

PROBABLE CAUSE

CASE: 14-019848

TO: FIRST APPEARANCE MAGISTRATE

DEFENDANT: Sigfredo Garcia (DOB: 4/27/1982)

CHARGES: Murder (F.S. 782.04)

SUMMARY OF OFFENSES AND PROBABLE CAUSE AFFIDAVIT:

This affidavit sets forth probable cause to believe that Sigfredo Garcia (Garcia) and Luis Rivera (Rivera) murdered Florida State University (FSU) Law School Professor Daniel Markel (Markel) in violation of Florida Statute 782.04.

On Friday, July 18, 2014, at 11:02 a.m., a report of a shooting was received at the home of FSU Law School Professor Daniel Markel (Markel), 2116 Trescott Drive, Tallahassee, Florida. Upon arrival, Tallahassee Police Department (TPD) officers found Markel slumped over in the driver seat of his vehicle from an apparent gunshot to the head. Markel was transported from the scene to a local hospital where he later died from the injuries sustained during the shooting. The investigation of the crime scene found no indication that this incident was part of any other criminal intent, such as burglary or robbery.

At the time of the shooting, Markel was talking to an individual on his cellular telephone. That person stated Markel interrupted their conversation, saying someone he did not recognize was in his driveway. The person on the telephone with Markel then heard what sounded like a loud grunt. He heard a muffled conversation in the background, but could not make out the words being spoken. He then heard labored breathing but could not get Markel to respond.

Initial investigation at the scene revealed that a neighbor heard what he believed to be a gunshot and looked out the window, where a small silver or light-colored vehicle, resembling a Prius, was observed backing out of the victim's driveway.

Motive for Murder

Investigators obtained information from sources that Markel had gone through a bitter divorce with Wendi Adelson (Wendi), who was also a professor at the FSU Law School. Wendi filed for divorce on Monday, September 10, 2012. Markel reportedly returned home from a business trip to find his family gone, a majority of the contents of the house missing and the paperwork for dissolution of marriage displayed on his bed. He eventually learned Wendi and their two children had moved to her parent's home in

Coral Springs (Broward County), Florida. Reportedly, Markel protested and Wendi returned to Leon County with the children until legal arguments could be heard.

On June 20, 2013 Leon County Circuit Judge Hobbs formally denied, with prejudice, Wendi's motion for relocation with the children. Court documents show the divorce was resolved without trial by a Marital Settlement Agreement (MSA) and granted by Judge Hobbs on July 31, 2013.

E-mail evidence indicates Wendi's parents, especially her mother, wanted Wendi to coerce Markel into allowing the relocation to South Florida. Additionally, Wendi's brother, Charles Adelson (Charlie), reportedly did not like Markel and did not get along with him.

On February 14, 2014 Markel filed a Counter-Motion to Enforce the MSA's Financial Provision and Motion for Sanctions. Markel claimed Wendi and her attorney had not been forthcoming in the MSA regarding her financial assets.

On March 26, 2014 Markel filed a Counter-Motion for Enforcement of MSA on Parenting Issues and Motion for Contempt and Sanctions. One of the points of contention in this motion was Wendi's mother, Donna Adelson (Donna), and her reported negative interaction with the children. Markel claimed Donna made disparaging remarks about him to his sons.

Markel sought relief in this motion by asking the court to prohibit Donna from having unsupervised time with her grandchildren and to impose limitations to prevent the children from being subjected to disparaging comments about their father.

These motions were scheduled for a court hearing on May 15, 2014; however, due to substitutions of counsel, the hearing was continued. A new court hearing date had not yet been scheduled prior to Markel's death.

Investigators believe motive for this murder stemmed from the desperate desire of the Adelson family to relocate Wendi and the children to South Florida, along with the pending court hearing that might have impacted their access to the grandchildren.

The Suspect Vehicle

This investigation has revealed that Markel left his home the morning of July 18, 2014, and drove his two young children to their daycare facility on the west side of Tallahassee, approximately five miles away, dropping them off at 8:50 a.m. Markel then drove to Premier Health and Fitness Center (Premier), 3521 Maclay Boulevard. At approximately 9:12 a.m., Markel arrived at Premier, where surveillance video shows a silver or light green Toyota Prius enter the parking lot after Markel parked his car. After Markel went into the health club, the video captured the Prius in the parking lot where the

driver moved the vehicle to different parking positions while Markel was in the building. Markel left Premier at approximately 10:38 a.m., and drove off in his vehicle toward Thomasville Road. The video shows the Prius exiting the parking lot and following the direction of Markel's car.

