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STATE OF NEW JERSEY,

v.

MARTY SMALL,

Defendant.

SUPERIOR COURT OF NEW JERSEY
LAW DIVISION/CRIMINAL PART
ATLANTIC COUNTY

INDICTMENT NO. 24-09-2951-T

**BRIEF IN SUPPORT OF DEFENDANT’S MOTION
FOR RECUSAL AND TO SUPPRESS EVIDENCE
SEIZED PURSUANT TO THE MARCH 27, 2024
SEARCH WARRANT FOR THE DEFENDANT’S
HOME**

PROCEDURAL HISTORY

On March 27, 2024, Detective Daniel Choe from the Atlantic County Prosecutor’s Office filed a Certification in Support of a Search Warrant with the Superior Court for defendant’s home. **(Exhibit A; Certification In Support of Search Warrant BED-ATL-NASW-24 – 23(A-F).**

That same day, the Honorable Bernard E. DeLury, Jr., J.S.C. executed the Warrant, which described the location as a two-story house located at [REDACTED] [REDACTED] Atlantic City, NJ. **(Exhibit B – Search Warrant; BED-ATL-NASW-24 – 23(C).**

PRELIMINARY STATEMENT

The State secured a warrant to search the defendant's [REDACTED] residence located at [REDACTED] Atlantic City, NJ. The State's contention was that this location contained "electronic" evidence of child abuse and a conspiracy to cover it up. The warrant was unconstitutional, supported by stale and insufficient probable cause. The evidence seized by the State during the search of defendant's home must be suppressed.

First as a threshold issue, recusal by the Court from hearing and deciding this present motion is appropriate pursuant to R. 1:12-1(g). This motion seeks to challenge both the staleness and veracity of the probable cause submitted by the State in support of the search warrant for defendant's home. Your Honor signed the warrant on March 27, 2024. So as to avoid the appearance of impropriety, defendant respectfully submits recusal is warranted solely as it pertains to this motion.

Second, the probable cause alleged in the certification to search the defendant's home was stale, in violation of State v. Sager, 169 N.J. Super. 38 (Law. Div. 1979) and State in the Interest of R.B.C., 183 N.J. Super. 121 (Juv. & Dom. Rel. 1981). The State alleges: (i) defendant abused [REDACTED] on 3 separate occasions, twice in December 2023 and once sometime in mid-January 2024; (ii) On January 22, 2024, the day [REDACTED] first disclosed the abuse to school officials, defendant and his wife met with Ms. Days-Chapman *outside* of his home; (iii) On January 31, 2024, the day [REDACTED] was interviewed by ACPO investigators at school, defendant attempted to call Ms. Days-Chapman 23 times and later arrived at the school; and (iv) Over 100 toll records between the phones of the defendant, his wife, and Ms. Days-Chapman. Nothing more.

By the State's own admission the alleged child abuse concluded by mid-January 2024 and any conspiracy by January 31, 2024. By January 31, 2024 authorities were aware of the disclosures and DCP&P had already started interviews. The certification fails to establish how or why the State had probable cause to believe any evidence of child abuse or a conspiracy to sweep it under the rug would be located in the defendant's home 2-3 months *after* each of those crimes concluded.

Third, even if accepted as true, the probable cause alleged by the State in its application does not establish any reasonable belief that a violation of the law existed at the premises at the time the warrant was issued on March 27, 2024. State v. Boone, 232 N.J. 417, 427 (2017). The State hangs its probable cause 'hat' on 1) the content of text messages exchanged by defendant, his wife, and Ms. Days-Chapman on various dates between January 22 – March 15, 2024; and 2) the quantity of phone contacts, namely "over 100" toll records between the defendant, his wife, and Ms. Days-Chapman.

A plain reading of the text exchanges does not provide a scintilla of evidence in support of probable cause to believe either child abuse or a conspiracy was occurring or that any evidence of either crime would be located inside of the defendant's home 2-3 after those crimes concluded. The messages are, instead, benign and reveal nothing more than [REDACTED] concern by the Smalls for the safety and well-being of [REDACTED]. The remaining sections of the certification simply reference the quantity of phone contacts between the parties, which are misleading by omission, and do not further any probable cause to believe that any child abuse or conspiracy occurred, or was occurring

inside of the defendant's home at the time this warrant was secured. Quantity of phone contact alone is not an indication of criminality.

Fourth, the certification either intentionally or in reckless disregard of the truth misrepresents the actual number of phone contacts between the phones of Ms. Days-Chapman and the defendant. It is also replete with material omissions, necessary to provide an accurate picture to the issuing judge of the long term pre-existing relationship between the Smalls and Ms. Days-Chapman. The State omitted that 1) Ms. Days-Chapman is a close family friend of the Smalls and has been for years; 2) She serves as the defendant's campaign manager and the chairperson of the Atlantic City Democratic Committee; and 3) the only "suspect" call from Ms. Days-Chapman to the defendant's wife on January 22, 2024 (date [REDACTED] first disclosed abuse to school officials) lasted just 1 minute. It is not even clear the two spoke, let alone discussed anything of substance in furtherance of a 'conspiracy', nor does the State assert any in its certification.

The factual misrepresentations and material omissions by Det. Choe in the warrant application establish a reckless disregard for the truth. At a minimum, a Franks hearing is necessary to determine whether these omissions and factual misrepresentations impacted the finding of probable cause. See Franks v. Delaware, 438 U.S. 154 (1978).

For the reasons that follow, the warrant to search the defendant's home must be quashed, and all evidence seized as a result suppressed.

STATEMENT OF FACTS

The essence of the State's alleged criminal conduct against the defendant boils down to this: between December 10, 2023 and mid-January 2024 he abused [REDACTED] [REDACTED] and then conspired with others to cover it up. The warrant permitted the State to seize "any and all electronic communication devices" found within the defendant's home, among other evidence. (Ex. B, p.2, ¶(f) & (g)). A single certification was submitted in support of this warrant. The State alleges that the abuse began "during the week of" December 10, 2023. (Ex. A, p.9, ¶3(k)). [REDACTED] first disclosed the abuse to [REDACTED] high school guidance counselor [REDACTED] on January 22, 2024 (Id., p.13, ¶3(cc)(2)), who then reported the abuse to the school Principal, Ms. Days-Chapman, that same day. (Id., p.14, ¶3(cc)(4)). Rather than reporting the abuse to DCP&P as required by school policy, Ms. Days-Chapman met with the defendant and his wife outside of their home on January 22, 2024. (Id., p.17-18, ¶3(rr)). Defendant was observed entering Ms. Days-Chapman's vehicle, where he remained for 17 minutes, before exiting and driving away. (Id., p.18, ¶3(rr)(ii-iv)).

The following day – January 23, 2024 - [REDACTED] disclosed the abuse [REDACTED] [REDACTED] (Id., p.10, ¶3(l-p)). [REDACTED] then reported [REDACTED] disclosures to DCP&P on January 24, 2024. (Id., p.10, ¶3(r)). On January 31, 2024, ACPO investigators interviewed [REDACTED] at school. (Id., p.11, ¶3(s)). At some point on that day, the defendant attempted to contact Ms. Days-Chapman 23 times and then arrived at the school to be with [REDACTED] (Id., p.19, ¶3(ss-tt)).

On March 27, 2024, the State applied for and was granted a warrant to search the defendant's home. (Ex. B; BED-ATL-NASW-24 – 23(C)). The warrant relied on the

single Certification in Support from Detective Daniel Choe from the Atlantic County Prosecutor's Office. (Ex. A).

Reading the certification in its totality, the probable cause to search the defendant's home is limited to 3 sections: p.10-11, ¶3(o-p) & (s-v); p.17-19, ¶3(rr-ss); p.19-20, ¶3(vv)(a-b). It is clear the State alleges the child abuse occurred "twice in December 2023" and once "sometime mid-January 2024". (Ex. A, p.10, ¶3(p)). It is equally clear the State alleged that any conspiracy lasted from January 22, 2024 to January 31, 2024. The single "conspiratorial" meeting alleged by the State occurred on January 22 and took place *outside* of the defendant's home. (*Id.*, p.17-18, ¶3(rr)).

According to the State's theory, if there is probable cause to believe a crime is committed, then there is also probable cause to search a suspect's home without a particularized showing as to why evidence of criminality will be found there. That is not what the Fourth Amendment, R.B.C., or Sager require. The State was required to show probable cause to believe that evidence of a crime would be found at the place to be searched at the time the warrant was issued. The State failed to establish that requisite probable cause showing.

LEGAL ARGUMENT

POINT I

RECUSAL BY THE COURT IS WARRANTED, PURSUANT TO R. 1:12-1(g)

R. 1:12-1(g) governs recusal, stating in relevant part:

"When there is any other reason which might preclude a fair and unbiased hearing and judgment, or which might reasonably lead counsel or the parties to believe so."

Judges are “to act at all times in a manner that promotes public confidence.” Code of Judicial Conduct, Canon 2(A), and “must avoid all impropriety *and* appearance of impropriety.” Id., commentary on Canon 2 (emphasis added). “A judge should disqualify himself or herself in a proceeding in which the judge’s impartiality might reasonably be questioned.” Id. at Canon 3(C)(1). “It is not necessary to prove actual prejudice on the part of the court... the mere appearance of bias may require disqualification... [T]he belief that the proceedings were unfair must be objectively reasonable.” State v. McCabe, 201 N.J. 34, 43 (2010) (holding recusal of a municipal court judge was required when he and defense counsel were adversaries in a separate probate matter that had been dormant for two years).

In State v. McCann, 391 N.J. Super. 542 (2007), a municipal court judge signed a warrant authorizing a search of the defendant’s home, whom he had previously represented. McCann, supra. 391 N.J. Super. at 544-45. The defendant filed a motion to suppress evidence, which was granted by the trial court. The State appealed. Id. at 543. Relying upon the above cited Code of Judicial Conduct and R. 1:12-1, the Appellate Division determined the circumstances raised “an appearance of impartiality” and held the municipal court judge should have recused himself from the warrant application proceedings. Id. at 554.

