

STATE OF COLORADO)
 COUNTY OF WELD) ss. AFFIDAVIT

DR#08-13039

08CR1319-DIV-11

2008 JUL 30 AM 11:30

In support of a request for the issuance of a warrant for the arrest of Allen Ray Andrade (hereinafter referred to as "Defendant"), the undersigned affiant, being first duly sworn upon oath deposes and says:

That affiant has knowledge of the following facts from which there is probable cause to believe that C.R.S. 18-3-103, Murder in the second degree, Class (F2); C.R.S. 18-4-409 (1) (a) (2) , Aggravated motor vehicle theft, Class (F4), hereafter described, was committed by the Defendant on or about the 16th day of July, 2008, in the County of Weld, State of Colorado, to-wit:

Your affiant is a police officer for the Greeley Police Department and has gained the following information from reading the reports and speaking to fellow officers, from reading the statements of the victim and witnesses and through personal investigation.

On July 17th, 2008, at 1433 hours, officers of the Greeley Police Department were dispatched to 2025 4th Avenue Apartment #8 Greeley, Weld County, Colorado, on the report of a sick and injured party.

Upon arrival, officers were greeted by Monica Murguia (02-06-76). Murguia informed officers her brother, Justin Zapata (08-05-87) resided at this address. Murguia told officers she and other family members had attempted to call Zapata throughout the day; however, received no answer. Murguia stated she came to the residence on July 17th, 2008 at approximately 1430 hours to check on Zapata. Murguia stated when she arrived, she knocked on the door; however, received no response.

Murguia stated she possessed a spare key for Zapata's residence, which she used to gain entry. Murguia advised she found Zapata lying beneath a blanket on the living room floor. After calling to Zapata and receiving no response, she pulled the blanket aside. Murguia immediately observed several injuries to Zapata's head and face. Murguia alerted a neighbor who called 911.

Officer Esquibel arrived and found the victim, Justin Zapata apnic and pulseless. Officer Esquibel also observed a series of wounds to the victim's face and head. Weld County Paramedics arrived and assessed Zapata, who was pronounced dead at the scene by Dr. Doyle, an emergency Department Physician at North Colorado Medical Center. The autopsy would later reveal victim Zapata died from blunt force trauma.

Investigators processed Zapata's residence for evidence based on the nature of the victim's injuries, as well as, blood spatter evident at the scene. Investigators processed the scene and located (4) four empty 40 oz. Budweiser beer bottles in the sink. Also found was an orange cigarette butt found on the carpeted living room floor. The investigation revealed the victim's purse was missing and unaccounted for as were sheets belonging to victim Zapata. The victim's purse was described as a brown purse with gold buckles. Detectives believe the victim's death is a homicide. Based on statements from friends and family members, Zapata was last seen alive on July 16th, 2008 at approximately 2030 hours. Further, through these witnesses detectives learned that victim Zapata was a biological male living as a female who went by the name "Angie".

During the course of this investigation, Detective Duff Knott discovered Zapata's vehicle was missing from the residence. The victim's vehicle, which is described as a 2003 green Chrysler PT Cruiser, has been entered into CCIC/NCIC as a stolen vehicle. Monica Murguia also reported she had a Academy bank credit card in the Chrysler PT Cruiser.

The sister of victim Zapata, Monica Murguia, identified the victim's cellular phone number as (720) 404-3272. Your affiant has determined this phone number was established under an active Cricket Communications cellular account in October 2007. Upon completion of the crime scene investigation, this phone was also discovered missing from the victim's apartment. To date, this cellular phone has not been located.

On July 28th, 2008, Greeley Police Investigators learned that Monica Murguia's Academy Bank credit card was used at multiple gas stations in the Denver Metro area to include use at a gas station in Thornton, Colorado on July 27th, 2008.

On July 30th, 2008, at approximately 0145 hrs Thornton Police Officers were dispatched to a noise complaint to the Sierra Vista Apartment Homes located at 9450 Hoffman Way, Thornton, Colorado. Upon responding to noise complaint Thornton Police Officers contacted Allen Ray Andrade who was found to be in the reported stolen 2003 green Chrysler PT Cruiser related to victim Zapata. Subsequently Allen Ray Andrade was arrested for outstanding warrants and transported to Thornton Police Department.

