

FEB 19 2016

Somerset County Courts

**AFFIDAVIT SUBMITTED BY THE STATE PURSUANT TO 15 M.R.S. §1027 (2)
AS EVIDENCE IN "HARNISH" HEARING**

I, Scott A. Bryant, a Detective of the Maine State Police state under oath:

On the basis of information and belief set forth below, I believe that there is probable cause to believe that on or about December 31st 2015, KAYLA M. STEWART D.O.B. 3-4-95 committed the formerly capital offense of intentional or knowing murder 17-A M.R.S. §201 (1)

The facts relied upon for probable cause are based on my personal knowledge and also on reliable information imparted to me by other law enforcement officers involved in the investigation, and civilian witnesses with direct knowledge of the facts; and are as follows:

1. On January 10, 2016, at approximately 1045 hours, Lt. Jeffrey Love of the Maine State Police Major Crimes Unit received a call from Maine Drug Enforcement Agency Special Agent Kelly Hooper. Hooper informed Lt. Love about a suspicious infant death involving a person who she had dealt with in the past.
2. On January 10, 2016, your affiant called and spoke with Hooper and learned she had received information from Lucille Stewart D.O.B. 1-25-59 regarding the birth and subsequent death of Lucille's adopted daughter, Kayla Stewart's D.O.B. 3-4-95 infant child.
3. On January 10, 2016, your affiant met with and interviewed Lucille Stewart. Lucille explained that Kayla had been getting bigger throughout the summer and Lucille suspected Kayla was pregnant. However, when Lucille would ask about this, Kayla would deny being pregnant. Sometime during the end of November or possibly early December 2015, Kayla called Lucille and told her she had fallen at work and admitted to being one month pregnant. Kayla also told Lucille that she, Kayla, had been to the doctor following a fall at work and the doctor told Kayla that the baby no longer had a heartbeat. Within 24 hours, Kayla told Lucille she was in fact three and a half months along in her pregnancy when she learned the baby no longer had a heartbeat. Kayla told Lucille that her doctor told her to wait it out and if nothing happened they would do a D&C. Your affiant later obtained records from Concentra relating to the visit which indicates assessment that Kayla was pregnant with a fully developed fetus, seen by x-ray. There is no indication that the fetus was dead or that Kayla was told that she should await a miscarriage. The record reflects that when confronted with the fact that she was pregnant, Kayla denied that she was pregnant.
4. A few days later, Kayla told Lucille that she was going for a D&C on Sunday and she also talked about bleeding. Lucille told Kayla that she should seek medical treatment because she could bleed to death. Kayla told Lucille that she was not bleeding that much.
5. Lucille told your affiant that Kayla is still on her insurance and she has not received a bill or any information that would indicate Kayla had been to the doctor in reference to this

pregnancy. Lucille told your affiant that Kayla's primary care provider is Tara Dwelley through Inland Family Care. Kayla also sees Doctor James Douglas from Inland Family Care for mental health issues. Lucille told your affiant that she called Dr. Douglas and Dr. Dwelley and explained everything stated previously to them. She was advised to call the police if she was concerned. She said this was on January 7, 2016 or January 8, 2016.

6. Lucille went on to tell your affiant that on January 9, 2016, Kayla and her boyfriend, Nicholas Blood D.O.B. 8-22-90, had been to Lucille's home. Lucille noticed a considerable reduction in the size of Kayla's stomach at that time. When Kayla left the room, Lucille and her husband Randy Stewart asked Nicholas about that baby. Nicholas told Lucille that Kayla took care of it. Lucille told Nicholas that she wants to know what really happened to the baby. Lucille said Nicholas replied "Don't you think it is hard enough for us? I watched my son die that night." Lucille asked him where and he did not answer and ended the conversation. Nicholas also asked if they were trying to pin this on him.
7. On January 10, 2016, your affiant along with Det. Chris Tremblay of the Maine State Police Major Crimes Unit met with and interviewed Nicolas Blood. Nicholas stated Kayla had a miscarriage after she had slipped and fallen at work. Nicholas told your affiant they did not know Kayla was pregnant until she fell. She went in for an X-ray and was told the baby did not have a heartbeat. Kayla told Nicholas that they told her the baby was 4-5 months old.
8. Nicholas stated that Kayla told him she was going in to have the procedure done. He said he saw her the next day and she did not have the stomach anymore. He confirmed that he was at Lucille's on 1-9-16 and told them everything he told me. He denied making any comment about watching his son die. He said what he really said was "do you think I want to see my son die like that?". Nicholas agreed to a buccal swab for DNA which was transported to the crime lab. Testing at the crime lab of DNA from the deceased baby and Nicholas reveals a high probability that Nicholas is the biological father of the baby.
9. On January 10, 2016, your affiant along with Det. Chris Tremblay of the Maine State Police Major Crimes Unit met with and interviewed Kayla Stewart at the above residence. Kayla stated she thinks we are there because her mother told her she was calling the cops two days ago because she had a miscarriage. Kayla told your affiant she found out she was pregnant 4 months ago and she was 5 months along.
10. Kayla told me about an injury that occurred while she worked at ESM in Augusta. She slipped down the stairs and hurt her back. She reported the injury and went to Concentra in Augusta to be seen. She told your affiant she went to get an ultrasound. She could not tell me if it was Inland Hospital or Maine General Medical Center. She said she is really bad with that stuff. She told your affiant it was in Waterville.
11. Kayla later told your affiant that she had the D&C procedure at Maine General Medical Center in Augusta.