Similar to McCann, here there exists an objectively reasonable appearance of impartiality on the Court’s part, strictly for purposes of the present motion. Your Honor executed this warrant on March 27, 2024. In doing so, the Court has already made determinations regarding the staleness and veracity of probable cause in the supporting certification. This motion seeks to challenge both of those aspects as deficient. Under

these circumstances, it is respectfully submitted that the Court should recuse itself from hearing and deciding the issues raised in this motion.

POINT II

THE EVIDENCE IN SUPPORT OF PROBABLE CAUSE TO SEARCH THE DEFENDANT'S HOME WAS STALE

To secure this warrant, the State relied upon allegations that were at least 2 months old and, in some instances, more than 3 months old. By March 27, 2024, the allegations the State clung to were stale and insufficient to support probable cause to believe evidence of child abuse or a conspiracy would be located in the defendant's home.

A claim of "staleness" bears on whether the totality of the information in the affidavit permitted the judge to find "a fair probability that contraband or evidence of a crime [would] be found" if defendant's premises were searched during the time permitted in the warrant. State v. Smith, 155 N.J. 83, 93 (1998). In short, staleness is a question of whether the probable cause still exists when the warrant is issued and at the time of the search. See State v. Blaurock, 143 N.J. Super. 476, 479 (App. Div. 1976).

"The question of the staleness of probable cause depends more on the nature of the unlawful activity alleged in the affidavit than the dates and times specified therein." Blaurock, 143 N.J. Super. at 479. Nevertheless, time lapse is one of the factors for a court to consider when the affidavit alleges criminal conduct with defined temporal limits:

"[w]here the affidavit recites a mere isolated violation it would not be unreasonable to imply that probable cause dwindles rather quickly with the passage of time. However, where the affidavit properly recites facts indicating activity of a protracted and continuous nature, a course of conduct, the passage of time becomes less significant."

Blaurock, 143 N.J. Super. at 479.

The core question when staleness is raised in an attack upon a search warrant is: “do all the circumstances exhibited ... reasonably conduce to a belief that the law was being violated *at the time the warrant issued?*”. State v. Sager, 169 N.J. Super. 38, 44-45 (Law. Div. 1978). “Unless there be “probable cause” to justify a conclusion by a neutral magistrate that a breach of the law is existing on such persons or premises *at the time the warrant is issued*, the search is presumptively unreasonable.” State in Int. of R. B. C., 183 N.J. Super. 121, 128 (Juv. & Dom. Rel. 1981) (emphasis added).

In Sager, the State applied for a warrant to search the defendant’s apartment for suspected drug dealing activity. An affidavit containing specific dates/times the State believed defendant engaged in selling drugs was submitted in January, but the warrant was not executed at that time. Sager, supra. 169 N.J. Super. at 41. Two months later, in March, the State submitted a supplemental affidavit which confirmed more recent observations of drug activity inside the defendant’s residence. Id. But for that supplemental affidavit, the court in Sager made clear that the warrant was constitutionally infirm on staleness grounds. Id. at 45. Specifically, the Sager court found a lapse of 65 days (or 2 months) between the original affidavit and the issuance of the warrant was too remote, the information stale, and could not justify the issuance of the search warrant. Id.

In R.B.C., the defendant challenged a search warrant for his apartment on the grounds that the warrant application lacked specific dates of alleged drug transactions, leaving the issuing judge with no facts to indicate that the alleged illegal drug activity was still ongoing at the time the search warrant was issued. R.B.C., supra. 183 N.J.

Super. at 127. The court agreed and found the affidavit deficient because it failed to establish the ongoing nature of the alleged criminal activity, emphasizing that the contraband sought was easily disposable:

“If the contraband is of a sort not easily disposed of, the evidence of continued criminal activity may be weaker, and the amount of delay longer; but where the contraband is easily disposed of, the evidence of continued criminal activity must be stronger, and the amount of delay shorter.

Id. at 135 (emphasis added).

Here, the evidence relied upon by the State to support probable cause for the search of defendant’s home was stale. All of the alleged criminal conduct concluded more than 2-3 months before the search warrant was presented and executed. The State alleges two separate crimes in its certification: 1) child abuse; and 2) conspiracy to hide it from authorities. For each alleged crime, there is a distinct timeline and isolated events leading to the State’s belief it had probable cause to search the defendant’s home for evidence of criminality.

As to child abuse, it was alleged to have started “during the week of” December 10, 2023 and concluded by mid-January 2024, a period of 6 weeks. (Ex. A, p.9, ¶3(k); p.11, ¶3(t)). Specifically, the State certified to three (3) specific isolated instances of alleged abuse, “twice in December 2023, and [one] sometime in mid-January 2024.” (Id. p.10, ¶3(p)). Meaning, 2 of the 3 instances of alleged abuse were *more than 90 days* old by the time this warrant was secured and the remaining one instance of alleged abuse was *more than 60 days old*. It is undisputed that the State was aware of all allegations of abuse as early as January 25, 2024, and certainly no later than January 31, 2024. (Id. p.9, ¶3(h-k); p.11, ¶3(s)). The State did not secure this search warrant for

the defendant's home until March 27, 2024, more than 2-3 months after that crime concluded. As of March 27, 2024, there was simply no reason to believe any child abuse laws were being violated nor any reason to believe that contraband or evidence of child abuse would be found in the defendant's home. The certification, likewise, does not contain any further assertions beyond "mid-January 2024" of child abuse upon [REDACTED]. See State v. Sager, supra. 169 N.J. Super. at 45 (holding in a drug case a lapse of 65 days (or 2 months) between the original affidavit and the issuance of the warrant was too remote, the information stale, and could not justify the issuance of the search warrant). Simply put, any evidence to support probable cause for child abuse was stale by March 27, 2024.

As to the conspiracy, again there is a clear and defined timeline of alleged criminality. The only logical conclusion to draw from reading the certification is the conspiracy began on January 22, 2024 (day [REDACTED] disclosed to school officials) and concluded by January 31, 2024 (day ACPO investigators interviewed [REDACTED] at school). This is a 9-day period of time. By January 31st the disclosures by [REDACTED] were known to authorities and DCP&P had begun its interviews. Thus, any 'conspiracy' to cover up child abuse was over by that point.

The time lapse in this case of 2-3 months relative to both alleged crimes is even more critical considering the evidence sought by the State in this warrant, "any and all electronic communication devices", is easily disposed of. (Ex. B, p.3, ¶(f-g)). When that is the case, "the evidence of continued criminal activity must be stronger, and the amount of delay shorter." R.B.C., supra. 183 N.J. Super. at 135.

Providing all favorable inferences, the State fails to allege any additional instances of child abuse against ██████ after “mid-January 2024” nor any conspiratorial criminality beyond January 31, 2024 – at best. Inexplicably, the State did not secure this warrant until March 27, 2024, some 2-3 months after each of those alleged crimes concluded. By that time, there was no reason to believe that any ongoing child abuse or conspiracy to cover it up was taking place and, more importantly, that any evidence in furtherance of those crimes would be located inside the defendant’s residence.

POINT III

THE WARRANT APPLICATION FAILS TO ESTABLISH PROBABLE CAUSE THAT THE DEFENDANT’S HOME WOULD CONTAIN EVIDENCE OF CHILD ABUSE OR A CONSPIRACY TO COVER IT UP OR ANY NEXUS TO THAT CRIMINALITY

A search warrant enjoys a presumption of validity. State v. Bivins, 226 N.J. 1, 11 (2016). A defendant challenging the validity of a search warrant bears the burden of proving “there was no probable cause supporting the issuance of the warrant.” State v. Valencia, 93 N.J. 126, 133 (1983). The analysis should be limited to the four corners of the [State’s] Certification, which provide the sole support for the State’s search warrant application. State v. Marshall, 199 N.J. 602, 613 (2009).

Although presumptively valid, search warrants are not indestructible. The “requirement for a search warrant is not a mere formality,” and the showing necessary to secure one should be based “not merely [on] belief or suspicion, but [on] underlying facts or circumstances which would warrant a prudent man in believing that the law was being violated.” State v. Boone, 232 N.J. 417, 427 (2017). Probable cause requires a “fair probability” that evidence of a crime will be found in a particular place. State v. Chippero, 201 N.J. 14, 28 (2009). An “application for a warrant must satisfy the issuing

authority that there is probable cause to believe that a crime has been committed, or is being committed, at a specific location or that evidence of a crime is at the place sought to be searched." Boone, supra. 232 N.J. at 426 (emphasis in original) (internal quotations omitted).

In Boone, law enforcement applied for a search warrant for defendant's apartment unit – one of 30 inside an apartment complex. During a two month investigation into defendant's drug activity, police observed him coming and going from the apartment building and conducting what were described as "hand-to-hand" drug transactions outside of the complex. Boone, supra. 232 N.J. at 422. The State secured a warrant for a search of defendant's specific apartment, Unit 4A. Id. at 421. The State's warrant application discussed the drug activity observations made outside of the apartment building, but never discussed the inside of the apartment building within the Affidavit, nor was there any mention of defendant's specific Unit - 4A, other than in passing within the Affidavit. Id. at 423. The Boone Court struck down the warrant finding there was "no basis to conclude that narcotics were in his apartment because the affidavit never established a nexus linking the hand-to-hand drug transactions with Boone's residence." Id. at 425. "Nothing in the application specified how police knew Boone lived in Unit 4A or why that unit—one of thirty units in the building—should be searched." Id. at 421.

Identical to Boone, this certification fails to identify how or why the State had reason to believe evidence of child abuse or a conspiracy would be located in the defendant's home as of March 27, 2024 when it applied for this warrant. Two of the three alleged incidents of child abuse date back to December 2023 and only one is

alleged to have occurred “sometime [in] mid-January 2024”. (Ex. A, p.10, ¶3(p)). There are no additional acts of child abuse alleged by the State beyond that point.

