

STATE OF OHIO

)

OTTAWA COUNTY MUNICIPAL COURT

COUNTY OF OTTAWA

)

SEARCH WARRANT

To: The Sheriff of Ottawa County , Cuyahoga County Prosecutor Investigator Robert Matuszny and/or any other officers as necessary or authorized by law.

WHEREAS: Affiants have exhibited probable cause necessary to search the below-

listed premises, curtilage, common and storage areas and persons therein upon

the incorporated sworn affidavit of Robert Matuszny attached hereto as Exhibit A avers that he has reasonable cause to believe, and do believe, that on the premises known as

THE RESIDENCE OF ELSEBETH BAUMGARTNER , 9368 STATE ROUTE 163 OAK HARBOR, OTTAWA COUNTY, OHIO. BEING A TWO STORY HOUSE WITH TAN SIDING WITH A BRICK FACE ON THE HOME, AND WITH THE HOUSE NUMBER POSTED ON PORCH POST TO THE LEFT OF THE FRONT DOOR.

That this is now being unlawfully kept, concealed, and possessed the following:

documents relating to ErieVoices.com stories and Comments, desktop and/or laptop computer(s) containing files, folders data, writings or other forms of written communication; a computer monitor, computer hardware and software programs, and computer floppy disks or other data storage devices which may house data, and controlled substances.

I am satisfied that there is probable cause to believe that the property described is being concealed on the above-described premises, its curtilage, and the persons present therein, and that grounds for issuance of this search warrant exist.

THEREFORE: You are hereby commanded in the name of the State of Ohio, with the necessary and proper assistance, to serve this warrant and search , within three days of the date hereof for the property specified, and if the property or any part thereof is found there, you are commanded to seize it, AND as it relates to any computer you are commanded to turn on, open, examine, review, take it apart, remove the hard drive if necessary, copy the hard drive or any drive relating to any computer or look at or into any computer hardware, software, or disc, leaving a

copy of this warrant and a receipt for the property taken, to prepare a written inventory of the property seized, to return this warrant to the undersigned or any Judge of the Municipal Court of Ottawa County, and to bring the property found on such search forthwith before said Judge, or some other judge or magistrate of the county having cognizance thereof.

Given my hand this _____ day of February 2006

Judge, Ottawa County Municipal Court
Ottawa County, Ohio

STATE OF OHIO)
)
COUNTY OF OTTAWA)

OTTAWA COUNTY MUNICIPAL COURT
AFFIDAVIT FOR SEARCH WARRANT

BEFORE ME, a Judge of the Municipal Court of Ottawa County, Ohio personally appeared Robert Matuszny currently employed as an investigator with the Cuyahoga County Prosecutor's office who after being first duly cautioned and sworn sayeth and deposes that:

1. My name is Robert Matuszny
2. I retired from the Cleveland Police Department in 2001 after thirty-two years of service with the Cleveland Police Department.
3. From 1991 to 2001 I was a detective in the Cleveland Homicide Unit. Prior to that I was a Second District Detective with the Cleveland Police Department form 1979 to 1991.
4. I participated in thousands of arrest during my career with the Cleveland Police Department. These arrest ranged from theft offenses to rapes and murders.
5. During my career with the City of Cleveland I received two awards from Cleveland City Council. One aware was for solving serial rapes in the City of Cleveland and the other was for solving Kidnapping/Rapes in the City of Cleveland.
6. During my career with the City of Cleveland I testified in hundreds of trial in Cuyahoga County Common Pleas court. I testified as an expert in homicide cases. I testified in all types of criminal trials during my 32 years of service with the Cleveland Police Department.
7. During my career with the City of Cleveland I was the affiant a scores of search warrants executed in various types of investigation in the City of Cleveland.
8. I am currently employed as an investigator with the Cuyahoga County Prosecutor's office.
9. As an investigator with the Cuyahoga County Prosecutor's office I am responsible for investigating Cold Cases (old murder cases), interviewing witnesses, delivering subpoenas, assisting County Prosecutors in prosecuting criminal matters and in preparing matters for prosecutions and investigating whether or not criminal activity is afoot.
10. I am able to use the Internet from home and office.

