

SW# 20
Public Record 4/6/11

JEFFREY R. BUHMAN #7041
Utah County Attorney
CHAD E. GRUNANDER #9968
Deputy Utah County Attorney
100 East Center, Suite 2100
Provo, Utah 84606
Email: ucadm.Dcourt@state.ut.us
Phone: (801) 851-8026
Fax: (801) 851-8070

IN THE FOURTH JUDICIAL DISTRICT COURT
UTAH COUNTY, STATE OF UTAH

IN THE MATTER OF A

CRIMINAL INVESTIGATION

AFFIDAVIT IN SUPPORT OF AND
REQUEST FOR SEARCH WARRANT

Case No. 081402860
Judge Howard

STATE OF UTAH)
 :ss
COUNTY OF UTAH)

Bureau Chief Jeff Robinson, hereby represents as follows:

1. I am the Bureau Chief of the Utah County Attorney's Office Bureau of Investigations, and have been for approximately 10 years. I have worked as an investigator at the Utah County Attorney's Office for a total of 18 years. I was previously employed with the Utah County Sheriff's Office and worked as a patrol deputy and detective for four years. I also was previously employed with the Brigham Young University Police Department as a patrol officer for approximately four years. The past 26 years I have been involved in the investigations of crimes against property and persons. I am a certified peace officer in the State of Utah and a graduate of the FBI National Academy Session 194.

2. In June of 2008, Doug Witney, an investigator with the Utah County Attorney's Office, was assigned a case involving the unattended death of Michele MacNeill at her Pleasant Grove, Utah, home located at 3058 North MillCreek Road. The death occurred on April 11, 2007. On

January 1, 2011, I received the case because Doug became a Utah County Commissioner and left investigations.

3. In the Autopsy Report dated May 22, 2007, Dr. Maureen J. Frikke, an Assistant Medical Examiner for the Utah State Medical Examiner's Office determined that Michele MacNeill died of natural causes due to cardiovascular disease, specifically chronic hypertension and myocarditis. However, on October 6, 2010, after meeting with Doug Witney, Chad Grunander, Deputy Utah County prosecutor, and me, Dr. Todd Grey, Chief Medical Examiner of the Utah State Medical Examiner's Office made an addendum to Dr. Frikke's report declaring that Michele's cause of death was due to the "Combined Effects of Heart Disease (Hypertension, Myocarditis) and Drug Toxicity (Diazepam, Oxycodone, Promethazine & Zolpidem)." He also determined that the manner of death as "Undetermined." Dr. Grey further wrote:

Review of the toxicologic findings and additional investigative information, undertaken at the request of the Utah County Attorney's Office, raises suspicion that the decedent did not die solely as a result of the abnormalities of her heart identified at autopsy. The combination of medications found on toxicologic evaluation could potentially have had a synergistic and lethally contributory effect. While no individual compound was present at a clearly toxic or lethal level, the combination acting in concert could have had led to significant sedation and central nervous system depression. Additionally, the known arrhythmogenic effects of both Oxycodone and Promethazine may have potentiated a disposition to arrhythmia arising from the decedent's underlying heart disease. The investigative information provided raises questions as to whether the decedent's ingestion of the medications found was solely the result of her independent and fully informed actions.

4. The "investigative information" the Utah County Attorney's Office provided to Dr. Grey consisted of the events that led up to and immediately following Michele's death that Dr. Frikke was not aware of. I describe some of these issues below.

5. Martin MacNeill was a doctor of osteopathy (DO) and an attorney. As a result of our investigation, we found that he obtained both of these licenses through fraudulent college transcripts.

6. Martin MacNeill was also the husband of Michele MacNeill. Martin began having affairs with a variety of women while he was married to Michele without her knowledge. One of the primary affairs involved Gypsy Willis. The affair began around April of 2004. In July of 2004, Gypsy told her roommate, Michelle Savage, that she wanted to "get rid" of Martin's wife. Gypsy discussed cutting Michele MacNeill's brake lines on her car as well as giving her medication that

would kill her without being detected. Gypsy obtained the latter idea from watching a tv program wherein a medical doctor killed his wife. In August of 2005, Martin told his wife and his ecclesiastical leader that he no longer loved his wife and he did not want to live with his family. However, in October of 2005, Martin decided to stay with his family, even though the affair continued unbeknownst to Michele.

