

COUNTY OF POLK

NINTH JUDICIAL DISTRICT

CRIMINAL DIVISION

COURT FILE NO. 60-CR-11-2640

**STATE OF MINNESOTA,
PLAINTIFF,**

VS.

**TIMOTHY C. HOLMSETH,
DEFENDANT,**

December 18, 2013
Polk County Court Administrator

Dear Administrator,

Attached you will find a MOTION and supporting Affidavit.

I am requesting a court date for this matter.

Respectfully,
Timothy Charles Holmseth

Cc: Ronald Galstad, Barb Erdman, Greg Widseth

STATE OF MINNESOTA

DISTRICT COURT

COUNTY OF POLK

NINTH JUDICIAL DISTRICT

CRIMINAL DIVISION

COURT FILE NO. 60-CR-11-2640

STATE OF MINNESOTA,
PLAINTIFF,

vs.

MOTION

TIMOTHY C. HOLMSETH,
DEFENDANT,

The undersigned brings this MOTION based upon the fact the CITY OF EAST GRAND FORKS POLICE DEPARTMENT / STATE OF MINNESOTA (hereby referred to as the PLAINTIFF) acted improperly regarding evidence it seized from TIMOTHY HOLMSETH.

Because of the improper activities of the PLAINTIFF, evidence, as well as valuable property, personal keepsakes, and other data was lost, damaged, and/or destroyed.

Intervention is required by the District Court to secure evidence that was lost and/or damaged, and/or destroyed on a hard-drive while it was in the custody of the PLAINTIFF.

The facts are as follows:

1. On December 14, 2012 the East Grand Forks Police Department (EGFPD) entered the residence of TIMOTHY HOLMSETH with a Search Warrant, which was signed by Honorable Jeff Remick on December 13, 2012.
2. The EGFPD seized property from TIMOTHY HOLMSETH including a Western Digital 500 GB Hard-Drive – Serial Number WCAS87169279.
3. None of the law enforcement agencies or agents that took possession and/or retained custody of the hard-drive completed a chain of custody form.
4. During the execution of the Search Warrant on December 14, 2012 the EGFPD placed evidence in storage containers with labels that read “State of Minnesota / Department of Public Safety / Bureau of Criminal Apprehension”.
5. There is no evidence on the record that demonstrates or proves the actual whereabouts of the hard-drive between December 14, 2012 and April 3, 2013.
6. The Search Warrant signed by Judge Remick did not instruct or authorize law enforcement to search the contents of the hard-drive.

7. EGF City Attorney Ronald Galstad was aware there was no Search Warrant authorizing a search of the hard-drive. On January 4, 2013 Attorney Galstad stated to Honorable Tamara Yon in open court that the BCA would not search the hard-drive without another warrant. He also stated he would be requesting another warrant so the BCA could perform the search.
8. In an entry to an Incident Report on April 27, 2013 Sgt. Michael Norland, investigator, PCSO retroactively reports he searched the hard-drive on April 3, 2013.
9. The search of the hard-drive was done without a warrant and was therefore illegal.
10. The hard-drive was returned to TIMOTHY HOLMSETH inoperable.
11. The hard-drive was/is deemed evidence by the STATE OF MINNESOTA.
12. The hard-drive contains facts within its internal administration logs needed so the activity of the hard-drive can be investigated.
13. Facts and circumstances surrounding this matter indicates official misconduct and deception has been taking place, which is evidenced by the following:

⇒ **MISREPRESENTATION**

- The EGFPD used evidence containers bearing BCA labels
- EGF City Attorney Galstad referred to the BCA while talking about a search warrant to the Judge
- Sgt. Norland, and investigator with the PCSO, reported he was working with an EGFPD officer assigned to the Pine-to-Prairie Drug Task Force
 - An internal investigation conducted by a special agent of the BCA; a public information officer for the Minnesota Department of Public Safety; and the assistant superintendent of the BCA revealed that the BCA played no role in this case whatsoever.

"We were not requested to conduct a forensic examination on your computer," said, Drew Evans, assistant superintendent, BCA. "The Bureau of Criminal Apprehension had no involvement in this case".

"The BCA had no role in the investigation you describe and did not attach any tags to evidence in that case," said Jill Oliveira, public information officer, Minnesota Department of Public Safety.

"There are no BCA personnel serving on that [Pine-to-Prairie Task Force] task force," Oliveira said.

