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STATE OF MAINE PENOBSCOT, ss.

UNIFIED CRIMINAL COURT CRIMINAL ACTION PEND DOCKET NO. CR-16-

PENDOSCOT JUDICEN CENTER

NOBSCOT COUNTY SUPERIORS COURT

BAUGOR DISTRICT COURT

STATE OF MAINE

v.

PHILIP SCOTT FOURNIER

DOB:

Address:

East Millinocket, Maine 04430

Height: 5'8"

Weight: 145

Hair: Brown

Eyes: Blue

ATN No. 166816B

CTN No. 001

Sequence No. 000621

COMPLAINT FOR VIOLATION OF: INTENTIONAL OR KNOWING OR DEPRAVED INDIFFERENCE MURDER 17-A M.R.S. §201(1)(A) and (B) (ALTERNATIVE FORMS OF THE SAME CRIME)

Detective Thomas Pickering, Maine State Police, Major Crimes Unit - North, being first duly sworn, deposes and states upon information and belief that:

On or about August 8, 1980, in the Town of East Millinocket, Penobscot County, State of Maine, PHILIP SCOTT FOURNIER , did intentionally or knowingly cause the death of Joyce McLain, or engaged in conduct that manifested a depraved indifference to the value of human life and which in fact caused the death of Joyce McLain, all in violation of 17-A M.R.S. §201(1)(A) and (B).

Complainant

Sworn to before me this Aday of March, 2016.

CLERK/NOTARY/PUBLIC/JUDGE

APPLICATION FOR ARREST WARRANT

TO: A Judge/Justice or Clerk of the Unified Criminal Division, Penobscot County

AFFIDAVIT IN SUPPORT OF ARREST WARRANT (M.R. UNIFIED CRIM P.4(a) AND INITIAL DETERMINATION OF PROBABLE CAUSE (M.R. Crim.P.5(d)

I, Thomas D. Pickering, a Detective of the Maine State Police, state under oath:

On the basis of information and belief, I believe there is probable cause that Phillip Scott Fournier, whose date of birth committed the crime of Murder in violation of Title 17-A M.S.R.A. Section 201 (1)(A) and (B), on the basis of the attached affidavit						
which contains the statement(s) of Detective Thomas Pickering, attached hereto and						
incorporated herein by reference, said statements being true to the best of your affiant's						
knowledge, information and belief.						
Date: 3-/6 Detective						
Maine State Police MCU-North						
<u>OATH</u>						
The foregoing Application for Arrest Warrant and Affidavit were sworn to before						
me this 3rd day of March, 2016.						
Judge/Justice, Unified Criminal Docket Complaint Justice Clerk, Unified Criminal Docket						
Clerk, Unified Criminal Docket						

FINDINGS

The foregoing Application of Arrest Warrant and Affidavit, having	been
Submitted to and considered by the undersigned, finds that probable cause	exists for the
issuance of a Warrant for the Arrest of the aforementioned PHILIP SCOTT	FOURNIER
(DOB: 12/31/1960).	1

Date:

Judge/Justice, Unified Criminal Docket

Complaint Justice

Clerk, Unified Criminal Docket

WHEREFORE, based on the above information, your affiant has probable cause to believe and does believe that Phillip Scott Fournier has committed the offense of Murder in violation of Title 17-A M.S.R.A. Section 201(1)(A) and (B), Class Murder and prays that a complaint and Warrant of Arrest be issued.

	DATED: 3-3-/6	Detective Thomas Pickering Maine State Police Major Crimes Unit-North
	STATE OF MAINE	UNIFIED CRIMINAL COURT
	Penobscot, ss The above statement was sworn to and true statement this Aday of March, 2	December 1
Dated:		Detective

AFFIDAVIT AND REQUEST FOR ARREST WARRANT

State of Maine

PENOBSCOT, SS

UNIFIED CRIMINALDOCKET SITTING IN Bangor CRIMINAL ACTION DOCKET NO.

I, Det. Thomas Pickering, am a duly sworn officer of the Maine State Police, currently serving as a Detective in the Major Crimes Unit-North. I have been a police officer for 16 years and make the following statement of Probable Cause to support the charge of Murder, Title 17-A M.S.R.A. Section 201 (1)(A) and (B).

