

LANCASTER COUNTY

2024 MAR 22 PM 3:07

CLERK OF THE DISTRICT COURT

INVENTORY

IN THE COUNTY COURT OF LANCASTER COUNTY, NEBRASKA

IN THE MATTER OF THE SEARCH WARRANT OF THE DESCRIBED PREMISES OF 575 SOUTH 10TH STREET LINCOLN, LANCASTER COUNTY, NE

STATE OF NEBRASKA)
COUNTY OF LANCASTER)

ss.

INVENTORY OF PROPERTY SEIZED BY VIRTUE OF THE SEARCH WARRANT ISSUED HEREIN

Ofc. Dalton #951, being first duly sworn on oath, deposes and says the following is an inventory of the property seized by virtue of the Search Warrant issued herein:

The undersigned hereby acknowledges receipt of the following described property seized from the Apple iPhone with clear back case, to include any digital device within, located in the Lincoln Police Property & Evidence Unit at 575 South 10th Street, Lincoln, Lancaster County, NE labeled with Property number Q2317077 and Case number C3-044565

Before First Unlock limited file extraction and data redacted to between 4/1/2023 to 7/31/2023

Inventory made in the presence of Inv. Donahue #715.

[Signature of Ofc. Dalton #951]
Ofc. Dalton #951

SUBSCRIBED to in my presence and sworn to before me this 22nd day of

March, 2024

[Signature of Catherine M. Nitzel]
Notary Public



RECEIPT


The undersigned hereby acknowledges receipt of the following described property seized from the Apple iPhone with clear back case, to include any digital device within, located in the Lincoln Police Property & Evidence Unit at 575 South 10th Street, Lincoln, Lancaster County, NE labeled with Property number Q2317077 and Case number C3-044565.

Before First Unlock limited file extraction and data redacted to between 4/1/2023 to 7/31/2023

LANCASTER COUNTY
2024 MAR 22 PM 3:07
CLERK OF THE
DISTRICT COURT

DATED this 5th day of March 2024


Law Enforcement Officer


WITNESS

CASE NUMBER C3-044565		LINCOLN POLICE ADDITIONAL CASE INFORMATION		Criminal Copy Aci# 22 PAGE: 1	
CREATED By 951 DALTON(NR) 0752 03-01-2024				PRINTED 07:55 03-01-2024	
VICTIM					
NATURE NARCOTICS, POSS			OFFICER ASGN ORIGINAL CALL 951 DALTON		

REQUEST FOR WORK BY EEU

NAME	Additional Persons Mentioned RACE/SEX/DOB	ADDRESS/PHONE
Markel Henderson suspect	b/m 12-16-83	4520 Baldwin #4

3-1-24

Please remove cell phone from Q2317077 and download all available information between 4-1-23 and 7-31-23. A search warrant for this phone was signed by Judge Dalton on 2-29-24. Thanks.

F. Dalton 951

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IN THE COUNTY OF LANCASTER COUNTY, NEBRASKA

LANCASTER COUNTY
2024 MAR 22 PM 3:07
CLERK OF THE
DISTRICT COURT

STATE OF NEBRASKA)
) ss. SEARCH WARRANT
COUNTY OF LANCASTER)

TO: Forrest Dalton, a law enforcement officer with the Lincoln Police Department, Lancaster County, Nebraska, and any and all law enforcement officers and agents thereof.

WHEREAS, Forrest Dalton has filed an Affidavit before the undersigned Judge of the County Court of Lancaster County, Nebraska, and said written Affidavit, having been duly considered, the court finds that the facts set forth in said Affidavit are true, and that those facts do constitute grounds and probable cause for the issuance of a Search Warrant.

THEREFORE, you are commanded to search and seize the items as described in **Attachment A**, hereby attached and incorporated by reference.

This search warrant shall be executed and returned within ten (10) days to Clerk of the Lancaster District Court, Nebraska. In the event the search and/or seizure of evidence is not completed within ten (10) days, law enforcement is authorized to return the search warrant within ten (10) days upon completion of the search and seizure.

Given under my hand and seal this 29 day of FEBRUARY, 2024.