⇒ **NO CHAIN OF EVIDENCE**

- Neither the PCSO nor EGFPD properly recorded the chain of evidence.
- Between December 14, 2012 and March 28, 2013 the hard-drive could have been literally ANYWHERE.

⇒ REQUEST FOR COPY OF HARD-DRIVE BY EGFPD

- Sgt. Norland states in his report that he searched the hard-drive and found no sign of illegal activity. He states he returned the hard-drive to the EGFPD. He then states Officer Schrage contacted him and asked him to make a copy of it.
- There is no good explanation for why the EGFPD wanted a copy of a hard-drive that had already been searched and was found to contain to sign of illegal activity.

⇒ KNOWLEDGE OF ILLEGAL SEARCH BY PROSECUTOR

- On November 25, 2013 Attorney Ronald Galstad called Sgt. Michael Norland to the witness stand during a MOTION TO COMPEL hearing. Galstad questioned Norland about the search he conducted on TIMOTHY HOLMSETH'S hard-drive.
- Attorney Galstad knew the hard-drive had been searched without a Warrant.

**⇒ PRIOR REPORTS OF MISCONDUCT AND
INTIMIDATION AGAINST PLAINTIFF**

- The owner of the hard-drive, TIMOTHY HOLMSETH, is an investigative journalist and his hard-drive contained evidence regarding police corruption and a child kidnapping.
- In 2012 TIMOTHY HOLMSETH reported misconduct and intimidation to which he was subjected by law enforcement officers, attorneys, and public officials in the Ninth Minnesota Judicial District, as well as Florida.
- TIMOTHY HOLMSETH reported the misconduct to:
 - United States Attorney B. Todd Jones (and subsequently the Minneapolis FBI)
 - Office of Lawyer's Professional Responsibility
 - District Judge Tamara Yon
 - City of East Grand Forks / Mayor / City Council
 - Minnesota Public Defender's Office
- The seizure and destruction of TIMOTHY HOLMSETH'S hard-drive FOLLOWED his reports to the aforementioned officials.

The undersigned hereby moves the Court for an Order finding:

1. The search of TIMOTHY HOLMSETH'S hard-drive was conducted without a proper warrant and was illegal.

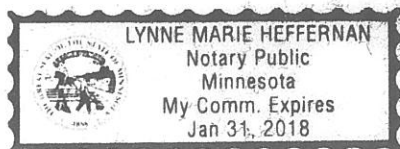
2. The PLAINTIFF, and or any other party found responsible by the Court, is Ordered to guarantee payment for the forensic data recovery of Western Digital 500 GB Hard-Drive – Serial Number WCAS87169279. The data recovery shall be performed by a forensic lab in Lexington, Kentucky that works with Best Buy Inc.
3. The PLAINTIFF and/or responsible party shall pay the initial down payment of \$250. The balance will range from \$500 - \$2,000 depending on time and resources required to complete the recovery and payment must be guaranteed by the responsible party.
4. If for any reason the total amount exceeds \$2,000 – the responsible party shall be responsible for the balance.

Date this 18th day of December, 2013

Timothy Charles Holmseth
320 17th Street N.W.
Unit # 17
East Grand Forks, MN
56721
218.773.1299
218.230.1310 (cell)

Timothy Charles Holmseth
12-18-13

Lynne Marie Heffernan 12-18-13



POLK COUNTY SHERIFF OFFICE

ORI MN0600000

INCIDENT REPORT

Case Number 13-000447

☐ Juvenile Incident CFS # 13CFS00005392 How Reported Phone Reported Date 03/29/2013

INCIDENT INFORMATION

Date Occurred		Day of Week		Time Occurred		Assigned		
From	03/29/2013	to	03/29/2013	Friday	From	1000	to 1000	03/29/2013 1000
Dispatched Location		Arrived						03/29/2013 1000
Actual Location		Cleared						03/29/2013 1115
Incident Address		District						Crookston city
City, ST Zip		Sub-Beat						
600 Bruce St								
Crookston, MN 56716								

INCIDENT SYNOPSIS

On 3/29/2013 the Polk County Sheriff's Office assisted the East Grand Forks Police Department with the Forensic Examination of digital evidence.

Active.

