

STATE OF WISCONSIN

CIRCUIT COURT
BRANCH IV

DODGE COUNTY

In the Matter of an Application
for a Search Warrant for:

Case No. 18GF 122

109 Knaup Drive, Apartment 11
Beaver Dam, Wisconsin

Testimony of Special Agent Kevin Heimerl

HONORABLE STEVEN G. BAUER
Judge Presiding

 FILED

MAR 06 2018

Clerk of Circuit Court
Dodge County, WI

APPEARANCES (in Br. IV courtroom):

Kurt F. Klomberg, District Attorney for Dodge County,
Wisconsin

APPEARANCES (by speakerphone):

Special Agent Kevin Heimerl

Date of proceedings: March 5, 2018

Doreen Streblow, RPR/CPR
Circuit Court Reporter Br. IV
210 West Center Street
Juneau, WI 53039
(920) 386-4049

1 [4:09 p.m.]

2 [Telephone call placed]

3 THE COURT: Hi, is this Kevin Heimerl?

4 KEVIN HEIMERL: Yes.

5 THE COURT: This is Judge Bauer. We're here
6 to take this warrant down.

7 Raise your right hand to be sworn.

8 Do you swear the testimony you're about to give
9 will be the truth, the whole truth, and nothing but the
10 truth.

11 KEVIN HEIMERL: Yes, I do.

12 THE COURT: Proceed, Attorney Klomberg.

13 ATTORNEY KLOMBERG Thank you.

14 EXAMINATION BY ATTORNEY KLOMBERG:

15 Q Agent Heimerl, can you hear me?

16 A Yes, I can.

17 Q All right. Please state your name and spell your name
18 for the record.

19 A Kevin L. Heimerl, H-E-I-M-E-R-L.

20 Q And what do you do for a living, sir?

21 A I'm a sworn law enforcement officer employed as a
22 special agent with the Wisconsin Department of Justice
23 Division of Criminal Investigation.

24 Q And within the criminal, Division of Criminal
25 Investigation or DCI, do you have any special duties?

1 A Yes, my primary assignment is to investigate fires and
2 explosions.

3 Q And how long have you been conducting that kind of
4 work?

5 A I've been conducting that type of work with DCI for
6 approximately 14 years and for approximately 14 years
7 prior to that for a local law enforcement agency.

8 Q Also doing fire work?

9 A Yes.

10 Q So you have approaching 30 years of fire experience?

11 A Yes.

12 Q And explosive experience?

13 A Correct.

14 Q And do you have specialized training to identify items
15 that are used to construct and manufacture explosives?

16 A Yes, I do.

17 Q And are you applying for a warrant today?

18 A Yes, I am.

19 Q And what's the address of the warrant target?

20 A 109 Knaup, K-N-A-U-P, Drive, Apartment 11, in the City
21 of--

22 Q And do you have a more detailed property description
23 beyond the address?

24 A Yes. It is a two-story, 16-unit, tan-in-color,
25 vinyl-sided, green-in-color roof, apartment building.

1 Apartment 11 is on the north side of the complex and the
2 door had been removed to make entry, as the dead bolt
3 was engaged, and the No. 11 is on the door. The
4 Apartment 11 is on the second floor with a wood deck and
5 patio doors facing north. There is a garage associated
6 with the listed apartment unit. The apartment unit is
7 rented to Benjamin Douglas Morrow [ph], date of birth
8 3-13, 1989. The garage unit has a vehicle parked inside
9 the unit that is registered to Benjamin Morrow.

10 Q And what kind of things do you wish to-- What is the
11 crime you're investigating?

12 A Second degree recklessly endangering safety.

13 Q And what type of items do you wish to have
14 authorization to search for and seize?

15 A No. 1, explosive materials. No. 2, containers that may
16 contain explosive materials or may be used to construct
17 explosive devices. No. 3, containers used to store
18 precursor materials in the manufacture of explosives or
19 drugs whose manufacture has the potential for
20 explosion, slash, clandestine lab materials. No. 4,
21 documentation relating to the purchase of materials
22 noted in the preceding numbered lines 1, 2 and 3. No.
23 5, books, publications that contain recipes or
24 instructions for the manufacture of explosives or drugs
25 whose manufacture has the potential for explosion,

1 slash, clandestine lab materials. No. 6, computer,
2 electronic, and cellular devices that may contain items
3 noted in lines 4 and 5 above.

