



Ohio Bureau of Criminal Identification & Investigation
INVESTIGATIVE REPORT



01/11/13

SEARCH WARRANT FOR RECORDS

Summary

In the course of the investigation of the officer involved shooting on November 29, 2012, it was learned that the occupants of the subject vehicle had been staying at shelters under the auspices of the Alcohol, Drug Addiction & Mental Health Services Board of Cuyahoga County (MHS). Investigators contacted MHS for assistance in this investigation. Brief information was given since MHS operates under the Health Insurance Portability and Accountability Act (HIPAA) guidelines. As such, information could not be released without judicial authority.

Details

SA Saraya met with Assistant Cuyahoga County Prosecutor Mary McGrath and worked on an affidavit and search warrant. Information learned during the investigation provided substantial information on Malissa Williams. This information was put forward in the affidavit.

On Friday, January 11, 2013, SA Saraya met with Cuyahoga County Common Pleas Judge Brian Corrigan who reviewed the affidavit and warrant. Judge Corrigan approved and signed the warrant.

SA Saraya traveled to the MHS offices on Payne Ave. and served the warrant on the Director of Quality Improvement, Karen Madzia. After reviewing the warrant and discussing the matter, Madzia provided the files on Williams. [REDACTED] with documentation concerning medical, mental health and housing. After reviewing the documentation, it was decided to only copy the documentation from the preceding 3 months. The requested documents were located and photocopied and turned over to SA Saraya. A copy of the warrant and a receipt for the documentation was left with Madzia.

File Number: SI-18-12-82-1493	File Title: Timothy R. Russell (S) Malissa A. Williams (S)
Case Agent: Mark Kollar	Authoring Agent: John Saraya <i>JS</i>
Date of Report: 1/11/13	Exhibit #:
Investigative Activity: Document Search Warrant	Supervisor Approval: Dennis Sweet JAN 17 2013 <i>[Signature]</i>

This document is the property of the Ohio Bureau of Criminal Identification and Investigation and is confidential in nature. Neither the document nor its contents are to be disseminated outside your agency.

STATE OF OHIO)
)
COUNTY OF CUYAHOGA)

SS:

COURT OF COMMON PLEAS
CRIMINAL DIVISION
SEARCH WARRANT

TO: THE OHIO BUREAU OF CRIMINAL IDENTIFICATION AND INVESTIGATION (BCI&I) AND/OR SPECIAL AGENT JOHN SARAYA, BADGE #104, A MEMBER OF SAID BUREAU, AND/OR ANY OTHER LAW ENFORCEMENT OFFICERS AS AUTHORIZED.

Whereas there has been filed with me an affidavit attached hereto and designated as Exhibit A, wherein the affiant avers that he has probable cause to believe, and does believe, that within the premises known as Mental Health Services, located at 1744 Payne Avenue, City of Cleveland, Cuyahoga County, Ohio, and further described as an agency of the Alcohol, Drug Addiction, and Mental Health Services Board of Cuyahoga County, Ohio, that provides homeless assistance programs including shelters, treatment for behavioral health issues, psychiatric care, and additional supportive services, there is now being kept and possessed the following evidence of a criminal offense:

Any and all records of Malissa A. Williams, date of birth June 20, 1982, Social Security Number [REDACTED] including but not limited to records of Williams' placement(s) in shelters; records and documentation of Williams' conduct and behavior; records of complaints or information as to Williams' health related issues including diagnoses, medical treatment(s) sought, provided or recommended, prescription medications, pharmacy records, prognoses, and consultations with Williams and/or other individuals or agencies relating to Williams' physical health; records of complaints or information as to Williams' mental health or psychiatric issues including diagnoses, mental health or psychiatric treatment sought, provided or recommended, counseling, prescription medications, pharmacy records, prognoses, and consultations with Williams and/or other individuals or agencies relating to Williams' mental health; records relating to drug addiction and any treatment sought, provided or recommended to Williams including records of counseling and prescription medications; any and all records that are evidence of the criminal offense of Murder, in violation of R.C. Chapter 2903.

I am satisfied that there is probable cause to believe that the records described are being maintained within the above-described mental health care provider's premises and that grounds for issuance of this search warrant exist.

THEREFORE: You are hereby commanded in the name of the State of Ohio, with the necessary and proper assistance, to serve this warrant and search Mental Health Services located at 1744 Payne Avenue, City of Cleveland, Cuyahoga County, Ohio, forthwith within three days of the date hereof for the property specified. If the property or any part thereof be found there, you are commanded to seize it, leaving a copy of this warrant and a receipt for the property taken, to prepare a written inventory of the property seized, to return this warrant to the undersigned or any Judge of the Court of Common Pleas, and to bring the property found on such search forthwith before said Judge, or some other judge or magistrate of the county having cognizance thereof.

Given my hand this 11th day of January, 2013.