11. Affiant has reasonable cause to believe and does believe that the premises known as

THE RESIDENCE OF ELSEBETH BAUMGARTNER , 9368 STATE ROUTE 163 OAK HARBOR, OTTAWA COUNTY, OHIO. BEING A TWO STORY HOUSE WITH TAN SIDING WITH A BRICK FACE ON THE HOME, AND WITH THE HOUSE NUMBER POSTED ON PORCH POST TO THE LEFT OF THE FRONT DOOR,

In which there is being kept concealed and possessed the following: documents relating to Erievoices.com Comments and stories, desktop(s) and/or laptop computer(s) containing files, folders, data, writings or other forms of written communication; a computer monitor, computer hardware and software programs, and computer floppy disks or other data storage devices, other evidence of criminal activity and controlled substances.

All requested documents, or items are evidence of Intimidation, Ohio Revised Code 2921.03 and Intimidation, Ohio Revised Code Section 2921.04, and Drug Possession, Ohio Revised Code Section 2925.11

The facts upon which the affiant bases such belief and the facts as are set forth below are based upon the facts affiant has learned from reviewing court files in the Cuyahoga County Common Pleas Court, from reviewing court records filed in the Erie County Common Pleas court, from interviewing Cuyahoga County Sheriff Deputies, from Interviewing a Confidential Reliable Informant, from interviewing a reliable witness, from conversations with members of the Ottawa County Sheriff's department and other law enforcement persons, and from reviewing writings on a website called ErieVoices.com.

1. Affiant states that in the June of 2005, in the Erie County Common Pleas Court Elsebeth Baumgartner was indicted by an Erie County Grand Jury for Fleeing and Eluding a police officer, Failure to Comply with the lawful order or signal of a police officer, Resisting Arrest and Grand Theft Motor Vehicle for taking a car without the consent of the owner, Bryan Dubois. The indictment was assigned case number 05 CR 257. According to a Bay View, Ohio Police Report the event occurred in the presence of Bryan Dubois. Affiant further states that according to documents filed with the Erie County Common Pleas Court Bryan Dubois and his wife Mandy Dubois have been listed as witnesses in that matter since September of 2005. According to records filed with the court Elsebeth Baumgartner is aware that Bryan and Mandy Dubois are listed as witnesses for the State of Ohio in that matter.

2. Affiant further states that on June 30, 2005 Elsebeth Baumgartner and Bryan Dubois were indicted in Cuyahoga County by a Cuyahoga County Grand Jury. The Grand Jury charged Baumgartner and Dubois with Intimidation, Retaliation and Possession of Criminal Tools. Affiant states that the basis of most of the charges against Baumgartner were certain E-Mails she wrote and forwarded or sent to Judge Richard Markus using a computer, and from a computer. The Possession of Criminal Tools charge stemmed from Baumgartner's use of a computer to create the intimidating e-mails, which were felonies of the third degree, and then using the computer to forward or send the e-mails to Judge Markus. Affiant further states that Baumgartner remained in

the Cuyahoga County Jail unable to post her bond until it was lowered. Affiant states that on August 4, 2005 Elsebeth Baumgartner posted bond and was released from Jail.

3. Affiant further states that after said bond was lowered and after Baumgartner posted such bond Elsebeth Baumgartner forwarded an e-mail to each of Judge Markus' adult children. On August 31, 2005 Elsebeth Baumgartner was again indicted by a Cuyahoga County Grand Jury for Intimidation, Retaliation, Possession of Criminal Tools and Falsification. Affiant further states that the indictment was basically a re-indictment of the June 30, 2005 indictment against her, however, additional charges of intimidation were brought against her in the subsequent indictment. The additional charges stemmed from her use of a computer to send e-mails to Judge Markus' adult children. Judge Markus is the victim in the earlier indictment. At the time Baumgartner forwarded the e-mail to Judge Markus' adult children she was aware that he was the listed victim in the initial indictment.