[Signature]
Judge of the County Court

Joseph A. Dalton
Printed Name of Judge

ATTACHMENT A: Property to Be Searched

Law enforcement and those assisting law enforcement is directed to seize and search the following:

- **Apple iPhone 14 with clear back case**, to include any digital device within, located in the Lincoln Police Property & Evidence Unit at 575 South 10th Street, Lincoln, Lancaster County, Nebraska, labeled with Property Number **Q2317077** and Case Number **C3-044565**.

for the following evidence, to include any live and/or deleted data to include including any live and/or deleted data for the time frame of 4-1-2023 to 7-31-2023, specifically for the seizure of following items:

1. Device identifiers, information and configurations.
2. User account information and any associated accounts on the device.
3. Call logs.
4. Contact lists.
5. Short Message Service (SMS), Multimedia Messaging Service (MMS) messages and instant messages.
6. Chat messages from installed applications.
7. Email messages.
8. Installed applications and their corresponding accounts and data.
9. Images and associated metadata.
10. Videos and associated metadata.
11. Audio files, including voicemails, and associated metadata.
12. Document files and associated metadata.
13. Internet browsing history including bookmarks, searches, browser cookies and other associated cache files.
14. Location data to include cellular tower connections, GPS (Global Positioning System) fixes, waypoints, routes, tracks, maps, and associated metadata.
15. Wireless networks, Bluetooth, IP addresses, and synchronization connection history.
16. Memos and notes (typed and voice).
17. User dictionary.
18. Calendar information.
19. Passwords, keychains.
20. Databases and file systems.
21. Device activity logs and application usage logs
22. Photographs of the device and any related information or data for this search warrant.

In order to obtain and search the data from the aforementioned device, law enforcement and/or those assisting may:

1. Obtain data from the physical memory of the device itself as well as from any data storage devices housed within the device, specifically Secure Digital (SD) and Subscriber Identification Module (SIM) cards;
2. Obtain data from the aforementioned cellular telephone's active file system, as well as unallocated space as to recover deleted data and file fragments;
3. Obtain data by making unobtrusive revocable setting changes to permit the digital extraction of the data unless the cellular telephone requires disassembly to obtain the desired data which may render the device inoperable;
4. Copy, forensically image, view, photograph, record, and/or conduct forensic analysis of the data obtained;
5. Enlist the aid of non-law enforcement, who are trained in conducting forensic analysis of the data in retrieving and analyzing the data. When files have been deleted, they can be potentially recovered later using forensic tools. A person with familiarity with how cellphones work may, after examining the data, be able to draw conclusions about how the device was used, the purpose of its use, who used it, where, and when; and/or
6. Be required to examine every file and scan its contents briefly to determine whether it falls within the scope of the warrant. This is necessary as it is difficult to know prior to the search the level of technical ability of the device's user and data can be hidden, moved, encoded or mislabeled to evade detection.

IN THE COUNTY COURT OF LANCASTER COUNTY, NEBRASKA

STATE OF NEBRASKA)
) ss. AFFIDAVIT FOR SEARCH WARRANT
COUNTY OF LANCASTER)

LANCASTER COUNTY
2024 MAR 22 PM 3:07
CLERK OF THE
DISTRICT COURT

Forrest Dalton, being first duly sworn upon oath deposes and states, is a law enforcement officer with the Lincoln Police Department, Lincoln, Lancaster County, Nebraska. Your Affiant is currently involved in the investigation of a delivery of a controlled substance and possession with intent to distribute a controlled substance, 28-416, occurring 5-25-2023 through 7-31-2023, at 4520 Baldwin Avenue apartment #4, Lincoln, Lancaster County Nebraska.

Attachments

- Attachment A: Cellular Telephones and evidence to be seized.
- Attachment B: Cellular Telephone Technical Specifications

The above are hereby attached and incorporated by reference.

Affiant's Background

Your Affiant has been a police officer for the Lincoln Police Department since 1993. Your Affiant has been investigating misdemeanor and felony crimes with the Lincoln Police Department involving drug possession and distribution. Your Affiant has training and experience in conducting criminal investigations.

