

IN THE COUNTY COURT OF LANCASTER COUNTY, NEBRASKA

CR24-1

IN THE MATTER OF THE)
INVENTORY OF IDENTIFYING)
CHARACTERISTICS FROM)
KENNETH CLARK)

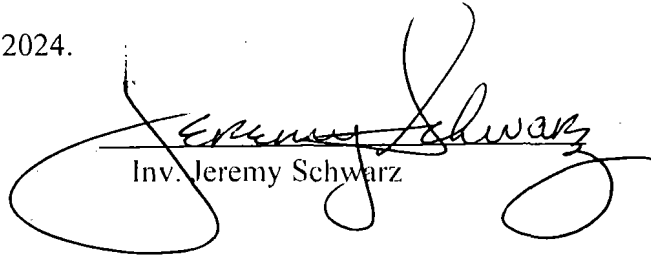
RETURN ON ORDER TO
PRODUCE IDENTIFYING
PHYSICAL
CHARACTERISTICS
EVIDENCE

LANCASTER COUNTY
2024 JUN -5 PM 2:58
CLERK OF THE
DISTRICT COURT

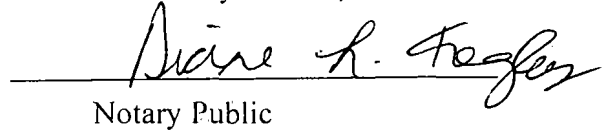
STATE OF NEBRASKA)
) ss.
County of Lancaster)

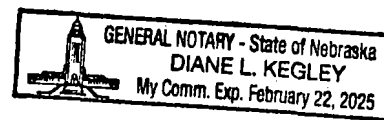
The undersigned states that she received the Order to Produce Identifying Physical Characteristic Evidence issued herein on the 8th day of May, 2024, and that he was unable to execute order. On Friday, May 10, 2024, an e-mail from Public Defender Brittani Lewit, "I was able to get a hold of Kenneth. At this point I don't think there's any point in scheduling a time for you to come over here. If I hear back from him and that changes I will let you know."

DATED this 4th day of June, 2024.


Inv. Jeremy Schwarz

SUBSCRIBED AND SWORN to before me this 4th day of June, 2024.


Notary Public



C3009189



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IN THE COUNTY COURT OF LANCASTER COUNTY, NEBRASKA

STATE OF NEBRASKA,
PLAINTIFF,
VS.
KENNETH W. CLARK,

ORDER TO PRODUCE IDENTIFYING PHYSICAL CHARACTERISTICS

TO: Investigator Jeremy Schwarz, and other law enforcement officers of the Lancaster County Sheriff's Office

WHEREAS, Investigators Jeremy Schwarz has filed an Affidavit before the undersigned Judge of the County Court of Lancaster County, Nebraska, a copy of which Affidavit is attached hereto and made a part hereof, the court finds that for purposes of this Order the facts set forth in said Affidavit are true and said facts and the evidence adduced constitute grounds and probable cause for the issuance of an Order to Produce Identifying Physical Characteristics. The Court further finds and orders as follows:

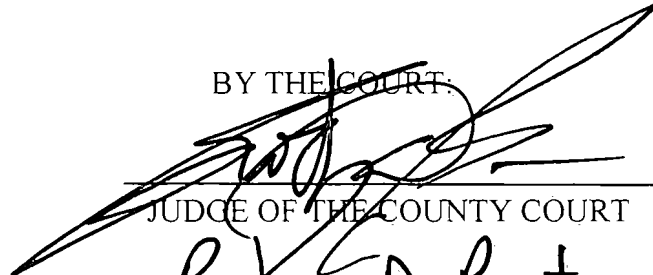
1. That the offense of possession of a deadly weapon by a prohibitive person N.R.S. 28-1206 is the subject of said Affidavit referred to above
2. That there is probable cause to believe that the offense of possession of a deadly weapon by a prohibitive person N.R.S. 28-1206 has been committed.
3. That there is probable cause to believe that Kenneth Clark committed said offense.
4. That Identifying Physical Characteristics Sought are buccal swabs.
5. Per Court Order, CR23-13698, dated April 17, 2024, Kenneth Clark is mentally incompetent to stand trial at this time; therefore, unable to provide consent.
6. That Kenneth Clark is the individual who may be detained for obtaining such identifying physical characteristics.

