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STATE OF COLORADO)
COUNTY OF WELD)ss.
79W7062

FILED IN COUNTY
COMBINED COURTS

AFFIDAVIT

DATE FILED March 22, 2021 10:51 AM

In support of a request for the issuance of a warrant for the arrest of James Herman Dye (date of birth 06/30/1956, (hereinafter referred to as "Defendant"), the undersigned affiant, being first duly sworn upon oath deposes and says:

That the affiant has knowledge of the following facts from which there is probable cause to believe that the offense 18-3-102(1)(a) Murder in the 1st Degree, a class 1 felony hereinafter described was committed by the defendant as charged in the attached instrument on or about the 27th day of November, 1979, in the County of Weld, State of Colorado, to-wit:

Your affiant is a peace officer for the Weld County Sheriff's Office and has gained the following information by reading the reports of fellow officers, the statements of the victim and witnesses, and through personal investigation.

On November 27, 1979 at about 1740 hours the body of Evelyn Kay Day (who went by Kay) was discovered murdered in the rear of her red 1977 Datsun station wagon in the 5700 block of 20th St., unincorporated Weld County, Colorado. She had been strangled with the belt of her overcoat.

Kay was a business lab monitor working nights at Aims Community College at 5401 20th St. On the night of November 26, 1979 Kay was last seen by student Julie Cogburn in the Business Lab when they were the last to leave at 2200 hours. Julie said as she left the campus, she saw Kay in her car in the parking lot.

On the morning of November 27, 1979 Kay's husband, Stanley Charles Day (who went by Chuck), realized Kay had not come home. He made a missing person report to the Evans Police and advised her colleagues at Aims Community College. Chuck called Aims and spoke with Patricia Harder and asked if she had seen Kay. Patricia said she had not. Chuck told her he had reported her missing and gave her the description of the Datsun for her to keep watch for.

At around 1730 hours Patricia and fellow Aims employee Warren Ptacek were driving home when they saw Kay's Datsun on the eastbound shoulder in the 5700 block of W. 20th St. Patricia told Warren that the car appeared to be Kay's and that she was missing. They parked behind the Datsun and Warren checked in the car and found Kay's body in the back area. Patricia then went to the nearby Family Sports Center, 5701 W. 20th St., and called the police.

Weld County Sheriff's Office Deputies responded and began a homicide investigation. Upon examination of the body it was revealed that Kay had the cloth belt of her overcoat wrapped around her neck. She had marks around her throat from the belt and abrasions to the left side of her face, possibly from being struck. She was fully clothed wearing the overcoat, a blouse, pants, pantyhose and underwear.

Several items of evidence were obtained from the vehicle and the body. An autopsy was performed, and the cause of death was determined to be manual strangulation. The manner of death was ruled homicide. A sexual assault examination kit was performed, and the Colorado Bureau of Investigations did DNA testing on the vaginal swabs. The CBI found that the major DNA component of the sperm fraction of the DNA detected on the vaginal swabs did not match Chuck Day. Several leads were investigated in the case but no charges were brought.

Detective Byron Kastilahn was assigned the case in the spring of 2020. Det. Kastilahn reviewed the case files and evidence and on May 1, 2020 he spoke with CBI Agent Yvonne Woods and asked if DNA evidence could be compared to the DNA profiles in CODIS for DNA identification. Agent Woods said she could enter the DNA profile from the major component of the sperm fraction of the vaginal swabs into the CODIS DNA database and I would get a report when that was completed.

On the afternoon of August 26, 2020 Det. Kastilahn received a CODIS DNA Casework match report from the Colorado Bureau of Investigation. The report stated that the DNA profile from the sperm fraction of the vaginal swabs recovered from the victim, Kay Day, matched James Herman Dye, Defendant. Defendant's DNA was also a YSTR match to DNA profiles found on Kay's coat sleeve and on fingernail scrapings taken from her right hand. The report provided Defendant's date of birth, June 30th, 1956, which Det. Kastilahn used to search for records on him.

Defendant's criminal history listed him as a multi-state offender with criminal history in Colorado and Kansas. His Colorado criminal history showed an arrest on 10/05/1977 by the Weld County Sheriff's Office for 2nd Degree Sexual Assault, an arrest on 02/05/1981 for Sexual Assault on a Child, an Attempted Sexual Assault on 05/07/1981, Sex Assault on a Child on 03/30/1987, and Third Degree Assault in 1982.

Det. Kastilahn checked with Aims Community College for student and employee rosters for the Defendant. On the afternoon of August 27, 2020 Det. Kastilahn received a letter from Aims Community College Registrar Kelly Christman. The letter certified that James Herman Dye (DOB: 06/30/1956) was enrolled as a student at the college during the summer and fall quarters of 1979, the winter quarter of 1980 and the summer quarter of 1982. At that time, no further information about the Defendant or his time at Aims Community College was provided.

On September 3rd, 2020, Det. Kastilahn reviewed the case file documents to see if the Defendant had come up in the investigation. In the Other Agency Reports file he found a Weld County Crime Stoppers tip that came in on 09/03/1988. The tip was in reference to a homicide that occurred nine years prior at Aims Community College. In the "Suspect" section was listed the name James Dye, living in Eaton or Ault at the time, described as a 36-year-old white male, 6'-03", 135-165 lbs.

