

IN THE BENTON COUNTY CIRCUIT COURT, BENTONVILLE, ARKANSAS  
AFFIDAVIT OF PROBABLE CAUSE TO OBTAIN AN ARREST WARRANT

STATE OF ARKANSAS

PLAINTIFF

VS:

JAMES A. BATES  
W/M; DOB: 06-05-1984  
AR DL# 925461266

2016 FEB 22 PM 1 41  
FILED  
BENTON COUNTY, AR.  
CLERK OF DISTRICT COURT  
BRIAN J. DESHIELDS  
RECORDER

FACTS CONSTITUTING PROBABLE CAUSE

Comes now Detective Corporal Jerrod Wiseman of the Bentonville Police Department Criminal Investigations Division and under oath doth state:

The records of the Bentonville Police Department reflect that on Sunday, November 22, 2015, at 0937 hours, Officers Andrew and Adam Corbett responded to 3502 SW Elm Manor Avenue in Bentonville to investigate a death. Dispatch advised that James Bates contacted the Bentonville Police Department via 9-1-1 to report that he found Victor Collins deceased in the hot tub on the back patio of the aforementioned address.

Officer Andrew Corbett was first to arrive and entered the residence with Bentonville EMS. At 0941 hours, EMS advised that Victor was deceased and they would not be rendering medical aid.

James informed officers he lived at the residence with his five year old son, who was not present at the time. James continued and said he had invited Victor Collins, Owen McDonald, and Sean Henry to his residence the previous night (Saturday, November 21<sup>st</sup>) to watch an Arkansas Razorback football game. However, Owen and Sean were no longer at his house.

According to James, he and his friends had been drinking beer and had taken several shots of vodka. Following the conclusion of the football game, Sean had left the residence at approximately 2310 hours, which was verified during the investigation. James, Victor, and Owen decided to get in the hot tub located on the back patio, where they continued to drink beer and vodka.

James stated he and his friends continued to drink until approximately 0100 hours on Sunday, November 22, 2015, when he decided to go to bed for the night. According to James, Victor and Owen were still at his house when he decided to go to bed. In fact, James said he got out of the hot tub while Victor was still in it. Officer Andrew Corbett asked if Owen was still at his house when he went to bed, and he said, "Yeah, Owen was here." (Note: Officers did not locate Owen at James' house.)

The following morning, shortly before calling 9-1-1, James awoke and walked out of his bedroom. He did not see anyone on the living room couch as he walked into the kitchen. He then opened his back door and saw Victor floating face down in the hot tub. James stated he ran over to the hot tub, flipped Victor over, and attempted to pull him out of the water. While he was pulling on Victor, James realized Victor was deceased so he called 9-1-1 for assistance.

Detectives Andy Oliver, Tom Boyle, and Captain Justin Thompson responded to the scene to conduct an investigation. After receiving consent to search from James, Det. Boyle photographed the residence, including the back patio area. Detectives observed Victor's body floating face up with noticeable rigor mortis in his arms. The water in the tub was tinted a reddish color and appeared to contain bodily fluids and blood. They noted the following injuries to Victor: his left eye was black and appeared to have a small cut on his eye-lid; his lips were swollen and bruised; and there was blood coming from his mouth and nose.

Additionally, detectives made several observations that indicated the rim of the hot tub and the patio around it had been sprayed down with water. More specifically, there was an obvious water pattern around the hot tub that appeared wetter than the concrete closer to the house. Det. Oliver noticed ice near the edge of the patio, close to the grass. There were two hot tub head cushions and three knobs that were removed from the tub and found on the patio and ground nearby. One of the head rests on the patio was flipped up and contained a considerable pool of water. This particular head rest also had what appeared to be diluted and/or watered down blood spots. There was a broken blue Sky Vodka bottle on the patio on the west side of the hot tub. Some of the glass from this broken bottle was found rested against the edge of a water hose that was laying across the patio, which was unusual given the below freezing temperatures. As the investigation

progressed, these observations were determined to be suggestive of a struggle and a clean-up.