4 Q All right. How did you become involved in the
5 investigation that you're applying for this warrant in?

6 A The Division of Criminal Investigation was contacted by
7 the Beaver Dam Police Department on March 5, 2018 and
8 informed of an explosion incident that occurred at the
9 above-described address. The Beaver Dam Police
10 Department requested assistance from the Division of
11 Criminal Investigation to investigate the origin and
12 cause of the explosion.

13 Q Have you been able to have some view of the scene?

14 A Yes.

15 Q And while viewing that scene, were there items in plain
16 view that led you to any conclusions about explosives?

17 A Yes.

18 Q Could you please explain.

19 A I conducted an initial assessment of the scene to
20 determine the scope of the scene, the extent of fire
21 damage, the extent of explosion damage, and while
22 inside the apartment I observed several things in plain
23 view that led me to believe that the explosion could
24 have been as a result of the manufacture of clandestine
25 narcotics and/or explosive materials. Those items

1 included upon entering the apartment door at the base
2 of the staircase was a one gallon metal container of
3 acetone which I know to be a volatile ignitable liquid.
4 There was also a quart container of muriatic acid.
5 Within the apartment on the second floor a deceased
6 male white individual was found laying on the kitchen
7 floor amongst a very deep layer of insulation which had
8 collapsed from the ceiling. I'm sorry, from the attic.
9 The deceased person is lying directly in front of the
10 kitchen stove, which was an electric stove. I was
11 advised that first responding firefighters observed at
12 least one of the electric stove burners, the control
13 dial was in the on position. The firefighters turned
14 that off for safety purposes. Throughout the apartment
15 and more specifically within the kitchen there was a
16 large amount of blood spatter, which is believed to
17 have originated from the deceased subject. All of the
18 blood spatter is emanating in a directional manner away
19 from the area of the stove. In the--

20 Q Let me just stop you for a second. The blood spatter
21 observation, that's an observation you personally made?

22 A Yes.

23 Q And the body as well or was the body removed when you
24 got there?

25 A I observed the body and the body is still in the scene.

1 Q All right. Please proceed.

2 A Adjacent to the kitchen stove is a standard
3 refrigerator. The refrigerator door was standing open.
4 Visible in plain view within the refrigerator is a
5 large-size, clear plastic Ziploc style bag and inside
6 that bag is a one gallon white plastic jug similar in
7 appearance to an antifreeze type jug. It's unknown
8 what the label says or what is in that container. In
9 the living room of the apartment is a small dormitory
10 or mini refrigerator with the door standing open and
11 partially spilled out of that open refrigerator door
12 there are several clear plastic GladWare type
13 containers that have, that appear to have some type of
14 unknown clear liquid in them. In the bedroom in plain
15 view were two white cardboard boxes that appear to be
16 sealed and have manufactured stamping or lettering on
17 them that state mix it, comma, shake it, comma, shoot
18 it, period. Based on my experience, I believe those
19 are, the contents of those boxes are likely what's
20 referred to as a binary explosive. Also in the bedroom
21 were three 4-packs of containers that have labeling on
22 them that state sonic boom, and I also believe those
23 are binary explosives. In the bedroom as well was a
24 backpack that was partially unzipped when we entered
25 the apartment and visible through the partially opened

1 backpack zipper appear to be several containers of
2 double base smokeless powder.

3 Q Let me ask you some follow-ups on now the items you've
4 described. First going back to the observation of the
5 muriatic acid, why is that important in the
6 investigation related to explosives or clandestine drug
7 labs that have potential for explosion?

8 A Well, my experience, which is somewhat less limited
9 concerning clandestine narcotics manufacturing
10 laboratories, but I know that muriatic acid can be used
11 to, in the manufacturing process of some types of
12 illicit narcotics. Additional items that were visible
13 within the apartment, specifically in the bedroom, was
14 a cardboard box that was opened and contained several
15 glass graduated containers or beakers. In addition,
16 the apartment building has a detached garage and the
17 vehicle parked in a garage bay which is registered to
18 the decedent, in plain view in the garage were at least
19 two containers of acetone.