REPORTING PARTY 1

Reporting Party	Sex	Birth Date	Age	<input type="checkbox"/> Juvenile		
East Grand Forks Police	Male					
Eye Color	Hair Color	Race	Ethnicity	Height	Weight	
		White	Non-Hispanic			
DL #	Other ID #	Other ID Type				

SEASONAL ADDRESS

Address	City	State	Zip
520 Demers Ave	East Grand Forks	MN	56721
Seasonal Phone #	Cell Phone #	Work Phone #	
2187731104			

PERMANENT ADDRESS

Address	City	State	Zip	Country
Perm. Phone #	Parent Cell #	Work Phone #		

Notes

Additional Description -

OFFENSE 1

Offense	Date	State Statute	UCR	AB Group	
Assist Other Agency	03/29/2013			B	
Activity	Weapon	Special Circumstances	LINKED SUSPECT(S) No linked suspects. LINKED VICTIM(S) No linked victims.		
Operating/Promoting / Assisting	Unknown				
Status	Assisted / Advised_9000	Location	Government / Public Building		
Method of Entry		Location #2			
Point of Entry		Gang Activity	No gang activity		
No. Premises Entered		Premises Inhabited	<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No	Suspect(s) suspected of using	
<input type="checkbox"/> Bias / Hate Crime	Victim(s) suspected of using		<input type="checkbox"/> Alcohol		
Type		<input type="checkbox"/> Alcohol	<input type="checkbox"/> Drugs		
Target Code		<input type="checkbox"/> Drugs	<input type="checkbox"/> Computer Equip		
Affiliation		<input checked="" type="checkbox"/> Not Applicable	<input checked="" type="checkbox"/> Not Applicable		

PROPERTY 1

Loss Code	Property Code	Disposition	
Unknown	Any not fitting in other categories	Unknown	
Description Cell phone			
Quantity	Value	Weight	
1			
Serial Number	<input type="checkbox"/> Lost Property	Associated Offenses Assist Other Agency	
	<input type="checkbox"/> Found Property		
Date Recovered	Recovery ORI	Evidence #	Make
			LG
Model	Style	Color	Year
VX11000			
Drug Qty.	Est. Value	Type Drug Measurement	Suspected Drug Type
	\$50.00		
No. of Vehicles			
Stolen		Other	
Recovered		Other	

PROPERTY 2

Loss Code	Property Code	Disposition
Unknown	Office equipment	Unknown
Description 500 GB hard drive.		
Quantity	Value	Weight
1		
Serial Number	<input type="checkbox"/> Lost Property	
WCAS87169279	<input type="checkbox"/> Found Property	
Associated Offenses		
Assist Other Agency		
Date Recovered	Recovery ORI	Evidence #
Make		
Western Digital		
Model	Style	Color
Year		
Drug Qty.	Est. Value	Type Drug Measurement
	\$50.00	
Suspected Drug Type		
No. of Vehicles		
Stolen		Other
Recovered		Other

PROPERTY 3

Loss Code	Property Code	Disposition
Unknown	Any not fitting in other categories	Unknown
Description trackphone		
Quantity	Value	Weight
1		
Serial Number	<input type="checkbox"/> Lost Property	
	<input type="checkbox"/> Found Property	
Associated Offenses		
Assist Other Agency		
Date Recovered	Recovery ORI	Evidence #
Make		
Model	Style	Color
Year		
Drug Qty.	Est. Value	Type Drug Measurement
	\$50.00	
Suspected Drug Type		
No. of Vehicles		
Stolen		Other
Recovered		Other

PROPERTY ESTIMATED VALUE SUMMARY by LOSS CODE

All Codes		None	\$0.00	Counterfeited	\$0.00	Seized	\$0.00
No Code	\$0.00	Burned	\$0.00	Destroyed	\$0.00	Stolen	\$0.00
				Recovered	\$0.00	Unknown	

OTHER PERSON 1

Name	Type of Person	Sex	Date of Birth	Age	<input type="checkbox"/> Juvenile
Schrage, Aeiiso R	Mentioned	Male			<input type="checkbox"/> Will Testify
Eye Color	Hair Color	Race	Ethnicity	Height	Weight
		White	Non-Hispanic		
DL #	Other ID #	Other ID Type			

SEASONAL ADDRESS

Address	City	State	Zip
520 Demers Ave	East Grand Forks	MN	56721
Seasonal Phone #	Cell Phone #	Work Phone #	
2187731104			