4. Affiant further states that Bryan Dubois was indicted along with Baumgartner in August of 2005 for Extortion, Intimidation, Retaliation and Possession of Criminal Tools. The case number assigned to that Case Number in Cuyahoga County is 470184.

5. Affiant further states that upon review of the court records in both Cuyahoga County Case Numbers Brian Dubois and Mandy Dubois were and/or are both listed witnesses for the State of Ohio. Affiant further states that upon further review of the same court records it is clear the Elsebeth Baumgartner is aware that the State of Ohio has listed Bryan and Mandy Dubois as witnesses for the State of Ohio.

6. Affiant further states that as of September of 2005 Elsebeth Baumgartner was aware that Mandy and Bryan Dubois were listed as witnesses for the State of Ohio in two criminal proceedings.

7. Affiant further states that upon review of records in Cuyahoga County Case Number 470184 affiant has learned that, that case was set for Trial on December 12, 2005 and that on December 12, 2005 Baumgartner filed a motion to continue the trial date claiming that she was found to be incompetent by a doctor she had visited. Affiant further states that upon review of the court's transcript the trial judge ordered her to be evaluated for competency and remanded her to the custody of the Cuyahoga County Sheriff's department. Affiant further states that Baumgartner then took an overdose of prescription pills that she had in a large purse. Affiant states that these events occurred in front of co-defendant Bryan Dubois, a sheriff deputy, Dubois' attorney and many other people who were in that particular courtroom that day.

8. Affiant further states that the trial set for December 12, 2005 was then continued for both defendant Baumgartner and Dubois.

9. Affiant further states that on December 12, 2005 law enforcement officials interviewed Bryan Dubois and that he provided additional evidence against Elsebeth Baumgartner. Affiant states that he has reviewed such interview.

10. Affiant further states that Elsebeth Baumgartner is aware that such an interview occurred.

11. Affiant further states after review of the record of the Cuyahoga County Common Pleas Court in State of Ohio v. Baumgartner, Elsebeth Baumgartner was confined from December 12, 2005 to January 19, 2006 either in the Cuyahoga County Jail or in the North Coast Behavior Center in Cleveland, Ohio. Affiant further states that on January 19, 2006 after being found competent to stand trial, Elsebeth Baumgartner was released from confinement on bond.

12. Affiant further states that he has become aware of a website called ErieVoices.com. Erievoices.com is an Internet blog (a website) posting articles, stories, and comments to the articles or stories. According to the website Erie Voices is run and co-owned by Elsebeth Baumgartner and Bryan Dubois. Affiant further states that Baumgartner has admitted to such in court proceedings and in court documents filed in common pleas court. I have reviewed such transcripts and court documents. I have reviewed the website Erievoices.com and read articles on the website describing Dubois and Baumgartner as the “Staff of Erie Voices.”

13. Affiant further states that in reviewing Erievoices.com he has learned that the website was started in the summer of 2004 by Dubois. However, in the late summer or early fall of 2004 the site became devoted to Baumgartner and many of her causes, and issues as well as the events in her life.

14. Affiant further states that in reviewing the Comments falling under the story entitled EV SEVERS there appears to be Comments written and/or attributable to Elsebeth Baumgartner. The person posting the comments uses the name Elsebeth Baumgartner and discusses court proceedings involving Elsebeth Baumgartner, her pill swallowing in the courtroom, her mental evaluation, her hospitalization and other events in the life of Elsebeth Baumgartner from December of 2005 into January of 2006. Affiant further states that in order to post comments on the ErieVoices website a person must have a computer and computer access to the Internet. A person can then enter the Erievoices.com website and go to the end of a particular story or article and post a comment. Affiant has included a copy of a comment and a comment form following the story entitled EV Severs as an example as follows:

Elsebeth Baumgartner

Wednesday, January 25, 2006, 02:13 PM

Dear Barbara:

Thank you for writing. First I want to thank you for your support on this blog and in letters while I was illegally incarcerated.

Second, I want to apologize for how you were abused on this site by also getting the frying pan beating a dead horse treatment for posting a comment. It was unprofessional and in my view dehumanizes and diminishes the important role of women particularly mothers in society as moral voices.

Third, if you donated money to support this site I'd appreciate you contacting me at P.O. Box 386 Oak harbor, Ohio 43449 or by phone 419-410-5818 with the information. Arbor Group LLC is a for profit company and any income derived from this site has to be declared to the IRS.

This site is a free service of the company and was intended to promote and showcase the company's work as media and legal forensic investigators

and investigational and promotional writers. In other words, we provide a platform for people to comment on issues of public corruption and use this site to showcase some of our capabilities for people caught up in the nightmare of our present legal system.

Add Comment

Fill out the form below to add your own comments.

Your Name:

Email:

URL:

Remember me:

Insert Special:

Comment:

15. Affiant further states that according to the Confidential Reliable Informant the person posting comments on Erievoices.com under the name Elsebeth Baumgartner, Hoeminem and Colin and

Kate (the names of the Dubois' children) is Elsebeth Baumgartner the defendant in the above-mentioned cases. An edited version of what Hoeminem posted is as follows. Affiant has edited out of such comment a degrading sexual act Baumgartner accuses a witness of performing:

Hoeminem

Monday, January 23, 2006, 11:57 PM

[Chorus] I'm a soldier, these shoulders hold up so much They won't budge, I'll never fall or fold up I'm a soldier, even if my collar bones crush or crumble, I will never slip or stumble I'm a soldier, these shoulders hold up so much They won't budge, I'll never fall or fold up I'm a soldier, even if my collar bones crush or crumble, I will never stumble Like my lawyers hee hee when the crook judge lets me off But all you blog-fers do is set me off I'll violate and all the bets be off I'm a lit fuse, anything I do is big bitch news Pistol whippin mama bouncer who in heels be six-two Who needs bullets? As soon as I say it, you SWEAT bullets An EXCELLENT method to get rid of the next bully ACTUALLY better cause instead of you murderin you can hurt 'em and come BACK again and kick dirt at 'em It's like pourin salt in the wounds, assault and get sued You can smell the lawsuits & mayhem soon as I waltz in the room Everybody halts and stops, calls the keystone cops All you see is pols crawlin of of their hoe's haltertops Runnin and duckin out Terry's Tavern parking lot You'll all get shot, whether it's your fault or not, cause [Chorus] I spit it slow so these kids know that I'm talkin to 'em Give it back to these damn critics and sock it to 'em I'm like a pol with a little bit of 'AIPAC influence I spew it, and look how I got you and your bitches rockin to it You Sandbillies could NEVER do it like I could do it Don't even try it, you'll look stupid, do not pursue it Don't ever in your life try to knock the truest I say the illest shit ever been dropped to two inch...

16. Affiant further states that Baumgartner has posted comments on ErieVoices.com accusing Mandy Dubois of child abuse and other crimes. An example of such a posting is as follows:

A. Colin and Kate

Sunday, January 29, 2006, 06:22 AM

It is Sunday. Please Jesus would somebody pray for us and help us. Our mommy has driven our daddy crazy with her violent mood swings, cursing, incurring debt he can't pay and her lying lying lying. Help us Jesus..our daddy can't protect us anymore and he needs help. We are afraid.

B. Elsebeth Baumgartner

Monday, January 23, 2006, 11:49 AM

...Colin broke Kate's arm right? Sure he did. And Colin the little power ranger destoryed Bryan's lap top containing all those confidential records Kasaris covets that was paid for by funds my husband gave Bryan in November 2005? Sure he did. Go on and tutor those children Mandy and be sure to keep padding your hours. After all Mom will cover you.

17. Affiant further states that according to court documents Elsebeth Baumgartner lives in a house located at 9368 St. Route 163 Oak Harbor, Ohio 43449. Affiant states that prior to this date he and another investigator in the Cuyahoga County Prosecutor's office confirmed that fact with the Ottawa County Sheriff's Department.

18. Affiant does further state that he has read comments posted by Elsebeth Baumgartner on the ErieVoices web site. The comments were posted at all hours of the day, namely at: 5:52 pm. on January 20, 2006, January 21, 2006 at 10:51 am, 2:43pm on January 21, 2006, 2:04 am on January 22, 2006, 2:05am on January 22, 2006, 1:04 pm on January 22, 2006, 2:58 on January 22, 2006, 7:26pm on January 22, 2006, 12:26am on January 23, 2006, 1:57am on January 23, 2006, 2:23 on January 23, 2006, 11:49am on January 23, 2006, 12:58pm on January 23, 2006, 1:08pm on January

23, 2006, 3:39pm on January 23, 2006, 4:33pm on January 23, 2006, 10:42pm on January 23, 2006, 11:57pm on January 23, 2006, 2:24 on January 24, 2006, 9:12pm on January 23, 2006, 9:00am on January 25, 2006, 11:37am on January 25, 2006, 11:53 on January 25, 2006, 11:59 on January 25, 2006, January 25, 2006 at 2:13pm and additional postings since January 25, 2006 as well.

19. Affiant does further state that a confidential reliable informant has informed affiant that Elsebeth Baumgartner has more than one computer in her home. Affiant further states that based upon the times that the comments are being posted affiant as probable cause to believe that Baumgartner is posting the comments from her house using a computer. Affiant further states that based upon his training and experience as a police officer people commonly use a computer from their homes to go onto the Internet.

20. Affiant further states that in reviewing these postings Elsebeth Baumgartner as made including and in addition to the ones mentioned herein that the postings are threatening, harassing, intimidating or hindering statements made against Bryan Dubois and Mandy Dubois, two people that Baumgartner knows to have been identified in two criminal court proceedings as witnesses for the State of Ohio in an attempt to intimidate or hinder these people who are witnesses against her in two criminal proceedings. Affiant has read these postings.

21. Affiant does further state that these comments or writings made by Baumgartner by using her computer against witness Bryan Dubois or Mandy Dubois are materially false, made in a reckless manner with the intent to intimidate, hinder or influence Bryan Dubois or Mandy Dubois witnesses for the State of Ohio.

22. Affiant does further state that in making these statement on the website ErieVoices.com Affiant has probable cause to believe the Elsebeth Baumgartner has violated R.C. Section 2921.03 and R.C. Section 2921.04. Given that Affiant has probable cause to believe that these postings were made by Baumgartner using a computer and given that affiant has probable cause to believe that Baumgartner has computers at her house at the above mentioned address affiant believes that a search warrant is necessary to search the home and seize any and all computers at the house or in her possession so that it may be examined for evidence.

23. Affiant does further state that he has interviewed a confidential reliable informant who has been reliable in the past to law enforcement. This CRI has stated that Baumgartner has stored in the above-described residence numerous unprescribed controlled substances, specifically Xanax. Affiant further states that this CRI stated that Baumgartner has access to such controlled substances through a pharmacy owned or operated by her husband. Moreover, affiant does further state that he has reviewed the transcript of a hearing in the Cuyahoga County Common Pleas Court on December 12, 2005 and has spoken to Cuyahoga County Sheriff Deputies about the events that unfolded in the Cuyahoga County Common Pleas Courtroom of Shirley Strickland Saffold on that date.

24. Affiant further states that in reviewing such record and after conducting such interviews he has learned that on December 12, 2005 affiant had in her possession two bottles of dangerous drugs which were not obtained by a prescription and that as stated in court on the record on such date, that she took an overdose of such drugs. Affiant further states that these drugs are only lawfully

available via prescription. Affiant further states that Baumgartner's husband is a Pharmacist and that on December 12, 2005 he stated in court that that she was taking these dangerous drugs. Affiant further states that no prescription labels were found on the two bottles containing the pill, which Baumgartner swallowed on December 12, 2005.

25. Affiant further states that Elsebeth Baumgartner's husband is Pharmacist and owned a Pharmacy located in Pemberville, Ohio and has reviewed faxes from Joe Baumgartner from this business. Affiant further states that the aforementioned CRJ has stated that Elsebeth Baumgartner obtains controlled substances and/or dangerous drugs from her husband or his pharmacy without a prescription.

26. Affiant further states that Elsebeth Baumgartner is a former Pharmacist having lost her pharmacy license in 2003.

27. Affiant further states that based upon the above affiant believes that at the above address there exist evidence of Drug Possession in violation of R.C. Section 2925.11, Intimidation in Violation of R.C. Section 2921.03 and Intimidation in Violation of R.C. Section 2921.04 and request that this court issue a warrant authorizing the search of the above premises for these items, and further states that based upon the above affiant has probable cause to believe that computer hard drives, computers, discs or other data storage equipment is in such premises and affiant does hereby request an order authorizing the seizing and search of such items.

FURTHER AFFIANT SAYETH NAUGHT

ROBERT MATUSZNY
INVESTIGATOR CUYAHOGA COUNTY PROSECUTOR'S OFFICE

Sworn to and subscribed in my presence this _____ day of February 2006

JUDGE FREDERICK C. HANY, II
OTTAWA COUNTY MUNICIPAL COURT

**Cuyahoga County Sheriff's Department
SEARCH WARRANT INVENTORY SHEET**

NAME & LOCATION OF SEARCH ELSEBETH BIRNHOFFER ADDRESS 9368 WEST STATE RT. 163
 WARRANT DATE 2-1-06 TYPE OF WARRANT DAYTIME DATE & TIME EXECUTED 2-1-06 1306 Hrs

ITEM #	ITEM FOUND	LOCATION ITEM FOUND	FINDER
1	# 352 65250K TOSHIBA LAP TOP COMPUTER/CASE	ON GLASS TABLE IN KITCHEN AREA.	R.M.
2	MANILLA FOLDER of ERIC VOICES PAPERS	ON GLASS TABLE IN KITCHEN AREA	R.M.
3	UPSTAIRS OFFICE COMPUTER	ON TABLE UPSTAIRS OFFICE N/S of HOME	R.M.
4	1 BAG CONTAINING Prescription Drugs w/o NOTES or UNMARKED BOTTLES	KITCHEN CUPBOARDS	C.R.
5	# R238 KD HB0002 COMPAQ LAP TOP COMPUTER	FAMILY ROOM ON ENTERTAINMENT CENTER	R.M.
6	# X08-7304 DVERTEC LAP TOP COMPUTER/CASE	Bed ROOM UPSTAIRS NE CORNER of HOME ON DRESSER	R.M.
7	ZIP DRIVE	UPSTAIRS BEDROOM NW CORNER of HOME	R.M.
8	1 BAG w/ Prescription BOTTLE w/ NO LABEL	UPSTAIRS EASTERN MOST SHARED BATHROOM	D.R.
9	1 BAG CONTAINING 2 UNMARKED Prescription	MASTER BED ROOM.	DL. ST. CLAIR
10	1 BOX ERIC VOICES PAPER WORK LOCAL TABLE of CAPSULES - Ziploc Bag. BOTTLES	Basement NW CORNER in Dresser	D. ST. CLAIR
11	1 BAG CONTAINING 3 UNMARKED BOTTLES	N/W CORNER of Basement Dresser DRAWER	D.L.S #1

INVENTORY OFFICER Robert M. [Signature] WITNESS [Signature] RECEIVED BY _____