This Affidavit is submitted in support of a search warrant. Your Affiant may not have set forth every fact known to your Affiant regarding this investigation. The information contained in this Affidavit is from your Affiant's investigation and may include information provided by other law enforcement or others.

Case Facts

On May 25, 2023, your Affiant had been investigating an opiate overdose and Anthony Gilmore (1-20-76) had been identified as the source of the opiate, and was using phone number 402-840-3438 to arrange drug transactions. Your Affiant was working in an undercover capacity and through phone communications arranged to purchase opiate pills

from Anthony Gilmore. During this delivery, Anthony Gilmore was seen in a vehicle with Markel Henderson (12-16-83) while speaking with your Affiant on the telephone. At that time Anthony Gilmore said he was with his source and was ready to sell opiate pills to your Affiant. Soon thereafter Anthony Gilmore was observed walking away from Markell Henderson's residence and met up with your Affiant. Anthony Gilmore delivered 4 opiate pills to your Affiant.

Between 5-28-2023 and 7-28-2023 your Affiant purchased opiate pills, fentanyl, and cocaine from Anthony Gilmore six more times. Each of these transactions were set up by communicating on the telephone with Anthony Gilmore. During these series of drug purchases, Anthony Gilmore made comments about having several different sources for these drugs and would have to communicate with them via telephone to see who had drugs available to sell at that time. Anthony Gilmore also stated after each deal, he erases all of his messages in case his phone was ever to be seized by the police. During this investigation, investigators identified at least three sources for Anthony Gilmore, to include Markell Henderson. During the last three purchases your Affiant had to drive Anthony Gilmore to Markell Henderson's residence, 4520 Baldwin Avenue #4, to obtain the drugs.

As this investigation proceeded, telephone tolls were obtained for Anthony Gilmore's telephone number for the time frame of 5-18-2023 and 6-14-2023. The first four drug purchases from Anthony Gilmore occurred during this time frame. Each time your Affiant contacted Anthony Gilmore about buying drugs, Anthony Gilmore made phone calls to 216-758-1109. The Lincoln Police Department's Record Management System shows this number to be associated with Markell Henderson.

On July 31, 2023, a search warrant was served at Markell Henderson's residence, 4520 Baldwin Avenue #4. During the search, Markell Henderson was present and investigators located various controlled substances, guns, U.S currency and drug paraphernalia. Markell Henderson's cellular telephone was seized and tagged into the Lincoln Police Department's Property Unit under C3-044565 and Q2317077. After Anthony Gilmore was arrested, his phone was seized and searched. A search of this phone revealed all the communications Anthony Gilmore had with your Affiant and Markell Henderson had indeed been erased. Markell Henderson's phone number, 216-758-1109, was found in the contacts part of the phone with 'Ta Too' as the contact. Anthony Gilmore participated in a Proffer interview and identified Markell Henderson, AKA Tattoo, as his source for drugs during four of the drug deals with your Affiant.

The above does constitute grounds of probable cause for an issuance of a search warrant to search and seize the evidence specifically identified in Attachment A

Your Affiant would advise the court that the search of cellular devices is a lengthy process requiring special steps to ensure the integrity of the electronic evidence. Therefore, it may not be possible to complete a return for the court within the ten (10) days normally required by the court.

Further AFFIANT saith not;

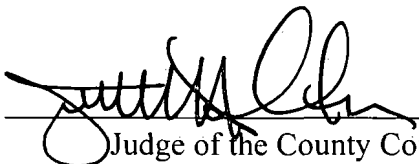
Dated this 29 day of February, 2024.



Forrest Dalton, AFFIANT

SUBSCRIBED to in my presence and sworn to before me this 29 day of February, 2024.





Judge of the County Court

Joseph [Signature]

Printed Name of Judge

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6. Be required to examine every file and scan its contents briefly to determine whether it falls within the scope of the warrant. This is necessary as it is difficult to know prior to the search the level of technical ability of the device's user and data can be hidden, moved, encoded or mislabeled to evade detection.