7. That Investigator Jeremy Schwarz and other officers of the Lancaster County Sheriff's Office are the peace officers authorized to obtain such identifying physical characteristics and to effectuate any detention which may be necessary to obtain the same.
8. That Kenneth Clark will be under no legal obligation to submit to any interrogation or to make any statement during the period of his appearance.
9. That such identifying physical characteristics may be obtained at the Lancaster County Public Defender's Office located at 633 S. 9th Street #100, Lincoln, Lancaster County, Nebraska.
10. That Kenneth Clark shall appear at the Lancaster County Public Defender's Office located at 633 S. 9th Street #100, Lincoln, Lancaster County, Nebraska at such date and time as is designated by Investigator Jeremy Schwarz for the purpose of obtaining the above-mentioned identifying physical characteristics.
11. That if Kenneth Clark fails to comply with the request of said AFFIANT Investigator Jeremy Schwarz said Kenneth Clark shall be guilty of contempt of court and be punished accordingly.
12. That Kenneth Clark shall be required to stay no longer than one (1) hour for the purpose of Investigator Jeremy Schwarz obtaining the above-mentioned identifying physical characteristics.
13. That this Order shall remain in force and effect for a period of fifteen (15) days only.
14. That a copy of this Order shall be served upon Kenneth Clark.
15. That a Return of this Order shall be made within 30 days after the identification procedures have been carried out, setting forth the type of identifying physical characteristics obtained. If the Order is not executed, a Return shall be filed within 30 days stating the same.

THEREFORE, you are commanded to search the said Kenneth Clark to produce the aforementioned identifying physical characteristics which constitutes evidence that a criminal offense has been committed, and to seize the same.

GIVEN UNDER MY HAND AND SEAL this 8th day of May, 2024.

BY THE COURT:



JUDGE OF THE COUNTY COURT
Rodney D. Reutz

PRINTED NAME OF JUDGE



LANCASTER COUNTY

2024 JUN -5 PM 2:58

CLERK OF THE DISTRICT COURT

IN THE COUNTY COURT OF LANCASTER COUNTY, NEBRASKA

STATE OF NEBRASKA,
PLAINTIFF,
VS.
KENNETH W. CLARK,

AFFIDAVIT FOR
ORDER TO PRODUCE IDENTIFYING
PHYSICAL CHARACTERISTICS

COMES NOW, Investigator Jeremy Schwarz of the Lancaster County Sheriff's Office , being first duly sworn upon oath, deposes and states as follows:

1. Your AFFIANT was assigned to investigate the possession of a deadly weapon by a prohibited person N.R.S. 28-1206 that occurred at 4700 W. F. Street, Lincoln, Lancaster County, Nebraska.

2. Your AFFIANT has reviewed reports of other peace officers involved in the investigation of possession of a deadly weapon by a prohibited person N.R.S. 28-1206 and has conducted additional follow-up into the investigation of the incident. According to the information that your AFFIANT obtained:

Your AFFIANT knows on November 30, 2023, a signed Lancaster County Court Writ of Restitution CI23-11423 was issued from the Clerk of the Lancaster County Court directing the 'sheriff or any authorized officer of said court, to cause the defendant, Kenneth Clark to be forthwith removed from the premises, and the Plaintiffs have restitution of the same.' Your AFFIANT knows the Writ of Restitution was signed by a Lancaster County Court Judge.

Kenneth Clark was personally served the Writ of Restitution on November 30,2023, at 2:46 p.m., at his home of residence located at 4700 W. F. Street, Lincoln, Lancaster County, Nebraska. Your AFFIANT knows the Writ of Restitution directed Kenneth Clark to vacate 4700 W. F. Street, Lincoln, Lancaster County, Nebraska immediately.

On December 5, 2023, at or about 3:00 p.m., your AFFIANT along with several deputies from the Lancaster County Sheriff's Office Civil and Criminal Investigative Division returned to 4700 W. F. Street, Lincoln, Lancaster County, Nebraska to execute the Writ of Restitution. Your AFFIANT knows through surveillance Kenneth Clark was not at his residence. During the process of restoring the residence to the Plaintiff listed in CI23-11423, a 28.75-inch sword was resting vertically against a wall separating the living room and kitchen. The sword was located next to a wooden TV type cabinet with shovel and broom.

At or about 4:50 p.m., Kenneth Clark returned to the residence and was contacted at the entrance to his driveway. Kenneth Clark was informed he was no longer allowed on the property and entrance onto the property would result in a citation for criminal trespass. Kenneth Clark was extremely agitated and made several references to sovereign laws that he believed gave him the right to enter the property located at 4700 W. F. Street, Lincoln, Lancaster County, Nebraska. Deputies, for several minutes, attempted to verbally discuss the issue with Kenneth Clark in an attempt to de-escalate situation and resolve the eviction without force.