Detectives observed what appeared to be diluted and/or watered down blood spots around the rim and the sides of the spa. (Note: Later on in the investigation, the Arkansas State Crime Lab confirmed that the blood belonged to Victor.) Most of the blood appeared to be on the east side rim of the hot tub. Detectives also found a rather large area of blood spatter on the east side of the brown vinyl hot tub cover that was not diluted. Unlike the rim and sides of the tub, this particular area had the characteristics of blood spatter that was a deep reddish color and was coagulated. Det. Tom Boyle photographed the scene and swabbed the aforementioned blood spots.

After processing the scene, the Benton County Coroner's office was notified. Due to the undetermined cause of death, Victor Collins' body was transported to the Arkansas State Crime Lab for a medical examination to determine the cause and manner of death.

During a canvass of the area, Officer Andrew Corbett made contact with David Westley, who resided at 3504 SW Elm Manor Ave. David stated he saw James on Saturday, November 21, 2015, in the afternoon hours carrying alcohol into his (James') house. David could hear music while he was inside his own house that was coming from James' back yard late in the evening. He recalled the music playing until approximately 0100 hours on Sunday, November 22, 2015. He did not hear any people talking due to the volume of the music.

On Tuesday, November 24, 2015, Det. Oliver received a phone call from Dr. Charles Kokes, Chief Medical Examiner with the Arkansas State Crime Lab. Dr. Kokes informed Det. Oliver that he had ruled Victor Collins' death a homicide by strangulation with a contributing cause of drowning.

On November 24<sup>th</sup>, Captain Thompson and I conducted a voluntary audio recorded interview with James and his attorney, Kim Weber. James stated Victor and Owen were still in the hot tub when he got out for the evening. James recalled going to the master bathroom, where he changed into dry clothes, and then got into bed. James stated he texted a woman throughout the evening trying to get her to come over to his house. He stated he sent her the last remaining texts while lying in bed between 0006-

0013 hours and then he went to sleep. He woke up at approximately 0410 hours and noticed his living room lights were on. He got up and noticed Owen and Victor were not inside the house. Therefore, he turned off the lights and went back to sleep in his bed. James advised he did not look for Owen and Victor on the back patio.

Kim Weber provided screen shot copies of James' text messages and phone calls from his iPhone 6s Plus. We noticed that James made more phone calls after he stated he went to bed for the evening. According to James' phone, he called his mother at 0053 hours but the call log showed it was a "cancelled" call. It should be noted that the most likely way to place a cancelled call on an iPhone, the caller would have to select the contact to call from either his recent calls or his contact list. Next, the person would have to select the hang up button on the screen to cancel the call before the called party answered.

Also according to James' phone, he called his father, at 0053 hours, and it also showed to be a "cancelled" call. At 0408 hours, James' phone placed another cancelled call to his father. At 0409 hours the phone placed four more cancelled calls to three of his friends. At 0410 hours, his father called James' phone, but James did not answer. However, his father sent him a text message asking James if he was okay. James replied to this text message at 0410 hours, indicating that he had accidentally called him while he was in bed. At 0414 hours, James placed a call to Owen that showed a two second duration. At 0419 hours James placed a call to Flying Fish restaurant and at 0422 hours, he tried to call Owen again with a one second duration. According to Kim Weber, James was "butt dialing" and did not remember making any of the calls prior to his father texting him. He did, however, remember texting his father back and trying to contact Owen.

Captain Thompson asked James if he kept his phone locked. James stated his iPhone was locked by a pass code and/or fingerprint identification. This discredited the "butt dialed" reasoning because James would have had to either enter his pass code or place his fingerprint on the phone in order for it to unlock. James continued to claim that he did not remember intentionally placing the calls. The last call in question was at 0934 hours which was to Owen. James stated that when he awoke, he called Owen again while lying in bed. However, Owen did not answer. James then went to the living room and

started cleaning up. He looked outside toward the back patio and found Victor's body before calling "9-1-1" at 0935 hours.

