

State of Minnesota
County of Ramsey

District Court
2nd Judicial District

Prosecutor File No.
Court File No.

0620231229
62-CR-17-1908

State of Minnesota,
Plaintiff,

COMPLAINT
Warrant

vs.

MICHAEL ANTHONY WITHERS DOB: 03/21/1958

MCF Stillwater
Stillwater, MN 55303

Defendant.

The Complainant submits this complaint to the Court and states that there is probable cause to believe Defendant committed the following offense(s):

COUNT I

Charge: Murder - 2nd Degree - With Intent-Not Premeditated

Minnesota Statute: 609.19.1(1)

Maximum Sentence: 40 years imprisonment

Offense Level: Felony

Offense Date (on or about): 01/31/1987 to 02/01/1987

Control #(ICR#): 87012374

Charge Description: On or between January 31, 1987 and February 1, 1987, in the County of Ramsey, Minnesota, Michael Anthony Withers did cause the death of Lillian Kuller with intent to effect the death of Lillian Kuller.

COUNT II

Charge: Murder - 2nd Degree - Without Intent - While Committing a Felony

Minnesota Statute: 609.19.2(1)

Maximum Sentence: 40 years imprisonment

Offense Level: Felony

Offense Date (on or about): 01/31/1987 to 02/01/1987

Control #(ICR#): 87012374

Charge Description: On or between January 31, 1987 and February 1, 1987, in the County of Ramsey, Minnesota, Michael Anthony Withers did cause the death of Lillian Kuller without intent to effect the death of any person, while committing or attempting to commit a felony.

STATEMENT OF PROBABLE CAUSE

On February 1, 1987, at about 12:42 p.m., St. Paul Police were dispatched to the duplex at 12XX Goodrich Avenue, St. Paul, Ramsey County, Minnesota, on a report of an apparent homicide. When officers arrived, they were met by K.H. and N.M. K.H. told police that she had just checked on her landlord and downstairs neighbor, Lillian Kuller (DOB: 9/14/1905), and found her dead in her bedroom and the apartment ransacked.

When the officers entered the downstairs unit, they saw that the lights were off and the shades were down. Drawers in the living and dining rooms had been pulled out, and some had been dumped. In the master bedroom, there were two twin beds aligned parallel with each other, and Kuller's deceased body was lying crossways across one of the beds with her legs hanging down over one side and her head hanging down in the gap between the two beds. There was a pillow over Kuller's head and upper body.

A den window on the west side of the building was open about 14.5 inches (both interior and storm). Investigators opined at the time that entry had not made through the window because there was dust on the sill that did not appear to have been disturbed. Neither the front nor back exterior doors showed sign of forced entry.

K.H. told police that she rents the upstairs unit from Kuller and that she lives there with her brother, Joseph Horan. She said that the last time she saw Kuller was ten days ago and the last time she spoke with Kuller was on the phone on January 24. She said that the previous night she left for work at about 11:45 p.m. and that she saw that Kuller's front door was closed; however, when she returned from work at about 12:20 p.m. that day, the door was ajar. She said that this was unusual so she tried calling Kuller on the phone but got a busy signal. She said that she then went downstairs and entered the apartment, saw that it had been ransacked, and then found Kuller's body on the bed.

J.H. told police that on January 31, he was home all day except from about 5:15 p.m. to 6:45 p.m. He said that when he went to bed at about 12:30 a.m. that night, he heard Kuller's television on. He said that he woke the next morning at about 10:30 a.m., showered, and gathered his things to play basketball at St. Mark's Church. He said that he was supposed to deliver the rent check to Kuller so he went downstairs and saw that Kuller's door was ajar. He said that he knocked on the door but received no answer so he reached in and put the rent check on a table just inside the door. He said that he noticed a note to the postman on the floor by the door, so fearing that Kuller might not see the check on the table, he put the check on the floor by the note.

N.M. told police that that she had been staying with K.H. and J.H. the past week. She said that on January 31, she left the house at 5:30 p.m. and returned at 12:30 a.m. She said that when she returned, she noticed that Kuller's front door was open about an inch. She said she thought this was odd but that she didn't enter the Kuller's apartment because she doesn't know Kuller. She said that when she went to bed around 2:00 a.m., she heard noises from the downstairs apartment in the back but didn't think much about it because she knew that Kuller stayed up late and woke early. She said that she got up at 9:30 a.m., retrieved the newspaper, and saw that Kuller's door was still ajar and that Kuller's newspaper was on the floor in the hallway.