7. At the same time that Martin was having an affair with Gypsy, he also began an affair with Anna Osborne early in the year of 2005. Martin disclosed to Anna that he wanted to kill his daughter Vanessa who was having drug addiction problems and who was an “embarrassment” to his family. Martin also told Anna that he had killed his brother and made it look like suicide. Martin’s sister confirmed that they had a brother who died of an apparent suicide. Anna also related that Martin had bragged of killing patients at the American Fork Training School, located in American Fork, Utah, by drugging the handicapped patients. In January of 2006, as a result of Martin’s admissions to Anna Osborne, she informed her psychiatrist that she was having an affair with a serial killer. During early 2006, Anna moved to Oklahoma and Martin told her that he would leave his family and join her. Anna asserted that she expected to hear that Michele had passed away and then Martin would join her in Oklahoma. Martin again decided not to leave his wife at that time.

8. About November of 2006, Michele confided in a close friend, Jackie College, that Martin again told her and their ecclesiastical leader that he wanted a divorce because he did not love his wife or children. Again Martin decided to stay with his wife and family.

9. Alexis Somers, Martin and Michele’s married daughter, related that it appeared to the family that her father was going through a mid-life crisis, as he began exercising and was rarely home. Martin allegedly lost 30 pounds during this time frame.

10. Alexis asserted that Martin asked her mother to have cosmetic surgery near the beginning or middle of March of 2007. Michele initially didn’t want the surgery because she was overweight. However, she considered that Martin was attempting to make himself look better and she believed that cosmetic surgery may help their relationship, and therefore consented to it.

11. In early February of 2007, Michele confided in Alexis that she believed Martin was having an affair and asked Alexis to check Martin’s cell phone records. On March 30, 2007, Alexis got on the internet and reviewed Martin’s cell phone records. She noticed one number that was called often and at all hours of the night and day. She ran a check on the phone number over the internet and found that the phone number belonged to a Gypsy Jillian Willis. Alexis called Gypsy’s phone number three times until a female answered the phone. Alexis hung up and informed her

mother of her findings. Michele confronted Martin about Gypsy and his numerous phone calls. He asserted that he called Gypsy because she was living in their rental apartment and needed to discuss various issues about the rental. Martin promised not to contact Gypsy any longer.

12. In March of 2007, Martin arranged to have Dr. Thompson perform cosmetic surgery on Michele by giving her a facelift. Michele had a pre-operation consultation on March 22, 2007. Dr. Thompson asked Michele to have another doctor give her a physical examination as a second opinion to make sure she was fit for surgery. Martin arranged for Dr. Von Welch to give Michele a physical on March 29, 2007. Dr. Von Welch found her healthy to have surgery and gave Michele some medication to lower her blood pressure. On March 30, 2007, Michele attended another pre-operation consultation with Dr. Thompson. On the way to the appointment, Alexis reported that Michele told Martin that she wanted to postpone the surgery until the summer to give her time to lose some weight and regulate her blood pressure. Martin became upset and told her that it would not be possible for her to delay the surgery. On April 1, 2007, during this last pre-operation consultation, Martin gave Dr. Thompson a list of drugs that he wanted his wife to have. Dr. Thompson prescribed 5ml of 2.5 mg of Lortab in liquid form, seven pills of Ambien 10 mg., 15 pills of Valium 5 mg., 30 Percocet, 10 Phenergan 25 mg., and 21 Keflex 500 mg. Dr. Thompson stated that he did not normally give Percocet and Valium with the other drugs prescribed, but because Martin was a physician he did so at Martin's request.

13. On April 3, 2007, Michele had the cosmetic surgery. Martin was upset when it was decided to keep Michele over night for observation. On April 4th, she was released from the hospital and taken home. A medical bed was brought into the home for Michele, and Alexis who was a first year medical student was at her bedside helping her mother with her medications and taking care of her. Later that evening, Martin demanded that Alexis leave her mother's care to him that night. She was reluctant, but followed the directions of her father. It should be noted that there were 24 text messages between Martin and Gypsy Willis on this day.