Upon concluding the interview, James allowed the detectives to photograph his hands. They noticed he had several small cuts and scratches on his hands. When asked, James stated he possibly got those injuries from his cats and Crossfit work-outs.

On November 24<sup>th</sup>, Detective Sergeant Kris Moffit and Detective Andy Oliver conducted a voluntary recorded interview with Owen McDonald at the Bentonville Police Department. Owen advised that Victor was his best friend and their families were close. When asked about the evening in question, Owen stated he remembered seeing Victor alive in the hot tub when he left to go home. However, Owen did not recall the time when he began to walk home, which was less than two miles away. Owen admitted that he was very intoxicated when he left James' residence and did not recall many details while in the hot tub.

According to Owen, while he was walking, an unknown person picked him up and gave him a ride home. Owen's wife, Megan McDonald, was later interviewed and confirmed Owen was home and in bed at 0030 hours. Detectives noted Owen did not have any noticeable injuries to his body at the time of the interview.

Further investigation into Owen's statement revealed that the Bentonville Police Dispatch Center received a call from Richard Kyle Rainwater on November 22<sup>nd</sup>, at 0043 hours. Kyle called and said he just dropped off an intoxicated white male at 4204 SW Fieldstone Blvd in Bentonville after seeing him walking through his neighborhood. During a subsequent interview with Det. Oliver, Kyle stated that at "exactly midnight" he was driving into his driveway, which was near the intersection of SW Cabernet and SW Elm Manor. He saw Owen walking northbound on the sidewalk in front of his residence. Due to the cold weather, Kyle was concerned for Owen's well-being. Therefore, he walked his kids into the house and put them to bed. He informed his wife at approximately 0015 hours that he was going to look for Owen. Kyle drove around the block before locating Owen at the intersection of SW Gibson and SW Oakshire Road. Kyle offered Owen a ride home and Owen accepted. Owen provided his address and Kyle drove him directly to his house. Rainwater, who is a nurse, observed that Owen was extremely intoxicated but showed no signs of being in a physical altercation.

On November 25, 2015, during a follow up phone call with Dr. Charles Kokes, he described bruises and injuries to Victor's body that were consistent with a fight or a struggle taking place. He added that the assailant could also have injuries to their body.

On November 25<sup>th</sup>, the Honorable Benton County Circuit Judge Brad Karren granted a search warrant for James Bates' residence for trace evidence and hidden articles that could be found at the bottom of the hot tub. Upon executing the search warrant, detectives drained the water from the hot tub and found more evidence suggesting a struggle. Specifically, we located a broken pair of prescription eye glasses which were later identified as belonging to Victor. We also recovered his wedding ring, a broken shot glass, and several jet head covers at the bottom of the hot tub.

On November 30<sup>th</sup>, Judge Brad Karren granted a search warrant to photograph James Bates' body to determine if there were injuries consistent with a struggle. I informed James' attorney, Kim Weber, that I had a search warrant to photograph James' body. Kim Weber told me that James would be at her office at 1800 hours. Detective Boyle, Detective Oliver, and I met with Kim Weber at her office (119 South 2<sup>nd</sup> Street, Rogers). She escorted us into a conference room where we met with James Bates and Attorney Dave Mathews. For privacy, Kim Weber left the room but Dave Mathews stayed.

Det. Boyle took 55 photographs of James Bates' body. James had a bruise on the front side of his right shoulder that was approximately two inches in diameter and was yellow and brown. We also found several scratches in the area of James' abdomen that appeared to be healing. The most pronounced scratch was a linear scratch on the right side of his abdomen that appeared to be approximately one inch long and was horizontal. Upon looking at his back, we noticed a long scratch that appeared to be deeper than the scratches on the front of his body. This scratch appeared to be in line with three other scratch marks on the back side of his upper right arm and appeared to be healing.

