

IN THE DISTRICT COURT OF ALLEN COUNTY, KANSAS

Case No. NOC2023CR000172
NOC2023CR000173

AFFIDAVIT

COMES NOW Senior Special Agent Chris Farris, Kansas Bureau of Investigation, of lawful age, who, after being first duly sworn, on his oath states that:

1. Affiant is now, and has been at all times relevant, a commissioned Kansas Law Enforcement Officer.
2. In such capacity, Affiant had occasion to assist in the investigation of certain allegations of one or more violations of the Kansas Criminal Code, as more fully set out below.
3. Based upon the information from the described investigation, Affiant has learned the following, either from his own investigative work or that of other law enforcement officers, witnesses and others, all of which Affiant verily believes to be true, to wit:

FACTS

On April, 27, 2023, assistance from the Kansas Bureau of Investigation was requested from the Labette County Sheriff's Office after Dakota Patton was reported as missing and his vehicle had been located in a field in rural Labette County, Kansas. During the investigation, it was established Dakota Patton was last seen at a Pete's Convenience Store in Parsons, Kansas at approximately

6:30 p.m. on April 25, 2023. At the convenience store, Dakota Patton was with Clint Nibarger and his girlfriend, Kimberly Thomas.

Clint Nibarger and Kimberly Thomas were interviewed in reference to the disappearance of Dakota Patton. Both Clint Nibarger and Kimberly Thomas provided law enforcement with inconsistent statements regarding their interaction with Dakota Patton on April 25, 2023. In addition, the vehicle of Dakota Patton was discovered approximately .75 mile from Clint Nibarger's residence. Dakota Patton's vehicle appeared to have been drug to its final location by another vehicle. There were very distinct tire impressions discovered in the field in front of Dakota Patton's vehicle. The tread pattern appeared to match the pattern of the tires on Clint Nibarger's truck indicating Clint Nibarger's truck was the vehicle that drug Dakota Patton's vehicle to the field. After further investigation, cellular phone data showed the cellular phones of Dakota Patton, Clint Nibarger, and Kimberly Thomas traveled north and east of Parsons, Kansas, into Neosho County, after leaving the Pete's convenience store on April 25, 2023. The cellular phone data also showed Dakota Patton's cellular phone went dead or stopped working while up in that area. Both Clint Nibarger and Kimberly Thomas adamantly denied going north and east of Parsons, Kansas after leaving the Pete's convenience store with Dakota Patton on April 25, 2023.

Clint Nibarger and Kimberly Thomas left the Parsons, Kansas area at approximately midnight on April 25, 2023. They checked into a motel room in

Wagoner, Oklahoma at approximately 2:05 a.m. on April 26, 2023. Later on April, 26, 2023, they traveled to the Dallas, Texas area to visit Kimberly Thomas' mother. They only visited Kimberly Thomas' mother for a couple of hours and then drove back north. The night of April 26, 2023, they rented a motel room in Miami, Oklahoma. The morning of April 27, 2023, Clint Nibarger and Kimberly Thomas were married in Miami, Oklahoma. After getting married, they came back to the Parsons, Kansas area, arriving at approximately noon on April 27, 2023.

A search warrant was executed on the truck of Clint Nibarger on May 1, 2023. During the search of the truck, a purple "Crown Royal" bag was located in the back seat. Inside the "Crown Royal" bag were several rounds of loose .45 caliber ammunition. On the base of the ammunition, were red marks made by what was believed to be "Sharpie" type marker.

Several search attempts were made by law enforcement between April 28, 2023, and May 5, 2023 to locate Dakota Patton near the area where his cellular phone last showed activity on April 25, 2023. These searches were unsuccessful, however.

On May 5, 2023, at 10:34 p.m., the Affiant received a text message that read "This is Linus I think I have a location for your body. Please call". The Affiant immediately called Linus Thuston. Linus Thuston told the Affiant Clint Nibarger

and Kimberly Thomas (Nibarger) were currently in Hollister, Missouri staying with individuals who Linus Thuston has legally represented in the past. During the phone call, Linus Thuston would not disclose the names of his clients who lived in Hollister, Missouri. Linus Thuston had received a phone call from his former clients on May 5, 2023. His clients told Linus Thuston that Clint Nibarger and Kimberly Thomas (Nibarger) had confessed to the murder of Dakota Patton. Linus Thuston told the Affiant he was instructing his clients to try to get more information, and possibly even a map, of where the body of Dakota Patton could be located.

On May 6, 2023, Linus Thuston forwarded the Affiant several text messages from his former clients describing where Clint Nibarger and Kimberly Thomas (Nibarger) were saying the body of Dakota Patton was located. The Affiant believes Linus Thuston was instructing his clients to get as much information as possible from Clint Nibarger and Kimberly Thomas (Nibarger).

On May 8, 2023, at approximately 11:40 a.m., the deceased body of Dakota Patton was discovered by law enforcement in a wooded area on the south side of 20th Road between Xavier Road and Wallace Road in Neosho County, Kansas. It was also determined the former clients of Linus Thuston, who Clint Nibarger and Kimberly Thomas (Nibarger) were staying with in Hollister, Missouri, were Fennis Garduno and Carolyn "JoJo" Garduno.