ATTACHMENT B: Technical Information Regarding Cellular Telephone and Searches

Through your Affiant's training and past experience, and from information provided by Electronic Evidence Unit forensic examiners, your Affiant is aware that cellular telephone data can provide valuable insight for drug possession and delivery investigations. Cellular telephones are used by the general public for communication, access to and sharing of information, research, socialization, entertainment, mapping, shopping, note taking and other functionality. Your Affiant knows from training and criminal investigation experience that individuals also use cellular telephones for the aforementioned purposes, and as a tool for facilitating criminal activity. The data contained on cellular telephones seized in investigations can provide a wealth of information that can assist investigators in determining identity and culpability of participants, including identifying those with knowledge of a criminal offense or identify those who have aided a criminal participant in the commission of a criminal offense. As such, a cellular telephone possessed by criminal participants can serve both as an instrument for committing crime as well as a storage medium for evidence of the crime, including communications to plan, execute, and otherwise document the commission of a crime.

Your Affiant also knows that such devices are often used to communicate and share data with other users and that such digital data can be transferred between various devices. Your Affiant knows that information associated with such data may show evidence of current, on-going, future, and past criminal activity. Your Affiant knows that this type of information can be used to identify and locate potential victims, witnesses, and co-conspirators.

Your Affiant is aware, from past criminal investigation experience, of numerous instances where cellular telephones were used by criminal participants to communicate via voice, text messaging, social media or other communication applications; instances in which criminal participants utilized cellular telephones to photograph themselves, associates and co-conspirators; instances in which cellular telephones were used by criminal participants to create videos of their criminal activity; instances where criminal participants have used cellular based internet applications to research crimes they have or intend to participate in; instances in which criminal participants have maintained notes within cellular telephones and instances in which criminal participants used global positioning, mapping and other location services to facilitate in-person meetings with co-conspirators or a victim.

On a cellular telephone, data can be created in a matter of moments because most operations can be performed almost instantly, which would be relevant to the incident being investigated. The data can be created intentionally or accidentally by the user, or automatically by the device itself as a part of its regular functioning. Your Affiant seeks to complete a comprehensive and unbiased examination of the data on the device for information which could aid in the investigation; seeking only prescribed information would jeopardize the completeness of the

search as it is typically unknown how the cellular telephone was used or the technical ability and intent of the user before the device has been examined.

Your Affiant knows evidence can remain on the device or media for indefinite periods of time after the communication originally took place, even if deleted by the user. Data generally is stored on the physical memory of the device, but also can be stored on removable storage devices such as Secure Digital (SD) and Subscriber Identification Module (SIM) cards. A forensic examiner may be able to recover information deleted by the user throughout the working life span of the device.

The following are examples of how types of data on digital devices can assist investigators. A full, all-inclusive list would be impossible due to the ever increasing development of digital devices and their applications.

1. Phone information, configurations, calendar events, notes and user account information which can be used to identify or confirm who owns or was using a cellular telephone. Because of their small size, cellular telephones can easily be passed from one person. As such it is necessary to document evidence that reveals or suggests who possessed or used the device. This evidence is akin to the search for venue items when executing a search warrant at a residence.
2. Call logs can establish familiarity between people involved in an incident. These records are consistently stamped with dates and times which can be significant regarding the reconstruction of the timeline of events regarding an investigation. Associated contact lists stored in the device can provide names to correspond with voice calls as well as other forms of communication. Voicemails can indicate the purpose of the phone call when the phone call was not answered. This information can also be invaluable to establish conspirators, witnesses and suspect information.
3. Communication records from SMS and MMS messaging, chats, instant messages and e-mails can provide invaluable insight to establish an individual's level of culpability and knowledge regarding an investigated incident. It is not uncommon for users to send and receive dozens and even hundreds of messages a day which document the person's activities and can aid in completing an investigation.
4. Data from associated supplemental software applications (apps), both standard and manually installed, stored on the cellular telephone can demonstrate the user's association with investigated people, locations and events. Cellular telephones have the ability to run apps which allow them to increase their functionality. Common programs include social media applications such as Facebook and Twitter as well as messaging applications Snapchat and Facebook Messenger to name a few. These applications are increasingly used as alternative methods for users to communicate from the standard messaging

service as they offer additional functionality. Many of these applications are able to determine the user's geographic location which can be instrumental to completing an investigation.

