

PK
13

FILED
MAR 29 2023
Scott G. Weber, Clerk, Clark Co.
1:40pm

IN THE CLARK COUNTY SUPERIOR COURT FOR THE STATE OF WASHINGTON

STATE OF WASHINGTON,)	No. 15-1-01458-7
)	
Plaintiff,)	DECLARATION IN SUPPORT OF MOTION FOR
v.)	RETURN OF PROPERTY (CrR 2.3, CrR 3.6)
)	
STEPHEN MARK REICHOW,)	
)	
Defendant.)	

DECLARATION OF FACTS DEFENDANT ANTICIPATES WILL BE ELICITED AT HEARING

I, Stephen Mark Reichow, anticipate the following facts will be elicited at hearing:

1. I am the defendant in this case. Police seized and searched my phone, wallet, DNA and blood; they stripped searched me and took photographs of my undressed body.
2. I am the rightful owner and entitled to my property.
3. The State seized and searched my property and violated my privacy pursuant to warrants supported by affidavits that included material misrepresentations and omissions made in reckless disregard for the truth.
4. Jacqueline Olson told the 911 operator, "We didn't see any weapons." "NO WEAPONS SEEN" was broadcast to all responding officers.
5. Olson viewed the illuminated scene and baseball bat from the backseat

- of Officer Runnels' police car.
6. An hour after her 911 call, Olson wrote, "The heavier man in the light shirt was charging towards the man in jeans waving some sort of cylindrical object."
 7. About 2 hours after that, Olson wasn't sure of what she saw--it could have been a shadow, or a kid size bat.
 8. Olson's statements show 'changes in position' in facts 4, 6 and 7 and were inconsistent and contradictory.
 9. Police had 'obvious reasons to doubt the veracity of' Olson and the truth of her statements due to facts 4-8.
 10. The fact affiant Det. McShea added the qualifier, "possibly," immediately preceding "holding a cylindrical object in his hand," shows actual deliberation the affiant 'in fact entertained serious doubts as to the truth of the facts or statements'.
 11. Olson is not a credible witness due to her inconsistent statements.
 12. Det. McShea included Olson's statements in the affidavits in reckless disregard for the truth.
 13. Olson's statements are material where procurement of a weapon is relevant to premeditation and probable cause to search for evidence of the crime of Murder 1st Degree.
 14. In Anne Tanninen's first interview at 2:58 am at the police station, she initially told police that before she'd jumped in her vehicle and pulled around, "...I'd seen [Maulding] grab a baseball bat...my son's bat was by the door there." (INTERVIEW WITH ANNE TANNINEN 08-2-15/2:58 am, hereby designated "IWAT-1," p. 59.)
Tanninen confirmed that after the phone call, when she was "spooked," she saw Maulding pick up the bat. (Id. at p. 62.)

15. Tanninen changed her position: Maulding "might have" had the bat, "but he wasn't like threatening with it." (Id. at p. 63.)
16. Police asked if Maulding had the bat when Reichow ran; Tanninen diverted their attention and did not answer the question. (Id. at p. 67.)
17. Tanninen returned to the scene at 6:32 am. In her second interview, she told police that she didn't recall if Maulding had the bat when Reichow ran away. (INTERVIEW WITH ANNE TANNINEN 08-02-15/6:32 am, hereby designated "IWAT-2," p. 1.)
18. Police had 'obvious reasons to doubt the veracity of' Tanninen and the truth of her statements in facts 14-17 because of her 'changes in position,' 'evasive answers,' and inconsistent and contradictory statements.
19. Police had 'obvious reasons to doubt the veracity of' Tanninen and the truth of her statements because it is unreasonable to believe that at midnight, miles from a baseball field, upon confronting Reichow and implicating he were connected to the threatening phone call, "Maulding was playing with the bat in a non-threatening manner."
20. Maulding was armed with the bat at the time of the confrontation.
21. Police omitted Reichow's statements indicating Maulding's exhibition of the baseball bat caused Reichow apprehension of harm.
22. The detective's affirmation, "Tanninen said Maulding was playing with the bat in a non-threatening manner," was misrepresentation made in reckless disregard for the truth.
23. In Tanninen's initial version of events, she indicated that she demanded to see Reichow's ID, he resisted but said his name was "Steve Ricky"; she asked Maulding how long he'd known Reichow, then Reichow