Police searched the yard and found shoeprints in the snow immediately below the open window. The prints were on a sidewalk that was only partially covered in snow due to melting. Police found more shoeprint in the backyards of two houses across the alley. These prints appeared to be the same as those found at Kuller's residence and were heading toward Kuller's residence. They found more prints in the alley between the houses.

While police were investigating the scene, they were approached by D.L. (age 44). D.L. said that delivers Kuller's newspaper and that he delivered her paper that morning between 5:45 a.m. and 6:00 a.m. He said that Kuller's front door was open about eight inches and that the lights in the living room were on. He said that it didn't strike him as suspicious because he knew that Kuller sometimes kept unusual hours.

The Ramsey County Medical Examiner conducted the autopsy. The Medical Examiner found that Kuller had subgaleal hemorrhages (hemorrhages between the skull and scalp) and multiple abrasions on her head. There were multiple sites of soft tissue hemorrhages within the muscular tissue of the neck region and within the laryngeal area. The cause of death was listed as "asphyxia associated with assault." The manner of death was listed as homicide.

As part of the autopsy, Dr. McGee collected clippings from Kuller's fingernails, which have been held as evidence by St. Paul Police. In 2010, St. Paul Police asked the BCA to conduct forensics testing on the clippings, Kuller's clothes, and other evidence collected from the scene. The BCA found a blood stain on the nightgown that Kuller was wearing when she died, and it was able to obtain a partial DNA profile, indicated as female, from that stain. The BCA also found that one of the fingernail clippings contained a mixture of DNA from two or more individuals, as least one of whom was male. **MICHAEL ANTHONY WITHERS (DOB: 3/21/58)**, the above-named defendant, could not be excluded as being a possible contributor to the mixture (his DNA profile was in the MN DNA database from a previous conviction). A female who lived in St. Cloud also could not be excluded from being a contributor to the DNA mixture. The testing determined that 99.995% of the general population could be excluded from being a potential contributor to the DNA mixture.

Records from the Ramsey County Jail show that the defendant was released from that facility on January 27, 1987.

Investigators interviewed the female from St. Cloud. She denied any knowledge of the crime, Kuller, or the defendant. Investigators interviewed other witnesses and checked financial and law enforcement databases but were unable to find any connection between this female and the defendant or Kuller.

In 2012, the BCA conducted DNA tests on a hair found on a pillow from Kuller's bedroom. The partial DNA profile previously obtained from the blood stain matched the profile from the hair and did not match the profiles from either the defendant or the female from St. Cloud. The profile from the hair, indicated as female, could not be excluded as being a possible contributor to the DNA mixture obtained from the fingernail clipping.

On February 11, 2013, the Ramsey County Attorney's Office declined prosecution against both the defendant and the female from St. Cloud.

In 2016, the Ramsey County Attorney's Office re-opened the investigation and asked the BCA to conduct additional testing. A known hair from Kuller, obtained during the autopsy, was submitted to the BCA, and the DNA profile from this hair was compared to the profile from the hair from the pillow, the partial profile from the blood stain, and the DNA mixture from the fingernail clipping. The profile from the known hair matched the profile obtained from the hair from the pillow. This profile would not be expected to occur more than once in the world population. The profile from the known hair also matched the partial profile from the blood stain. The probability of selecting an unrelated individual at random from the general population having a DNA profile that would match this partial profile is approximately 1 in 65 million. A comparison of the profile from the known hair to the DNA mixture from the fingernail clipping showed that Kuller cannot be excluded from being a possible contributor to the mixture.

In March 2017, the BCA conducted Y-chromosome tests on various pieces of evidence, including Kuller's fingernail clippings. On one of the clippings the BCA found a Y-chromosome profile that matched the

defendant's Y-chromosome profile. This profile has been observed in 1 in 2309 individuals in the African-American population, 1 in 1355 individuals in the Asian population, 1 in 2801 individuals in the Caucasian population, 1 in 1757 individuals in the Hispanic population, and 1 in 1282 individuals in the Native American population. Another Y-chromosome profile and three partial Y-chromosome profiles were found on Kuller's other fingernail clippings, and they all matched the defendant's profile.

Based on the forensic tests from 2012 and 2016, the State does not consider the female from St. Cloud to be a suspect. Rather, the State believes that the DNA mixture from Kuller's fingernails is a mixture of the defendant's and Kuller's own DNA.