Investigator Greg Tharp interviewed Allen Ray Andrade. Andrade advised he met victim Zapata on the Internet Mocospace website and they were in regular contact in the days previous to the homicide. Andrade stated he and Zapata arranged to meet each other and Zapata drove to his residence in Thornton, Colorado and picked him up. Andrade advised he went to Greeley, Colorado with victim Zapata where he stayed at Zapata's residence on Tuesday, July 15th. On this same day, Andrade advised he went to a court appearance with victim Zapata. Later this day, Allen Andrade stated victim Zapata performed oral sex on him, however victim Zapata did not allow him to touch Zapata sexually or otherwise. They did not have any other sexual contact and slept in different rooms.

The following day, Wednesday, July 16th, 2008, Andrade stated the victim left the residence and he stayed in the apartment by himself. Andrade advised while he stayed at victim Zapata's residence he made certain observations from viewing various photographs, these observations coupled with the interaction between the parties the night before made him question victim Zapata's sex.

Andrade stated later on this day Zapata returned to the residence driving a green PT Cruiser and they went to a liquor store. They returned to victim Zapata's residence. Andrade advised at approximately 10:30 p.m., on the night of July 16th, 2008, he confronted victim Zapata about whether he was male or female. According to Andrade, victim Zapata made the statement "I am all woman." Andrade asked victim Zapata several times to prove victim Zapata was a female. Victim Zapata refused.

At this point, Andrade advised he grabbed victim Zapata's genital area and felt a penis. Andrade indicated he became angered by his discovery and struck victim Zapata with his fists and victim Zapata fell to the ground. Andrade stated he then grabbed a fire extinguisher which was located on a shelf in victim Zapata's apartment. Andrade stated he struck victim Zapata twice with the fire extinguisher in the head area. Andrade told Investigator Tharp he thought he "killed it" referring to victim Zapata. Andrade then covered victim Zapata with a blanket.

Andrade stated he realized what he had done and started to clean up the apartment because he was concerned about evidence which might link him to victim Zapata's apartment. While doing this, Andrade advised he heard "gurgling" sounds coming from victim Zapata and noticed Zapata sitting up. Andrade stated he grabbed the fire extinguisher once again and approached Zapata and struck Zapata again in the head area. Andrade would describe to Investigator Tharp he then gathered victim Zapata's purse, keys, cell phone, the fire extinguisher, and his personal belongings. He then fled in victim Zapata's 2003 PT cruiser.

Investigator Tharp contacted Allen Andrade's girlfriend, Angie Tyree, who confirmed Andrade lived at 9450 Hoffman Way, building #E, apartment #304 in Thornton, Colorado. Tyree also confirmed Andrade had been driving a green PT Cruiser since mid July, 2008. The 2003 green PT Cruiser that Andrade was

in possession of was later confirmed to be the vehicle that victim Zapata was driving. Investigator Lobato confirmed with a car valuation web site (Edmunds.com) that the vehicle was worth \$6,308.00.

Weld County District Attorney's office provided the following information related to Allen Andrade. Allen Andrade has Adams County convictions:

96CR1422—F-6 Attempt to commit first degree criminal trespass, 18 months DOC

99CR326—F-6 Attempt to commit theft from a person, 18 months DOC

00CR421—F-6 Possession of Contraband, 1 year DOC

00CR426—F-5 Attempted Escape, 2 years DOC

03CR3409—Attempt to commit theft by receiving, 3 years DOC

The Defendant's date of birth is December 19th, 1976. The Defendant, Allen Ray Andrade, is a White Male, HEIGHT - 6'0", WEIGHT - 165 lbs., Brown HAIR, Brown EYES. The Defendant's last known address is 9450 Hoffman Way, Building E, Apartment #302, Thornton, Colorado 80229.

The above-described events took place in Weld County, Colorado.

Dennis Lobato #202
Detective Dennis Lobato, #202, AFFIANT

Subscribed and sworn to before me this 30th day of July, 2008.

MY COMMISSION EXPIRES: 06-18-2009
KRISTINA M. TREADWAY
915 10TH ST. • GREELEY, CO 80631

Kristina M. Treadway
NOTARY PUBLIC
MY COMMISSION EXPIRES: _____

Let a warrant be issued for Defendant's arrest: Bond set in the amount of \$ NO BOND

K. Sutter
DISTRICT JUDGE
DATE July 30, 2008