As to any conspiracy, the certification fails to establish that any alleged criminal conduct in furtherance of that crime occurred *inside* of the defendant’s home nor is any such evidence asserted by the State in the certification. There is no assertion that any ‘conspiratorial’ meetings, discussions, or communications occurred in, were directed at, or originated from the defendant’s home. The opposite is true. The State concedes that the one and only ‘conspiratorial’ meeting on January 22, 2024, occurred *outside* of the defendant’s home, in the Days-Chapman vehicle. (Id., p.17, ¶3(rr)).

The State attempts to include the content of text messages between the defendant, his wife, and Ms. Days Chapman from January 22 – March 15, 2024 to support probable cause to search the defendant’s home for “electronic devices” (Id., p.21-24, ¶3(bbb-ccc)), as if these messages are somehow indicative of criminal conduct. But a plain reading of these text messages fails to establish any probable cause whatsoever to believe either child abuse or a conspiracy to keep it quiet occurred, was occurring, or that evidence of either alleged crime would be found in the defendant’s home as of March 27, 2024. The content of the text messages reveals nothing more than concern by two [REDACTED] for the safety and well-being of [REDACTED] [REDACTED]

The State also attempts to include quantity of phone contacts, as if those are nefarious on their face. (Id., p.19, ¶3(ss); p.20, ¶3(vv)(a). Number alone is not an indication of criminality. If it were, then the State would have carte blanche to search the homes of any married couple or those in regular phone contact within this state,

rendering the Fourth Amendment and NJ Constitution toothless. More specifically, the State fails to establish in its certification that any of the phone contacts, including the “over 100” toll records, occurred in, were directed at, or originated from inside of the defendant’s home.

Probable cause to believe a crime was committed does not automatically permit the State to search a defendant’s home. There must be independent probable cause to believe evidence of the crime(s) would be found inside those four walls. None exists here, rendering this warrant constitutionally infirm. All evidence seized from the search of the defendant’s home must be suppressed.

POINT IV

THE MATERIAL FACTS ASSERTED IN THE CERTIFICATION ESTABLISH AN INTENTIONAL OR RECKLESS DISREGARD FOR THE TRUTH AND WARRANT A FRANKS HEARING

A Franks hearing is required “where the defendant makes a substantial preliminary showing that a false statement knowingly and intentionally, or with reckless disregard for the truth, was included ... in the warrant affidavit, and if the allegedly false statement is necessary to the finding of probable cause.” Franks v. Delaware, 438 U.S. 154, 155-56 (1978). The defendant “must allege ‘deliberate falsehood or reckless disregard for the truth,’ pointing out with specificity the portions of the warrant that are claimed to be untrue.” State v. Howery, 80 N.J. 563, 567 (1979) (quoting Franks, 438 U.S. at 171). Only where a defendant also establishes “the allegedly false statement [was] necessary to the [issuing judge's] finding of probable cause, [does] the Fourth Amendment require that a hearing be held at the defendant's request.” State v. Desir, 245 N.J. 179, 196 (2021).

A defendant may also challenge a warrant affidavit on grounds the affiant made material omissions in the application. State v. Marshall, 148 N.J. 89, 193 (1997). “The [Franks standards] apply where the allegations are that the affidavit, though facially accurate, omits material facts.” State v. Stelzner, 257 N.J. Super. 219, 235 (App. Div. 1992).

Here, there can be no dispute the State relied heavily upon the number of contacts between the phones of all 3 parties; defendant, his wife, and Ms. Days-Chapman, to support its probable cause to search defendant’s home for “electronic communication devices”. These assertions are found on p.19, ¶3(ss) & p.20, ¶3(vv)(a) of the certification.

The State alleges that a “Communications Information Order” received by Verizon Wireless for the Days-Chapman phone revealed “over 100” telephone calls and/or text messages (MMS/SMS) between her phone and the 2 Smalls’ phones from December 1, 2023 through February 13, 2024. (Id., p.19, ¶3(vv)(a)). The truth: that data confirms that Det. Choe was aware that from December 1, 2023 to February 13, 2024 the number of phone contacts between the defendant and Days-Chapman were about half the amount listed in his certification, and about a quarter of the amount listed in the certification between the critical dates of January 22 – 31, 2024. Those dates are critical because January 22nd is the date the State alleges █████ first disclosed the abuse to school officials and by the 31st authorities were aware of them and DCP&P had already started interviews. Instead, the issuing judge was left to believe that defendant’s phone had been in contact with the Days Chapman phone “over 100” times, when the State knew otherwise. This is a reckless disregard for the truth on the part of Det. Choe.

As to the one “suspect” call between defendant’s wife and Ms. Days-Chapman on January 22, 2024 (Id. p.20, ¶3(vv)(b)), the truth is this call lasted less than 1 minute and it is unclear whether the two even spoke, let alone discussed anything in furtherance of an alleged conspiracy. There is no indication from the State that this call originated from or was directed to the defendant’s home. Similarly, there is no indication from the State as to where *any* of the “over 100” toll records originated from, were directed to, or took place.

Representing only the quantity of contact, without providing any context whatsoever regarding the known pre-existing relationship between the parties to that contact further establishes a reckless disregard of the truth on the part of Det. Choe. As a result, the paragraphs containing the quantity of phone contact are misleading by omission. (Id., p.19, ¶3(ss); p.20, ¶3(vv)(a)). The certification omitted that Ms. Days-Chapman and the Smalls have been close family friends for years. [REDACTED]

[REDACTED] Ms. Days-Chapman is the campaign manager for the defendant and she serves as chairperson of the Atlantic City Democratic Committee. There was no context whatsoever provided by the State for this known pre-existing relationship.

Compare these material omissions by Det. Choe to ¶3(ss), p.19 and ¶3(vv)(b), p.20. ¶3(ss) references defendant’s alleged efforts to contact Ms. Days-Chapman 23 times on January 31, 2024. In that paragraph, the State makes it a point to include: “It should be noted that same day, [REDACTED] was interviewed by Det. Piatt and Lt. Dougherty.” Similarly, ¶3(vv)(b) references one outgoing call from Ms. Days-Chapman to defendant’s wife on January 22, 2024. Again, the State makes a point to note: “This is the same day

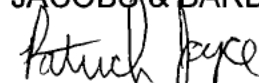
█ disclosed the abuse to school officials, to include Mrs. Chapman.” The implication being that the phone contact on those 2 dates was somehow nefarious. The point, however, is the State cherry picks when to provide further context to the issuing judge only when it believes that context will help their application. When the context hurts the warrant application, specifically any explanation regarding the long-standing pre-existing relationship between the parties, the State remains silent. Had the State provided this context to the issuing judge, the quantity of contacts on their face could have, and likely would have, been viewed in a different light.

As a result, the validity of the search warrant for the defendant’s home requires, at a minimum, a Franks hearing to determine whether this omitted information impacted the finding of probable cause.

CONCLUSION

For all of the aforementioned reasons, the warrant to search the defendant’s home is constitutionally infirm, and all evidence obtained as a result must be suppressed. Alternatively, defendant should be granted a Franks hearing for purposes of determining whether the factual misrepresentations and material omissions by the State impacted the finding of probable cause to search defendant’s home.

Respectfully submitted,
JACOBS & BARBONE, P.A.


Patrick C. Joyce, Esquire

Dated: 1/3/2025

EXHIBIT A

- B. The person of La'Quetta S. Small, DOB: 10/05/1976, a 47-year-old black female with a height of approximately 5'06" and an approximate weight of 140-160 lbs.
- C. The premises of [REDACTED] Atlantic City, NJ 08401, described as a two-story residence with a white vinyl siding exterior on the sides, a tan/brown brick/stucco wall up front and a brown roof.
- D. The premises of Atlantic City Board of Education, 1300 Atlantic Avenue, 5th Floor, Atlantic City, NJ 08401, more specifically, the office of Superintendent of Public Schools for the City of Atlantic City La'Quetta Small.
- E. A black 2021 Chevrolet, Model: Suburban, VIN: [REDACTED], with New Jersey Registration number [REDACTED] registered to the City of Atlantic City.
- F. A black 2022 Chevrolet, Model: Tahoe, VIN: [REDACTED], with New Jersey Registration number [REDACTED] registered to the Atlantic City Board of Education.

b. Based upon this investigation I have probable cause to believe that there has been and now is located certain property:

- a. Obtained in violation of the penal laws of the State of New Jersey:
- b. Possessed, controlled, designed, intended for use in connection with the violation of the penal laws of the State of New Jersey:
- c. Which has been used in connection with the violation of the penal laws of the State of New Jersey: N.J.S. 2C:30-2a, Official Misconduct; N.J.S. 2C:5-2a(1), Conspiracy to Commit Official Misconduct; N.J.S. 12-1(B)1, Aggravated Assault, a Crime of the Second Degree; N.J.S. 2C:24-4A2, Endanger the Welfare of a Child, a Crime of the Second Degree and N.J.S. 9:6-1, Child Abuse, a Crime of the Fourth Degree, N.J.S. 2C:29-3A, Hindering Apprehension, a Crime of the Third Degree, N.J.S. 2C:29-1A, Obstruction of Justice, a Crime of the Fourth Degree, and N.J.S. 9:6-8.14, Failure to Report Child Abuse, a Disorderly Persons Offense.
- d. Which constitutes evidence of or tends to show the violation of the penal laws of the State of New Jersey, said property consisting of:

1. Seizure of communication equipment including wireless phones, tablet devices, and digital devices that may be located and recovered to provide evidence of the aforementioned crimes. Within such items, data including, but not limited to stored messages, contacts and records of same.
2. Any/all electronic devices located on or in the possession of Marty Small and La'Quetta Small. These electronics are to include but are not limited to cell phones, tablets, GPS devices, removable media/storage devices, and/or any electronic communication devices.
3. A search of Marty J. Small and La'Quetta S. Small seeks to include his/her face and the fingerprints from the left and right hand, for the purpose of unlocking any digital media device that has biometric access to unlock the device and provide his/her passcode to his/her device.
4. Any and all information pertaining to passwords and/or encryption relating to the Cell phones, tablets, computer system, computer software, and/or any related communication device seized.
5. Any and all electronic devices located within the premises of [REDACTED] [REDACTED] Atlantic City, NJ 08401, and the Atlantic City Board of Education, more specifically the offices of the Superintendent of Schools for the City of Atlantic City, La'Quetta Small, at 1300 Atlantic Avenue, 5th Floor, Atlantic City, NJ 08401, for cellular phones and other electronic communication devices.
6. Photographs of the premises at [REDACTED] Atlantic City, NJ 08401, to include but not limited to foyer, kitchen area, dining area, entertainment area, "man cave," bar stools, bedrooms, bathrooms, etc.
7. A long grayish colored broom, and belts.

