

120898.001

Affidavit

On 05/26/2006 at approximately 7:45 AM, I responded to the area of Graham Swamp (located on Old Kings Road in Palm Coast, FL in reference to a 911 call that dispatch received regarding a citizen finding a deceased white male in the wood line. Upon arrival, I made contact with the complainant, Bruce Wood (a Four Jays Land Clearing employee). He advised that he and another co-worker parked their vehicles at the Graham Swamp Park and walked across Old Kings Road towards their job site. When they walked through the driveway entrance to the job site they noticed a black hat lying on the mulch. They then noticed a brown flip flop style shoe partially buried in the mulch just north of them. When the complainant used his boot to uncover the flip flop from the mulch he noticed what appeared to him be a white male laying further north in the brush line. As he approached the white male he noticed that the male was not moving and had blood covering his face. That is when the complainant and his co-worker backed out of the job site and notified the Sheriff's Office of their discovery.

Upon investigating the area that the complainant described, I observed a non-responsive white male lying on his back with what appeared to be blood covering his body and face. The male was clothed with a white t-shirt and light colored boxer style under pants. A black t-shirt and blue jeans were lying at the male's feet. The male was found to be deceased. The scene was roped off and the FDLE Crime Scene Unit was notified. The FDLE Crime Scene Unit responded to my location and processed the scene. The State Attorney Homicide Investigation Unit (HIU) was notified and responded to assist with the investigation. The crime scene unit located five expended rifle cartridges lying on the ground south of the deceased's location and also noted that the deceased had several holes in his torso and neck that were consistent with bullet wounds. All evidence found at the scene was photographed and collected by the FDLE Crime Scene Unit and placed into their evidence.

The Medical Examiner's Office was notified and M. E. Lt. Investigator Kenny Moore responded to the scene. A search of the deceased's clothing was conducted and provided no form of identification for the deceased. A receipt from Outback restaurant in Palm Coast, FL (order paid for on 05/25/2006 at 8:23 PM) was located inside the front pocket of the blue jeans. The Medical Examiner transported the deceased from the scene to their office. As we canvassed the area around where the deceased was lying, we located a small black bi-fold identification holder. Inside the ID holder we located the deceased's Texas driver's license, an American Bank of Texas Master Card, an electronic key card for a Sleep Inn room, a \$20.00 bill, an AT&T 60 minute calling card, and a business card from Florida Aquastore in Boca Raton, FL. The deceased was identified as Jeffrey David Maxwell, a 26 year old white male from Denison, TX.

Flagler County Detective Cpl. S. Cole responded to the Palm Coast Sleep Inn to determine if the deceased had leased a room from that location. The Sleep Inn staff advised that the deceased and another male, Michael Harvey, rented a room together. Cpl. S. Cole then made contact with Michael Harvey via the cell phone number he provided at check-in. Michael Harvey stated that the deceased and he had dinner at the Palm Coast Outback restaurant before they returned to their room on 05/25/2006. The deceased then requested that they go to Daytona Beach, FL to patronize the local exotic dance clubs. Michael Harvey stated that he refused to go with the deceased because they

had to wake up early in order to make their flight out of Orlando, FL to Dallas/Ft. Worth Texas. Michael Harvey further stated that the deceased then made arrangements with another group staying in the hotel to travel to the Daytona Beach exotic dance clubs. Michael Harvey advised that he received a phone call from the deceased at 1:21 AM (calling from 941-400-6154) and then another call at 3:25 AM (calling from 386-882-0945). During their second phone conversation at 3:25 AM, the deceased advised Michael Harvey that he would be at the hotel in approximately 20 minutes. That was the last time Michael Harvey stated he heard from the deceased.