20 Q And why is that important? Why is acetone important?

21 A Well, acetone can also be used, in and of itself it is
22 a very volatile ignitable liquid and I believe that it
23 can also be used in the manufacturing of illicit
24 narcotics and could also be used as a solvent of type
25 in, potentially in the manufacture of explosive

1 materials.

2 Q You mentioned the packaging that you believed contained
3 a binary explosive. What do you mean by a binary
4 explosive?

5 A Some people refer to it by one of the potential brand
6 names of Tannerite, but a binary explosive generally
7 comes in a container with two different components
8 separated in two separate containers. When you mix
9 those two containers into one container, a person could
10 shoot it with a firearm and it would explode.

11 Q And you referenced observing smokeless powder. Is that
12 gun powder?

13 A Yes, it is.

14 Q And the blood spatter emanating from the stove, what
15 does that relate to in terms of your experience and
16 training, how does that lead you to a conclusion about
17 an explosion?

18 A Well, it appears that aside from the blood spatter, I
19 will say that the apartment received extensive
20 overpressure blast damage. Nearly all of the drywall
21 ceiling has failed. A attic, a wooden attic truss
22 directly above the kitchen stove which is supporting
23 the roof of the building is fractured. The patio doors
24 and windows were blown off the living room side near
25 the wooden deck. So clearly there is evidence of

1 explosive overpressure. And the blood splatter and
2 other black sooty-colored debris that is also
3 splattered across the walls all originates from the
4 area of the stove, which leads me to believe that the
5 deceased person likely has extensive injuries which
6 resulted in extensive spillage of the blood and it
7 appears as though he may have been at the stove
8 potentially manufacturing or working with some type of
9 explosive materials when the explosion occurred.

10 ATTORNEY KLOMBERG: I don't have any other
11 questions, Judge.

12 THE COURT: Okay, the Court's finding probable
13 cause. I'm going to sign the warrant here. And it's
14 4:25 p.m. on the 5th of March, 2018.

15 Thank you.

16 ATTORNEY KLOMBERG Thank you. I'll be in
17 touch in a moment.

18 KEVIN HEIMERL: Thank you.

19 THE COURT: Bye.

20 [Call ended]

21 * * * * *

22 The foregoing is a true and accurate transcription of
23 proceedings occurring on March 5, 2018.

24 Dated: March 6, 2018


Doreen Strelow
Circuit Court Reporter, Br. IV
Dodge County, Wisconsin

RETURN OF OFFICER

State of Wisconsin in Circuit Court, Dodge County.

I hereby certify that by virtue of the within warrant I searched the within named premises and found the following things:

Masks
Black vest
Phone
Rifle
Exploding targets
Pistol
Pipes and pipe caps
4 boxes of tannemite targets
Rifle
White Supremacist material
Laptop
Grinder
Harddrive
Cell phone
Digital camera
Notes and keys
Rifle accessories
Smokeless powder
Dessicator
Scientific glassware
Distilling kit
Gloves
8 handgun mags, 2 rifle mags
Cordless drill
Rifle case
Rifle scope
Ballistic helmet and vest
680 rounds of 5..56 ammo
110 rounds of 223 ammo
1379 9mm
3 loaded mags with 40 9mm rounds
2 boxes of primers
Bottle of BBs
Pistol case
20 rounds of 308 ammo
3 bottle of calcium chloride
1 bottle of 30% hydrogen peroxide
Torn shirt
Misc docs
Poncho
Brown vest
Mask
Bible
CDs
Backpack and hand tools
Wallet and contents
Black bag
Scale

FILED

MAR 09 2018

Clerk of Circuit Court
Dodge County, WI

Coins
2 thumb drives
1 memory card
Part of a damaged cell phone and memory card

and having the same now in my possession subject to the direction of the Court.

Dated: __03-09-2018


Law Enforcement Officer

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(Recording commenced.)

THE COURT: Who do I have on the phone here?

ATTORNEY KLOMBERG: Kurt F. Klomberg and Kevin Heimerl.

THE COURT: Mr. Heimerl, raise your right hand to be sworn.

Do you swear the testimony you are about to give will be the truth, the whole truth and nothing but the truth?

AGENT HEIMERL: Yes, I do.

THE COURT: Proceed, Attorney Klomberg.