8. Any and all electronic devices on or within the following vehicles: a black 2021 Chevrolet, Model: Suburban, VIN: [REDACTED], with New Jersey Registration number [REDACTED], and a black 2022 Chevrolet, Model: Tahoe, VIN: [REDACTED], with New Jersey Registration number [REDACTED].
9. Electronic Evidence located within the infotainment system(s) found in the black Chevy Suburban and black Chevy Tahoe described above.
10. Any other evidence used or believed to be to preserve evidence for the prosecution for the crime of N.J.S. 2C:30-2a, Official Misconduct; N.J.S. 2C:5-2a(1), Conspiracy to Commit Official Misconduct; N.J.S. 2C:12-1(B)1, Aggravated Assault, a Crime of the Second Degree; N.J.S. 2C:24-4A2, Endanger the Welfare of a Child, a Crime of the Second Degree and N.J.S. 9:6-1, Child Abuse, a Crime of the Fourth Degree, N.J.S. 2C:29-3A, Hindering Apprehension, a Crime of the Third Degree, N.J.S. 2C:29-1A, Obstruction of Justice, a Crime of the Fourth Degree, and N.J.S. 9:6-8.14, Failure to Report Child Abuse, a Disorderly Persons Offense.
- 2). My training and experience in support of this certification are as follows:
- a. I am a detective with the Atlantic County Prosecutor's Office (ACPO), assigned to the Professional Standards & Accountability Unit (PSA). In such capacity, I am empowered to conduct investigations into violations of the criminal statutes of the State of New Jersey. I am currently involved in the investigation detailed hereinafter involving the foregoing offense in aid of which this certification is being made.
 - b. The Atlantic County Prosecutor's Office is currently investigating the alleged actions of Marty Small (DOB 03/25/1974), the current Mayor of the City of Atlantic City and his wife, La'Quetta Small (DOB 10/05/1976), the Superintendent of Schools for the City of Atlantic City.

- c. I make this certification in the performance of my duties as a law enforcement officer of the State of New Jersey. The Atlantic County Prosecutor's Office is located at 4997 Unami Boulevard, Mays Landing, New Jersey, 08330. My training and experience in support of this certification are as follows:
- d. I currently have been employed by the Atlantic County Prosecutor's Office for seven (7) years. I have been assigned to the PSA from February 2023 to present. Prior to being assigned to PSA I was assigned to the Major Crimes Unit (MCU) from August 16, 2021 to February 2023. Prior to being assigned to MCU, I was assigned to the Professional Standards & Accountability (PSA) Unit from September 1, 2020 to August 15, 2021. During these periods of time, I investigated and assisted with criminal investigations related to official misconduct, homicide, and aggravated assault incidents. From January 2017 to September 2020, I was assigned to the Special Victims Unit (SVU) and was involved in numerous cases related to child abuse investigations that included Sexual Assault, and Endangering the Welfare of a Child.
- e. Prior to my current employment with the Atlantic County Prosecutor's Office, I was employed with the Camden County Prosecutor's Office in the County of Camden, State of New Jersey from December 2015 to January 2017. I was assigned to the Child Abuse Unit. During my tenure at the Camden County Prosecutor's Office, I investigated over sixty (60) child abuse cases and was involved in numerous criminal investigations, to include but not limited to Homicide, Child Pornography, Aggravated Sexual Assault, Endangering the Welfare of a Child, and assisted other law enforcement agencies at the Federal, State and local municipalities to interview victims, witnesses, and defendants. During my tenure with the Prosecutor's Office, I was awarded with the Outstanding Police Work Award and a Letter of Recognition by the Camden County Detective's Association.
- f. Prior to my employment with the Camden County Prosecutor's Office, I was employed with the Atlantic County Prosecutor's Office in the County of Atlantic, State of New Jersey from September 2013 to December 2015. I was assigned to the Special Victims Unit from May 2014 to December 2015. Prior to my

assignment at the Special Victims Unit, I was assigned to the Trial Unit – Team C from September 2013 until April 2014. During my employment with the Atlantic County Prosecutor’s Office, I have been involved in numerous criminal investigations either directly or assisting, including, but not limited to: Homicide, Aggravated Assault, Child Abuse, Burglary, Weapons Offenses, CDS Related Offenses, Theft, and Obscenity and Indecency Offenses. I have interviewed victims, witnesses, and defendants.

- g. Prior to my employment with the Prosecutor’s Office, I was employed with the Galloway Township Police Department, Galloway, New Jersey from July 2011 to September 2013. I was assigned to Squad 4 of the Patrol Division of the Galloway Township Police Department. During my tenure at the Galloway Township Police Department, I have been also involved in numerous criminal investigations, Arrests, Assistance to other law enforcement agencies (Local, State, and Federal), Robbery, Endangering the Welfare of a Child, and Domestic Violence Incidents. During my employment as a patrolman, I was given “Exceptional Performance” notices through several quarters with a performance index above 4.0.
- h. I am also a United States Armed Forces veteran who enlisted active duty in the U.S. Air Force from October 2002 to October 2006 and was honorably discharged. I was awarded as the 366th Logistics Readiness Squadron Airmen of Year 2004 and received two (2) AF Achievement medals; awarded “Outstanding Achievement” as member of the 366th Fighter Wing Elite Base Honor Guard and for Meritorious Traffic Management Journeyman.
- i. In August of 2005, I graduated from the Community College of the Air Force with an Associate’s Degree in Transportation. And in July of 2006, I graduated from Park University with a Bachelor’s Degree in Management.
- j. I attended the Cape May County Police Academy and graduated on January 2011 with the New Jersey Police Training Commission Class A Full-Time Police Officer Certification.
- k. I attended the Middlesex County Police Academy and completed the Modified Basic Course for Investigators approved by the New Jersey Police Training Commission on December 2013.

- l. **TRAINING**: I have attended seminars for law enforcement in various counties and the following law enforcement schools: 43RD Annual Hostage Negotiation Seminar, FBI-Baltimore County Police; Police Supervision; Atlantic County Police Academy, No Body/Cold Case Investigations, NJCE Leadership Academy, NJ Counties Insurance Excess Fund, Advanced Homicide Conference, NJSP; Dark Web Investigations, NCTC-Stockton University; Mobile Digital Devices & GPS, National White Collar Crime Center; First Responders & Digital Evidence, National White Collar Crime Center; The Internet: Investigations & Intelligence, National White Collar Crime Center; Cyberstalking, National White Collar Crime Center; Internal Affairs, Camden County Police Academy; Officer Awareness Training on Anti-Police Movement; NJSP/MaGlocen; Introduction to Mortgage Fraud, National White Collar Crime Center; Cellphone Investigation Technique; National White Collar Crime Center; Open Source Intelligence-live webinar, NCTC; Video Surveillance Techniques, NCTC; Social Networking; NCTC; Intercounty Investigator School; FBI; Crisis Negotiation Team "Best of the Best"; Somerset County Police Academy; Basic Homicide Investigators Course; IHIA; 20th Annual Sex Crimes Information Sharing; MaGlocen; Interview and Interrogation; John E. Reid and Associates Inc.; Computer Voice Stress Analyzer Certified Examiner; NITV Federal Services; Basic Crisis Negotiation Course; FBI; Child First/Finding Words: Interviewing Children and Preparing for Court; Surveillance Detection for Law Enforcement and Security Professional; DHS; Basic Sex Crimes & Child Abuse Investigations; MaGlocen; Sudden Death Investigation; Camden County College Police Academy; Report Writing; Gloucester County Police Academy; The Warrior's Edge Certificate; LifeLine Training Inc., Lt. James Glennon; Conducting Complete Traffic Stop Workshop Cert.; NJ K-9 Association/Sheriff Mike Lewis.

- m. I am personally participating in this investigation and am familiar with all the facts, aspects, and circumstances of this investigation. I make this certification in the performance of my duties as a law enforcement officer of the State of New

Jersey; and based upon interviews of witnesses and information provided from other law enforcement officers assisting in this investigation.