JUDGE, Court of Common Pleas
Cuyahoga County, Ohio

EXHIBIT A

STATE OF OHIO) **COURT OF COMMON PLEAS**
) **CRIMINAL DIVISION**
) **SS:**
COUNTY OF CUYAHOGA) **AFFIDAVIT FOR SEARCH WARRANT**

Before me, a Judge of the Court of Common Pleas, Cuyahoga County, Ohio, personally appeared the undersigned Special Agent John Saraya, who, being first duly sworn, deposes and states that he is a member of the Ohio Bureau of Criminal Identification and Investigation (“BCI&I”) and that his training and experience include the following: 15 years with BCI&I, of which the past five years have been as a special agent assigned to the Special Investigations Unit, which includes general investigation into homicides, political corruption, and financial crimes; the prior 12 years assigned to the Crime Scene Unit, and the prior nine years as a patrol officer, detective, and sergeant with the Liberty Township Police Department, Youngstown, Ohio, including assignment to the Trumbull County Homicide Task Force; affiant received his basic police training at the Choffin Career Center, graduated from the FBI National Academy, and has completed numerous advanced training courses throughout his career.

Affiant avers that he has probable cause to believe that and does believe that within the premises known as Mental Health Services, located at 1744 Payne Avenue, City of Cleveland, Cuyahoga County, Ohio, and further described as an agency of the Alcohol, Drug Addiction, and Mental Health Services Board of Cuyahoga County, Ohio, that provides homeless assistance programs including shelters, treatment for behavioral health issues, psychiatric care, and additional supportive services, there is now being kept and possessed the following evidence of a criminal offense:

Any and all records of Malissa A. Williams, date of birth June 20, 1982, Social Security Number [REDACTED], including but not limited to records of Williams’

placement(s) in shelters; records and documentation of Williams' conduct and behavior; records of complaints or information as to Williams' health related issues including diagnoses, medical treatment(s) sought, provided or recommended, prescription medications, pharmacy records, prognoses, and consultations with Williams and/or other individuals or agencies relating to Williams' physical health; records of complaints or information as to Williams' mental health or psychiatric issues including diagnoses, mental health or psychiatric treatment sought, provided or recommended, counseling, prescription medications, pharmacy records, prognoses, and consultations with Williams and/or other individuals or agencies relating to Williams' mental health; records relating to drug addiction and any treatment sought, provided or recommended to Williams including records of counseling and prescription medications; any and all records that are evidence of the criminal offense of Murder, in violation of R.C. Chapter 2903.

The facts upon which affiant bases such beliefs are as follows:

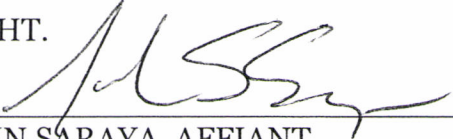
1. Affiant avers that on November 29, 2012, a police chase occurred that involved multiple Cleveland police officers and vehicles, Timothy R. Russell, driving a 1979 Chevy Malibu, and Malissa A. Williams, Russell's sole passenger. The pursuit lasted approximately 25 minutes and ended at the Heritage Middle School parking lot in the city of East Cleveland. Subsequent actions resulted in the Cleveland police officers' use of deadly force, ending in the deaths of Russell and Williams. BCI&I is one of the agencies conducting this officer-involved shooting investigation, and affiant avers that he is one of the special agents assigned to conduct this investigation.
2. Affiant avers that immediately before the police pursuit began, a Cleveland police officer drove past 2100 Lakeside Avenue, which is the location of a Mental Health Services' shelter and an area known to police as one of high drug related activity. The officer observed a 1979 Chevy Malibu stopped in front of 2100 Lakeside Avenue, with persons crowded around the vehicle. The officer suspected illegal drug activity was being conducted, including the possible purchase(s) and/or sale(s) of illegal narcotics. The officer ran a search of the vehicle's license plate, which returned to "Timothy Russell." Shortly thereafter, the officer attempted a traffic stop on the vehicle. The vehicle stopped momentarily, and then fled.
3. Affiant avers that the officer returned to 2100 Lakeside Avenue, inquiring as to who was inside the vehicle. Individuals informed the officer that they recognized a female as a resident of 2100 Lakeside, and described her as someone the officer would also recognize because she had been living at the shelter for a long time. The female was further described as someone who walked around talking to herself. The individuals did not know the male who was inside the vehicle. The officer did not pursue the vehicle. Videotape subsequently obtained by investigators shows the vehicle traveling on St. Clair Avenue, passing the Justice Center at high speed.

