

This Warrant WAS NOT executed within forty-eight (48) hours of the date of issuance and I hereby return it not executed.

Signature Of Officer Making Return *[Signature]* 1106

Department Of Agency Or Officer Hammett County Sheriff's Office Incident Number 15006985

STATE OF NORTH CAROLINA

Hammett County

In The General Court Of Justice District/Superior Court Division

To any officer with authority and jurisdiction to conduct the search authorized by this Search Warrant:

I, the undersigned, find that there is probable cause to believe that the property and person described in the application on the reverse side and related to the commission of a crime is located as described in the application.

Ma You are commanded to search the premises, vehicle, person and other place or item described in the application for the property and person in question. If the property and/or person are found, make the seizure and keep the property subject to Court Order and process the person according to law.

You are directed to execute this Search Warrant within forty-eight (48) hours from the time indicated on this Warrant and make due return to the Clerk of the Issuing Court.

This Search Warrant is issued upon information furnished under oath by the person(s) shown.

Date	11/15/15	Signature	<i>[Signature]</i>	Deputy CSC Magistrate	<input type="checkbox"/>	Assistant CSC District Ct. Judge	<input type="checkbox"/>	CSC Superior Ct. Judge	<input checked="" type="checkbox"/>
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This Search Warrant was returned to me on the date and time shown below.

Date	11/16/15	Time	10:15 AM <input checked="" type="checkbox"/> AM <input type="checkbox"/> PM	Signature	<i>[Signature]</i>	Deputy CSC Clerk Of Superior Court	<input type="checkbox"/>
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STATE OF NORTH CAROLINA

File No.

Harnett County

FILED

In The General Court Of Justice
District Superior Court Division

IN THE MATTER OF:

Name

172 West Everett Street Spring Lake, NC

2015 NOV 16

16 A 10: 16

INVENTORY OF ITEMS SEIZED
PURSUANT TO SEARCH

G.S. 15A-223, 15A-254, -257

I, the undersigned officer, executed a search of:

Person, Premises Or Vehicle Searched

172 West Everett Street Spring Lake, NC

Date Of Search

11-15-2015

This search was made pursuant to

- 1. a search warrant issued by: Superior Court Judge C W Gilchrist
2. consent to search given by:
3. other legal justification for the search:

The following items were seized:

- 4 shell casings
- 1 Taser X26
- 1 Taser cartridge
- wallet + contents
- set of keys

I. APPLICANT

I, Detective Bradley M. Stevens, have been a sworn law enforcement officer for more than fifteen years. I am currently assigned to the Criminal Investigations Division of the Harnett County Sheriff's Office. I have been employed in that capacity with the Harnett County Sheriff's office for more than five years. As a detective I have conducted the following types of investigations: homicides, armed robberies, breaking and entering, larcenies, arsons, rapes, assaults, and child sexual assault cases. I was also a member of the N.C. Internet crimes against children task force and investigated Cyber Crimes for two years. While being certified as a sworn law enforcement officer I have attended Basic law enforcement training, Basic narcotics investigation school, Basic swat operator school, Field training officer school, Interview and interrogation training, graduated from Police law institute training, training in cyber crimes investigation, training specific to arson investigation, and received training in the preparation of search warrants at the N.C. justice academy. I have previously prepared several search warrants during the course of my criminal investigations.

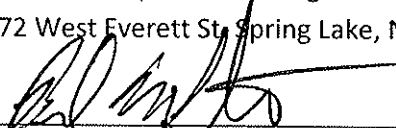
II. PROBABLE CAUSE

Information contained within this Affidavit is based upon information that this Affiant has gained from my investigation, my personal observations, my training and experience and or information related to me by other law enforcement officers and or agents. Since this Affidavit is being submitted solely for the limited purpose of securing a search warrant, this Affiant has not included each and every fact known to me concerning this investigation. This Affiant has set forth those facts that this Affiant believes are necessary to establish probable cause to believe that the evidence described in the attachments to this Affidavit, which establishes violations of the North Carolina General Statutes, will be found in the location also described in the attachments.

Information contained in this affidavit pertains to an investigation whereby Deputy Nicholas Kehagias and Deputy John Werbelow responded to a disturbance call which resulted in the death of John David Livingston II. This Affiant was briefed on the incident by Detective Teasley who was at the scene.

On 11/15/2015 at approximately 02:34 hours, Deputy Kehagias and Deputy Werbelow responded to 146 Evans St. Spring Lake, N.C. in reference to an unknown disturbance. After arriving at the location it was determined that an assault had taken place and during the investigation Kehagias was advised by the victim that the suspect in the assault was possibly located at 172 West Everett St. Spring Lake, N.C. The victim, Melissa Chestnut, had reported that Becky Setzer and another unknown female had assaulted her and Deputy Kehagias had prior knowledge that the suspect's brother, Lonnie Setzer was living at 172 West Everett St. Spring Lake, N.C.