14. On April 5, 2007, Alexis went to see how her mother was doing at 6:00 A.M. Alexis found her mother drugged to the point that she was not responsive. She remained this way throughout the day. When Alexis confronted Martin, he told her that he may have "overdosed" her mother. He told Alexis what drugs he gave her mother, which were all of the drugs prescribed. Alexis reminded her father that Michele was drug sensitive and that she took very little medication. Later that evening, Michele asked Alexis to help her identify the medications by touch since she still had bandages over her eyes. Michele also told her that her father had her take medications throughout the night even though she began throwing up. While Alexis was helping her mother with a bath, she told Alexis that "if something happens to me, make sure it wasn't your dad."

15. On April 6, 2007, Alexis reported hearing her mother confront Martin about his phone records. She wanted access to his on-line phone records to see if he had been honest with her. Martin had changed his on-line account password after Michele had confronted him on March 30, 2007. Michele told Alexis that she would not let Martin get away with him failing to show her the records. It should be noted that Martin and Gypsy exchanged four text messages on this day.

16. The evening of April 9, 2007, Michele again confronted Martin about his phone records. Michele had not seen the records and wanted to see if Martin had been honest with her about not communicating with Gypsy. Martin gave an explanation why she couldn't see the records and Michele allegedly called him a liar. Martin told her that he would show her the records, but did not do so that evening. In order to divert Michele's attention, Martin told her that he would take her on a two-week cruise the following week if her doctor gave his approval. From April 7th through April 9th, Martin and Gypsy exchanged 32 text messages.

17. On April 10, 2007, Michele went to her third post-operation consultation with Dr. Thompson. Martin, Alexis, and Ada attended the consultation. Dr. Thompson was pleased with Michele's progress. She no longer had bandages over her eyes. Michele felt great and was even driving. She was only taking one or two Percocet a day at this point and no other medications, with the exception of antibiotics. Michele was not having any problems sleeping. This is also the day that Alexis flew back to Henderson, NV, where she was attending medical school. Martin and Gypsy exchanged 22 text messages on this day.

18. On April 11, 2007, Michele called Alexis at 8:44 A.M., and told her how Martin was treating her "so, so, nice" and being "sweet" to her. Michele also told her that she was doing the laundry and that she planned on picking up Ada after school at about 11:30 A.M. Ada reported that Michele was supposed to take her to McDonalds when she picked her up from school.

19. Martin allegedly went to work at the American Fork Developmental Training School at 0900 hours through 0930 hours. At approximately 0910 hours, Martin left a voice mail on Alexis's cell phone from his work phone. Martin told Alexis to call and check on her mother. Martin asserted that Michele was not listening to him and getting out of bed. Alexis was in class and did not hear the message until much later in the day. Alexis thought this was a strange phone call because her mother had already been getting out of bed, walking, driving, and they even went to a Sizzler restaurant together the night before. Alexis called home at 10:50 AM after getting out of class. There was no answer.

20. About 11:30 AM, Martin picked up Ada from school. Ada was surprised that her father picked her up. Michele had told her that she would pick her up and go to McDonalds. Martin drove her home. Ada went looking for her mother and found her in the bath tub. Ada reported that she was sitting up in the tub as if she had washed her hair. Michele was not responsive to Ada. She immediately ran to Martin who was in the kitchen. She grabbed his hand telling him that her mother needed help. Ada reported that Martin was very slow to go with her to the bathroom. Once in the bathroom, Martin told Ada to ask the neighbors for help.

21. Martin called 911 and reported that Michele was in full cardiac arrest. Upon the arrival of police officers and paramedics, they took over resuscitation efforts begun by Martin and neighbor Doug Daniels. Paramedic Marc Sanderson walked Martin out to the front porch of the house. While doing so, Martin told Marc that his wife had overdosed on medication and that was the cause of her death. Martin told him further that he assumed Michele slipped, tripped, or somehow fell into the tub. Martin further related that he had only left Michele for about 10 minutes and upon his return found her totally submerged in the tub full of water. Martin told one of the police officers that his wife was taking a lot of drugs and mostly likely stumbled and hit her head and fell over the tub with her head in the water. In other words, he stated that Michele's head was face down and that her legs were over the side of the tub. This was in direct conflict with how Ada reported finding her mother. Also, Michele was not taking a lot of drugs at that time as Martin reported. The neighbor Doug Daniels reported seeing Michele as Ada described finding her in the tub.