PERMANENT ADDRESS

Address	City	State	Zip
Perm. Phone #	Parent Cell #	Work Phone #	

OTHER PERSON 2

Name	Type of Person	Sex	Date of Birth	Age	<input type="checkbox"/> Juvenile
Hajicek, Rodney (EGFPD)	Mentioned	Male			<input type="checkbox"/> Will Testify
Eye Color	Hair Color	Race	Ethnicity	Height	Weight
		White	Non-Hispanic		
DL #	Other ID #	Other ID Type			

SEASONAL ADDRESS

Address	City	State	Zip
520 Demers Ave	East Grand Forks	MN	56721
Seasonal Phone #	Cell Phone #	Work Phone #	
2187732294			

PERMANENT ADDRESS

Address	City	State	Zip
Perm. Phone #	Parent Cell #	Work Phone #	

OTHER PERSON 3

Name **Holmseth, Timothy** Type of Person **Mentioned** Sex **Male** Date of Birth **03/17/1968** Age **45** ☐ Juvenile
☐ Will Testify

Eye Color Hair Color Race **White** Ethnicity **Non-Hispanic** Height Weight

DL # Other ID # Other ID Type

SEASONAL ADDRESS

Address **320 17th St NW Apt 17** City **East Grand Forks** State **MN** Zip **56721**

Seasonal Phone # **5073810250** Cell Phone # Work Phone #

PERMANENT ADDRESS

Address City State Zip

Perm. Phone # Parent Cell # Work Phone #

Notes

STATUS

Exceptional Clearance

Exceptional Clearance Date

Officer **Norland, Mike 5022** Responsibility **Responsible Officer**

Case Status **Closed** Status Date **04/27/2013 1119**

☐ Weapon Involved ☐ Force Involved ☒ Reviewed

☐ Accident Involved Accident

Approved By - Patrol Supervisor **Tadman, Jim A** Date **05/02/2013 1402**

Reviewed By - Records Date

Initial Officer Report**NARRATIVE # 1**

ORI	Case Number	Date	Officer		
MN0600000	13-000447	03/29/2013	Norland, Mike	5022	<input type="checkbox"/> Release to Public

On 3/29/2013 I was contacted by Lt. Rodney Hajicek with the East Grand Forks Police Department in reference to a hard drive that was dropped off at our office by Officer Aiesso Schrage with the Pine-To-Prairie Task Force on 12/15/2012. Officer Schrage also brought over two cell phones at that time. One of the cell phones is a trackphone and is unable to be ripped at this time by the XRY cell phone forensic equipment and software. The other phone is an LG - VX11000 cell phone. End of report.

Assisting Officer Report**NARRATIVE # 2**

ORI	Case Number	Date	Officer		
MN0600000	13-000447	04/27/2013	Norland, Mike	5022	<input type="checkbox"/> Release to Public

The hard drive that was given to me to look at was a Western Digital 500 GB hard drive with the S/N: WCAS87169279. On 4/3/2013 at approx. 0850 hrs. I hook up the above hard drive to a write blocker that was hooked up to my forensic computer through a usb cord. I looked through the computer and did not find anything that would show illegal activity on the computer. I then shut the computer off and unhooked the hard drive. I later returned the hard drive and cell phones to Officer Schrage. I was later asked to image the hard drive. I again received the hard drive on 4/22/2013. I was in the process of imaging another hard drive and did not get a chance to image this hard drive. On 4/26/2013 I was again contacted by Officer Schrage that there was a court order for all the property to be returned to the suspect in their case. The hard drive was returned to Officer Shrage. End of report. Closed.

RE: Pine-to-Prairie Task Force - Message (HTML)

Edit View Insert Format Tools Actions Help

Reply Reply to All Forward X A

From: Oliveira, Jill (DPS) [jill.oliveira@state.mn.us]
Sent: Mon 12/9/2013 3:00 PM
To: Timothy Charles Holmseth
Subject: RE: Pine-to-Prairie Task Force
Attachments: image001.png (9 KB)

Tim,
e BCA had no role in the investigation you describe and did not attach any tags to evidence in that case.

JILL OLIVEIRA | PUBLIC INFORMATION OFFICER, MN DEPT. OF PUBLIC SAFETY

 BUREAU OF CRIMINAL APPREHENSION
1430 MARYLAND AVENUE EAST, ST. PAUL, MN 55106
651-793-2726 (w) 651-503-5418 (c) | jill.oliveira@state.mn.us



From: Timothy Charles Holmseth [mailto:tholmseth@wiktel.com]
Sent: Monday, December 09, 2013 10:52 AM
To: Oliveira, Jill (DPS)
Subject: RE: Pine-to-Prairie Task Force

Well, essentially. I am just requesting any files or information I can obtain as set forth in my previous email.
refer email, so, if you could send it to me that way, it would be great.
anks a million.