The KBI Crime Scene Response Team responded to the location of Dakota Patton's body and processed the crime scene on May 8, 2023. They discovered a single, .45 caliber, spent cartridge near Dakota Patton's body. The base of the .45 caliber spent cartridge contained a red mark made from a "Sharpie" type marker.

On May 8, 2023, Clint Nibarger and Kimberly Thomas (Nibarger) were arrested in Hollister, Missouri for the murder of Dakota Patton.

On May 8, 2023, Fennis Garduno was interviewed by law enforcement. During the interview, Fennis Garduno stated Clint Nibarger and Kimberly Thomas (Nibarger) had admitted to the killing of Dakota Patton and went into detail about all the events surrounding the death of Dakota Patton. Fennis Garduno said Clint Nibarger shot Dakota Patton one time in the face on April 25, 2023. Fennis Garduno said he called Linus Thuston after Clint Nibarger admitted to murdering Dakota Patton. Fennis Garduno said Linus Thuston directed him to take photographs of some notebooks Clint Nibarger and Kimberly Thomas (Nibarger) had so they could be used as evidence. Fennis Garduno also said Linus Thuston directed him to keep Clint Nibarger at his residence and to try to get as much information as he could from Clint Nibarger. Fennis Garduno described Linus Thuston as a long-time family friend of his wife, JoJo Garduno.

The afternoon of May 8, 2023, Linus Thuston came to the location where Dakota Patton's body had been discovered. At the location, Linus Thuston told the present law enforcement officers about how he had been in communication with Fennis Garduno and JoJo Garduno and how he had been receiving information from them about the murder of Dakota Patton. Linus Thuston also made the statement he had legally represented Clint Nibarger in the past. At the crime scene, on May 8, 2023, Neosho County Sheriff Greg Taylor asked Linus Thuston if he was going to ask for prosecutorial assistance from the Kansas Attorney General's Office since he was potentially a witness in this homicide case as well as previously representing Clint Nibarger. Linus Thuston didn't believe he had any conflicts and said he only represented Clint Nibarger in a Driving Under the Influence case so that "didn't count".

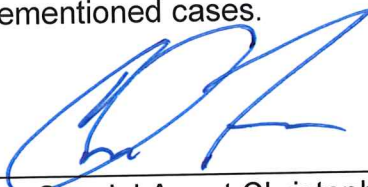
Also while at the crime scene on May 8, 2023, Linus Thuston had a conversation with Labette County Sheriff's Office Deputy Dusty Conrad. During the conversation, Linus Thuston told Deputy Conrad he had recently been contacted by Clint Nibarger and/or Kimberly Thomas (Nibarger) about providing legal representation for them in this case. Linus Thuston told Deputy Conrad he told them he couldn't represent them if any crimes happened in Neosho County but said he advised them to not to talk to law enforcement. When a search warrant was executed on the mobile phone of Clint Nibarger, Linus Thuston was a contact in Clint Nibarger's phone.

On May 8, 2023, Linus Thuston filed charges on Clint Nibarger and Kimberly Thomas (Nibarger) in the Neosho County District Court for the murder of Dakota Patton in case numbers NOC2023CR000172 and NOC2023CR000173, respectively,

The Affiant conducted a search through the Kansas District Court Public Access Portal and discovered Linus Thuston was legal representation for Clint Nibarger in Labette County case 2016-TR-000287 in which Clint Nibarger was charged with Driving Under the Influence of Drugs/Alcohol (K.S.A. 08-1567), Fleeing or Attempting to Elude a Law Enforcement Officer (K.S.A. 08-1568), Transporting an Open Container (K.S.A. 08-1599), and Driving on the Right Side of Roadway Required (K.S.A. 08-1514).

WHEREFORE, Affiant respectfully submits the fact Neosho County Attorney, Linus Thuston, communicated with and directed actions of key witnesses in this investigation, after he learned Clint Nibarger and Kimberly Thomas (Nibarger) had confessed to the murder of Dakota Patton, makes Linus Thuston a potential witness in this investigation. The Affiant also believes Linus Thuston communicated with the defendant(s) prior to their arrests and provided them legal advice when he told them not to talk to law enforcement. The Affiant believes this creates a conflict for Linus Thuston to be the prosecuting attorney in this case. In addition, the fact Linus Thuston has previously served as legal counsel for Clint Nibarger in Labette County case 2016-TR-000287, could

potentially create a conflict as well. The Affiant respectfully requests the Chief Judge of the district give consideration in the assignment of a special prosecutor of his choosing to prosecute Clint Nibarger and Kimberly Thomas (Nibarger) for the murder of Dakota Patton in the aforementioned cases.



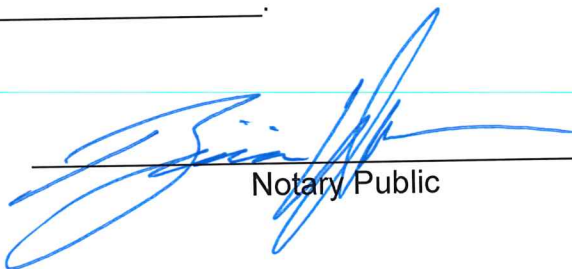
Senior Special Agent Christopher Farris
Kansas Bureau of Investigation

State of Kansas)

County of CRAWFORD)

Signed and sworn to (or affirmed) before me on this 2 Day of JUNE, 2023,

By CHRIS FARRIS



Notary Public

My Appointment Expires 08/31/2026