The facts and circumstances, which lead your affiant to believe this, are as follows:

- Your Affiant is a Detective with the Maine State Police, Major Crimes 1. Unit North. Your Affiant has been a Detective since February 2012. Before this your affiant was a Trooper with the Maine State Police since May of 2000. Your Affiant has successfully completed the Maine State Police Basic Training School, which was conducted by the Maine Criminal Justice Academy in Waterville Maine. Your Affiant has also investigated numerous serious crimes, including but not limited to Murder, Gross Sexual Assault, Burglary, Felony Theft, Domestic Violence, Death Scenes and Child Abuse, during your affiant's career as a law enforcement officer. Your affiant's law enforcement experience has included the preparation and execution of search warrants, the interviewing of suspects and witnesses, and the arrest of persons charged with the above listed crimes. I have personal knowledge of the facts and circumstances hereinafter related as a result of my own investigative efforts and my review of investigative materials prepared by other law enforcement agencies and officers.
- 2. Your Affiant learned from reading police reports that on August 10, 1980, the Maine State Police were summoned to the town of East Millinocket, Maine as a result of the discovery of the body of missing 16 year old Joyce McLain. McLain's body was found along a power line behind Schenck High School in East Millinocket on August 10, 1980. Your Affiant learned from reading the East Millinocket PD activity reports that McLain's father, Michael McLain, reported her missing at 1:20 PM on August 9, 1980. Your Affiant learned from reading the autopsy report that

McLain's death was categorized by the Office of the Chief Medical Examiner as a homicide. The cause of death was determined by Dr. Henry Ryan of the Office of the Chief Medical Examiner to be blunt injury to the head. Maine State Police, along with local and county law enforcement, began a joint investigation into the murder of Joyce McLain.

- 3. Your Affiant reviewed an interview of Pamela McLain that was conducted by Det. Cpl. Darryl Clement on August 10, 1980. I learned the following information from that interview: that Pamela McLain is Joyce McLain's mother; that Joyce lived with Pamela at their home located at 4 Spruce St. in East Millinocket; that on August 8, 1980 Joyce had been babysitting for the Parent family until 3:00 PM; that Joyce had ridden her bike and gone swimming at the town pool; that Joyce arrived home at 7:00 PM; that Joyce left their residence to go for a jog between approximately 7:20 and 7:30 PM; that according to Pamela McLain, Joyce was going for a jog and to run laps around the field; that Joyce was wearing a pink terry cloth top and shorts with blue trim, white stretch bra, white sneakers with a green stripe; that Joyce had put her hair up before going jogging; that Joyce was near the end of her menstrual period; that Pamela had not seen Joyce since she left to go jogging.
- 4. Your Affiant reviewed an interview of Michael Benar that was conducted by Det. Brian Strout on October 28, 2008. I learned the following information from that interview: that on August 8, 1980 he was at his home on School St. in East Millinocket; that at approximately 7:45 PM to 8:00 PM he observed Joyce McLain jogging along School St. towards the little league ball fields; that Benar recalled it was just starting to get dark; that McLain was wearing a light red or pink shorts and matching tank top; that Benar waved to McLain and she either waved or said "Hi" back; that Benar went into his home and watched McLain jog out of sight; that Benar had seen McLain at the town pool earlier that day; that Benar was fourteen years old at that time.
- 5. Your Affiant reviewed an interview of Nolan Tanous that was conducted by Det. Brian Strout on January 8, 2009. I learned the following information from that interview: that on August 8, 1980 Tanous was hanging out in front of the Schenk High school with his friend Randy Banis; that at approximately 7:30 PM he observed Phillip Scott Fournier and Leroy Spearin; that he knew both Fournier and Spearin from attending school with them; that he spoke with them; that Fournier and Spearin were drinking hard liquor from a pint bottle they had hidden under their jacket; that Fournier and Spearin appeared drunk and were acting silly; that he observed Fournier and Spearin walk along the side of the school in the direction of the soccer fields; that Tanous and Banis went into town for food and returned to the school approximately twenty to thirty minutes later, but not longer than an hour; that Tanous said that when they returned

to the school it was dusk and he saw Spearin sitting alone next to the school; that Tanous asked Spearin where Fournier was; that Spearin stated that Fournier took off and he didn't know where he is; that Spearin appeared white as a ghost.