3. The relevant facts related to the ongoing investigation into allegations of N.J.S. 2C:30-2a, Official Misconduct; N.J.S. 2C:5-2a(1), Conspiracy to Commit Official Misconduct; N.J.S. 2C:12-1(B)1, Aggravated Assault, a Crime of the Second Degree; N.J.S. 2C:24-4A2, Endanger the Welfare of a Child, a Crime of the Second Degree and N.J.S. 9:6-1, Child Abuse, a Crime of the Fourth Degree, N.J.S. 2C:29-3A, Hindering Apprehension, a Crime of the Third Degree, N.J.S. 2C:29-1A, Obstruction of Justice, a Crime of the Fourth Degree, and N.J.S. 9:6-8.14, Failure to Report Child Abuse, a Disorderly Persons Offense is as follows:

a. On Wednesday, January 24, 2024, Division of Child Protection and Permanency (DCP&P) reported to [REDACTED] Atlantic City, NJ, to speak with [REDACTED] DOB: [REDACTED] Age: [REDACTED] in reference to a DCP&P referral for allegation of physical abuse.

b. The referral was submitted by [REDACTED] [REDACTED] at [REDACTED] in Laurel Springs, N.J. The referral provided information pertaining to physical abuse committed by Marty and La'Quetta Small on [REDACTED] which was disclosed by [REDACTED], [REDACTED] during [REDACTED]

c. DCP&P stated [REDACTED] were interviewed and both denied the allegations. DCP&P stated when they arrived to speak with [REDACTED] both [REDACTED] were home and present during the interview. [REDACTED] denied disclosing abuse to anyone at the high school. [REDACTED] stated the first person she disclosed to was [REDACTED]

d. La'Quetta Small told DCP&P that she was unaware [REDACTED] made a disclosure to [REDACTED] [REDACTED]

- e. DCP&P stated [REDACTED] said she made the allegations up because she was mad at [REDACTED] for taking her phone away and neither [REDACTED] agree with the relationship [REDACTED] has with her boyfriend, later identified as [REDACTED] (DOB: [REDACTED]). DCP&P goes on to say, when she asked who her boyfriend is, La'Quetta interrupted the interview and told [REDACTED] not to provide [REDACTED]'s last name because she was not comfortable with providing another child's information to DCP&P.
- f. According to DCP&P, La'Quetta Small said she knew DCP&P would be reporting to her residence to speak with [REDACTED] because her "good friend" had told her about DCP&P involvement.
- g. La'Quetta did not disclose the identity of her "good friend."
- h. On Thursday, January 25, 2024, Sergeant Ryan Ripley and I reported to Atlantic City High School to interview [REDACTED]. She told us she knew why we were at Atlantic City High School to speak with her. She told us she was mad at [REDACTED] for not allowing her to go to Crab Du Jour with her friend a few weeks ago. She stated she made the allegations up because of this and said no physical abuse occurred.
- i. [REDACTED] stated the first person she told about the physical abuse was [REDACTED] three days ago. [REDACTED] denied disclosing to anyone at school.
- j. [REDACTED] did not know [REDACTED] "good friend" who told her DCP&P would be reporting to the home to speak with [REDACTED].
- k. [REDACTED] was interviewed by ACPO detectives. He stated [REDACTED] was being verbally, mentally and physically abused by [REDACTED]. [REDACTED] stated during the week of December 10, 2023, he witnessed over the video chat on different

occasions how [REDACTED] screamed at her and was physically abusive specifically by choking and described [REDACTED] clothing being ripped and her body bruised after the abuse incidents.

- l. On Tuesday, January 30, 2024, Detective Michelle London and I interviewed [REDACTED] [REDACTED] stated on Tuesday, January 23, 2024, at approx. 3:00 PM, she received a referral involving [REDACTED]. This initial intake was conducted via Telehealth, a remote video conference utilizing a computer and cameras.
- m. [REDACTED] advised Mr. and Mrs. Small requested [REDACTED] to be seen by [REDACTED] [REDACTED] because of "issues" with a boyfriend.
- n. [REDACTED] stated she remembered Mr. and Mrs. Small being present with [REDACTED] during the initial questionnaire while in the kitchen area, but they (Mr. and Mrs. Small) left when it was time for a one-on-one interview.
- o. [REDACTED] remembered [REDACTED] taking her device with her to a bedroom for privacy and then disclosing physical abuse by [REDACTED] and [REDACTED] [REDACTED].
- p. [REDACTED] stated [REDACTED] disclosed [REDACTED] hitting and smacking her, [REDACTED] [REDACTED] hitting her on the head with a broom, and [REDACTED] shaking her. [REDACTED] [REDACTED] stated [REDACTED] told her the physical abuse incidents happened twice in December 2023, and sometime mid-January 2024.
- q. [REDACTED] stated when she told [REDACTED] about mandatory reporting of the abuse to the State, [REDACTED] **said she disclosed it already at her school.**
- r. [REDACTED] advised she reported the disclosure [REDACTED] made to her supervisor [REDACTED] and he contacted DCP&P the following morning as part of the

mandatory reporting procedure. It should be noted, intake documents from [REDACTED] showed a telephone number (973) 953-9501 under the **Contacts Section** which has [REDACTED] **La'Quetta Small, [REDACTED] Atlantic City, NJ 08401, Email: seafood76@aol.com** as [REDACTED] guardian. Moreover, same contact information was found in [REDACTED] medical records from [REDACTED] in Atlantic City, NJ, during her visit on Tuesday, January 16, 2024, also showed **Mrs. Small's contact number as (973) 953-9501.**

- s. On January 31, 2024, Lieutenant Lynne Dougherty and Detective Hannah Piatt (ACPO), met with and interviewed [REDACTED] at Atlantic City High School.
- t. [REDACTED] disclosed being physically abused by [REDACTED] and [REDACTED] on multiple occasions during the months of December 2023 to January 2024, while inside [REDACTED] Atlantic City, NJ 08401.
- u. [REDACTED] stated [REDACTED] (Mr. Small) called her into his "mancave" to talk. [REDACTED] advised she was sitting on a high bar stool when they started arguing, which escalated to Mr. Small punching her legs. [REDACTED] stated she told [REDACTED] to "stop, you're doing too much." In addition, [REDACTED] stated her legs were bruised from Mr. Small punching her legs.
- v. [REDACTED] stated on another occasion, [REDACTED] hit her across her face with the bristle end of a broom multiple times, because she refused to go out with him since her hair was not done.
- w. [REDACTED] stated prior to her January 23rd disclosure to [REDACTED] during the [REDACTED] she disclosed the abuse to Atlantic City High School (ACHS) Guidance Counselor, Jonathan Rivera.

- x. [REDACTED] stated she believed Mr. Rivera told ACHS Principal Constance Days-Chapman because not long after she asked her “how was she doing.”

- y. It should be noted per the Atlantic City Board of Education (BOA) – District Policy #8462, Reporting Potentially Missing or Abused Children (M), clearly states the following: “The Board of Education recognizes early detection of missing, abused, or neglected children is important in protecting the health, safety, and welfare of all children. In recognition of the importance of early detection of missing, abused, or neglected children, the Board of Education adopts this Policy pursuant to the requirements of N.J.S.A. 18A:36-24 and 18A:36-25. The Board provides this Policy for its employees, volunteers, or interns for the early detection of missing, abused, or neglected children through notification of, reporting to, and cooperation with the appropriate law enforcement and child welfare authorities pursuant to N.J.S.A. 18A:36-24 and 18A:36-25 et seq., N.J.A.C. 6A:16-11.1, N.J.S.A. 9:6-8.10, and N.J.A.C. 6A:22-4.1(d).”

- z. In addition, the BOA Policy further states: “Employees, volunteers, or interns working in the school district shall immediately notify designated child welfare authorities of incidents of alleged missing, abused, and/or neglected children. Reports of incidents of alleged missing, abused, or neglected children shall be reported to the New Jersey State Central Registry (SCR) at 1-877 NJ ABUSE or to any other telephone number designated by the appropriate child welfare authorities.”

- aa. On Thursday, February 1, 2024, at approximately 12:45 PM, Det. Piatt and Lt. Dougherty met with ACHS Principal Constance Days-Chapman in reference to addressing a Memorandum of Understanding (MOU) for reporting to school’s student’s parents when law enforcement attempt to

interview them (students) in a criminal investigation. Principal Chapman understood the MOU and at the end of the interview she was told not to contact [REDACTED] because they (Lt. Dougherty and Det. Piatt) wanted to speak to [REDACTED]

bb. On Thursday, February 1, 2024, at approximately 9:00 PM, Det. Piatt and Sgt. Ripley obtained a recorded statement from Atlantic City High School Guidance Counselor Johnathan Rivera. Rivera stated he believed detectives were at his residence because of the situation with [REDACTED]

cc. Rivera stated he currently is employed at the Atlantic City High School as a guidance counselor for the past 6 years, and has been a counselor for the past ten years. He is a counselor for students in grades 9-12, alphabetically. Rivera also stated the following:

1. Rivera stated during the week of January 22, 2024, mental health training was held each day at the Atlantic City High School. At the end of each session, each student is provided with an "exit ticket." On the front of the "exit ticket" 3 faces are present, happy, neutral and sad. Each student is asked to circle one face. [REDACTED] circled the neutral face, according to Rivera.
2. Rivera stated on January 22, 2024, [REDACTED] was provided an "exit ticket" which allowed her a way to send a request about speaking with someone at the school. Rivera stated [REDACTED] wrote on the back of the ticket, "abuse" and would "like a counselor."
3. Rivera stated at approximately 10:00 AM, he followed up with [REDACTED] and pulled her from her classroom to speak with her. Rivera stated this was the 1st time he met with [REDACTED] and spoke with her for approximately 2-3 minutes in the hallway. Rivera stated it seemed like [REDACTED] wanted to talk and told him she has been hit with a broom and passed out. Rivera asked if this was ongoing, and [REDACTED] told him "No." [REDACTED] told Rivera [REDACTED] is a big guy and she wants to continue on with her life. Rivera was told by [REDACTED] that she already spoke with Principal Chapman about some choices, but Rivera did not know what she was referring to. Rivera was asked if [REDACTED] told him when the abuse occurred and he stated no.

4. Rivera stated he then discussed the matter with Principal Chapman. Rivera stated he spoke with Principal Chapman in person and told her what [REDACTED] had told him. Rivera stated **Principal Chapman told him, [REDACTED] never mentioned the abuse to her, and that she would report this to DCP&P.**
 5. It should be noted, there is no DCP&P referral from Principal Chapman or anyone from the Atlantic City Board of Education reporting the allegations of physical abuse by [REDACTED]
 6. Rivera stated whoever reports to DCP&P about the abuse must complete a form and email this form to the Atlantic City Superintendent's Office. Rivera advised he did not write any reports because he talked to Principal Chapman in person about the abuse and she told him she would report the matter to DCP&P.
- dd. On Friday, February 2, 2024, Sgt. Ripley met with and spoke with DCP&P Worker Kelly Hartman. Worker Hartman stated [REDACTED] Marty Small, spoken to her at least once over the telephone and he was contacting her multiple times between January 31, 2024 to February 2, 2024. Worker Hartman provided **Mr. Small's number as (609) 377-7118.**
- ee. On Thursday, February 8, 2024, Lt. Lynne Dougherty and Sgt. Ripley contacted DCP&P worker Jennifer Worker Okane, Division of Child Protection & Permanency (DCP&P), via telephone, to follow up on the status of [REDACTED]. The following is a summary of Lt. Dougherty and Sgt. Ripley's interview with Okane:
1. On Monday, February 5, 2024, Worker Okane and Worker Alysen Quay reported to the Atlantic City High School, Atlantic City, NJ, to speak with [REDACTED]. Worker Okane indicated [REDACTED] never reported to school on February 5, 2024.
 2. Workers Okane and Quay then reported to [REDACTED] residence, [REDACTED] Atlantic City, NJ 08401. Worker Okane stated after knocking on the front door, [REDACTED] answered the door and Worker Okane and Quay asked if [REDACTED] were home and [REDACTED] told them no, [REDACTED] were at work, and she was the only one at home.