5. Media files such as images, videos, audio and documents provide first-hand documentation of actions regarding an event. Additionally, files can contain embedded metadata that show additional information which is valuable to investigators such as when and where the file was created. Cellular telephones have the ability to create, store and exchange media with other devices and computers.
6. Internet browsing history including bookmarks, browser cookies and other associated cache files stored on cellular telephones can demonstrate the planning or desire to participate in a crime by documenting the viewing of websites associated with the incident.
7. Cellular tower connections, GPS data, wireless networks, Bluetooth and synchronization logs can associate the cellular telephone with being in proximity of a location or other digital devices. Viewing this data can demonstrate that the device, and thus also its user, was in a location associated with an incident.
8. The user dictionary on a phone contains user generated entries such as names and uncommon words. The presence of these records can demonstrate familiarity with the crime being investigated.
9. Device generated files and data, wholly apart from user-generated files and data, contains electronic evidence pertaining to virtually all actions taken on the digital device, often without any conscious action by the user. This data is stored in multiple databases within a file system, which are determined by the application creating the data. This data includes logs of device use; records of the creation, modification, deletion, and/or sending of files; uses of the internet, such as uses of social media websites and internet searches/browsing; information regarding the user identity at any particular date and time; usage logs and information pertaining to the physical location of the device over time; pointers to outside storage locations, such as cloud storage, or devices to which data may have been removed, and information about how that offsite storage is being used. If the device is synced with other devices, it will retain a record of that action. Digital device users typically do not erase or delete this evidence, because special software or use of special settings are usually required for the task. However, it is technically possible to delete this information.

Your Affiant also requests authority to obtain assistance from a technical specialist, to review the digital device(s) and digital media for the best and least intrusive method of securing digital evidence that the warrant authorizes for seizure, and to assist in securing such evidence. For the technical reasons described, the digital evidence listed above shall be submitted to the Electronic Evidence Unit located at 605 South 10th Street, Lincoln, Lancaster County, State of Nebraska for digital forensic processing and analysis, or another location convenient to law enforcement.

Your Affiant knows, as with other types of evidence, the context, location, and data surrounding information in the device data is often necessary to understand whether evidence falls within the scope of the warrant. This type of information will be important to the forensic examiner's ability to piece together and recognize evidence of the above-listed crimes.

Your Affiant knows the forensic examiner may also need the following items in order to conduct a thorough and accurate search of the devices: computer hardware, software, peripherals, internal or external storage devices, power supplies, cables; internet connection and use information; security devices; software; manuals; and related material.

Your Affiant knows that digital devices are constantly changing system data on the device as programmed by their manufacturer. Additionally, your Affiant knows that searching the digital device itself would irreversibly alter data and/or evidence on the device. To search a device for evidence, the commonly accepted best practice of digital forensics is to utilize forensic software to obtain an extraction of the data on the device. Attempts will be made to obtain the devices data by only making unobtrusive revocable changes to the system settings to permit the digital extraction of the data. If necessary, the device may require disassembly to obtain the desired data which may render the device inoperable. These processes do not change or alter any of the user data stored on the device. The extraction is then searched using analysis software to locate, identify, and seize the evidence authorized by this warrant. The device and the image are then preserved in evidence.

The item(s) has/have been stored in a manner in which its/their contents are, to the extent material to this investigation, in substantially the same state as they were when the device(s) first came into the possession of the Lincoln Police Department.

The item(s) to be searched may be delivered to the Electronic Evidence Unit located at 605 South 10th Street, Lincoln, Lancaster County, State of Nebraska, or other location, for digital forensic processing and analysis. The Electronic Evidence Unit forensic examiners may designate additional forensic services, as they may deem necessary, to complete the analysis. Once examination and analysis has been completed, the listed evidence shall be returned to the Lincoln Police Department Property Unit, where it will be held until any final disposition by the court or pursuant to Neb. Rev. Stat. §29-820.