The Sleep Inn staff advised that they saw the deceased leave with a group of males that were staying in rooms booked under the business name of Morgan Electric Company and that one of that party had just returned to his room. Cpl. S. Cole and I then made contact with that person, Abraham Flores. He agreed to come to the FCSO's Criminal Investigations office for an investigative interview. During the interview, A. Flores discussed how the deceased invited himself along with the Morgan Electric group to the Daytona Beach area exotic dance clubs. The group, including the deceased, traveled in three separate vehicles to Daytona Beach, FL. Once they arrived, A. Flores explained that the group split up, most of them went to Molly Brown's while the deceased and Jermaine Miles went to Lolly Pop's (both exotic dance clubs). The group that originally went to Molly Brown's later went to Lolly Pop's and met back up with J. Miles and the deceased. A member of the group, Alvin Evans allowed the deceased to use his cellular phone to make a phone call at 1:21 AM. His cellular phone number is 941-400-6154. A. Flores advised that they lost track of the deceased shortly after he returned to make the call on Alvin's phone. The last time they reported speaking with the deceased was approximately 1:40 AM on 05/26/2006, when the deceased advised that he was going to get a ride back to the hotel with one of the dancers.

The FCSO requested an exigent circumstance subpoena for the records of both phone numbers that Michael Harvey advised he received phone calls from the deceased at. The records indicated that the registrant for the 941-400-6154 number was Alvin Evans and the registrant for the 386-882-0945 number was Brian Christopher Wothers. A DHSMV search provided an address for Brian Wothers as 125 Holland Road Ormond Beach, FL 32176. FCSO CID units responded to that address in an attempt to locate Brian Wothers, while the State Attorney HIU Investigator S. McGuire and I responded to Lolly Pop's dance club to further investigate the statements from A. Flores. Upon arrival at Lolly Pop's, we made contact with the security staff and Security Staff member, Jerry McMichael, identified the deceased from a photograph we provided as being in the club on 05/26/2006. He also advised that he recognized Brian Wothers' photo as a frequent patron and being in the club on the same date. The security CCTV surveillance cameras revealed that the deceased and Brian Wothers left the establishment together at approximately 2:51 AM on 05/26/06.

On this same date we interviewed the step-brother of Brian Wothers, Michael Fischetti Jr., at the Homicide Investigative Office in Daytona Beach, FL. M. Fischetti Jr. explained that his brother, Brian Wothers, woke him up at approximately 4:30 AM on this date and told him that he had just shot and killed someone and that he was leaving town. M. Fischetti Jr. stated that after his brother disclosed that information, Brian Wothers packed up all of his military gear and prepared to leave. M. Fischetti Jr. further

advised that his brother has an M-4 military rifle that was issued to him from the National Guard.

During the interview with M. Fischetti Jr. he was asked to make contact with his step-father (Wothers, Steven L.), contact was made via cell phone and Inv. Eckersen explained the situation and asked him if he would come to the Homicide Investigative unit for an interview. S. Wothers arrived at the HIU office approximately thirty minutes later. During the interview S. Wothers stated that during the early morning hours of this date his son, Brian Wothers, called him and stated that he thought he might have killed someone. S. Wothers then responded to Brian Wothers' address at 125 Holland Rd. and stated that Brian Wothers was upset, he advised Brian Wothers stated he was sorry that he had "fucked up". S. Wothers stated that Brian Wothers had been covered in blood and had taken a shower. While in route to S. Wothers residence he stated that Brian Wothers told him he picked a guy up at club lollypops and was giving him a ride to palm coast. He stated that the guy passed out and when he woke up he was acting "weird" so he threw him out of the truck and then shot him. S. Wothers took Brian Wothers' rifle and placed it into the attic of his residence at 18 De Pardo Lane. S. Wothers agreed to turn the rifle over to Investigators. Inv. Steve Cole followed S. Wothers back to the residence and took possession of the gun.

Sworn to and subscribed before me, the undersigned

This 27th day of May 2006

Name. M. Steven Wothers

Notary Law Enforcement X

I swear/affirm the above statements are correct and true

[Signature]

Officer's Signature

Detective D. Edmonds 6164

Name

ID Number