KEVIN L. HEIMERL,
called as a witness herein, having been first duly sworn, was examined and testified as follows:

EXAMINATION

BY ATTORNEY KLOMBERG:

Q. Please state your name and spell your name for the record?

A. Kevin L. Heimerl, H-e-i-m-e-r-l.

Q. What do you do for a living, sir?

A. I'm a Special Agent with the Wisconsin Department of Justice, Department of Criminal Investigations.

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Q. Over the last day-and-a-half, two days, have you been involved in an investigation into an explosion in Beaver Dam?

A. Yes, I have.

Q. And have you previously applied and been granted two Search Warrants related to that investigation?

A. Yes, I have.

Q. And was the Magistrate who provided over those Search Warrants Judge Bauer?

A. Yes.

ATTORNEY KLOMBERG: Judge, I would ask that you take Judicial Notice of the two preceding testimonial records that we made.

THE COURT: Agent Heimerl, is everything in those -- is everything in the testimony that you provided in those two prior Applications for Search Warrants true and correct to the best of your knowledge and belief other than any of the corrections that were made on the record this afternoon?

AGENT HEIMERL: Yes, it is.

THE COURT: Continue.

ATTORNEY KLOMBERG: Thank you.

1 BY ATTORNEY KLOMBERG:

2 Q. Agent --

3 THE COURT: The Court is incorporating
4 all of that testimony into this Application for
5 a Search Warrant.

6 ATTORNEY KLOMBERG: Thank you, Judge.

7 BY ATTORNEY KLOMBERG:

8 Q. Agent, I first want to turn to the
9 Warrant that relates to electronic items found
10 at the Knaup Drive Apartment. What is it that
11 you are applying for a Warrant to search for?

12 A. Information contained on any electronic
13 device or electronic storage media located at
14 the premises which is assistive in identifying
15 witnesses, co-actors, additional locations of
16 evidence or potential targets of explosive
17 attacks.

18 Q. And the property description of those
19 items, could you please explain to the Court or
20 read for the Court the property description that
21 you are relying on?

22 A. The items that will be recovered or
23 seized from 109 Knaup Drive, Apartment 11, in
24 the City of Beaver Dam, Dodge County, Wisconsin.

25 Q. And you gave a property description of

1 that residence at the end yesterday during the
2 testimony. In addition to that property
3 description, what are you defining as electronic
4 devices and storage media?

5 A. Investigator -- I am currently aware of a
6 Dell brand laptop computer which has been
7 located in the aforementioned apartment. An
8 external computer hard drive, which has been
9 located in the aforementioned apartment. And a
10 Blackberry brand cellular telephone slash
11 device, which has been located in the
12 aforementioned apartment to include any
13 additional electronic media storage devices that
14 may be located and seized through subsequent
15 searches.

16 Q. And that would include computing and
17 communications equipment located at the Knaup
18 Drive address?

19 A. That's correct.

20 Q. As well as any storage media, the general
21 kind of storage media that are commercially
22 available today?

23 A. Yes.

24 Q. All right. Then I want you to just
25 quickly turn to the second Warrant for the

1 property description.

2 The second Warrant relates to a storage
3 locker, is that correct?

4 A. That is correct.

5 Q. Could you please read for the Court the
6 property description?

7 A. Absolute, spelled A-b-s-o-l-u-t-e,
8 Storage, Storage Unit Number 8, W9507 Nova,
9 N-o-v-a, Pass Road, Town of Beaver Dam, Dodge
10 County Wisconsin, is a rental storage unit
11 facility consisting of three buildings each
12 having multiple individual storage units.

13 The facility is located on the south side
14 of Nova Pass Road east of Iron Road. The three
15 buildings are oriented north slash south.
16 Storage Unit Number 8 is located within one of
17 these storage buildings.

18 The Number 8 unit is rented to Benjamin
19 Douglas Morrow, M-o-r-r-o-w, date of birth
20 3-13-1989.

21 Q. And Mr. Morrow is the same person that
22 was on the lease at 109 Knaup Drive, Apartment
23 11?

24 A. That is correct.

25 Q. And in addition to -- is it true that you

1 are asking authorization to search that storage
2 locker for everything that was contained in the
3 two previous Warrants, the one we did yesterday
4 and the one we did earlier today?

5 A. That is correct.

6 Q. And in addition, you are also asking for
7 authorization to search for similar electronic
8 and storage media as you noted earlier for the
9 first of the two Warrants that we are doing
10 right now?

11 A. That is correct.

12 Q. All right. Then let's provide the Court
13 with the basis for both of these Warrants.

14 I guess first, let's talk about how we
15 reach -- connect Mr. Morrow with the storage
16 locker in the second Warrant for now. How do we
17 connect him with that, please?

18 A. On today's date 3-6-2018 investigators
19 conducted a search of Mr. Morrow's vehicle which
20 was found in his garage at the 109 Knaup Drive
21 Apartment Complex.

22 During the search of that vehicle,
23 investigators found an index card with
24 handwritten information regarding three
25 different storage unit facilities.

1 Investigators subsequently contacted all three
2 of those storage unit businesses. And when they
3 spoke to the owner of Absolute Storage who was
4 identified as Stephanie Firchow, F-i-r-c-h-o-w,
5 Ms. Firchow confirmed that Benjamin Morrow had
6 leased Storage Unit Number 8 at Absolute
7 Storage.

8 Ms. Firchow reported that Mr. Morrow
9 leased Storage Unit Number 8 for a one-month
10 period. And it was the responsibility of
11 Mr. Morrow to apply his own personal lock on the
12 storage unit door.

13 Ms. Firchow further reported that on
14 the morning of March 5, 2018, which is
15 yesterday, the date of the explosion, Mr. Morrow
16 stopped at Absolute Storage and notified the
17 business that he would be moving his personal
18 property out of the storage unit by the end of
19 March.

20 Q. And why is it that you believe there is
21 probable cause to believe there is evidence
22 related to the investigation into the explosion
23 at the storage unit other than the information
24 that you just provided?

25 A. Based on my personal experience and

1 training, I know that storage units are rented
2 by individuals to store their personal effects
3 sometimes that they don't have enough storage
4 space in their personal residence or to store
5 materials or personal property that they don't
6 want to store within their personal residence.

7 The purposes of this investigation
8 involving the manufacture of homemade
9 explosives, from my personal training and
10 knowledge I am aware that many of these
11 chemicals emit strong odors and a person who is
12 manufacturing homemade explosives in their
13 residence may be cognizant of the fact that
14 certain chemicals emit odors and they may be
15 concerned that their neighbors may be aware of
16 those odors.

17 I am also aware that investigators
18 have interviewed co-workers of Benjamin Morrow
19 at Richelieu Foods in Beaver Dam, Wisconsin.
20 Some of those co-workers reported that it was
21 common for Benjamin Morrow to arrive for work
22 and he had an odor emitting from his person that
23 co-worker's described as smelling like moth
24 balls. Those co-workers further stated that
25 they had made comments to Benjamin Morrow about

1 the fact that they could smell moth balls on
2 him.

3 With that information I am also aware
4 that individuals who are involved in illegal
5 activity that may be concerned about the
6 detection of those illegal activities and/or
7 materials may seek to store those in and secrete
8 those illegal materials in a storage unit.

9 Q. And have you investigated -- been
10 involved in investigations in the past that you
11 have found that behavior to be employed by
12 others in similar activities?

13 A. Yes, I have.

14 Q. And is that why you're asking for the
15 authorization to search for all of the same sort
16 of things you found or were searching for and
17 authorized to search for in the apartment?

18 A. Yes.

19 Q. Now, let's talk about the electronic
20 storage media. Why do you believe that you have
21 probable cause to obtain -- search for and
22 obtain the information contained on the
23 electronic devices going beyond the
24 authorization for the kind of documentary
25 material that you were authorized by the earlier

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Warrants?

A. Electronic storage devices, the computers and external hard drives, external flash drives and cellular phones could be used to store records, documents or files. Any of those types of records may contain evidence of the purchase or shipping records of materials that were used in the manufacturing of explosive materials.

Specifically, also cellular devices are a very common form of communication between individuals. Those types of communications could be through voice communication. The cellular device may contain call logs which would identify other people that Benjamin Morrow was speaking to.

The cellular device may contain text message contents and text message data which may identify other individuals that Benjamin Morrow may have been communicating with. And the cellular devices can also store electronic data in the form of emails. Those emails can include electronic attachments which may include files or records. And the body of the email may contain personal communications.

Q. And do you have -- have you been made

1 aware of any information that associates one or
2 more other people than Mr. Morrow with one or
3 more of the electronic devices?

4 A. Yes.

5 Q. Could you explain that, please?

6 A. The investigators conducted an open
7 source Internet search for the telephone number
8 associated with Mr. Morrow. That telephone
9 number was listed by Mr. Morrow on his apartment
10 lease application when he applied for residency
11 at 109 Knaup Drive.

12 That cellular telephone number was
13 cleared through an open source Internet search
14 and it produced a result indicating that the
15 telephone number was assigned to
16 Benjamin Morrow, but it also indicated that the
17 telephone number was associated with a second
18 individual whose name, I believe, to be Tyler
19 Fabel, who is believed to be from the Fremont,
20 Wisconsin area.

21 Q. And this open source database that you
22 know was used, have you used similar databases
23 in your work in Law Enforcement?

24 A. Yes, I have.

25 Q. Do you find them to contain accurate

1 information?

2 A. Yes.

3 Q. And getting back to the specific items
4 that you are looking for, you then also are
5 looking for records of communications between
6 Mr. Morrow and others?

7 A. Yes.

8 Q. Is that because if someone is plotting to
9 utilize an explosive device in some sort of
10 event or attack they commonly are associated
11 with other individuals?

12 A. Yes. I am aware that a person could work
13 solely to connect this type of manufacturing
14 homemade explosives themselves and they also
15 work so will to commit some type of attacks with
16 those explosives, but I am also equally aware
17 that individuals oftentimes communicate, inspire
18 and engage with other persons to manufacture
19 homemade explosives, potentially to procure the
20 ingredients for the homemade explosives and
21 conspire with other individuals in terms of
22 conducting surveillance, identify potential
23 targets, casing potential targets or potentially
24 carrying out attacks with more than one
25 individual.

1 Q. Has there been any location or
2 observation of any propaganda that raises
3 concern for this kind of collaborative work?

4 A. Yes.

5 Q. Could you explain, please?

6 A. During this limited search that had been
7 conducted of Mr. Morrow's apartment,
8 specifically within his bedroom, literature has
9 been found concerning white supremacist groups,
10 which I believe based on my personal training
11 and experience, that a group such as a white
12 supremacist group will involve multiple members
13 or people engaged in that type of membership or
14 potential activities associated with the
15 membership.

16 Q. In investigating this matter, have you
17 learned about any specialized training or
18 pertinent training or education that Mr. Morrow
19 has in relation to the manufacture, potential
20 manufacture of explosives?

21 A. Yes. As I previously stated in testimony
22 earlier today, Mr. Morrow received formal
23 education at Pensacola Christian College where
24 he received a minor in chemistry. Beyond that
25 I, am also aware that investigators have found

1 handwritten literature in Mr. Morrow's apartment
2 which appears to contain specific instructions
3 for the manufacture of homemade explosives.

4 Q. You are asking that this record as well
5 as the Warrant and any returns be sealed?

6 A. Yes, I am.

7 Q. Is that for the same reasons that stated
8 on the record earlier today?

9 A. Yes, it is.

10 Q. And you are also asking for the
11 authorization for Federal agencies to assist in
12 the execution of these Warrants?

13 A. Yes, I am.

14 ATTORNEY KLOMBERG: I don't have any
15 further questions, Judge.

16 THE COURT: One question, how do you spell
17 the name of that last fellow, the other
18 potential person on the cell phone number?

19 AGENT HEIMERL: Your Honor, I have not
20 seen the written spelling, but based on the
21 pronunciation I believe it may be F, Frank; A,
22 Adam; E, Edward; V, Victor; L, Lincoln or
23 possibly could be F, Frank; E, Edward; A, Adam;
24 V, Victor; A, Adam; L, Lincoln. Feaval.

25 THE COURT: The Court is finding probable

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cause. The Court is granting both Warrants and also granting the request for sealing and the U.S. Federal Agency to assist in the execution.

Where should I send these back to you?

ATTORNEY KLOMBERG: Send them right back to me. And I would just ask that you note the times on the Warrants. The time on my computer is 6:37 p.m.

THE COURT: Okay. Thank you.

ATTORNEY KLOMBERG: Thank you, Judge.

AGENT HEIMERL: Thank you, Your Honor.

(Recording ended.)