- 6. Your Affiant reviewed a written statement that Lorrie Nadeau (Willey) prepared in April of 1983. I learned the following information from that written statement: that shortly before 9:00 PM she observed Phillip Scott Fournier running up the sidewalk by Legasse's; that Lorrie identified that person as Phillip Scott Fournier; that Fournier was carrying a bottle: that there was another male running behind Fournier that she could not identify. Your Affiant reviewed an interview of Lorrie Nadeau (Willey) that was conducted by Det. Darryl Peary on December 23, 2013. I learned the following information from that interview: that she had not been interviewed previously regarding the written statement; that on the night that Joyce McLain went missing she observed Phillip Scott Fournier running along the sidewalk near Schenk High School; that she was traveling in a vehicle with her husband, Arthur Willey; that it was approximately 9:00 PM when she saw Fournier running; that Fournier was carrying a whiskey bottle; that Fournier was running in the direction of the tennis courts; that she knew Fournier from school; that she later learned that Fournier had stolen an oil truck and crashed it; that she associated that incident as the same night that she had seen him running with the whiskey bottle.
- 7. Your Affiant reviewed a written statement that Arthur Willey prepared in April of 1983. I learned the following information from that written statement: that between 9:00 and 9:30 PM Arthur observed Phillip Scott Fournier running towards the corner of Beech and North St.; that there was another male running approximately ten feet behind Fournier. Your Affiant reviewed an interview of Arthur Willey that was conducted by Det. Darryl Peary on January 2, 2014. I learned the following information from that interview: that Arthur had prepared a written statement in 1983 describing what he witnessed; that he had not been previously interviewed regarding what he witnessed; that on a Friday night at approximately 10:00 PM he observed Phillip Scott Fournier running from behind the Schenk High School; that Arthur was traveling in a car with his wife, Lorrie Willey; that he later learned that Fournier had stolen an oil truck and crashed it; that Arthur knew Fournier through Fournier's step-father. Wayne Powers.
- 8. Your Affiant reviewed an interview of Peter Larlee that was conducted by Sgt. Dale Ames. I learned the following information from that interview: that the interview took place on August 10, 1980; that Peter Larlee learned of Joyce McLain's disappearance on August 9, 1980; that he and McLain's father, Michael McLain, were searching the area together

looking for McLain during the evening of August 9, 1980; that on August 10, 1980 at 6:00 AM Larlee left his residence and went behind the high school to the power line; that Larlee observed what he believed to be McLain's body; that he yelled and received no response; that he walked closer and saw no movement; that Larlee ran to his residence and called police.

9. Your Affiant reviewed the autopsy report prepared by Chief Medical Examiner Dr. Henry Ryan. I learned the following information from my review of his report: that Dr. Henry Ryan responded to the scene where Joyce McLain was located by Peter Larlee; that he arrived at the scene on August 10, 1980 at 11:08 AM; that the scene was located on a power line right of way behind the Schenck High School; that McLain's body was lying on her left front with her hands tied behind her back with a cloth ligature;

McLain's skull was fractured in the back and her scalp was lacerated;

that the cause of death was determined to be laceration of scalp, fractures of skull, contusions and lacerations of brain and intracranial hemorrhage; that manner of death was determined to be a homicide.

- 10. Your Affiant reviewed Tr. Dennis Mclellan's continuation report and learned the following information: that on August 10, 1980 he was requested to respond to East Millinocket to conduct a search with his K-9 Ben; that he arrived at the location of Joyce McLain's body at 12:00 PM; that at 1:20 PM K-9 Ben alerted on some clothes that were hidden under some rocks approximately 75' from the scene; that at 1:45 PM K-9 Ben alerted on some more clothes hidden under some rocks approximately 100' from the scene; that at 2:30 PM that K-9 Ben alerted on an electrical insulator; that all of the items were later collected into evidence.
- Your Affiant reviewed the officer's daily activity log for East Millinocket 11. PD. I learned the following information: that on August 9, 1980 at approximately 3:00 AM Officer Tom Jamo responded to Medway to assist in a motor vehicle crash; that he observed a Federico's Oil Truck on its side; that he recognized the operator, as Phillip Scott Fournier; that Fournier was pinned inside the truck; that Fournier was transported to Eastern Maine Medical Center where he was hospitalized for his injuries; that he conducted an investigation and learned that Fournier had stolen the oil truck from Federico's garage in East Millinocket. Your Affiant has reviewed Phillip Scott Fournier's medical records dated August 9, 1980 and learned the following information: that he was initially diagnosed with major head trauma and a fracture of the right femur; that he was later admitted to the Intensive Care Unit with the following diagnoses; concussion of the brain, fracture of the skull, fracture of the femur and general contusions of the body.