Additional video was discovered for the day of the homicide on the Star Metro city bus camera system. Video was captured from two different buses, one southbound on Thomasville Road and another northbound on Thomasville Road. The bus camera system captured images of what appears to be the same Prius before and after the homicide was committed. Unfortunately, images could not provide the license plate characters of the Prius. After analyzing all of the surveillance videos, investigators believed the suspect vehicle to be a 2006-2009 Toyota Prius with 'Silver Pine Mica' paint, which appears to be a light green/silver color. The Prius appears to have tinted windows, a Sunpass transponder on the top-center of the windshield, a missing tow-hook cover on the front bumper and a black passenger side mirror casing.

Investigators analyzed the time stamps from the bus camera videos when the Toyota Prius was observed, which confirmed that the Prius had the opportunity to be present at the crime scene when the murder was committed. Additional surveillance video was obtained from a bank, a county government facility, and a store along Markel's route the morning of July 18, 2014 which also shows a similar vehicle trailing Markel's car. Investigators believe the suspects in the Prius followed the victim throughout the morning and back to his residence, where the victim was shot in the head as he sat in his car.

INVESTIGATION

After the homicide was reported in the press a resident of the Ashford Club Apartments, 2055 Thomasville Road reported seeing two men park a "bluish-silver" Prius-type car in the southeast corner of the complex parking lot around mid-morning on one of the week days immediately before the July 18, 2014 homicide. The men got out of the vehicle and walked down a park path behind the apartment complex that parallels a large storm drainage ditch. This ditch is at the fenced rear property line of Markel's home on Trescott Drive. The resident described the driver as a white male, tall and slender with a runner's build, fair complexion, wearing a light-colored ball cap. The passenger was described as a shorter man with a stocky build and dark hair with a darker complexion resembling Italian or Spanish descent. When the two men returned to the car about 10 minutes later the passenger was carrying an unknown black object in one hand. He was completely wet as if he fell into the drainage ditch. The driver's pants appeared wet up to the knees.

Sigfredo Garcia and Luis Rivera are similar to the physical descriptions given by the Ashford Club Apartments resident. Garcia is taller and slender, and Rivera is shorter and stockier with a darker complexion. As set forth below, evidence establishes that they were in Tallahassee on the day of the murder and that they had rented a Silver Pine Mica Toyota Prius for the trip from South Florida. Both Garcia and Rivera are convicted felons in the State of Florida.

Connection to Garcia

Investigators developed information that, around the time of the murder, Charlie (Wendi's brother), was involved in a personal relationship with Katherine Magbanua (Magbanua), whose cellular telephone number was [REDACTED]. Call records show Magbanua as one of Charlie's top contacts. Online public database research revealed that this number was utilized by Katherine Magbanua.

Further investigation also revealed that Sigfredo Garcia (Garcia) is the father of Magbanua's two minor children, both with the last name 'Garcia.' Magbanua is also listed as the vice president of S. Garcia Solutions Inc., and Garcia is listed as the president of the company on State of Florida records for corporations.

Cellular Telephone Information Linking Garcia and Rivera to the Murder

Cellular telephone analysis conducted during this investigation has revealed that on July 18, 2014, at approximately 9:36 a.m. (the day of the homicide), cellular telephone number [REDACTED] was in the vicinity of Premier in Tallahassee where the victim was last seen alive. Investigation of telephone number [REDACTED] revealed that it was being used by Garcia prior to the murder and had been in contact with Magbanua's telephone number approximately 2,700 times between May 1, 2014 and July 19, 2014, when Garcia's cellular phone ceased activity the day after the homicide.

Cellular telephone analysis revealed phone number [REDACTED], which is one of Garcia's frequent contacts, was also in the vicinity of Premier on the morning of the homicide. It was also in the vicinity of Markel's residence twice the day before the homicide on July 17, 2014. Investigation shows this phone number was being used by Luis Rivera (Rivera) during the time leading up to Markel's murder.

Information obtained from the cellular service provider for [REDACTED] (Rivera) is consistent with Rivera's handset travelling from North Miami to Tallahassee at a time consistent with having committed the murder and then immediately heading back to North Miami after the homicide.

Information obtained from the cellular service provider for Rivera's phone [REDACTED] and Garcia's phone [REDACTED] revealed that the two traveled from North Miami, Florida on the afternoon of July 16, 2014 and arrived in Tallahassee, Florida just after midnight on July 17, 2014. A receipt from a motel on W. Tennessee Street in Tallahassee shows that Rivera checked in at approximately 1:00 a.m. on July 17, 2014, which is consistent with the cellular location data. Both Garcia's and Rivera's phones were in the area of the victim's residence during the day of July 17, 2014.

Prius linked to Rivera and Garcia

Based on the video images of the suspect car with a Sunpass transponder mounted on the windshield and cell site data for the locations of phones used by Garcia and Rivera, a subpoena was sent to the Florida Department of Transportation (FDOT) for Sunpass toll records on Alligator Alley (I-75 west of Ft. Lauderdale) on July 16 and 18, 2015. Only one account listing a Prius as a customer vehicle had Sunpass transponder activity at the Alligator Alley toll booths on those two dates at the relevant times. On July 16, 2014, at 2:18 p.m., the transponder registered at the toll plaza in Broward County, westbound on I-75. On July 18, 2014, at 5:23 p.m., the transponder registered at the eastbound toll facility of I-75 in Collier County near Naples, Florida.