- "just ran." (IWAT-1, p. 57.)
24. Later, Tanninen said that as soon as she "tried to hit on 'What's your name?'" Reichow made "rude comments about...doing me." (IWAT-1, p. 62.)
 25. Tanninen said, "I can't even remember," the derogatory words she alleged Reichow to have said. (Id. at p. 66.)
 26. Later, Tanninen said, "he was talking about fucking me, okay?" (Id. at p. 67.)
 27. When asked if she was worried Reichow may try something, Tanninen said, "not really." (Id. at p. 68.)
 28. In Tanninen's second interview, she said that after Maulding asked Steve his name, "he got really cocky and mean. And his eyes changed. And then he starts like - like - he wanted to like violently rape me and that's what he was gonna do and stuff." (IWAT-2, p. 17.)
Tanninen told police, "I can't remember the words he used." (Id. at p. 18.)
 29. Police had 'obvious reasons to doubt the veracity of' Tanninen and the truth of her statements because the statements in facts 23-28 show 'changes in position' and her 'inability to recall' in facts 25 and 28 were indicative of inconsistent statements.
 30. Police had 'obvious reasons to doubt the veracity of' Tanninen and the truth of her statements because it is unreasonable to believe that unarmed Reichow would talk about "fucking" her or violently raping in front of her boyfriend who was armed with a baseball bat and knife.
 31. Tanninen never stated in any interview Reichow said, (quote) "I am going to fuck you" (endquote).
 32. The detective's affirmation that [Reichow] "said, 'I am going to fuck you'" is a false statement made with reckless disregard for the truth.

33. When questioned about the ax, Tanninen said she "joked about" the orange handled ax and "laughed." (IWAT-1, p. 64.)
34. When police asked Tanninen, "if somebody was toying with an axe," Tanninen said, "I talk tough". (Id.)
35. Whereas the statements in facts 33 and 34 were inconsistent, police had 'obvious reasons to doubt the veracity of' Tanninen and the truth of her statements.
36. The affiant omitted Reichow's police station interview statement describing Maulding picking up an ax.
37. The detective's affirmation, "Tanninen stated she started 'talking tough' and referred to a large orange ax handle that was in the storage facility," and the omission of Reichow's statement about the ax, was misrepresentation made with reckless disregard for the truth.
38. In Tanninen's second interview, she told police that when Reichow looked "just fear struck," "he turned around and ran - just bolted." She said she "thinks there might have been somebody else" in the storage building. (IWAT-2, p. 1-2.)
39. Tanninen told police she did not see anybody else in the building. (Id.)
40. Police had 'obvious reasons to doubt the veracity of' Tanninen because of her inconsistent statements in facts 38 and 39. It is unreasonable to think there was somebody else in the building without any evidence somebody else was in the building.
41. Police 'in fact entertained serious doubts as to the truth of' Tanninen's statements where in Tanninen's third police interview at 10:14 am, Sgt. Aaron Kanooth 'actually deliberated' where he asked, "Does it seem odd to you that he's gonna go from at one point crude and

antagonizing to you...to all of a sudden scared?" (INTERVIEW WITH ANNE TANNINEN 08-02-15/10:14 am, hereby designated IWAT-3, p. 9.)

42. The detective's affirmation, "Reichow then 'looked scared' and ran from the storage facility," and his omission of Reichow's reason for running away (specifically, apprehension of harm from Maulding's exhibition of the bat) was misrepresentation made with reckless disregard for the truth.
43. In her first interview, Tanninen said that Reichow started to run, and Maulding was hollering, "Hey you know, what's your name? Your last name?" (IWAT-1, p. 58.)
44. Police asked, "when they left did they leave together like two guys walking out or did one leave first and..."
Tanninen responded: "No. (Steve) ran... And I just saw him run fast."
(Id. at p. 69.)
45. In Tanninen's second interview she told police, "All I remember is both of them go - running out." (IWAT-2, p. 1.)
46. In Tanninen's third interview, police asked, "they left at approximately the same time?"
Tanninen responded: "Well they ran fast around the corner..." (IWAT-3, p. 10.)
47. Police had 'obvious reasons to doubt the veracity of' Tanninen because Tanninen made several inconsistent statements about when Maulding left. Compare facts 43-44 to 45-46.
48. In her third interview, Tanninen said that she got in her vehicle, began to back up, and her back door was open. She did not close it, it would have been Maulding who closed the door. (IWAT-3 p. 36.)
49. Police had 'obvious reasons to doubt the veracity of' Tanninen and the