3. Worker Okane asked if [REDACTED] could step outside to speak with Worker Okane and Quay and [REDACTED] stated yes. Worker Okane advised the residence had numerous video surveillance cameras on the exterior of the residence.
4. Worker Okane stated when [REDACTED] stepped outside, she observed two large black Chevy Tahoe vehicles drive down [REDACTED] at a high rate of speed, and park at the residence. Worker Okane stated LaQuetta Small exited one vehicle and then Marty Small exited the other and both entered the residence.

ff. On Monday, February 12, 2024, Sgt. Ripley and Detective Piatt of the Atlantic County Prosecutor's Office obtained a recorded statement from Laurie Carter, Guidance Counselor, at Atlantic City High School. Carter stated Rivera reported to her approximately two weeks ago and told her that he received a card, aka a "exit ticket" from [REDACTED] wrote something on the back of the card that was submitted on January 22, 2024. Carter stated the card has a location on it that allows someone to follow up with. Carter stated [REDACTED] wrote "yes" and provided more detail on the back of the card. Carter stated the company that organized the mental health training kept the card. The company provided the card to Rivera. Carter stated she did not read the card, Rivera was referring to.

gg. Carter stated Rivera followed up with [REDACTED] on the same day the card was submitted, January 22, 2024. Rivera did not know [REDACTED] at the time he followed up with her and did not know who her parents were. After Rivera followed up with [REDACTED] he reported to Carter. Carter stated she wasn't exactly sure of the conversation between Rivera and [REDACTED] but Rivera felt comfortable enough to let her go. Carter was asked why Rivera reported to her and Carter believed Rivera was nervous because his name would be on a report and worried about how this is going to look. Carter and Rivera then reported to Ms. Chapman's office to tell her [REDACTED] disclosure to Rivera.

hh. This was the first of two meetings with Ms. Chapman, Carter, and Rivera regarding the disclosure made by [REDACTED] Carter wanted to be present with Rivera

when they met with Ms. Chapman because she wanted to make sure someone other than just Ms. Chapman and Rivera were present in Ms. Chapman's office.

ii. Once they reported to Ms. Chapman, it became a "mess," according to Carter.

jj. Initially, Rivera was going to call DCP&P, with Carter's support. However, Ms. Chapman told Carter and Rivera she would make the call to DCP&P. Carter explained Ms. Chapman made it seem as if she was going to make the call DCP&P right then and there as they were leaving her office. Carter stated she even offered to call DCP&P because she didn't care either way, she wasn't stressed about it, but again Ms. Chapman said she would make the call to DCP&P.

kk. According to ACHS policy and state law, specifically, N.J.S.A. 9:6-8.10 "Reports of child abuse," allegations of child abuse must be reported by school officials to DCP&P immediately.

ll. In the second meeting, Ms. Chapman told Carter and Rivera, she met and spoke with [REDACTED] at their residence. She stated Ms. Chapman told them, she spoke with [REDACTED] about the [REDACTED] boyfriend. She spoke with [REDACTED] about the behavior of [REDACTED] and how intense [REDACTED] were about the boyfriend situation. Carter further explained Ms. Chapman told them how [REDACTED] would have to be able to balance each other out, meaning [REDACTED] would have to be the calm one.

mm. Carter stated when DCP&P reported to ACHS she was told by them that no report was made to DCP&P from anyone at ACHS on behalf of [REDACTED]

- nn. Carter stated this made her upset, mad and annoyed. Carter did not follow-up with **Principal Chapman** to find out why she never made the call to DCP&P because she was told not to by DCP&P.
- oo. Based on the foregoing it is believed **Principal Chapman** arranged to meet with [REDACTED] and inform them that [REDACTED] had disclosed they were physically abusing her rather than reporting it to the **Division of Child Protection and Permanency** as required by law.
- pp. An Open public records search was conducted for **Constance Days-Chapman** revealed the following telephone facility number, (609) 464-0452, which was confirmed from reports of her assistance in a child abuse investigation when she worked as the Vice-Principal for the Pleasantville High School, Pleasantville, NJ.
- qq. On Friday, February 16, 2024, Honorable Bernard E. DeLury, Jr., P.J.Cr., approved the following: 1. **Communications Information Order** for toll records in reference to all outgoing and incoming calls and text message communication to and from **Verizon Wireless** telephone facility (609) 464-0452, from 12:01 AM, on December 1, 2023, through February 13, 2024, at 11:59 PM., and 2. **Search Warrant (BED-ATL-NA3-SW-24)** for video surveillance from **Jersey Shore CCTV**, Absecon, NJ 08201, for video recordings from outside cameras located at [REDACTED] **Atlantic City, NJ 08401, the residence of Mr. and Mrs. Small.**
- rr. The review of Video footage from **January 22, 2024**, revealed the following:
- i. At 5:33 PM - **La'Quetta Small** exits her front door as a **Black BMW** bearing **NJ New Jersey Registration**, [REDACTED], pulls in front of the residence and parks. **Mrs. Small** entered the front passenger side of the vehicle. Later, the registration information revealed the BMW is registered to **Constance Days-Chapman** as the registered owner of the black BMW X5.

- ii. At 5:41 PM - **Marty Small** arrived home and walked into camera view. The driver of the BMW lowers the driver side window and appeared to speak to **Marty Small**. Driver then opened the driver's side door for a quick moment. Driver is described as a black female with a unique black framed glass. **Mr. Small** then entered the rear driver's side back seat of the BMW.
- iii. At 5:58 PM – **Marty Small** exits the BMW.
- iv. At 5:59 PM – **Marty Small** drives away in a black colored SUV.
- v. At 6:12 PM – **La'Quetta Small** exits the BMW and enters her residence as the BMW pulls away. Below are two screenshot photos that were copied using Windows Snip & Sketch Application; vi. shows what appears to be Mrs. Chapman in her BMW looking out the driver side window with the window partially down wearing a dark framed eyeglass. Vii photo also was copied using Windows Snip & Sketch Application and this photo was copied from the Press of Atlantic City article in which Mrs. Chapman showed up to support the Battle by The Bay Boys basketball game on Sunday, February 4, 2024. This last photo Mrs. Chapman was wearing a **dark framed eyeglass** similar to the one in vi, while holding what appears to be an Apple iPhone with a clear and gold case.



vi.



vii.

ss. On January 31, 2024, Mr. Small contacted Mrs. Chapman approximately 23 times. It should be noted, that same day, [REDACTED] was interviewed by Det. Piatt and Lt. Daugherty.

tt. On Monday, February 26, 2024, via GJ Subpoena request, video surveillance from the Atlantic City High School was obtained. Later, a review of the recordings, specifically the interior cameras aiming to the main entrance of the school from Wednesday, January 31, 2024, showed the following:

i. At approximately 11:07 AM, a dark SUV drove over the curb and onto the concrete walkway, parking very close, feet away, to the front doors (left side from camera view) to the school.

uu. Nobody is observed getting out from the driver side door, but a few second after the vehicle stops, Mr. Small is observed walking across in front of the SUV holding in his hand what appears to be a cellular device. Mr. Small held the device near his ear as if he was talking to someone while continue walking towards the main entrance.

vv. On Friday, March 15, 2024, Verizon Wireless produced the records by response of the **Communications Information Order**. A further review of the information provided by Verizon Wireless revealed the following:

- a. **Over 100 hundred telephone calls (outgoing and incoming) as well as text messages (MMS/SMS) were found between Mrs. Chapman's number (609) 464-0452 and Mr. Small's number (609) 377-7118 and Mrs. Small's number (973) 953-9501.**
- b. **On January 22, 2024, at 4:07 PM, there is an outgoing call made from Mrs. Chapman to Mrs. Small. This is the same day [REDACTED] disclosed the abuse to school officials, to include Mrs. Chapman.**
- ww. On Monday, March 18, 2024, Chief Counsel John Flammer of the ACPO reviewed and approved a certification for a search warrant of the person of **Constance Days-Chapman, DOB: 06/15/1985, Age: 38 years old, SS#: [REDACTED]**, the premises of the Atlantic City High School (ACHS), 1400 N. Albany Avenue, Atlantic City, NJ 08401, more specifically, the office assigned to ACHS School Principal Constance Days-Chapman, and a 2020 Black BMW, Model X5, with NJ Registration [REDACTED], VIN: [REDACTED], registered to Constance Days-Chapman for any electronic device(s) to include wireless phones, table devices, digital watch, etc.
- xx. On Tuesday, March 19, 2024, Honorable Judge Bernard E. DeLury, Jr., P.J.Cr., approved Search Warrant BED-ATL-NA19A-SW-24 (Office at the Atlantic City High School), BED-ATL-NA19B-SW-24 (The person of Constance Days-Chapman), and BED-ATL-NA19C-SW-24 (BMW X5 belonging to Mrs. Chapman), for seizure of any/all electronic devices located in the above-mentioned locations.
- yy. On Wednesday, March 20, 2024, in the morning hours, Captain Thomas Finan, and Sergeant Ryan Ripley (ACPO), met with and executed the above-mentioned search warrants at the office of School Principal Constance Days-Chapman, Atlantic City High School, 1400 N. Albany Avenue, Atlantic City, NJ 08401.