Kenneth Clark was taken into custody after he refused to comply and stepped onto the property located at 4700 W. F. Street, Lincoln, Lancaster County, Nebraska. Kenneth Clark resisted arrest by pulling his arms when a handcuff was applied causing at least four officers to muscle him into custody. During the struggle to take Kenneth Clark into custody, he demanded your AFFIANT deploy the taser that was pressed against his chest. Kenneth Clark continued to resist deputies when placed in a marked Lancaster County cruiser. Your AFFIANT had to pin Kenneth Clark's legs to prevent him from kicking your AFFIANT while deputies pulled Kenneth Clark into the back seat from the opposite side of the cruiser.

According to the Nebraska Criminal Justice Information System, Kenneth Clark is a Nebraska convicted felon. Per CR 03 0000023, your AFFIANT knows Kenneth Clark was arrested on September 12, 2002, for degree assault N.R.S. 28-303 and use of weapon to commit a felony N.R.S. 28-1205. Kenneth Clark pled guilty to degree assault and was sentenced to two years at the Nebraska Department of Corrections.

Additionally, per CR05 0000313, your AFFIANT knows Kenneth Clark was arrested on March 27, 2005, for three felonies along with 3rd degree assault, N.R.S. 28-310, and offense resist arrest N.R.S. 28-904. On July 24, 2006, Kenneth Clark pled guilty to the 3rd degree assault and resist arrest and was sentenced to a term of 229 and 230 days, respectively, in the Lancaster County Jail.

Following the arrest of Kenneth Clark, your AFFIANT has been working with Ms. Brittani Lewit, an employee of the Lancaster County Public Defender's Office, located at 633 S. 9th Street, Lincoln, Lancaster County, Nebraska, and assigned to represent Kenneth Clark, to obtain a buccal swab of Kenneth Clark. It is your AFFIANT's understanding through conversations with Ms. Lewit, circumstances beyond her control involving the mental health of Kenneth Clark have not allowed the conversation of DNA swabs to take place.

3. Your AFFIANT knows that buccal DNA swabs are a way of producing non-testimonial identification evidence regarding the person responsible for the possession of a deadly weapon by a prohibited person N.R.S. 28-1206 described herein. The identifying physical characteristics sought from Kenneth Clark is a sample of his DNA in the form of DNA buccal swabs. The procurement of these identifying physical characteristics is likely to contribute evidence to the further identification of Kenneth Clark as being the person responsible for the possession of a deadly weapon by a prohibited person N.R.S. 28-1206 herein.

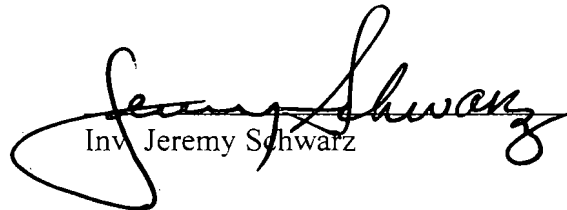
The identifying physical characteristics sought can be obtained from Kenneth Clark at the Lancaster County Public Defender's Office located at 633 S. 9th Street #100, Lincoln, Lancaster County, Nebraska, and should require a detention not to exceed one (1) hour.

AFFIANT further states that there is probable cause to believe that Kenneth Clark is responsible for possession of a deadly weapon by a prohibited person N.R.S. 28-1206 as described herein, and in violation of the laws of the State of Nebraska.

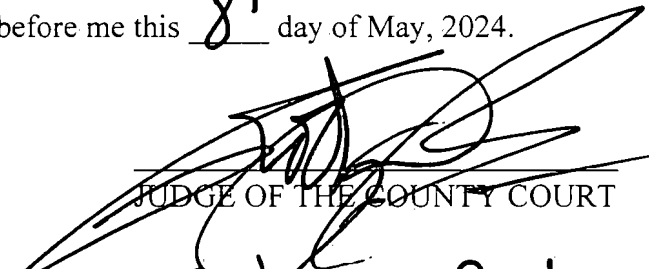
4. Your AFFIANT knows a Court Order, in this case, dated April 17, 2024, and issued by Lancaster County Court Judge Timothy Phillips found Kenneth Clark "...is mentally incompetent to stand trial at this time, but there is a substantial probability that the Defendant will become competent within the foreseeable future."

Further your affiant saith not.

DATED this 8 day of May, 2024


Inv. Jeremy Schwarz

SUBSCRIBED AND SWORN to before me this 8th day of May, 2024.


JUDGE OF THE COUNTY COURT
Rodney D. Reutz
PRINTED NAME OF JUDGE