- truth of her inconsistent statements where she indicated Maulding immediately ran after Reichow compared to Maulding closed the door to her vehicle after Reichow ran away. Compare facts 45-46 to fact 48.
50. The detective's affirmation, "Tanninen did not reveal if and when Maulding left the storage facility" was a false statement made with reckless disregard for the truth.
51. Police had 'obvious reasons to doubt the veracity of Tanninen and the truth of her statements where she made inconsistent statements about whether Maulding was in her vehicle when she drove around to the south side of the building:
- Tanninen denied giving Maulding a ride around the building. (IWAT-3, p. 27.); Cf.,
- Tanninen said that Maulding "could have been in the back... And then he slammed [the door] shut. Maybe is [sic] happened so fast and I didn't know what happened." (Id. at p. 32); Cf.,
- Tanninen told police it could have happened that Maulding jumped in her car, "then ridden around the corner, and jumped out and slammed the door". (Id. at 36.)
52. The affiant omitted Tanninen's indication she thought Reichow ran from the north side of the building around the corner to the right, heading south. (IWAT-2, p. 9.) The affiant omitted that when Tanninen drove around to the south side, she "was looking for running people." (IWAT-3, p. 19.) The affirmation Tanninen "began to drive away from the area" is a false statement and misrepresentation made with reckless disregard for the truth.
53. Police had 'obvious reasons to doubt the veracity of Tanninen's statements where Det. Harper said, "...Steve is saying to us you drove

up there and stopped and [Maulding] got out... And that was a confrontation there."

Tanninen responded: "I do not remember it, but it could have happened." (Id. at p. 29.)

55. Tanninen told police that she didn't see anyone when she drove around. (Id. at p. 11.)

56. Police had 'obvious reasons to doubt the veracity' of Tanninen and the truth of her statements that she did not see Maulding and Reichow because she said, "if I had gone the other direction, the faster way, I would have been right in the midst of them." (IWAT-1, p. 60.)

57. Tanninen said it may have been "so violent I blacked it out." (IWAT-3 at p 21.);

"[W]hen I pulled around I didn't see him... That's the truth of what I recall, like I said, unless I saw something so traumatic I blacked it out and it happened fast." (IWAT-3, p. 35)

58. Police 'in fact entertained serious doubts as to the veracity' of Tanninen's statements where Sgt. Kanooth actually deliberated when he stated, "So in this instance, so far from what you explained to us, you just seen one guy chasing another. You haven't seen anything traumatic at all yet to say that you're blacked out doesn't make alot of sense." (Id. at p. 23.)

59. Police 'in fact entertained serious doubts as to the truth of' Tanninen statements where Sgt. Kanooth stated, "I'm sure you saw something." (Id. at p. 27.)

60. The affiant omitted with reckless disregard for the truth Tanninen's admission that Maulding rode in her car, got out when she stopped, and if she had "just kept going he would be alive right now." (Id. at p.

38, 41.)

61. Tanninen said when she went around and parked on the south side of the warehouse, "I didn't see anything... 'cause of my van which I did that on purpose." (IWAT-1, p. 70-71.)

62. The police knew, "(Maulding and Reichow) were on the area of gravel, where cars park... where [Tanninen] eventually park[ed] [her] Expedition... that's the side where they were and that's the side [Tanninen's] Expedition was..." (IWAT-3, p. 17.)

The affiant misrepresented with reckless disregard for the truth the fact it would not have been possible for Tanninen to drive "slowly," "pause," and continue past Maulding and Reichow and not see them.

63. Det. Kevin Harper asked, "Why didn't you drive somewhere else instead of parking there and getting out and running?"

Tanninen responded: "You're exactly right. It was a good question. Because why didn't I drive over [to] Main [Street] instead of walk?" (Id. at p. 18.)

64. Sgt. Aaron Kanoth asked, "All the reason why would you get out of your car and run versus stay in your car?"

Tanninen responded: "You're absolutely right. I don't know." (Id.)

65. Police had 'obvious reasons to doubt the veracity of' Tanninen and the truth of her statements because she gave evasive answers and inconsistent statements on why she abandoned her vehicle where she said she parked, "on purpose," but when later asked why, claimed "I don't know." Compare fact 61 to facts 63-64.

66. Police 'in fact entertained serious doubts as to the truth' of Tanninen's statements where Sgt. Kanoth actually deliberated when he said to Tanninen, "And I'll explain it to you again, you saw (Steve)

leave, (Brandon) left, they were likely with you, you guys rounded the corner, and incident occurred right in front of you, you took off, ran to the bar, told Carol you were concerned about (Brandon). I think that all happens for a reason. (Id. at p. 33-34.)