zz. Captain Finan and Sergeant Ripley seized the following electronic devices from Mrs. Chapman: a gray/dark Apple iPhone 15 Pro Max, with a clear/gold plastic Case Mate case, a black Samsung cellphone, IMEI: [REDACTED] with a black Otter Box case, and a black Apple iWatch, Series 9, 45 mm., aluminum and ceramic case and with a black elastic style wristband, which later all of the items were secured into ACPO Evidence.

aaa. On Wednesday, March 20, 2023, at 2:04 P.M., Honorable Judge Bernard E. DeLury, Jr., P.J.Cr., approved Search Warrant BED-ATL-NA20(ABC)-SW-24 for any and all stored electronic information including, but not limited to emails, all stored contacts, incoming and outgoing calls, stored incoming and outgoing text messaging, on the following devices that were seized from Constance Days-Chapman in reference to the execution of the above-mentioned search warrant: Apple iPhone 15 Pro Max (ACPO Evidence Item #45), the Samsung Android cellular telephone (ACPO Evidence Item #46), and black Apple iWatch Series 9 (ACPO Evidence Item #47).

bbb. Initial review of the Apple iPhone 15 Pro Max cellular device revealed the following text messages between Mrs. Chapman and Marty Small:

i. On Wednesday, January 31, 2024 @ 11:04 am:

a. Chapman to Mr. Small - "They are at the school" (Time Stamped @ 11:04 am)

b. Chapman to Mr. Small - "I'm at the a building" (Time Stamped @ 11:04 am). Affiant's note, on this date Lt. Dougherty and Det. Piatt interviewed [REDACTED] at the ACHS. Lt. Dougherty and Det. Piatt's arrival at the high school was at approximately 10:00 AM.

- ii. On Friday, March 15, 2024 @ 12:03 pm:
 - a. Chapman to Mr. Small - "Call you two sec !" (Time Stamped @ 12:03 pm)
 - b. Mr. Small to Chapman - "Can you send [REDACTED] downstairs please" (Time Stamped @ 12:03 pm)
 - c. Chapman to Mr. Small - "I'm at the boathouse." I'll get [REDACTED] called down now." (Time Stamped @ 12:04 pm)
 - d. Mr. Small to Chapman - "Thank you" (Time stamped @ 12:05 pm)
 - e. Chapman to Mr. Small - "She's on her way down" (Time Stamped @ 12:05 pm)
 - f. Chapman to Mr. Small - "Home?" Time (Stamped @ 11:06 pm)

ccc. Further review of the Apple iPhone 15 Pro Max belonging to Mrs. Chapman revealed the following text messages between Mrs. Chapman and La'Quetta Small (L.S.):

- i. Monday, January 22, 2024 4:14 pm:
 - a. L.S. to Chapman - "I'll come outside" (Time stamped 4:14 pm)
 - b. Chapman to L.S. - "Outside" (Time Stamped 4:22 pm)
- ii. Tuesday, January 23, 2024 @ 3:28 pm
 - a. Chapman to L.S. - "Call me" (Time Stamped 3:28 pm)
- iii. Thursday, January 25, 2024 @12:42 pm
 - a. L.S. to Chapman - "Anyone sitting in" (Time stamped 12:42 pm)
 - b. L.S. to Chapman - "Who are the Detectives" (Time stamped 12:43 pm)

- c. Chapman to L.S. - sent a picture to L.S. that contained the business cards of DSgt. Ryan Ripley & Detective Daniel Choe (Time Stamped 12:53 pm)
 - d. L.S. to Chapman - "I want to know how long they have her in the room" (Time Stamped 1:31 pm)
 - e. L.S. to Chapman - "Can you talk" (Time Stamped 3:36 pm)
 - f. Chapman to L.S. - "Not at this time" (Time Stamped 4:06 pm)
 - g. L.S. to Chapman - "K" (Time Stamped 4:11 pm)
- iv. Wednesday, January 31, 2024 @ 11:08 am
- a. Chapman to L.S. - Sent a screenshot photo of a text thread (Time stamped @ 11:02 am) that contained text communications between Samuel McGee (ACHS Vice Principal) and Chapman. A portion of the screenshot photo was circled in black and sent to L.S. The text thread communication read the following:
 - b. Chapman to McGee - "Presenting. You ok?"
 - c. McGee to Chapman - "Prosecutor is here"
 - d. Chapman to McGee - "For [REDACTED]?"
 - e. McGee to Chapman - "yes"

Wednesday, January 31, 2024 @ 11:11 am

- f. L.S. to Chapman - "Was on phone with Sicker" (Time Stamped 11:11 am)
- g. L.S. to Chapman - "I will not let them target her" (Time Stamped 11:11 am)
- h. L.S. to Chapman - "Marty is there" (Time Stamped 11:11 am)

- i. **L.S. to Chapman - "They don't talk to kids more than once Don't know what their motive is" (Time Stamped 11:12 am)**
 - j. **L.S. to Chapman - "Davinee is coming to pick her up" (Time Stamped 3:36 pm)**

 - v. **Tuesday, February 6, 2024 @ 6:13 pm**
 - a. **L.S. to Chapman - "[REDACTED] is home" (Time Stamped 6:13 pm)**
 - b. **Chapman to L.S. - "Is she ok?" (Time Stamped 6:17 pm)**
- 4) Based upon my training, experience, and the investigation to date, I have probable cause to believe that items of evidentiary value, in particular any electronic devices, to include, but not limited to cellular telephones, tablets, digital watches, interior photographs of the premises at [REDACTED] Atlantic City, NJ 08401, to include but not limited to photographs of foyer, kitchen area, dining area, entertainment area, "man cave," bar stools, bedrooms, bathrooms, etc., and vehicle's "infotainment" systems, to support evidence of crimes of N.J.S. 2C:30-2a, Official Misconduct; N.J.S. 2C:5-2a(1), Conspiracy to Commit Official Misconduct; N.J.S. 2C:12-1(B)1, Aggravated Assault, a Crime of the Second Degree; N.J.S. 2C:24-4A2, Endanger the Welfare of a Child, a Crime of the Second Degree and N.J.S. 9:6-1, Child Abuse, a Crime of the Fourth Degree, N.J.S. 2C:29-3A, Hindering Apprehension, a Crime of the Third Degree, N.J.S. 2C:29-1A, Obstruction of Justice, a Crime of the Fourth Degree, and N.J.S. 9:6-8.14, Failure to Report Child Abuse, a Disorderly Persons Offense.
- 5) Also, based upon my training and experience, I know that modern technology, in particular, mobile devices such as cellular telephones, tablets, and digital watches, often are protected by both a biometric lock and encryption, which requires a user to present their face and/or fingerprint as a key to unlocking said device and decrypting the data therein. Based upon my investigation, as a detailed above, I submit that there is probable cause to believe that the above-named individuals

are involved in the commission of above-mentioned crimes, and that the devices found therein will be unlocked by his/her biometric features. If the device is not unlocked within a certain time period, usually no later than 48 hours, but often shorter, the device defaults to a passcode. Accordingly, I request this Court compel the above-mentioned individuals to provide bodily characteristics in the form of facial recognition/fingerprints to any device found at the above-described properties, vehicles, and persons, and further allow law enforcement to use reasonable methods to achieve compliance with this Court's Order.

- 6) It is also my training and experience suspects connect and access the internet with the purpose to communicate via internet platforms utilizing electronic devices such as Apple iPod Touch, Apple iPad, Sony PSP, Kindle Fire, PC computers, laptop computers, and any devices that establishes an internet connection through WiFi and/or via Bluetooth. Therefore, I am requesting this Court to approve seizure of any and all electronic devices that can establish connection to the internet via WiFi and/or Bluetooth such as those devices mentioned above.
- 7) The specific evidence to be searched for and seized within the persons of Marty J. Small, and La'Quetta S. Small; the premises of [REDACTED] Atlantic City, NJ 08401, and the premises of the Atlantic City Board of Education, more specifically the offices of the Superintendent of Schools for the City of Atlantic City, La'Quetta Small, at 1300 Atlantic Avenue, 5th Floor, Atlantic City, NJ 08401; a black 2021 Chevrolet, Model: Suburban, VIN: [REDACTED], with New Jersey Registration number [REDACTED] registered to the City of Atlantic City, and a black 2022 Chevrolet, Model: Tahoe, VIN: [REDACTED], with New Jersey Registration number [REDACTED] registered to the Atlantic City Board of Education :
 - a) **Any/all electronic devices located on or in the possession of Marty Small and La'Quetta Small. These electronics are to include, but are not limited to cell phones, tablets, GPS devices, removable media/storage devices, and/or any electronic communication devices as well as PC computers and laptop computers.**
 - b) **A search of Marty J. Small and La'Quetta S. Small seeks to include his/her face and the fingerprints from the left and right hand, for the purpose of**

unlocking any digital media device that has biometric access to unlock the device and provide his/her passcode to his/her device.