FDOT shows the subscriber for this Sunpass transponder is a rental car company in North Miami, Florida. This rental car company was contacted by law enforcement and provided several rental contracts around the time of the homicide. These included one for a green 2008 Toyota Prius rented from July 15-21, 2014 by "Luis Rivera" with a contact phone number of [REDACTED]. A second telephone number was also written on the rental contract, [REDACTED] (Garcia's cellular phone), with the word "Brother" written beside the number.

Tallahassee Witness

A witness, whose identity is known to the law enforcement affiant, previously met Garcia and Rivera in Tallahassee a month or more before the homicide. The witness' cellular phone was contacted by Rivera's cellular phone on the afternoon of July 17, 2014. The witness was asked, and agreed, to rent a motel room on N. Monroe Street, in the witness' name, for Garcia and Rivera on the night of July 17, 2014. This is consistent with the cellular location data and a receipt obtained from the motel showing a room registered in the witness' name. The witness was able to positively identify both Garcia and Rivera, individually, in two separate photographic line-ups.

The witness recalled Rivera having in his possession a silver finish, short-barrel revolver handgun the first time he met Garcia and Rivera, possibly in June 2014, at the motel on W. Tennessee Street. Recovered evidence from the crime scene indicates the caliber of firearm used in this murder is consistent with revolver ammunition and no spent casing was found at the scene. This investigation did not reveal any other legitimate purpose for either suspect to be in Tallahassee at the time of the murder.

Cellular Data for July 18, 2014

On the morning of July 18, 2014, both Garcia's and Rivera's cellular phones were in the area of Premier during the time when the victim was inside and surveillance video shows the Toyota Prius in the parking lot. Garcia's telephone ceased activity just before 10:00 a.m. while in the area of Premier, with the last text message occurring at 9:58 a.m. The next event on Garcia's telephone was text messages and/or notifications being received at 12:29 p.m., consistent with the handset being powered up. Immediately afterward at 12:30 p.m., Garcia placed a call to Magbanua, which was the first contact initiated by Garcia after the homicide. This call occurred when Garcia's phone was in the area of Lake City, Florida, on or near I-75 approximately one and a half hours after the shooting was reported.

Investigators believe Garcia and Rivera turned their phones off before 10:00 a.m., committed the murder of Markel at his home on Trescott Drive, and then fled back to North Miami, Florida via I-10 and I-75.

Rivera ATM transaction

Analysis of Rivera's checking account revealed an ATM transaction took place on July 18, 2014 at 6:46 p.m. as they were returning to North Miami from Tallahassee, Florida. Security video from the drive-through ATM lane shows Rivera driving a Toyota Prius up to the ATM at 6:45 p.m. The Prius appears to have tinted windows, a Sunpass transponder on the top-center of the windshield, a missing tow-hook cover and a black passenger side mirror casing; matching the characteristics of the Prius seen on video from the northbound bus cameras in Tallahassee. Viewing the bank video, Rivera is seen completing the ATM transaction. When he leans forward, Garcia can be seen sitting in the front passenger seat of the Prius. As the Toyota Prius exits the ATM area at 6:47 p.m., a Florida license plate can be seen on the rear of the car. The tag characters appear to match those of the car rental contract. Cellular site data is consistent with this stop at the ATM location prior to Garcia and Rivera arriving back in North Miami.

There is no previous contact found between Markel and these two defendants. Therefore, it is the affiant's belief Garcia and Rivera were enlisted to commit this

egregious act against someone they did not know and had never interacted with before the murder.

On May 24th, 2016 Investigators conducted an interview with Garcia. During the interview, Garcia denied ever being in Tallahassee. He stated that he had never made any trips with Rivera. Garcia denied any knowledge of the homicide.

The preceding is true to the best of my present knowledge or belief.

 714
SIGNATURE _____ Inv. Sherrie Bennett # 714
TALLAHASSEE POLICE DEPARTMENT

NOTARY/A.S.A. Jonathan Sjoström Notarization: Sworn and
subscribed before me this ____ day of _____ 2016.
My commission expires: Law Enforcement Officer
*Circuit Judge
5/28/2016.*

Probable Cause approved by A.S.A.

ORDER: THIS CAUSE coming before me as a First Appearance Magistrate, and having reviewed the preceding Affidavits, find:

- Probable cause sufficient;
- Probable cause not sufficient and unless corrected within seventy-two hours, the defendant shall be released on his own recognizance.

Bond Amount Requested:



JUDGE'S SIGNATURE