12. Throughout the evening, Kayla told many different versions of what happened with her pregnancy. She was unable to produce any medical paperwork indicating she had been treated for anything pregnancy related in Waterville or Augusta.
13. Your affiant explained to Kayla that I would provide her with a ride to Maine General Medical Center in Waterville to retrieve her medical records for her to be able to prove she was seen there. She made several excuses as to why she could not go and get the records.
14. Kayla eventually agreed to accompany Det. Chris Tremblay and your affiant to Maine General Medical Center in Waterville. As we walked in the Emergency Room door, Kayla told me she did not come there. Your affiant told her that if she had gone to Maine General in Augusta then the records would still be there. She then told your affiant that she did not go to a hospital at all.
15. Kayla told Det. Tremblay and your affiant that she and Nick were having sex and she started bleeding and she freaked out. Kayla told your affiant that she called the on call doctor and they told her it was normal. Kayla told your affiant that she went to the bathroom and was having a bowel movement and he came out, she picked him up and did not know what to do and she flushed him. She said he was not breathing. Kayla told your affiant she did not tell Nicholas.
16. Kayla Stewart's differing and inconsistent statements coupled with other facts developed in the investigation provided probable cause for search warrants of her residence, person and cell phone.
17. On January 11, 2016 at 1044hrs your affiant was preparing a search warrant for Stewart's residence. Your affiant received a call from Kayla Stewart. She was inquiring how long the seizure of her residence would take. Your affiant explained that a search warrant was being prepared for her residence. Your affiant also explained to Stewart that it would speed things up a lot if we knew where her baby was. Your affiant asked Stewart if the baby would be in the septic tank. She told your affiant it would be.
18. At 1059hrs, Stewart called your affiant again and said the baby would be found in the garage by the furnace.
19. In executing one warrant on Jan 11, 2016, Det. Jonah O'Roak of the Maine State Police found a deceased baby hidden under an oil tank concealed behind a 4' x 8' sheet of insulation board in the unheated detached single car garage of the residence, wrapped in a blanket and trash bags. Various blood stained bedding materials, paper towels and plastic gloves were also located in the garage near the baby's location.
20. The search further revealed that no preparations for the arrival of a newborn had been undertaken in the residence, such as procurement of bassinet, newborn diapers and other such accoutrements.

21. Your affiant interviewed Kayla Stewart on 1-11-16 at Waterville PD. Kayla confirmed during this interview that all of her previous statements were lies and she is now stating she gave birth to the baby in the garage after having sex with her boyfriend in the residence and stepping outside to smoke a cigarette. She claimed that the baby was not alive after birth, claiming that his eyes were closed and he was not breathing or moving. In response to questions she repeatedly stated words to the effect, I made sure the baby was dead; I made sure the baby was dead. She stated she never called 911 or sought medical attention and only told her boyfriend about it the following morning who, she stated, told her to go to the hospital and then went to work without inquiring as to the location of the baby. Investigation of time records and employer interviews at Nicholas's workplace confirm the most likely date of birth as on or about December 31st, a date upon which he called in sick and stated Kayla was bleeding.
22. That on January 12, 2016, your affiant attended a meeting with State Chief Medical Examiner Dr. Mark Flomenbaum to discuss the results of the autopsy of the male baby found in the garage. Dr. Flomenbaum informed your affiant that tentatively the baby's weight, height, and size of internal organs are consistent with those of a healthy full term baby, and that the color of the baby was consistent with a live birth. There was no evidence of decomposition, or infection, and the lungs had drawn breath confirming that the baby was alive and healthy at birth. At a subsequent meeting on January 20, 2016, Mark Flomenbaum stated that additional examination of tissue under the microscope and lab testing confirmed his opinion that the full term baby was born alive and lived long enough to take several if not many breaths. He ruled the death a homicide due to asphyxia or neglect, i.e. the baby was either smothered or left to die in the cold without any kind of neonatal care or attention.
23. In connection with this investigation Maine State Police Detective Chris Crawford spoke with Jillian Dugle, a friend of Kayla Stewart who lived with Kayla and Nicholas at their residence during October and part of November. When shown pictures of the multicolored comforter found in the garage near the baby, which tested presumptively for blood stains, she positively identified it as the comforter that was used regularly as the top blanket on Kayla and Nicholas's bed. She further identified a brown and white colored fleec, also blood stained, as one that was hanging as a door curtain in the residence. This evidence strongly suggests that the baby was born in the residence and later placed in the garage along with blood stained blankets and other blood stained items.
24. The definitive opinion of the Chief Medical Examiner that the baby was born alive, the absence of any attempt at prenatal care or preparation for the arrival of a new born, the repeated attempts at deception, including the denial of the pregnancy, the failure to summon any kind of medical assistance or intervention at the birth of the baby, the concealment of the baby's body in the garage, and the statement of Nicholas Blood to

Lucille Stewart all form the basis of my probable cause to believe that Kayla Stewart gave birth to a live and healthy baby and then, being responsible for the care and custody of the baby, intentionally or knowingly caused the death of the baby by either suffocating him or placing him in circumstances where it was practically certain that death would result.

February 18, 2016

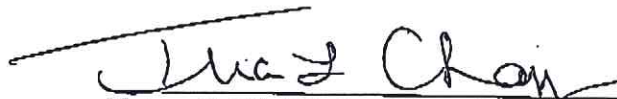

Scott Bryant

STATE OF MAINE
KENNEBEC, SS

February 18, 2016

Then personally appeared Det. Scott Bryant and made oath the forgoing statements are true to the best of his knowledge, information and belief.

Before me,


Notary Public/Clerk of Court/Justice of Superior Court
Tricia L. Chayer
Notary Public, State of Maine
My Commission Expires January 25, 2022.