22. Michele was transported to the American Fork Hospital where the hospital staff attempted to resuscitate her without success. Dr. VanWagoner, the Emergency Room doctor, observed lividity forming on Michele's buttocks and the back of her legs. He reported that he would not expect lividity to form so quickly with CPR being performed. The fact that lividity was forming on Michele's buttocks and back of her legs confirms Ada's account of finding her mother sitting front up in the tub. It did not support Martin's report that she was draped over the side of the tub face down.

23. After leaving the hospital and returning home, Martin requested that his son's girlfriend, Eileen Hang, destroy Michele's medication by dumping it in the toilet, which she did. Martin also destroyed a list of drugs that Alexis was keeping to show what drugs Michele was taking and when. When Alexis flew in from Henderson, NV, later that day, she asked Martin where Michele's drugs were. He responded at first that he didn't know, and then said that the police took them.

24. Later that evening, Martin showed Alexis and Rachel how he found their mother. He used his own body to show how she was draped over the bath tub face down as if she tripped. Again, the opposite of how Ada claimed to find her mother. Later that evening, Martin made the

remark to Rachel that he needed to get the autopsy completed so that he would not be implicated in Michele's death. An odd remark from someone who should've been grieving - not worrying about being implicated in her death.

25. Later that night, as neighbors and friends came to visit, Martin was flippant about being a bachelor again and hanging out with his buddies. Neighbors and visitors indicated that he showed no sadness at the loss of his wife.

26. During the course of this investigation, Dr. Doug Rollins MD, Phd., and Dr. Gary Dawson, Phd., both with expertise in toxicology, reviewed Michele's toxicology report. The report indicated that Michele had the following drugs in her system: Diazepam, Nordiazepam, Oxydodone, and Promethazine. Both Dr. Rollins and Dr. Dawson indicated that these drugs would have made Michele unresponsive and unable to protect herself in the event of a threat. These drugs, though not toxic in the amount she had in her system, could have stopped her heart because of the additive effect of each of these drugs taken together. Dr. Thompson, Michele's cosmetic surgeon, related that he would never have prescribed those combination of drugs together if Martin had not been a physician and requested them. Dr. Grey, Utah Chief Medical Examiner, reported that Michele would have ingested these drugs approximately one and half hours to two hours before her death. All of the doctors were concerned about why Michele would have taken Ambien a few hours before her death.

27. Alexis reported that her mother was only taking one and possibly two Percocet a day for pain. Michele was sensitive to medication and did not want to take them. Alexis asserted that her mother would not have taken all of these drugs on her own volition. She would not have taken them if Martin had asked her to do so. These drugs could only have been ingested if given to her surreptitiously. As mentioned above, Michele was concerned for her safety and asked Alexis to make sure her father was not responsible if she died.

28. Martin had motive to kill his wife as he was attempting to hide his affair with Gypsy Willis and his continued contact with her. He told his wife and others that he did not love his wife anymore and wanted to leave. Martin had access to the drugs and admitted overdosing her a few days prior to her death, as if he was going through a practice run. Ultimately, Martin intentionally overdosed Michele with the medications that Dr. Grey determined played a vital role in causing her death. He wrote that Michele's death was due to the "Combined Effects of Heart Disease (Hypertension, Myocarditis) and Drug Toxicity (Diazepam, Oxycondone, Promethazine & Zolpidem).

29. Also during this death investigation, we obtained a search warrant from the Fourth District Court, located in Provo, Utah, signed by Judge Lynn Davis. The search warrant allowed our office to seize Martin MacNeill's and Gypsy Willis's computers, cell phones, and cameras. The warrant also allowed our office to search those items for evidence of a homicide. As a result of searching Martin's computers, we found he was emailing Gypsy Willis and vice versa before and

after Michele's death. Gypsy and Martin had multiple email accounts with Yahoo! and Hotmail. Since these email addresses were used before, during, and after the death of Michele, we believe they may contain vital information involving the death of Michele. *See below.*

30. On March 14, 2011, Gypsy Willis appeared in the Fourth District Court, in Provo, Utah, and pled to Identity Fraud, a Second Degree Felony, two counts of False or Inconsistent Material Statements, Second Degree Felonies, and Wrongful Lien, a Third Degree Felony. These charges resulted from a scheme that Martin MacNeill and Gypsy Willis were involved in together. Mr. MacNeill previously pled to State charges involving this scheme. Martin MacNeill assisted Gypsy Willis in changing her identity because of her debts or bad credit. Gypsy Willis was just released from Federal Prison on March 12, 2011, where she served two years for Aggravated Identify Theft, involving this same scheme. Martin MacNeill received a four year prison sentence federally, with the state sentence running concurrently.