- Your Affiant reviewed an interview of Phillip Scott Fournier by Det. Cpl. 12. Darryl Clement. I learned the following information from that interview: that the interview took place on September 18, 1980; that Phillip Scott that he goes by his middle name of Scott; Fournier's DOB that Fournier told Clement that he had been at the East Millinocket pool with Jeff Spearin on August 8, 1980; that Fournier stated that he left the pool at 2:00 PM; that Fournier stated that at 3:00 PM he and Spearin started drinking at the Opal Myrick School; that Fournier stated that he was drinking vodka and Bacardi's; that Fournier stated that Cindy Nelson joined them at 4:00 PM; that he went home for supper and was brought back into East Millinocket by his parents; that he continued to drink at the Opal Myrick School; that he didn't leave the school until after dark; that Fournier stated that he was not near the Schenk High School that evening; that Fournier stated that he does not remember where he went after leaving the Opal Myrick School; that he said he remembered walking to Federico's; that Fournier stated that he does not know Joyce McLain; that Fournier stated "She didn't talk to me that day either"; that in subsequent interviews, Fournier has stated that he was with Leroy Spearin and not Jeff Spearin.
- Your Affiant reviewed an interview of Vinal Thomas that was conducted 13. by Det. Joe Zamboni on June 20, 1989. I learned the following information from that interview: that Phillip Scott Fournier came to Thomas' church on an evening several years ago; that Fournier confessed to him that he had killed Joyce McClain; that Thomas contacted Fournier's parents and had them come to the church; that he heard Fournier tell his mother three times that he had killed Joyce McLain; that Fournier was crying uncontrollably at times; that Fournier stated he "did something beyond comprehension"; that Fournier described the murder weapon as being a large clumsy object that he had to hold with two hands; that Fournier stated he hit McLain in the back of the head with the object; that Fournier stated he tried to have sex with McLain, but that it was the wrong time of the month; that Fournier said that McLain had a pad or something on; that Thomas then brought Fournier to Bangor to be interviewed by the police; that in Bangor, Fournier was interviewed by Maine State Police detectives; that Vinal Thomas was not present during Fournier's meeting with the police; that Fournier was not arrested following the interview; that Thomas transported Fournier back to his home in Medway following the interview.
- 14. Your Affiant reviewed an interview of Anita Powers that was conducted by Det. Darryl Peary on May 30, 2014. I learned the following information from that interview: that Anita is Phillip Scott Fournier's mother; that at their home many years ago she noticed that Fournier had something on his mind; that she asked him what was wrong and Fournier

replied that he needed to get some air and go for a walk; that after a period of time that she received a phone call from Pastor Vinal Thomas; that Thomas advised he was with Fournier and asked her to come see them at the Calvary Temple; that Anita went there and met with Vinal Thomas and Fournier; that Vinal Thomas stated that Fournier has something he would like to tell you; that Fournier's head was down and he was playing with his hands; that Fournier stated "I am sorry momma"; that Anita asked what he was sorry for and Fournier stated "I did it"; that Anita asked him what he did and Fournier stated "I killed Joyce McLain"; that Fournier then began to cry and state "I didn't mean to"; that Vinal Thomas brought Fournier to Bangor.