The defendant's criminal history:

On March 14, 2014, the defendant pled guilty to Burglary in the First Degree for a home invasion that occurred on December 28, 2013 at 93 South Victoria Street, St. Paul (1.1 miles from Kuller's residence). When he pled guilty, he admitted that he entered the residence through a window. (Court File No. 62-CR-14-1122)

On January 23, 2014, the defendant pled guilty Burglary in the Second Degree for a home invasion that occurred on December 28, 2013, at 888 Grand Avenue, St. Paul (1.0 miles from Kuller's residence). When he pled guilty, he admitted that he entered the apartment through a window. (Court File No. 62-CR-13-10016)

On November 9, 2006, the defendant pled guilty to Burglary in the First Degree for a home invasion that occurred on January 11, 2006, at 568 Lincoln Avenue, St. Paul (1.7 miles from Kuller's residence). When he pled guilty, he admitted that he entered the apartment through a window. (Court File No. K5-06-2503)

On May 6, 2003, the defendant pled guilty to Receiving Stolen Property. The Complaint alleges that sometime between March 29, 2003, at 3:00 p.m. and March 30, 2003, at about 1:42 a.m., someone broke into an apartment at 75 North Griggs Street, St. Paul (0.5 miles from Kuller's residence), by climbing through a window. Approximately two hundred audio CDs were stolen. Records show that the next day the defendant sold the stolen CDs to various pawnshops and a music store. (Court File No. K0-03-1194)

On June 1, 2000, the defendant pled guilty to Burglary in the Second Degree for a home invasion that occurred on March 23, 2000, at 81 Oxford Street, St. Paul (0.9 miles from Kuller's residence). The Complaint in that case states that the intruder cut a screen and entered through a window. (Court File No. K4-00-1023)

On July 28, 1995, the defendant pled guilty to Burglary in the Second Degree for a home invasion that occurred on July 27, 1995 at the apartment building at 578 Grand Avenue, St. Paul (1.6 miles from Kuller's residence). When he pled guilty, he admitted that he entered the apartment through a window. (Court File No. K3-95-2437)

On July 14, 1992, the defendant pled guilty to Burglary in the Third Degree for a home invasion that occurred on May 16, 1992 at the apartment building at 971 Goodrich Avenue, St. Paul (1.0 miles from Kuller's residence). When he pled guilty, he admitted that he entered the apartment through a window. (Court File No. K7-92-1437)

On April 14, 1987, the defendant pled guilty to Burglary in the First Degree for a home invasion and assault that occurred on February 10, 1987 at 963 Goodrich Avenue, St. Paul (1.0 miles from Kuller's residence). When he pled guilty, he admitted that he burglarized the residence and stabbed an occupant with a screwdriver. (Court File No. 44540)

On January 26, 1987, the defendant pled guilty to the following offenses:

- Burglary in the Second Degree for a home invasion that occurred on January 17, 1987 at 1072 Goodrich Avenue, St. Paul (0.7 miles from Kuller's residence) (Court File No. 44418). The police reports state that the intruder entered the residence by breaking the lock on the back door. The reports state that police followed tracks in the snow from 1072 Goodrich to the residence at 1006 Laurel Avenue (0.7 miles) and found the defendant inside. The defendant told police that he lived there with his mother and sisters. The treads on the shoes that the defendant was wearing matched shoe prints in the snow. The reports also state that there was a burglary reported at 1071 St. Claire and that there were shoeprints in the snow that went from 1071 St. Claire to 1072 Goodrich and that these shoeprints matched the defendant's shoes. 1006 Laurel Avenue is 1.1 miles from Kuller's residence.
- Burglary in the Third Degree for a home invasion that occurred on May 10, 1985 at 1061 Ashland Avenue, St. Paul (0.9 miles from Kuller's residence). The police reports state that the defendant entered the home by prying open the back door. (Court File No. 41476)
- Attempted Burglary in the Third Degree for an attempted home invasion that occurred on November 11, 1986. When the defendant pled guilty, he admitted that he tried to break into the residence at 1061 Goodrich Avenue, St. Paul (0.8 miles from Kuller's residence), and that he tried to enter by "pulling at the window." (Court File No. 44115)

On April 1, 1985, the defendant pled guilty to Receiving Stolen Property. When he did so, he admitted that on March 22, 1984, he sold four rings to City Coin on University Avenue in St. Paul and that he knew these rings were stolen. The police reports state that these rings were stolen during a home invasion at 701 Fairmont Avenue, St. Paul (1.6 miles from Kuller's residence), on March 19 or 20, 1984 and that the intruder entered the home through a living room window. The reports state that there were pry marks on the jambs of two other windows. (Court File No. 40066)

SIGNATURES AND APPROVALS

Complainant requests that Defendant, subject to bail or conditions of release, be:
(1) arrested or that other lawful steps be taken to obtain Defendant's appearance in court; or
(2) detained, if already in custody, pending further proceedings; and that said Defendant otherwise be dealt with according to law.

Complainant declares under penalty of perjury that everything stated in this document is true and correct. Minn. Stat. § 358.116; Minn. R. Crim. P. 2.01, subds. 1, 2.

Complainant

Thomas Arnold
Sergeant
367 Grove St
St Paul, MN 55101
Badge: 134

Electronically Signed:
03/16/2017 09:00 AM
ramsey County, mn

Being authorized to prosecute the offenses charged, I approve this complaint.

Prosecuting Attorney

Andrew Johnson
345 Wabasha Street N
Suite 120
St Paul, MN 55102
(651) 266-3222

Electronically Signed:
03/15/2017 10:57 AM

FINDING OF PROBABLE CAUSE

From the above sworn facts, and any supporting affidavits or supplemental sworn testimony, I, the Issuing Officer, have determined that probable cause exists to support, subject to bail or conditions of release where applicable, Defendant's arrest or other lawful steps be taken to obtain Defendant's appearance in court, or Defendant's detention, if already in custody, pending further proceedings. Defendant is therefore charged with the above-stated offense(s).

SUMMONS

THEREFORE YOU, THE DEFENDANT, ARE SUMMONED to appear on _____, _____ at _____ AM/PM before the above-named court at 15 W Kellogg Blvd, St Paul, MN 55102 to answer this complaint.

IF YOU FAIL TO APPEAR in response to this SUMMONS, a WARRANT FOR YOUR ARREST shall be issued.

WARRANT

To the Sheriff of the above-named county; or other person authorized to execute this warrant: I order, in the name of the State of Minnesota, that the Defendant be apprehended and arrested without delay and brought promptly before the court (if in session), and if not, before a Judge or Judicial Officer of such court without unnecessary delay, and in any event not later than 36 hours after the arrest or as soon as such Judge or Judicial Officer is available to be dealt with according to law.

- Execute in MN Only* *Execute Nationwide* *Execute in Border States*

ORDER OF DETENTION

Since the Defendant is already in custody, I order, subject to bail or conditions of release, that the Defendant continue to be detained pending further proceedings.

Bail: \$
Conditions of Release:

This complaint, duly subscribed and sworn to or signed under penalty of perjury, is issued by the undersigned Judicial Officer as of the following date: March 16, 2017.

Judicial Officer G. Tony Atwal Electronically Signed: 03/16/2017 10:53 AM

Sworn testimony has been given before the Judicial Officer by the following witnesses:

**COUNTY OF RAMSEY
STATE OF MINNESOTA**

State of Minnesota

Plaintiff

vs.

Michael Anthony Withers

Defendant

*LAW ENFORCEMENT OFFICER RETURN OF SERVICE
I hereby Certify and Return that I have served a copy of this Warrant
upon the Defendant herein named.*

Signature of Authorized Service Agent:

DEFENDANT FACT SHEET

Name: Michael Anthony Withers
DOB: 03/21/1958
Address: MCF Stillwater
Stillwater, MN 55303

Alias Names/DOB:
SID:
Height:
Weight: 0lbs.
Eye Color:
Hair Color:
Gender:
Race:
Fingerprints Required per Statute: Yes
Fingerprint match to Criminal History Record: No
Handgun Permit: No
Driver's License #:
Case Scheduling Information: Please file publicly before noon on 3-16-17
Alcohol Concentration:

STATUTE AND OFFENSE GRID

Cnt Nbr	Statute Type	Offense Date(s)	Statute Nbrs and Descriptions	Offense Level	MOC	GOC	Controlling Agencies	Case Numbers
1	Charge	1/31/1987	609.19.1(1) Murder - 2nd Degree - With Intent-Not Premeditated	Felony	H2253		MN0620900	87012374
2	Charge	1/31/1987	609.19.2(1) Murder - 2nd Degree - Without Intent - While Committing a Felony	Felony	H2253		MN0620900	87012374