- c) Any and all electronic information pertaining to passwords and/or encryption relating to the Cell phones, tablets, computer system, computer software, and/or any related communication device.
- d) Any and all containers, safes, or compartments reasonably associated with the residence of [REDACTED] Atlantic City, NJ 08401, to include any and all garages and or storage sheds, trash cans and dumpsters, garbage within the residence, around the residence or within garbage cans and dumpsters, locked containers to include safes and any and all other locked containers or compartments for electronic devices.
- e) Any and all electronic devices located within the premises of [REDACTED] Atlantic City, NJ 08401, and the Atlantic City Board of Education, more specifically the offices of the Superintendent of Schools for the City of Atlantic City, La'Quetta Small, at 1300 Atlantic Avenue, 5th Floor, Atlantic City, NJ 08401, for cellular phones and other electronic communication devices.
- f) Photographs of the premises at [REDACTED] Atlantic City, NJ 08401, to include but not limited to foyer, kitchen area, dining area, entertainment area, "man cave," bar stools, bedrooms, bathrooms, etc.
- g) A long grayish colored broom, and belts.
- h) Any and all electronic devices on or in the following vehicles: a black 2021 Chevrolet, Model: Suburban, VIN: [REDACTED], with New Jersey Registration number [REDACTED], and a black 2022 Chevrolet, Model: Tahoe, VIN: [REDACTED], with New Jersey Registration number [REDACTED]
- i) Electronic Evidence located within the infotainment system(s) found in the black Chevy Suburban and black Chevy Tahoe described above.
- j) Digital evidence pertaining to this investigation for violation of criminal laws of the State of New Jersey, N.J.S. 2C:30-2a, Official Misconduct; N.J.S. 2C:5-2a(1), Conspiracy to Commit Official Misconduct; N.J.S. 2C:12-1(B)1, Aggravated Assault, a Crime of the Second Degree; N.J.S. 2C:24-4A2, Endanger the Welfare of a Child, a Crime of the Second Degree and N.J.S. 9:6-1, Child Abuse, a Crime of the Fourth Degree, N.J.S. 2C:29-3A, Hindering Apprehension, a Crime of the Third Degree, N.J.S. 2C:29-1A, Obstruction of Justice, a Crime of the Fourth Degree, and N.J.S. 9:6-8.14, Failure to Report Child Abuse, a Disorderly Persons Offense.

A. WHEREFORE, based on the information contained in this certification and based on my training and experience, I respectfully request that the warrant be issued for the persons of Marty J. Small and La'Quetta S. Small, the premises of [REDACTED] [REDACTED] Atlantic City, NJ 08401, and the premises of the Atlantic City Board of Education, more specifically the offices of the Superintendent of Schools for the City of Atlantic City, La'Quetta Small, at 1300 Atlantic Avenue, 5th Floor, Atlantic City, NJ 08401; a black 2021 Chevrolet, Model: Suburban, VIN: [REDACTED], with New Jersey Registration number [REDACTED] registered to the City of Atlantic City, and a black 2022 Chevrolet, Model: Tahoe, VIN: [REDACTED], with New Jersey Registration number [REDACTED] registered to the Atlantic City Board of Education, and the vehicle's "infotainment" system(s), for evidence previously described above.

B. I certify that the foregoing statements made by me are true. I am aware that if any of the foregoing statements made by me are willfully false, I am subject to punishment.

N.J. Ct. R. 1:4-4

[Handwritten signature]
/s./Daniel Choe, Detective
Atlantic County Prosecutor's Office
State of New Jersey

Reviewed and approved by:
Chief Counsel John Flammer, electronically approved on 03/27/2024
at 1:51 P.M.

[Handwritten signature] 3/27/24
2:17 PM

Bernard E. DeLury, Jr., JSC
Judge of the Superior Court
State of New Jersey

EXHIBIT B

- e. Any and all information pertaining to passwords and/or encryption relating to the Cell phones, tablets, computer system, computer software, and/or any related communication device seized.
- f. Any and all containers, safes, or compartments reasonably associated with the residence of [REDACTED] Atlantic City, NJ 08401, to include any and all garages and or storage sheds, trash cans and dumpsters, garbage within the residence, around the residence or within garbage cans and dumpsters, locked containers to include safes and any and all other locked containers or compartments for any and all electronic communication devices.
- g. All occupants of [REDACTED] Atlantic City, NJ 08401, for cellular phones, tablets, electronic watches, and any other electronic communication devices.
- h. Photographs of the premises at [REDACTED] Atlantic City, NJ 08401, to include but not limited to foyer, kitchen area, dining area, entertainment area, "man cave," bar stools, bedrooms, bathrooms, etc.
- i. A long grayish colored broom, and belts.
- j. Any other evidence used or believed to be to preserve evidence for the prosecution for the crime of N.J.S. 2C:30-2a, Official Misconduct; N.J.S. 2C:5-2a(1), Conspiracy to Commit Official Misconduct; N.J.S. 2C:12-1(B)1, Aggravated Assault, a Crime of the Second Degree; N.J.S. 2C:24-4A2, Endanger the Welfare of a Child, a Crime of the Second Degree and N.J.S. 9:6-1, Child Abuse, a Crime of the Fourth Degree, N.J.S. 2C:29-3A, Hindering Apprehension, a Crime of the Third Degree, N.J.S. 2C:29-1A, Obstruction of Justice, a Crime of the Fourth Degree, and N.J.S. 9:6-8.14, Failure to Report Child Abuse, a Disorderly Persons Offense.

There has been and is now located certain property:

- a. Obtained in violation of the penal laws of the State of New Jersey, specifically, N.J.S. 2C:30-2a, Official Misconduct; N.J.S. 2C:5-2a(1), Conspiracy to Commit Official Misconduct; N.J.S. 2C:12-1(B)1, Aggravated Assault, a Crime of the Second Degree; N.J.S. 2C:24-4A2, Endanger the Welfare of a Child, a Crime of the Second Degree and N.J.S. 9:6-1, Child Abuse, a Crime of the Fourth Degree, N.J.S. 2C:29-3A, Hindering Apprehension, a Crime of the Third Degree, N.J.S. 2C:29-1A, Obstruction of Justice, a Crime of the Fourth Degree, and N.J.S. 9:6-8.14, Failure to Report Child Abuse, a Disorderly Persons Offense.

- b. Possessed, controlled, designed, and or intended for use in violation of the penal laws of the State of New Jersey;
- c. Which has been used in connection with the violation of the penal laws of the State of New Jersey; and
- d. Which constitutes evidence of or tends to show commission of N.J.S. 2C:30-2a, Official Misconduct; N.J.S. 2C:5-2a(1), Conspiracy to Commit Official Misconduct; N.J.S. 2C:12-1(B)1, Aggravated Assault, a Crime of the Second Degree; N.J.S. 2C:24-4A2, Endanger the Welfare of a Child, a Crime of the Second Degree and N.J.S. 9:6-1, Child Abuse, a Crime of the Fourth Degree, N.J.S. 2C:29-3A, Hindering Apprehension, a Crime of the Third Degree, N.J.S. 2C:29-1A, Obstruction of Justice, a Crime of the Fourth Degree, and N.J.S. 9:6-8.14, Failure to Report Child Abuse, a Disorderly Persons Offense.

And the Court having had an opportunity to examine the supporting certification, which was personally submitted to me by Detective Daniel Choe of the Atlantic County Prosecutor's Office,

And the Court being satisfied from the foregoing that grounds for granting the certification exist,

THEREFORE, YOU ARE HEREBY COMMANDED to enter and search the above named residence, as well as any individuals located within the residence, to secure evidence with the necessary and proper assistance, for the property specified serving this warrant and making the search, and to take into your possession all such specified property which may be found in the electronic evidence, to the end that same may be dealt with according to law.

YOU ARE FURTHER COMMANDED and authorized to employ any necessary assistance or expertise of any other law enforcement personnel or agency in conducting the search for and seizure of evidence as authorized pursuant to this warrant.

YOU ARE FURTHER AUTHORIZED to compel **Marty L. Small and La'Quetta S. Small** to exhibit bodily characteristics in the form of facial recognition/fingerprints to devices found in his/her possession and on his/her person and provide the passcode(s) to any digital media devices and use reasonable methods to achieve compliance with this Court's authorization/directive.

YOU ARE FURTHER AUTHORIZED to visually document the scene of the search, including the location inside and outside of the premises, and appearance of seized evidence, with a camera and/or other like device.

YOU ARE FURTHER COMMANDED, in the event that you seize any of the above described articles, to give a copy of this warrant, together with a receipt for the property so seized, to the person from whom it is taken or in whose possession it is found, or in the absence of such person to leave a copy of this warrant, together with such receipt, in or upon the premises from which the said property was taken.

YOU ARE FURTHER COMMANDED, to execute this search warrant in one of the following time periods so authorized below:

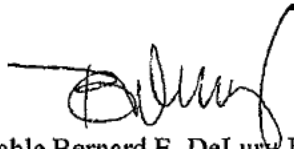
- (X) At any hour of day or night.
- () Between the hours of 5:00 AM and 11:59 PM.

YOU ARE FURTHER COMMANDED to execute this search warrant by one (1) of the two (2) methods so authorized below:

- () Without knocking and announcing the identity and purpose of law enforcement officers.
- (X) By knocking and announcing the identity and purpose of law enforcement officers.

YOU ARE FURTHER COMMANDED to execute this warrant within ten (10) days from the issuance hereof, and forthwith make a report of the execution of this Warrant and a written inventory of the property seized by you.

GIVEN AND ISSUED under my hand on this 27 day of March, 2024
at 2:17 A.M. ~~(P.M.)~~



/s./Honorable Bernard E. DeLury Jr., P.J.Cr.
Judge of the Superior Court
Atlantic County, State of New Jersey

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STATE OF NEW JERSEY,

v.

MARTY SMALL

Defendant

SUPERIOR COURT OF NEW JERSEY
LAW DIVISION/CRIMINAL PART
ATLANTIC COUNTY

INDICTMENT NO. 24-09-2951-T

Criminal Action

ORDER

THIS MATTER having been brought before the Court by Patrick C. Joyce, Esquire of the law firm of Jacobs & Barbone, P.A., attorneys for defendant Marty Small upon due notice to and in the presence of Elizabeth Fischer, Esquire, Assistant Atlantic County Prosecutor appearing on behalf of the State of New Jersey and the Court having reviewed the submissions and having heard oral argument and no cause appearing to the contrary;

It is on this _____ day of _____, 2025,

ORDERED AND ADJUDGED that defendant's Motion to Suppress Evidence seized pursuant to the March 27, 2024 search warrant for the defendant's home is hereby **GRANTED**.

IT IS FURTHER ORDERED AND ADJUDGED that any and all evidence seized from the defendant's home as a result of the March 27, 2024 search warrant is hereby **SUPPRESSED**.

Hon. _____, J.S.C.