- Your Affiant reviewed an interview of Wayne Powers that was conducted 15. by Det. Darryl Peary on October 16, 2008. I learned the following information from that interview: that Wayne Powers is a step-father to Phillip Scott Fournier; that on the day that Joyce went missing Fournier asked him if he knew Pam McLain who used to have the last name Hale; that Fournier stated he was at the McLain house the previous day; that Fournier stated he was going to quit smoking and start jogging; that later that day that Wayne dropped Fournier off at the pool in East Millinocket near the high school to meet Leroy Spearin; that later that night a Medway police officer came to their residence to notify them that Fournier was involved in a car accident and that he was seriously injured; that on a day sometime after Joyce McLain's murder that Fournier was acting real nervous and pacing back and forth, that he has never seen Fournier like this before and he knew that something was bothering him; that Fournier said he wanted to talk to someone and asked to see Pastor Thomas; that Wayne brought Fournier to meet with Pastor Vinal Thomas; that Wayne returned home and a short time later that Vinal Thomas called them and asked if he and his wife, Anita Powers, could come over because Fournier has something to tell them; that they went to Thomas'; that Fournier stated he killed Joyce McLain; that Fournier was crying and stated, "I didn't mean to mama"; that Fournier was brought to Bangor to talk to police that day; that Fournier wouldn't take no for an answer if someone turned him down; that after a report in the paper mentioned about possible DNA evidence in the McLain investigation that Wayne stated "It's about time"; that Fournier replied to his comment by stating, "Well, even if they find DNA, they're still going to have to prove when it got there".
- 16. Your Affiant reviewed an interview of Phillip Scott Fournier by Det. William Caron. I learned the following information from that interview: that the date of the interview was May 15, 1981; that Fournier stated that he had been at home all day on August 8, 1980 until 4:00 PM; that Fournier stated that David Maynard had purchased three pints of Seagrams Seven for him that night; that Fournier stated that Joyce McLain was cute and had a nice smile; that Fournier stated "All I remember is tripping over

her and my hand felt her arm; it was cold. I saw the right side of her head and I don't remember anything after that. I started running down the pole line, I was drunk and tripped and I remember the oil truck rolling over."; that Fournier was asked about his different versions of the events that evening that he has told; that Fournier stated in response to that question "Because I remembered these things but I know that they weren't a part of my memory, they were things I made up."; that Fournier was asked if he remembered what he had told investigators; that Fournier stated in response to the previous question "I remember telling the investigators that I raped Joyce and that I hit her with a telephone insulator and that I kicked her. I told them I did that, which I didn't, because I'm not that way. I said I did it because I thought I had done it."; that Fournier was asked what he told investigators about McLain's hair; that Fournier stated in response to the previous questions "I said her hair was tied back with a ribbon"; that Fournier stated "I remember tripping over her feet and falling right on top of her. I felt her arm with my hand and what I felt was dead cold. Her hands were tied behind her back and she was lying on her stomach with her face to one side. I saw the left side of her face with a cut or a bruise on her forehead"; that Fournier stated "I thought at one time I may have killed her, but now I don't think I did it because it's just not me. It's not something I would do. There are parts of that night that I don't remember."; that Fournier was asked why he told investigators that he had struck Joyce with an electrical insulator?; that Fournier responded because he had struck her with it.; that Fournier stated that he struck her with a single blow to her left cheek; that Fournier was asked why he fled in a stolen truck and he responded "It was because I was trying to kill myself"; that Fournier stated that to the best of his memory Joyce was still alive when he last saw her; that your affiant is aware that many of the details provided by Fournier are consistent with the crime scene.

17. Your Affiant reviewed an interview of Ken Woodbury that was conducted by Det. Brian Strout on March 10, 2010. I learned the following information from that interview: that Ken knew Phillip Scott Fournier from having attended a rehabilitation program for drug and alcohol addiction with him in Bangor; that he attended the program two or three years after Joyce McLain's death; that Fournier came to his apartment at 2:00 AM one time and confessed that he was involved in Joyce McLain's murder; that Fournier stated that "they" killed McLain; that Fournier stated that McLain was jogging behind the high school; that Fournier stated that McLain was grabbed by a group of teens and dragged to the powerline; that Fournier stated that McLain was struck in the head with a whiskey bottle and knocked to the ground; that McLain was bound with her hands behind her back; that Fournier stated he was forced to participate in the attack; that Fournier stated that McLain was left on the power line; that Fournier stated he panicked and stole an oil truck later that night; that Fournier stated he ran head on into a car and ended up in