On December 9, 2015, Detective Josh Woodhams and I met with Gary Wilson, the Billing and Collections Manager for the City of Bentonville Utilities Department, to determine if there was any water or electrical usage while James Bates stated he was in bed. Gary informed us that each residence in Bentonville was on a smart meter that electronically takes hourly measurements for the consumption of electricity and water.

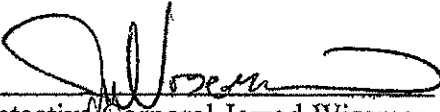
The data revealed that on November 22<sup>nd</sup>, 2015 between 0100-0300 hours, James Bates' residence used 140 gallons of water. More specifically, between 0100-0200 hours the residence used 50 gallons of water, and from 0200-0300 hours, an additional 90 gallons were used. In comparison, while all four were together earlier that evening, they never used more than 10 gallons of water in an hour. The amount of water used between 0100-0300 hours was consistent with spraying down the back patio area, which may have resulted in the wet concrete patterns observed on the morning of November 22<sup>nd</sup>. As previously mentioned, at least 140 gallons of water was used at James' residence in the two hour period between 0100-0300 hours. Upon reviewing all water usage information, since October 2013 at James' residence, this excessive amount of water usage between 0100 and 0300 hours had never before occurred.

According to the evidence and witness statements, James Bates was the only other person with Victor Collins at James' residence after midnight. The investigation determined that Owen McDonald had left James' house just prior to midnight and was at his own home and asleep by 0030 hours. This conflicts with James' initial statement that Owen was present when James went to sleep at 0100 hours. Additionally, James' phone records revealed continuous texting activity until 0015 hours. At approximately 0053 hours, James unlocked his phone and made cancelled calls to both his mother and his father. A nearby neighbor stated the music at James' residence stopped at about 0100 hours. Further evidence revealed that James was not asleep at about 0100 hours, such as the excessive amount of water and electrical usage between 0100-0300 hours as detailed above. Additionally, the autopsy revealed several injuries to Victor which were consistent with being involved in a struggle. An examination of James' body also revealed injuries, including scratches and bruises that were consistent with James being involved in a struggle.

Based on the foregoing, the State joins me in requesting that a Warrant of Arrest be issued for James A. Bates for committing the offense of, Murder in the 1<sup>st</sup> Degree (5-10-102), a Class Y Felony.


I swear that the allegations contained herein are the truth, the whole truth, and nothing but the truth.

Witness my hand this 22nd day of February, 2016.

  
Detective/Corporal Jerrod Wiseman  
Bentonville Police Department

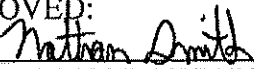
STATE OF ARKANSAS  
COUNTY OF BENTON

Subscribed and sworn to before me this 22nd day of February, 2016.

  
NOTARY PUBLIC

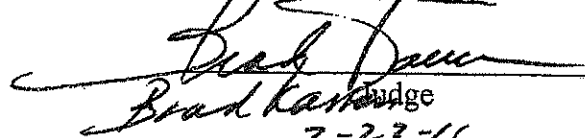
LORA MARKHAM-BROWN  
NOTARY PUBLIC-STATE OF ARKANSAS  
BENTON COUNTY  
My Commission Expires 07-15-2019  
Commission # 12372159

MY COMMISSION EXPIRES: 7-15-2019

APPROVED:  
  
PROSECUTING ATTORNEY

ORDER

I hereby find that this sworn affidavit demonstrates reasonable and probable cause for the issuance of a warrant of arrest for the above-named individual(s) for the offense of: Murder in the 1<sup>st</sup> Degree (5-10-102) a Class Y Felony, and I so direct the Benton County Circuit Court Clerk to issue a warrant for the arrest of James A. Bates.

  
Judge  
2-22-16  
Date

Issue warrant to Bentonville Police Department  
Incident # 2015-39460