From: Oliveira, Jill (DPS) [mailto:jill.oliveira@state.mn.us]
Sent: Monday, December 9, 2013 9:34 AM
To: Timothy Charles Holmseth
Subject: RE: Pine-to-Prairie Task Force

Tim, it wouldn't be a FOI request, but rather a request under the Minnesota Data Practices Act. You can send it to me by email if you like. We'll respond
th any public information that is available pertaining to your request.

RE: Pine-to-Prairie Task Force - Message (HTML)

Edit View Insert Format Tools Actions Help

Reply Reply to All Forward X A A

12/9/2013 10:51 AM

From: Oliveira, Jill (DPS) [jill.oliveira@state.mn.us]
To: Timothy Charles Holmseth
Subject: RE: Pine-to-Prairie Task Force
Attachments: image001.png (9 KB)

Sent: Mon 12/9/2013 9:34 AM

From: Oliveira, Jill (DPS) [mailto:jill.oliveira@state.mn.us]
Sent: Friday, December 6, 2013 10:23 AM
To: Timothy Charles Holmseth
Subject: RE: Pine-to-Prairie Task Force

Tim, there are no BCA personnel serving on that task force.

JILL OLIVEIRA | PUBLIC INFORMATION OFFICER, MN DEPT. OF PUBLIC SAFETY
BUREAU OF CRIMINAL APPREHENSION
1430 MARYLAND AVENUE EAST, ST. PAUL, MN 55106
651-793-2726 (W) 651-503-5418 (C) | jill.oliveira@state.mn.us



From: Timothy Charles Holmseth [mailto:tholmseth@wiktel.com]
Sent: Friday, December 06, 2013 8:48 AM
To: Oliveira, Jill (DPS)
Subject: Pine-to-Prairie Task Force

the BCA associated with the Pine-to-Prairie Task Force in Northern Minnesota?

anks,
n

RE: REQUEST FOR INVESTIGATION - Message (HTML)

FileEditViewInsertFormatToolsActionsHelp

ReplyReply to AllForwardPrintX

12/13/2013 10:01 AM

Sent: Fri, 12/13/2013 8:50 AM

From: Evans, Andrew (DPS) [mailto:andrew.evans@state.mn.us]

To: Timothy Charles Holmseth

Cc:

Subject: RE: REQUEST FOR INVESTIGATION

From: Timothy Charles Holmseth [mailto:tholmseth@wiktel.com]

Sent: Thursday, December 12, 2013 2:54 PM

To: Evans, Andrew (DPS)

Subject: RE: REQUEST FOR INVESTIGATION

Drew,

Thank you for your prompt response.

You noted the BCA played no role in the case.

I have one question along those lines.

Did the East Grand Forks Police Department, Polk County Sheriff's Office, East Grand Forks City Attorney Ronald Galstad, or any member of the Pine-to-Prairie Drug Task Force, ever contact the BCA and ask you to conduct a forensic examination of my hard-drive?

Alternatively put ...

Did the BCA ever advise any law enforcement official from the before-mentioned agencies, that it would not conduct a forensic examination on my hard-drive unless the agency acquired a more specific warrant?

Essentially ... was there any communication about me whatsoever?

I am just wondering if you were ever in communications with any law enforcement regarding this case or the Search Warrant they executed.

Thanks,
Tim

From: Evans, Andrew (DPS) [mailto:andrew.evans@state.mn.us]

RE: REQUEST FOR INVESTIGATION - Message (HTML)

File Edit View Insert Format Tools Actions Help

Reply Reply to All Forward

You replied on 12/13/2013 10:01 AM.

From: Evans, Andrew (DPS) [andrew.evans@state.mn.us]

Sent: Fri 12/13/2013 8:50 AM

To: Timothy Charles Holmseth

Cc:

Subject: RE: REQUEST FOR INVESTIGATION

Mr. Holmseth –

We were not requested to conduct a forensic examination on your computer.

Sincerely,

Drew Evans | Assistant Superintendent
MN Bureau of Criminal Apprehension
1430 Maryland Ave. E
St. Paul, MN 55106
651-793-1108 | Andrew.Evans@state.mn.us
[Follow BCA](#)

From: Timothy Charles Holmseth [mailto:tholmseth@wiktel.com]
Sent: Thursday, December 12, 2013 2:54 PM
To: Evans, Andrew (DPS)
Subject: RE: REQUEST FOR INVESTIGATION

Drew,

Thank you for your prompt response.