The narrative of the Crime Stoppers tip states, "RP advised it has been a few years since he has heard from subject but gave the following info. Subject used to work on a farm east of Platteville, unknown if still there. RP stated that subject is either the one who killed the girl or is very much involved in the murder. RP stated that on the night of murder the subject came home

w/ blood all over his clothes. He 'got rid' of them right after that. He (Subj.) then sat down to watch the news on TV. He then told his wife (now ex-wife) that there was a girl killed out at Aims and stated this before it was on the news. RP stated the ex-wife would be able to explain the (circumstances) night of the murder & the conversation. RP had no further info and was slightly uncooperative when I tried to ask questions about who the ex-wife was & where the subject was now, etc." No follow up was found on this tip.

Det. Kastilahn submitted an order for production of records to Aims. On October 13th, 2020 at 1100 hours Det. Kastilahn met with Aims Registrar Kelley Christman who provided the records requested in a court order for production of records. These records consisted of an official transcript for the Defendant, a letter from Kelley certifying that Defendant was enrolled as a student at Aims, as well as the schedule of classes for each of the terms in which he was enrolled in 1979 and 1980. Det. Kastilahn obtained these documents and reviewed them.

The transcript showed Defendant enrolled in automotive classes. In the summer of 1979, he took a Fuel System/Tuneup class. In the fall of 1979, he took a Steering/Suspension System class. In the winter of 1980, he was enrolled in four classes; Emission Control, Industry Communication, Auto Service Management, and Shop Practice. In the summer of 1982, he took an Auto Engines class.

Of importance is the fall 1979 class, AMT 142-B Steering/Suspension System, held in the Trades and Industry building. A map in the Aims catalog showing where the college buildings were in 1979 showed that the Trades and Industry building was directly north of the Business building where Kay was working.

After the fall semester of 1979, the four classes the transcript showed Defendant enrolled in for the winter of 1980 showed a grade of "IP". According to the legend on the back of the transcript, "IP" meant "Did not successfully complete course and must re-register if credit is desired." For the class Defendant had registered for in the summer of 1982 he received a grade of "NC", which according to the legend, "NC" denoted "No credit." These records showing Defendant's attendance and performance at Aims in the following days, weeks and quarter after Kay's murder and are relevant in showing a change in his behavior after said crime.

During the investigation Det. Kastilahn interviewed family members of the Defendant, including his ex-wife Maria Hawkins (who he was married to from 1977 to 1981) and his sisters. Maria and sister Donna Amaya believed Defendant was capable of committing murder. Another sister, Sherry Kubacki, said Defendant's mother Viola Dye, had told her she thought Defendant murdered Kay Day.

On 11/13/20 Det. Kastilahn reviewed Weld County Sheriff's Office report 77W5051. This report documented the sexual assault James committed against ██████████ on October 4th, 1977. ██████████ was driving home from Loveland in her 1968 Chevy Impala. ██████████ was eastbound on Hwy 34 when she came upon a man near a car on the side of the road. She said a woman was also near the car holding a baby, so she stopped to help. This was on Hwy 34, three quarters of a mile east of Hwy 257.

The male, later identified as James Dye, asked [REDACTED] for a ride to his house. [REDACTED] gave him a ride and he gave her directions where to go. She said they ended up on a remote dirt road and all of a sudden Defendant grabbed [REDACTED] by the neck and throat with both hands. He put the Impala in park and told [REDACTED] to get out of the car. They got out and walked to an area with several trees and bushes while her children remained in the car. Defendant then told [REDACTED] to take off her pants. He then forced her to have sexual intercourse with him. After the sexual assault he had her put her clothes back on. [REDACTED] called the police and Defendant was subsequently arrested.

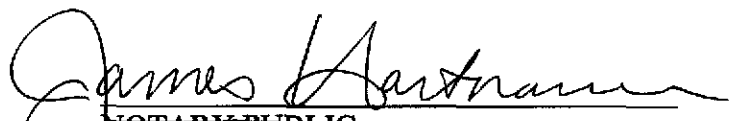
This may show a similar modus operandi between this case and Kay Day's murder. They both involve a car (Defendant may have asked Kay for a ride), the female victim being strangled, and sexual intercourse with the victim (and Defendant possibly having Kay redress herself afterwards).

On 03/22/2021 Detectives Kastilahn and Geyer of the Weld County Sheriff's Office contacted the Defendant at 717 Mt. Carmel Ave. Wichita, KS. During the interview of the Defendant he made the following statements. The defendant denied knowing the Victim. The Defendant denied having a sexual relationship with the Victim. The Defendant denied ever touching the victim. The Defendant denied the Victim ever touching him. The Defendant denied killing the victim. The Defendant stated this was the first time he had heard of the Victim being killed and he did not follow the investigation. The Defendant stated that he did not remember specifically what he was doing on 11/26/1979 or 11/27/1979 as it was so long ago. The Defendant stated that he does not have any medical issues that would affect his memory.

A warrant is requested for the Defendant, James Herman Dye, date of birth 06/30/1956, for Murder in the First Degree. Defendant is described as a white male, 6'-02" tall, 220 pounds, gray hair, blue eyes, Kansas driver's license [REDACTED] social security number [REDACTED] state issued identification [REDACTED] His last known address is [REDACTED]


AFFIANT

Subscribed and sworn to before me this 22 day of March, 2021.


~~NOTARY PUBLIC~~
James F Hartmann
Chief Judge

My Commission expires: