Search warrant example created by FBI Special Agent John R. (Jack) Shafer for the San Luis Obispo Sheriff's Department to conduct a thorough search of 529 E. Branch St., Arroyo Grande on June 20, 2000.

SAN LUIS OBISPO COUNTY MUNICIPAL COURT

COUNTY OF SAN LUIS OBISPO	)	
	)	AFFIDAVIT IN SUPPORT OF AND
STATE OF CALIFORNIA	)	PETITION FOR SEARCH WARRANT

PERSONALLY APPEARED before me on _____, 2000, the affiant, _____ Detective of San Luis Obispo Sheriff's Department, a peace officer, who on oath makes complaint, deposes and says that he has and there is probable and reasonable cause to believe, and that he does believe, that there is on the premises located at and described a

529 East Branch Street, Arroyo Grande; a _____

including all rooms and building, outbuildings, garages, yard areas, trash container, storage areas and containers used in connection with or within the curtilage of said premises and buildings;
and the vehicle(s) described as: NOT APPLICABLE
and the person(s) of: NOT APPLICABLE
for the following property:

1. The remains of Kristin Smart's body
2. Clothing and personal property of Kristin Smart

and items or articles of personal property tending to show identity of persons in ownership, dominion or control of said premises and/or vehicle(s), including rent receipts, telephone bills, utility bills, telephone and address books, canceled mail, vehicle registration, keys and photographs.

Your affiant says that there is probable cause to believe, and that he does believe that the said property constitutes:

[ ] stolen or embezzled property;

[ ] property or things used as the means of committing a felony;

[ ] property or things in the possession of a person with the intent to use it as a means of committing a public offense, or is in the possession of another to whom he may have delivered it for the purpose of concealing it or preventing its being discovered;

[X] property or things which consist of an item or constitutes evidence which tends to show that 'a felony has been committed, or tends to show that a particular person has committed a felony.

Your affiant says that the facts in support of the issuance of the search warrant are as follows:

Your affiant has been a Deputy Sheriff for the past ____ years, employed by the San Luis Obispo County Sheriff's Office. Your affiant is now and has been for the past _____ years assigned to the Detective Division, of the San Luis Obispo County Sheriff's Office and has acted and received the information set forth in this affidavit in that capacity. I have been a peace officer in the state of California for the past ____ years and have been employed by ____ law enforcement agencies. I have attended a basic P.O.S.T. approved academy and P.O.S.T. approved homicide investigation course. I have also attended a P.O.S.T. advanced officer course, which had material dealing with or relating to basic investigation of crimes against persons. I have investigated numerous assault crimes and missing person cases.

On May 28, 1996, California Polytechnic (Cal Poly) State University Police Officer R. Cudworth took a missing person report. The missing person, Kristin Denise Smart (DOB: 2-20-77), was last seen on May 25, 1996 at approximately 2:30 a.m., when Paul Flores (DOB: 10-

22-76) and Cheryl Anderson, (DOB: 10-10-77) escorted Kristin Smart, who appeared to be intoxicated, to Muir Hall, the dormitory in which she resided.

The Cal Poly missing person report indicated that Cheryl Anderson last saw Kristin Smart at the intersection of Grand Avenue and Perimeter Road whereat Cheryl Anderson separated from Paul Flores and Kristin Smart. Cheryl Anderson walked on Grand Avenue toward Sierra Madre Hall, the dormitory in which she resided, and Paul Flores and Kristin Smart walked on Perimeter Road toward their respective dormitories. As Cheryl Anderson departed, Paul Flores told Cheryl Anderson that he would ensure Kristin Smart got to her room.

The Cal Poly missing persons report indicated that Paul Flores last saw Kristin Smart as they neared the conjunction of the walkways leading to Santa Lucia Hall and Muir Hall. At this intersection, Paul Flores walked toward his dormitory and Kristin Smart walked toward her dormitory. Kristin Smart has not been seen since that date and time. Muir Hall and Santa Lucia Hall are next to each other, with Muir Hall being slightly uphill from Santa Lucia Hall.

The Cal Poly missing persons report indicated that, Kristin Smart's roommate, Crystal Calvin, said that none of Smart's personal property, including identification, personal toiletries and clothing were missing from her room (Refer to Attachment 1, the Cal Poly missing person report).

On June 29, 1996, a search was conducted on the Cal Poly campus, using search members from the California Rescue Dog Association (CARDA). The CARDA members used cadaver dogs in their searches. These

dogs are trained to search for human remains (Refer to Attachment 2, Search Warrant Affidavit for 50 Shooting Star, p.13).

On June 29, 1996, a search of the Cal Poly campus was conducted with members of CARDA and their search dogs. Four dogs searched Santa Lucia Hall separately. Each dog alerted to room #128. The door to room #128 was opened and the dogs were allowed to enter at separate times. Each dog alerted on a corner of a bed mattress on the north [left] side of the room. The dogs showed no interest in the other mattress or any other part of the room (Refer to Attachment 3, Search Warrant Affidavit for 710 White Court, p.7).

On June 29, 1996, the mattress on the left side of Santa Lucia Hall Room #128 was seized as evidence and removed from the room. The cadaver dogs were brought back to Santa Lucia Hall. The four dogs again alerted on Room #128. The dogs were allowed into the room at separate times and all four dogs alerted on the left side of the room, where the mattress had been removed Refer to Attachment 3, Search Warrant Affidavit for 710 White Court, p.7).

Adela Morris, a CARDA dog handler said the dogs are trained to alert to human remains. Adela Morris said human body begins to decompose the moment death occurs and the cadaver dogs detect changes that take place the moment death. Adela Morris said the cadaver dogs' alerts indicated a strong possibility that a deceased body had been in that room (Refer to Attachment 2, Search Warrant Affidavit for 50 Shooting Star, p.13).

Andy Rebmann of Canine Specialty Search Associates in Redmond, Washington has been training cadaver dogs since 1978. Andy Rebmann said cadaver dogs have the capability to detect bodies from right

after the time of death to one documented case where a cadaver dog confirmed the location of a body 26 years after death. Andy Rebmann said the dogs detect human decomposition, through either fluids or odors. Andy Rebmann said that the dog's performance correlates to the training and experience of the handler. Andy Rebmann said the circumstances regarding the dogs alerting to Room #128 and no other rooms indicated that some odor related to a cadaver was strong enough in the room for the dogs to detect (Refer to Attachment 2, Search Warrant Affidavit for 50 Shooting Star, p.13).

On May 28, 1996, Investigator Kennedy spoke to Paul Flores in room #128, Santa Lucia Hall. During this conversation, Paul Flores was sitting on the bed located on the north [left] side of the room and indicated that the bed he was sitting on was his bed (Refer to Attachment 2, Search Warrant Affidavit for 50 Shooting Star, p.13).

Cal Poly Police conducted a records check and determined no reported deaths occurred in Room #128. Cal Poly Police Detective Mike Kennedy conducted a records check and determined Paul Flores resided in Santa Lucia Hall, Room #128 during the spring semester 1996 (Refer to Attachment 2, Search Warrant Affidavit for 50 Shooting Star, p.15).

On May 30, 1996, Cal Poly University Police Investigators Mike Kennedy and R. Cudworth interviewed Flores. This interview was tape-recorded. Investigator Kennedy asked Paul Flores to describe his activities from the last time he saw Kristin Smart and go backwards. The following excerpt reflects Paul Flores' answer (Refer to Attachment 4, a copy of the interview transcript, p. 2):

"Okay uhm, she walked that way, I walked that way. That's the last time I saw her. Then the other girl left at the--at the corner over there and then uh--and--and a couple times like on the way, maybe probably twice you know, I went like that, just gave her kinda like a hug, 'cause she was freezin'. I---I---I remember that.

And then I thought--I remember one time over the --it probably was about the health center, like I told uh--because uh--because Roxy [Kristin Smart's nick name] was walking real slow and so then uh--I--I told the other girl that she can go if she wanted to. I remember saying that to her.

And then uh--be--'cause I was like--and then uh--and I don't even remember what we were talkin' about during the whole time. We were just--we were just walking (unintelligible)."

On June 19, 1996, San Luis Obispo District Attorney Investigators Lawrence Hobson and William Hanley interviewed Paul Flores. This interview was videotaped. Investigator Lawrence Hobson asked Paul Flores to describe the place up to where he walked Kristin Smart on May 25, 1996. The following excerpt reflects Paul Flores' answer (Refer to Attachment 5, a copy of the interview transcript, p. 13):

"Up to, um...'cause--well, it has the driveway. (UNT) must be over there and just like I remember...I--I walked with her to where the driveway was and then I went up to my dorm because the walkway goes that way towards my dorm and then she started walking that way."

On July 12, 1996, San Luis Obispo Sheriff's Detective H. Stewart interviewed Derrick Tse. Derrick Tse said he asked Paul Flores about Kristin Smart's disappearance. Derrick Tse said Paul Flores just joked about it and said, ***"Yeah, she's at my house eating lunch with my mom"*** (Refer to Attachment 6, SLOCSO report of interview of Derrick Tse).

On September 30, 1996, FBI Special Agent Kevin MacGinnis

spoke with Paul Flores' roommate, Derrick Tse. Derrick Tse said he spoke with Paul Flores one week after the disappearance of Kristin Smart. During this conversation Tse joked with Flores saying ***"You killed her and drug her body off,"*** Flores replied, ***"Yes I killed her and brought her to my mom's and she is still there"*** (Refer to Attachment 7, The FBI report of Interview of Derrick Tse, serial 42).

On May 30, 1996, Cal Poly University Police Investigators Mike Kennedy (K) and R. Cudworth interviewed Paul Flores (F). This interview was tape-recorded. The following is an excerpt from that interview (Refer to Attachment 4, a copy of the interview transcript, p. 31):

K: Take your hat off for a second Paul. (Unintelligible) … what happened to your eye?

F: I got elbowed playing basketball.

K: Oh you did.

F: (unintelligible)

K: Okay. Uh, who were you playing basketball with?

F: Uh, I was playing with my friend Jeremy and uh—and two other guys.

On June 19, 1996, DA Investigators Lawrence Hobson (LH) and William Hanley interviewed Paul Flores at the Arroyo Grande Police Department. This interview was videotaped. During this interview, Paul Flores admitted he lied about how he received the injury to his eye. The following is an excerpt from that interview (Refer to attachment 5, the transcript of that interview, p.31):

LH: Now, one thing—one thing that really does look bad—I don't know if you want to discuss this now…but we might as well. Um…that we—we need to really get clea—cleared up is… last time we talked to you, you had a black eye.

F: Yeah.

LH: Remember that?

F: Yeah.

LH: Okay. What did you tell us?

F: I told you I got it playing basketball.

LH: That's right. And where did you get it?

F: In my car.

LH: What car?

F: My...Ranger.

LH: Un-huh. The Ranger? And when did it happen?

F: On, uh...on Memorial Day? What? Or Labor Day, whatever it was.

LH: Monday?

F: Yeah. Happened about two o'clock in the morning.

LH: Why two in the morning?

F: 'Cause I was, um, installing my radio, 'cause I' selling the truck.

LH: UH-huh And where were you workin' on your car?

F: In my garage.

LH: In the garage? And how did you get the black eye?

F: I hit the steering wheel. That's about it. But-but like how often do people hit their eye on the steering wheel? So..

LH: I don't know.

F: ...see. It—it was like right here so then I—went like that, popped that up and then—

LH: Ok. Let me ask you this.

F: What?

LH: Listen to me. Why didn't you tell us that?

F: Be—because it doesn't sound like a very likely thing.

Later, during the same interview, Paul Flores gives another explanation for his eye injury. The following is an excerpt from that interview (Refer to attachment 5, the transcript of that interview, p.37).

BH: We're not making this--yeah, we're not making this stuff up.

F: (AST) Yeah.

BH: Okay? It's--we see you with a black eye...

F: Yeah.

BH: ...Cal Poly sees you with a black eye. Friends of yours sees you with a black eye. As a matter of fact, one of your friends asks you how it happened.And you know what you say to them?

F: I say I got an elbow playin' basketball.

BH: No. No. Absolutely not. Unless they're lying. Maybe this is a big conspiracy against PAUL. I don't think so.

F: And--oh --.

BH: You said, "I don't know how I got it." Exact words. "I don't know."

F: I--I might have said that but I know --I --I --I know I didn't tell anyone that I hit it on a steering wheel though.

LH: Why?

F: Because I make me sound like a klutz.

LH: Okay. You tell us you got it playin' basketball. Then you tell us you got it hitting it on the steering wheel. What do you tell your friends how you got it?

F: I told some of them, I guess-- I guess, um, maybe I said to someone, you know, I was telling people I just got it playin' basketball.

LH: Well, what else did you say? You just woke up with it? (UNT)

F: Yeah. I--well--well, b--because I woke on, um...

LH: PAUL, why--why do you ...

F: ...on Monday.

LH: ...tell a lie about something that means nothing? It's very important, why lie about it?

F: Well--well, it was on Monday, I guess, you know, that's that's the way I figured, it was on the steering wheel and like the day later.

LH: Can you see where we're coming from?

F: Yeah.

Paul Eckman, a professor of psychology at the University of California, San Francisco, is a noted researcher in the field of detecting deception. Paul Eckman wrote *Telling Lies - Clues to Deceit in the Marketplace, Politics, and Marriage*. In this book Eckman wrote: "When there is a choice about *how* to lie, liars usually prefer concealing to falsifying. There are many advantages. For one thing, concealing usually is easier than falsifying. Nothing has to be made up (page 29)...By falsifying only a failure to remember, the liar avoids having to remember a false story; all that needs to be remembered is the untrue claim to a poor memory" (page 30). Ekman

continued, "Another, related technique is to tell the truth but with a twist, so the victim [person lied to] does not believe it. It is telling the truth...falsely (page 37)." Based on Paul Flores' evasive answers regarding the last time he saw Kristin Smart and his evasive explanations as to how he sustained his eye injury suggests that Paul is deliberately withholding critical information regarding Kristin Smart's disappearance. Based on Paul Flores' answers to Derrick Teas' inquiry, suggests Paul Flores is "telling the truth falsely" in such a manner as to make Derrick Tse believe that Paul Flores is merely joking.

On November 14, 1997, Paul Flores' father, Ruben Flores, appeared for a civil deposition (Smart vs. Flores, San Luis Obispo County Superior Court case #CO79998) and deposed on May 25, 1996 he was living at 710 White Court, Arroyo Granda, California and his wife, Susan Flores, was living at 529 East Branch Street, Arroyo Granda, California (Refer to Attachment 6, the transciript of Ruben Flores' deposition, page 100). Therefore, when Paul Flores stated to Derrick Tse ***"Yes I killed her and brought her to my mom's and she is still there"*** and ***"Yeah, she's at my house eating lunch with my mom,"*** Paul Flores made reference to 529 East Branch Street, Arroyo Granda, California, his mother's residence.

On January 24, 1997, Lauri Quinn, Susan Flores' neighbor living at 531 East Branch, appeared for a civil deposition (Smart vs. Flores, San Luis Obispo County Superior Court case #CO79998) and deposed she saw Paul Flores and his father, Ruben Flores, constructing lattice

work in the backyard of 529 East Branch. After the contruction work ceased, Lauri Quinn deposed she saw newly constructed concrete planter boxes cut into the existing cement. Lauri Quinn could not fix the date of this construction. (Refer to Attachment 7, the transciript of Lauri Quinn's deposition, page 22).

On June 19, 1996, San Luis Obispo County District Attorney Investigators William Hanley and Lawrence Hobson (LH) interviewed Paul Flores(PF). This interview was videotaped. In the following excerpt from the transcript of videotaped iinterview, Paul Flores fixed the time of construction at 529 East Branch as on or before June 19, 1996 (Refer to Attachment 8, the transcript of Paul Flores videotaped interview, page 48):

F: Well, there isn't anything but--but as I said, I already have to go. So, is it alright then?

LH: No. Not yet. We're not through yet. We haven't worked this out. Okay? Where do you gotta go at four o'clock?

F: I just have to go.

LH: Where?

F: What?

LH: Where?

F: I have to clean up some stuff. Some concrete.

LH: Where?

F: My mom's house.

On January 24, 1997, Joseph Lassiter (JL) appeared for a civil deposition (Smart vs. Flores, San Luis Obispo County Superior Court case #CO79998) and deposed he and his wife, Mary Lassitor, rented the

house at 529 East Branch Street, Arroyo Garnde, California on October 1, 1996. The following questions were asked by claimants' attorney, Jim Murphy (M)(Refer to Attachment ?, the transcript of Joseph Lassiter's civil deposition, page 24):

M: Any construction or improvements that you are aware of as having been done, let's say, within six months of your moving in there?

JL: Somebody just cut planters in the cement. I think their son-in-law or something.

M: Where is the cement at?

JL: The whole back yard is covered with cement. And like up against the fences, they cut square boxes out to put plants in.

M: Do you know where the cement was installed?

JL: It wasn't installed. It was taken out.

M: I mean.

JL: They cut holes in it.

M: They cut holes in the cement, but the cement itself had to have been poured at some time. Do you have any idea when it was poured?

JL: A guess is about 10 years. It's old cement.

Jim Murphy continued his questioning of Joseph Lassiter (page 29):

M: How wide--what are the dimensions of the planter boxes?

JL: They're all different sizes. They range--the biggest one is probably about the length of your desk, say, six feet.

M: Really?

JL: Yes.

M: Does it look like it was dug up or tilled or anything like that?

JL: No, but I've already gone out there, and it only goes six inches deep. Then it's cement underneath it.

M: Is that the same for each of the flower boxes?

JL: It's for the whole block. It's got a big retaining wall, and the cement shoots out like eight, nine feet underneath, I guess.

M: Did you ever dig up the dirt to see the condition of the cement that was underneath?

JL: No.

On May 20, 2000, FBI Special Agent Schafer spoke with Phillip Sheppard, the owner of Sherpard Construction. Phillip Sheppard has been continuously engaged in the construction and the cement laying business for 22 years. Phillip Sheppard was presented with Joseph Lassiter's description of the flower boxes in the backyard of 529 East Branch. Phillip Sheppard said something is "fishy" if the bottom of the flower box is filled with cement and only six inches of soil on top the cement. Phillip Sheppard said that cutting and removing the existing concrete for the construction of the flower box retaining walls is consistant with standard practice.

Phillip Sheppard said that pouring concrete inside the bottom of the flower box after the construction of the retaining walls is not consistant with standard practice in that the flower box will not drain properly thus, promoting mold growth and root rot. Phillip Sheppard said the proper construction procedure is to remove the existing cement, construct the retaining walls, fill the bottom of the flower box with gravel, placed multch ontop the gravel, and then place soil over the multch (Refer to Attachment FBI report of interview of Pillip Sheppard).

On January 23, 1997, Mary Lassiter appeared for a civil deposition (Smart vs. Flores, San Luis Obispo County Superior Court case #CO79998) and deposed she and her husband, Joseph Lassiter, rented the house at 529 East Branch Street. While washing the car in the backyard Mary Lassiter found a woman's earring (Refer to Attachment 9, a transcript of Mary Lassiter's deposition, p.12).

On January 24, 1997, Joseph Lassiter appeared for a civil deposition (Smart vs. Flores, San Luis Obispo County Superior Court case #CO79998) and deposed he and his wife, Mary Lassiter were in posseseion of a woman's earring Sue Lassiter found in the backyard of their residence at 529 East Branch Street. Joseph Lassiter described the earring as hooped with beads with a flat piece which connects to the ear and a "little beaded thing that hangs down." Joseph Lassiter said the earring had red "stuff" on it that, according to the people to whom he showed the earring, resembled blood. Lassiter tendered the earring to the San Luis Obispo County Sheriff's Office for examination. During the course of processing the earring, it was misplaced by San Luis Obispo County Sheriff's deputies and has yet to be found.

On March 4, 1997, San Luis Obispo County Sheriff's Deputy H. Stewart spoke with Gary Mann. Gary Mann said he conducted a ground penetrating radar (GPR) search at 529 East Branch Street. Gary Mann said he felt there was an older man-made type excavation below the second step on the east side of the house. Gary Mann said it does not look like a natural geopraphic feature and is about six feet long and

five and one half feet deep. Gary Mann said he would run the data again to confirm his findings, but felt the easiest way to rule out this feature would be to see if it continues on the other side of the fence (Refer to Attachment 10, Mann's statement to Investigator Stewart).

On March 10, 1997, San Luis Obispo County Sheriff's Deputy H. Stewart spoke with Gary Mann. Gary Mann said he conducted additional GPR testing at 523 East Branch Street, the house adjacent to 529 East Branch Street. Gary Mann said the feature he detected in the backyard of 529 East Branch did not appear to be a natural geographical feature since it did not continue under the fence to the adjacent property (Refer to Attachment 10, Mann's statement to Investigator Stewart).

On April 8, 1997, San Luis Obispo County Sheriff's Deputy H. Stewart spoke with Gary Mann. Gary Mann said he felt the feature he discovered in the back yard of 529 East Branch Street was backfill of some kind and looks to be man-made (Refer to Attachment 10, Mann's statement to Investigator Stewart).

On November 27, 1998, FBI Special Agent Amy Willeke spoke with Gary Mann. Gary Mann said he conducted a ground penetrating radar (GPR) search at 529 East Branch Street and discovered some anomalies on the west side of the backyard. Gary Mann said he revised his earlier findings and was 85 to 90 percent sure that his conclusions that the anomaly he discovered were a natural excavation or erosion. However, Gary Mann said he harbored a slight doubt as to the origin of this anomaly because this was the first search he conducted for a

grave site and becaues he did not own the ideal equipment for such a search. Gary Mann said, as he understood, a 200 megahertz radar can image the edges of an excavation while a 400 megahertz shielded radar will image a skeleton. Mann used a 200 megahertz unsheilded unit (Refer to Attachment 11, FBI's Report of Interview of Mann, serial 132).

Gary Mann said while conducting the GPR search, he saw broken pieces of concrete he understood were placed there by Ruben Flores and Paul Flores about the time Kristin Smart disappeared. Mann said he considers 529 East Branch Street "unfinished business" as he was troubled by stains on the west side of the house that showed dirt had once been piled against the house and by "splatters of dirt" on the fence four feet from the house (Refer to Attachment 10, the FBI Report of interview of Gary Mann, serial 132).

On March 3, 1997, CARDA members using cadavar dogs conducted a search of the backyard of 529 East Branch Street. The dogs showed interest in a corner of the yard, where trash cans had once been kept, but they did not alert to any specific area or make any significant finds. The cadavar dog handlers speculated that the dogs showed interest in the corner of the backyard because trash cans were once kept there and the dogs were stimulated by the residual odor of rotting refuse (Refer to Attachment 10, SLOCSO report of Investigator Stewart).

Gary Mann's initial findings and the cadavar dogs' interest in a corner of the backyard at 529 East Branch Street were discounted

because investigators believed, at the time, Paul Flores' mother, Susan Flores, did not reside at 529 East Branch Street at the time of Kristin Smart's dissapperance. Later investigation determined that, in fact, Susan Flores did reside at 529 East Branch at the time of Kristin Smart's disappearance. Given this new inforamtion, it is possible Kristin Smart's dead body was temporarily placed in the corner of the backyard and subsequently burried therein.

Based on the information in this affidavit, it appears as if Kristin Smart disappeared under suspicious circumstances and/or foul play. Based on the information in this affidavit, Kristin Smart is deceased and either died in Paul Flores, dormitory room or was placed there for an unknown period of time. Based on the information in this affidavit, Paul Flores is responsible for or has direct knowledge of Kristin Smart's disappearance and/or death. Reasonable cause exists to believe that Kristin Smart's body is burried in the back yard of 529 East Branch Street. This belief if based on the following:

1. Kristin Smart left behind all of her personal property, including but not limited to: personal identification, personal toiletries, and clothing;

2. Kristin Smart has not been seen or been in contact with anyone since the date of her disappearance;

3. Paul Flores admitted to and was identified as being the last person to be with Kristin Smart on the date she disappeared;

4. Paul Flores made inconsistent statements to investigators regarding the last time he saw Kristin Smart and about the eye injury he received on or about the date Kristin Smart disappeared. In fact, Paul Flores admitted that he lied to investigators about how he sustained the injury. A person who was not involved in the disappearance of Kristin Smart would have no reason to deliberately withhold information or make inconsistent statements or lie to investigators.

5. Court certified cadaver dogs from CARDA alerted on Paul Flores, room and more specifically on the mattress used by Paul Flores. These dogs walked through the dormitory, passing by numerous other rooms, and did not alert on any room but Room #128 where Paul Flores resided.

6. Susan Flores' neighbor, Lauri Quinn, saw Paul Flores and his father, Ruben Flores, constructing lattice work in the backyard of 529 East Branch. After the construction was completed, Lauri Quinn saw new concrete flower boxes cut into the cement.

7. Joseph Lassiter deposed that within six months of renting the residence at 529 East Branch Street, flower boxes and cement steps were installed. Joseph Lassiter deposed that one of the flower boxes is approximately six feet long and the bottom of this flower box is filled in with cement.

8. Phillip Sheppard, an experienced cement worker, said that the presence of cement in the bottom of the flowerbox is "fishy" in that the flower box in the backyard of 529 East Branch will not support healty plant growth without proper drainage.

9. Mary and Joseph Lassiter deposed they found an earring in the backyard of 529 East Branch Street with an unknown red substance on it. Lassiter said this substance was not on the metal of the earring where rust would appear but on the turquoise stone which cannot rust.

10. Cadavar dogs showed interest in a corner of the backyard at 529 East Branch Street.

11. Gary Mann conducted GPR search of the backyard at 529 East Branch Street and initially discovered what he thought to be a man-made excavation approximately six feet long and five and one-half feet deep. Although Gary Mann later revised his findings because he was inexperienced and did not use the right equipment, he considered the backyard at 529 East Branch Street "unfinished business."

12. Gary Mann saw that dirt in the the backyard at 529 East Branch Street was disturbed and appeared to have been piled up next to the house and residual dirt splattered on the cement block fence located on the westside of the property.

13. Gary Mann observed pieces of cement which were supposedly placed there by Paul Flores and his father, Ruben Flores, at or near the time Kristin Smart dissappeared.

14. Paul Flores sets the date for the construction of the cement work he did in the backyard at his mother's house, 529 East Branch Street to on or before June 19, 1996. In that Paul Flores said he had to clean up, the actual construction took place at least several days before June 19, 1996.

Based on the information in this affidavit, I believe that Kristin Smart is deceased and that her death and/or the disposal of her remains are a result of a criminal act. Therefore, I request to search 529 East Branch Street for Kristin Smart's remains, personal effects and other items that constitute evidence pertaining to this case and previously mentioned in this affidavit.

Attachments _____ through _____ are attached hereto and incorporated by reference as though fully set forth.

Your affiant has reasonable cause to believe that grounds for the issuance of a search warrant exist, as set forth in Section 1524 of the Penal Code, based upon the aforementioned information, facts and circumstances.

Your affiant prays that a search warrant be issued, based upon the above facts, for the seizure of said property, or any part thereof

[x] in the daytime

[ ] At any time of the day or night (good cause being shown therefore);

and that the same be brought before this magistrate or retained subject to the order of this Court, or of any other Court in which the offense in respect to which the property or things taken is triable, pursuant to Section 1536 of the Penal Code.

Subscribed and sworn to before me on _____, 2000 at _____AM/PM

APPROVED AS TO FORM:

_____
Judge of the Municipal Court

_____
Deputy District Attorney