Superior Court Judge


Affiant

11/15/15
Date

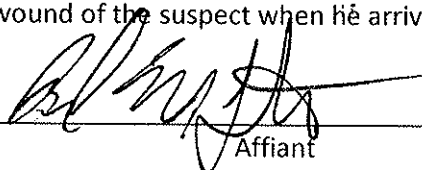
Deputy Kehagias and Deputy Werbelow responded to 172 West Everett St. in an attempt to locate the suspects from the assault. Deputy Kehagias approached the front of the residence and made contact with John David Livingston II at the residence. Deputy Werbelow approached the residence from the rear. Kehagias asked Livingston II for consent to search the residence for suspects from the assault. This Affiant also made contact with Deputy Kehagias by phone and he advised that Livingston II first refused the consent and then later granted consent for Deputy Kehagias and Werbelow to search the residence for suspects. Kehagias indicated that a vehicle behind the residence matched the description of one owned by suspect Becky Setzer.

Kehagias advised that he asked for Livingston II identification for the report and he refused to give any identification. Kehagias advised that Livingston II attempted to slam the door shut while he was still in the doorway and the door struck his foot. Kehagias advised after several attempts to get the information, he asked for Livingston II to stand up and Kehagias attempted to place him under arrest. Kehagias advised the suspect became combative and a physical altercation inside the residence ensued. Kehagias advised there were other subjects inside the residence that witnessed the incident. Kehagias advised the altercation began in the living room of the residence and the suspect had to be physically taken to the ground. Kehagias drive stunned the suspect and advised this was ineffective and the suspect kept fighting. Kehagias advised that Deputy Werbelow deployed OC spray in an attempt to subdue the suspect and this was also ineffective.

Kehagias advised that he was thrown off the suspect while attempting to place handcuffs on the suspect. Kehagias advised he dropped his electronic control device (tazer) onto the floor of the residence. Kehagias advised the altercation had moved through the open door and onto the front porch. It was there that Kehagias advised the suspect picked up his tazer and drive stunned him in his abdomen area. While being drive stunned, Kehagias drew his duty weapon and began to fire at the suspect. Kehagias advised he possibly shot three times at the suspect but did not know if the suspect was struck until the electronic control device stopped working.

Kehagias advised he heard Deputy Werbelow indicate shots fired on the radio. Kehagias and Werbelow attempted to give medical assistance after it was discovered that he had been struck in the upper chest and possibly the arm. Kehagias also indicated that he believed one of the other subjects at the residence may have recorded the incident with a cell phone that may still be inside the residence. Werbelow indicated shots fired on the radio at 03:49 hours and at 03:50 hours it was reported by radio that the suspect was down. EMS personnel from Medic 3 unit 351 were dispatched to the scene and the suspect was pronounced deceased on the front porch of the residence. Detective Teasley advised that Deputies were on scene keeping pressure on the wound of the suspect when he arrived. Kehagias advised that suspect


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11/15/18
Date

was still breathing at the time that he left the suspect to direct other responding units to the residence.

III. PLACE TO BE SEARCHED

1. 172 West Everett St. Spring Lake, N.C. is described as a tan and off white, single wide mobile home. There are no numbers visible on the front of the residence. The residence has fixed, deck type porches on the front and rear of the residence. There are two vehicles parked behind the residence. A grey Mercury Grand Marquis bearing North Carolina registration AJN-4253 and a blue in color Mercury Tracer with no registration displayed. The address was verified by a mailbox near the residence and Google mapping website.


IV. ITEMS TO BE SEIZED


1. Any documents, writings, photographs showing ownership of the residence
2. Any blood or trace evidence
3. Any firearms or weapons located in or around the residence.
4. Any item that could have been used as a weapon
5. Any spent and unspent shell casings
6. Any ammunition
7. Any cellphone or electronic device used to text, call, or communicate with. Mobile telephones have become a staple in people's lives and a way to communicate and evidence of premeditation, involvement or conspiracy to this incident may be found on these device(s)
8. Any computers, hard drives, any external memory storage device
9. Any article of clothing which the decedent is wearing
10. Any item to lead to the identity of the decedent
11. Any items determined to have evidentiary value

V. CONCLUSION

I contend that there is sufficient probable cause listed in this affidavit for the issuance of a search warrant for the property at 172 West Everett St. Spring Lake, N.C. in reference to a death investigation. I respectfully request the issuance of this search warrant for the furtherance of justice.


Superior Court Judge


Affiant


Date