31. Based on the foregoing, there is probable cause to believe that Martin MacNeill had the opportunity, the motive, the psychological disposition, and the capability of killing his wife, Michele MacNeill. He did so by administering a combination of drugs that according to Dr. Grey, was a major contributing factor in Michele's death. Martin MacNeill made numerous statements to the police and others that were inconsistent with the facts surrounding the death of his wife. It has also been shown that Martin MacNeill communicated on a regular basis with Gypsy Willis, using their computers and telephones. To further this investigation, I request the Court allow this agency to seize the internet provider information outlined for the email providers above for Martin MacNeill and Gypsy Willis. I also request that the search warrant include the seizure of each email sent to or from these addresses and the authority to access and view them.

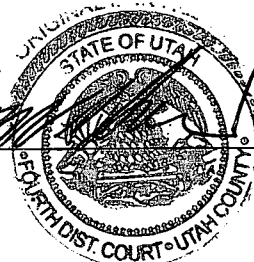
DATED this 16 day of March, 2011.


JEFF ROBINSON

Utah County Attorney's Office

Subscribed and sworn to before me this 16th day of March, 2011.


JUDGE



R
judges hmn
bathsheba 76 @ yahoo.com
Utah - enigma @ yahoo.com
Utah - friend @ yahoo.com
phoenix sheba @ yahoo.com
doc macneill @ yahoo.com
Utah - friend 2 @ yahoo.com

8

Utah - friend 1 @ yahoo.com
Utah - enigmatic @ yahoo.com
doc macneill @ hotmail.com
lucid - sphinx @ hotmail.com

JEFFREY R. BUHMAN #7041
Utah County Attorney
CHAD E. GRUNANDER #9968
Deputy Utah County Attorney
100 East Center, Suite 2100
Provo, Utah 84606
Email: ucadm.Dcourt@state.ut.us
Phone: (801) 851-8026
Fax: (801) 851-8070

IN THE FOURTH JUDICIAL DISTRICT COURT
UTAH COUNTY, STATE OF UTAH

IN THE MATTER OF A

CRIMINAL INVESTIGATION

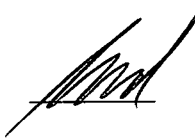
SEARCH WARRANT

Case No. 081402860
Judge Howard


THE STATE OF UTAH TO ANY PEACE OFFICER OR AGENT:


**Magistrate's
Endorsement**

It has been established by oath or affirmation made
or submitted to me this 16th day of March, 2011,
probable cause to believe the following:

 1. The property described below:

- a) has been used or is possessed for the purpose of being used to commit or conceal a commission of an offense; or constitutes evidence of motive or intent to commit an offense.
- b) is evidence of illegal conduct.

 2. The property described below is most probably located on the premises set forth below.

 3. The person or entity in possession of the property is a party to the alleged illegal conduct.

NOW, THEREFORE, YOU AND EACH OF YOU, are hereby directed to conduct a search of the database and archives of **Yahoo!** for the following information from April 1, 2004 to the present:

Subscriber information, IP History, Billing Information, and all emails to and from the following email addresses:

bathsheba76@yahoo.com
utah_enigma@yahoo.com
utah_friend@yahoo.com
phoenixsheba@yahoo.com
docmacneill@yahoo.com
utah_friend2@yahoo.com
utah_friend1@yahoo.com
utah_enigmatic@yahoo.com

THIS WARRANT MAY BE SERVED AT ANY TIME DURING THE DAY

IF YOU FIND THE DESCRIBED PROPERTY, you are directed to bring the property forthwith before me at the above court or to hold the same in your possession pending further order of this Court. After execution of the warrant you shall promptly make a verified return of the warrant to me together with a written inventory of any seized property identifying the place where the property is being held.

**THIS WARRANT MUST BE SERVED WITHIN TEN (10) DAYS FROM THE
DATE OF ISSUANCE.**

DATED this 16TH day of March, 2011.