4. Affiant avers that this investigation includes inquiry into the decedents' personal and criminal histories in an effort to discern and establish evidence relating to their involvement in the pursuit, including states of mind, psychological health, physical health, and medications, if any. Affiant avers that during this investigation he learned that both Russell and Williams were clients of Mental Health Services and were living at shelters administered by MHS at the time of the police pursuit and shooting.
5. Affiant avers that Mental Health Services is a non-profit organization. MHS is a contract agency of the Alcohol, Drug Addiction and Mental Health Services Board of Cuyahoga County, and a partner agency of United Way Services of Greater Cleveland. MHS provides homeless assistance programs, including to those who experience behavioral health issues, including psychiatric care, nursing, counseling, specialized housing, and employment services. MHS has several housing shelters, including "Gateway," emergency housing that provides case management and linkage to men residing at 2100 Lakeside who suffer from severe mental illness, and "North Point," transitional housing which offers short term housing and support services for non-disabled men. Mental health treatment is provided at MHS' 1744 Payne Avenue location, which is a lock down facility, requiring an escort to enter. MHS also provides a 24/7 mental health crisis and suicide hotline, advertised as a service for children and adults whose safety and health is threatened by mental illness or overwhelming stressors. MHS also provides crisis intervention services including face to face clinical assessment by licensed counselors and social workers "when a severe disturbance of mood or thinking threatens a person's safety." MHS also offers a crisis stabilization unit which provides short term, voluntary crisis stabilization for those in need of more intensive psychiatric support.
6. Affiant avers that within one month prior to the pursuit and shooting, Williams was arrested by the Cleveland police on an outstanding warrant. Williams became highly agitated, was placed in the rear of a zone car, and transported. Williams was videotaped, and affiant has obtained and viewed a copy of the police video. The videotape reveals that Williams went on a several minute tirade during transport, screaming and threatening to kill the officers.
7. Affiant avers that during the instant investigation, investigators contacted Williams' family, who stated that Williams had psychological issues and became aggressive when she was stressed. Investigators also contacted Russell's family, who refused to speak to investigators.
8. Affiant avers that Williams' criminal history includes convictions for drug possession and attempted drug possession in CR 510714, 488757, and 470990. The court's docket in CR 470990 reveals that Williams was referred to the Psychiatric Clinic for the purpose of eligibility for transfer to mental health court, stating Williams had a psychotic disorder or intellectual function below an I.Q. of 75. Additionally, the court's docket in CR 477275 reveals that Williams was convicted of attempted abduction and sentenced to community control sanctions,

including supervision by the MDO Unit and successful completion of in-patient treatment. The court's docket states that Williams' community control was terminated, however, due to her failure to report to the Probation Department. Upon sentencing Williams to prison, the trial court ordered that her mental health records were to accompany her to the institution.


9. Affiant avers that as set forth above, Williams was residing at 2100 Lakeside Avenue, a MHS facility, at the time of the police pursuit and shooting. Affiant avers that Williams had been a MHS resident for 20 years. Affiant avers that he was informed that Williams was receiving treatment through MHS at the time of the pursuit and shooting, however, MHS will not reveal the specifics of her treatment without court authority.
10. Affiant avers that based on the above, and his training and experience, he has probable cause to believe and does believe that all MHS' records and documentation relating to Malissa Williams, including but not limited to her placement(s) in shelters, documentation of her conduct and behavior, records of her physical and/or mental health issues including drug addiction, diagnoses, treatment, counseling, prescription medications, pharmacy records, prognoses, and consultations with Williams and/or other individuals or agencies relating to her physical and/or mental health, will be evidence of Williams' mental and physical health issues, state of mind, possible intoxication, and involvement in the police pursuit and shooting.
11. Affiant avers that based on the above, MHS' records and documentation relating to Malissa Williams are evidence relating to BCI&I's investigation into the police pursuit and shooting, including the criminal offense of Murder in violation of R.C. Chapter 2903, and it is therefore necessary to obtain MHS' records of Malissa A. Williams, DOB June 20, 1982, Social Security Number [REDACTED]
12. Affiant avers that this search warrant is necessary since Ohio law precludes law enforcement from obtaining such records by grand jury subpoena pursuant to *Turk v. Oiler*, ____ F. Supp.2d. ____, 2010 WL 3211680 (N.D. Ohio).

FURTHER AFFIANT SAYETH NAUGHT.



JOHN SARAYA, AFFIANT
Special Agent, Ohio Bureau of Criminal Identification
and Investigation

Sworn to before me and subscribed in my presence this 11th day of January, 2013.



JUDGE, COURT OF COMMON PLEAS
CUYAHOGA COUNTY, OHIO



Ohio Bureau of Criminal Identification and Investigation

CASE# SI-18-12-82-1493

Inventory/Receipt Attachment

I received the below listed property from (person/location): MHS 1744 PAYNE AVE CLEVELAND OH

ITEM	DESCRIPTION	LOCATION FOUND	FOUND BY WHOM
1	COPIES OF CASE FILE, MCA NOTES OF MALLISA WILLIAMS	MHS	SARAYA

Signed SA [Signature] - BCI #104
Inventory Agent

Date 01/11/15

Items	Released By	Received By	Date/Time