You noted the BCA played no role in the case.

I have one question along those lines.

Did the East Grand Forks Police Department, Polk County Sheriff's Office, East Grand Forks City Attorney Ronald Galstad, or any member of the Pine-to-Prairie Drug Task Force, ever contact the BCA and ask you to conduct a forensic examination of my hard-drive?

Alternatively put...

EAST GRAND FORKS POLICE DEPARTMENT



Michael Hedlund
Chief of Police

520 Demers Avenue East Grand Forks, MN 56721
Phone (218) 773 - 1104 Fax (218) 773 - 1108

December 6, 2013

Timothy Holmseth
320 17th Street NW #17
East Grand Forks, MN 56721

Dear Mr. Holmseth:

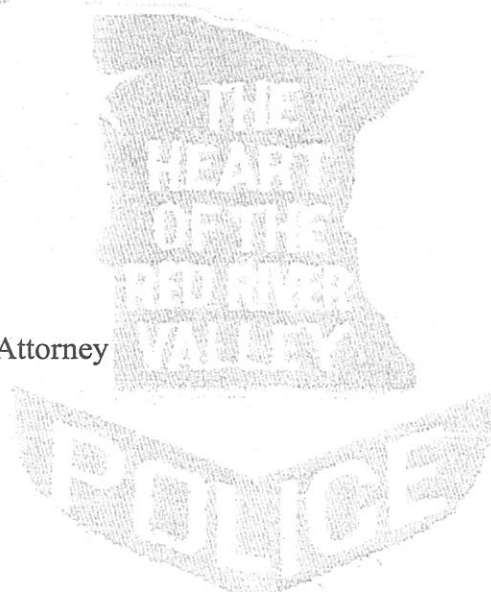
Regarding your Request for Information filed on November 20, 2013, you have previously been provided copies of the police reports pertaining to that incident. In this situation neither our Department nor the Polk County Sheriff's Office completed a chain of custody form so unfortunately I do not have any additional documents to provide for you.

I apologize for the delay in getting this information to you.

Sincerely,


Michael S. Hedlund
Chief of Police

cc: Ron Galstad – City Attorney
File



4. The property or things above-described consist of any item or constitute any evidence which tends to show a crime has been committed or tends to show that a particular person has committed a crime.


5. The property or things above-described are in danger of loss, destruction or removal as Timothy Charles Holmseth has denied allegations that he is in violation of the sentencing order dated October 29, 2012 and evidence to prove the allegation would be contained above referenced would be contained on or in the property or things above-described.

The Court further finds that probable cause exists to believe that the above-described property and things are at the above-described premises or on the person of Timothy Charles Holmseth based upon the application of EGFPD Officer Aeiiso Schrage, which is attached hereto and expressly incorporated herein.

NOW, THEREFORE, YOU, EGFPD Officer Aeiiso Schrage AND OTHER LAW ENFORCEMENT OFFICERS ACTING UNDER YOUR DIRECTION AND CONTROL, THE PEACE OFFICERS AFORESAID, HEREBY ARE COMMANDED BETWEEN THE HOURS OF 7:00 A.M. AND 8:00 P.M TO SEARCH THE DESCRIBED PREMISES, MOTOR VEHICLE, AND THE PERSON OF TIMOTHY CHARLES HOLMSETH FOR THE ABOVE-DESCRIBED PROPERTY AND THINGS, TO SEIZE THE DESCRIBED PROPERTY AND THINGS, AND TO RETAIN THEM IN CUSTODY SUBJECT TO COURT ORDER AND ACCORDING TO LAW.

BY THE COURT:

Dated DEC. 13, 2012.



Judge of District Court



STATE OF MINNESOTA
DEPARTMENT OF PUBLIC SAFETY
BUREAU OF CRIMINAL APPREHENSION
1246 UNIVERSITY AVENUE, ST. PAUL, MINN. 55104

EVIDENCE

Case No. 13
Principal(s) _____
Location _____
Date of Seizure/Purchase _____
Agent(s) _____
Exhibit No./Lot _____
Search Warrant No. _____

INVESTIGATOR

Laboratory No. _____
Room No. _____
Date Received _____
Received By _____

ANALYST

PS-80310