67. Police had 'obvious reasons to doubt' Tanninen's veracity where Sgt. Kanooth noted, "Tanninen was evasive on many of her answers".

SUPPLEMENTAL report of Aaron Kanooth, BS 124.

68. Police had "obvious reasons to doubt the veracity of' Tanninen and the truth of her statements regarding her role in the incident where her flight and attempt to hide from police were indicative of consciousness of guilt.

Officer Niel Seifert reported: Bartender Elliot Sutherland said Tanninen, "said something bad had happened and someone may be hurt...she said she was afraid of the cops and was going to hide inside the bar." SUPPLEMENTAL report of Neil Seifert, BS 120.

69. The detective's affirmation Tanninen "went to a nearby bar and contacted the owner," is misrepresentation made with reckless disregard for the truth where she went into the bar to hide from police.

70. Amber Henley called 911 when "Steve" walked up to her porch and asked her to call for help. Henley reported Steve said that he'd just been attacked by Brandon who'd jumped out of a car with a baseball bat. Henley made a corresponding written statement, also indicating Reichow shirt was torn. The affiant omitted all information pertaining to Henley's 911 call in reckless disregard for the truth.

71. Officer Archer was first on-scene and the first responder to make contact with Reichow. The affiant omitted with reckless disregard for the truth all information from Archer's report regarding Maulding

- acting aggressively and/or Reichow acting in self-defense.
72. The affiant misrepresented the hearsay Archer wrote, "I killed him, but it was completely in self defense," where he altered it into an incriminating confession: "I killed him." The misrepresentation was made in reckless disregard for the truth.
 73. The affiant completely omitted sworn statements from Det. Rick Kelly's declaration where in the police station interview Reichow described being confronted by Tanninen and Maulding and put in apprehension of harm. Det. McShea also omitted Reichow's statements about Maulding and Tanninen pursuing Reichow in her vehicle and Maulding attempting to restrain and assault Reichow while armed with the baseball bat.
 74. The affiant omitted the sworn statements of Det. Kelly with reckless disregard for the truth.
 75. The affiant omitted all facts and statements concerning Maulding's aggressive behavior and Reichow acting in self-defense, with reckless disregard for the truth.
 76. The foregoing omissions and misrepresentations of facts were material to finding of probable cause.
 77. Police asked me four times within 15 hours if I were injured. I said, "no" each time. Police photographed me within hours of the incident and noted no injuries or anomalies.
 78. Det. McShea affirmed that there was probable cause to search and photograph me, and "visible injuries may have developed".
 79. In McShea's report, he admits to what he actually intended to search and seize: photographs of "injuries, or lack thereof." Det. McShea "observed no injuries," yet photographed me regardless.
 80. By including in the affidavit "visible injuries may have developed,"

and omitting his intension to photograph "lack" of injuries, Det. McShea misrepresented to the issuing judge what he intended to search and seize, with intentional disregard for the truth.

81. Maulding was armed with the baseball bat when he and Tanninen confronted Reichow on the north side of the building and was in possession of the bat when he exited Tanninen's vehicle at the south side of the gravel parking lot.
82. Det. McShea omitted the fact Maulding was also armed with and concealed another deadly weapon capable of easily inflicting death: a Kershaw 1301 BW folding knife--with a blade longer than 3 inches (3.4" actual).
83. Maulding exhibited the baseball bat in a manner, under circumstances, and at a time and place that manifested an intent to intimidate another and warranted alarm for the safety of other persons.
84. Maulding's actions while armed with the baseball bat constituted "substantial steps" to inflict injury upon Reichow.
85. Maulding's conduct while armed with the baseball bat implicated an unlawful touching where he restrained Reichow by his shirt.
86. Police knew the evidence shows Maulding's conduct was provocative.
87. Police know the evidence shows Reichow was provoked by Maulding's exhibition of the baseball bat which caused him "apprehension of harm." Maulding's conduct triggered a "fight or flight" reaction and Reichow retreated. Maulding pursued Reichow, attempted to restrain and assault him in the south side gravel parking lot. Reichow did not cool off.
88. The police knew the circumstances are such that a reasonable person would not have cooled off.
89. The police knew there was a casual connection between Maulding's provocation, Reichow's heated passion, and the fatal act.

90. Det. McShea's false statements, misrepresentations and omissions were material to finding of probable cause.

I declare under penalty of perjury under the laws of the State of Washington and U.S.C. 28 § 1746 that the foregoing is true and correct.

DATED March 21, 2023, Aberdeen, WA.


Stephen Mark Reichow