- the hospital; that Fournier came to Ken's residence two to three times a week after and he only wanted to talk about Joyce McLain's murder; that Ken's wife, Karen Woodbury, was present during Fournier's statements.
- 18. Your Affiant reviewed an interview of Karen Woodbury that was conducted by Det. Brian Strout on October 1, 2010. I learned the following information from that interview: that Ken Woodbury is her exhusband; that Ken had met Phillip Scott Fournier at Alcoholic's Anonymous meetings; that Fournier visited them every day at their home in Bangor; that Fournier only wanted to talk about the Joyce McLain murder; that Fournier stated he participated in McLain's murder; that Fournier stated he was behind the high school when McLain came jogging up; that Fournier stated that McLain was grabbed and dragged onto the powerline; that Fournier stated that a group of attackers were "gang banging" McLain; that Fournier stated that McLain was "hog tied"; that Fournier stated that it was not the intent to murder McLain, but that she resisted and fought the attack; that Fournier stated that he panicked and had to get away from the high school; that Fournier stated that is why he stole an oil truck to get away from what he and others had done.
- 19. Your Affiant has reviewed the interviews and statements of Phillip Scott Fournier conducted during this homicide investigation. Those interviews and Statements occurred on September 18, 1980, May 5, 1981, May 12, 1981, May 15, 1981, June 8, 1984, July 25, 1984, September 25, 1984, July 21, 1986, August 7, 1986, October 27, 1988, November 11, 1988, April 11, 1989, March 27, 2007, September 2, 2008, September 2, 2008 (2), February 12, 2009, February 26, 2009, May 9, 2009, May 25, 2009, May 25, 2009 (2), April 11, 2014 and July 22, 2015. I learned the following information: that he has made statements indicating he was solely involved in the homicide of Joyce McLain; that he has made statements that he was forced to participate in the abduction and homicide of McLain; that he has made statements that he witnessed others in the abduction of McLain; that he has made statements as being a witness to the abduction of McLain; that Fournier stated he witnessed Edward Deloge abduct and kill McLain;; that Fournier changed his statement to someone who looks like Edward Deloge in a separate interview; that Fournier, over the course of several subsequent interviews, has implicated Adam Austin, Grant Boynton, Gary Friel and Roger Pictou as being involved in the abduction and homicide of McLain.
- 20. Your affiant has learned from interviewing the investigative materials, including but not limited to, police reports, witness statements and interviews of law enforcement officers that the State police have investigated numerous individuals as potential suspects in the murder of Joyce McLain.

STATE OF MAINE PENOBSCOT, SS.

UNIFORM CRIMINAL DOCKET CRIMINAL ACTION DOCKET NO. CR-16-

STATE OF MAINE)
v.)
PHILIP SCOTT FOURNIER) MOTION TO IMPOUND
ATN: 166816B CTN: 001/000621))

NOW COMES the State, by and through its Assistant Attorney General, Leane Zainea, and moves this Honorable Court for an order sealing the complaint, arrest warrant, affidavit in support of probable cause, motion to impound and Order in this matter until arrest. In support of this motion, the State avers that:

- 1. The State has issued a complaint for intentional or knowing or depraved indifference murder of Philip Scott Fournier. The State has requested that a warrant of arrest issue. In support of the State's request for the warrant, an affidavit in support of probable cause has been filed with the complaint.
- 2. Because the allegations in this matter are over thirty years old, it is critical that the complaint, arrest warrant and affidavit in support of probable cause be sealed until such time as the defendant is in custody. Additionally, if the defendant is made aware of the arrest warrant prior to its execution, given the length of the investigation, there is an inherent risk of flight.

3. The State only requests that this indictment and arrest warrant be sealed until the defendant is, in fact, in the custody of agents of the State of Maine.

WHEREFORE, the State of Maine moves this Honorable Court for an order impounding the complaint, arrest warrant, affidavit in support of probable cause, the motion to impound and the Court's Order until the defendant is in the custody of agents of the State of Maine. The State further prays that it may be granted such other and further relief as may be just and proper.

Dated: March 3, 2016

Leane Zainea

Assistant Attorney General

Maine State Bar Number: 3707

Criminal Division

6 State House Station

Augusta, ME 04333-0006

(207) 626-8800

STATE OF MAINE PENOBSCOT, SS.

UNIFORM CRIMINAL DOCKET CRIMINAL ACTION DOCKET NO. CR-16-

STATE OF MAINE)	
v.)	
PHILIP SCOTT FOURNIER)	ORDER
)	

The Motion to Impound the complaint, arrest warrant, affidavit in support of probable cause, motion to impound and this Order are hereby impounded until the defendant is in the custody of agents of the State of Maine.

Dated: March 3, 2016

Judge, UNIFIED CRIMINAL DOCKET