

Cause Number: **D1DC13207388**

AUSTIN MUNICIPAL COURT
STATE OF TEXAS
COUNTY OF TRAVIS

8/24/14

AFFIDAVIT FOR WARRANT OF ARREST AND DETENTION

Undersigned Affiant, Who After Being Duly Sworn By Me, On Oath, Makes The Following Statement:

I have good reason to believe and do believe that **Nicholas Michael Justin Wyzykowski**, W/M, born September 19, 1992,

On or about the 27 day of December, 2013, in the incorporated limits of the City of Austin, County of Travis and the State of Texas, did then and there commit the offense of:

Intoxication Manslaughter - 2nd Degree Felony

My belief of the foregoing statement is based upon information provided to me by Austin Police Report #2013-3611885.

On December 27, 2013, at approximately 23:16, Austin Police were called to the 7600 block of N FM-620 on a crash. Deputies from the Travis County Sheriff's Office arrived first and found and an obviously wrecked Toyota Camry, Toyota Prius, and Chevrolet Avalanche. A witness to the crash, Roy Lee Floyd, told Deputies Gardner #4367, Sanchez #4620, and Small #1679 that the Chevrolet Avalanche had been southbound in the 7600 block of N FM-620 when it was involved in a crash in the southbound lanes and then continued southbound in the northbound lanes where it narrowly missed striking the vehicle Floyd was in. The Chevrolet Avalanche eventually came to rest after striking a tree and the wall of an apartment complex at 7655 N FM-620.

Floyd estimated the Chevrolet Avalanche's speed between 80 and 100 miles per hour when it passed him.

Floyd told the deputies he approached the driver of the Chevrolet Avalanche and helped him exit the driver's seat. There were no other occupants in the Chevrolet Avalanche. Floyd said the driver ran on foot into the apartment complex, fleeing the scene of the crash without identifying himself or checking on the occupants of the other vehicles involved. Floyd described the driver to the deputies, which included wearing only a towel. The deputies soon located Nicholas Michael Justin Wyzykowski walking inside the apartment complex wearing only a towel and having marks on his body consistent with a driver's side seat belt. When Wyzykowski was brought back to the crash scene,

Floyd positively identified Wyzykowski as the driver of the Chevrolet Avalanche.

Austin Police Officer R. Foster of the Driving While Intoxicated Unit arrived and spoke with Wyzykowski. He asked Wyzykowski where he had been driving to and Wyzykowski could not answer. He asked Wyzykowski where he had been driving from and, again, Wyzykowski could not answer. Officer Foster said Wyzykowski was disoriented.

Officer Foster noticed a strong odor of an alcoholic beverage coming from Wyzykowski's breath. He noticed that Wyzykowski's eyes were bloodshot and watery. Officer Foster described Wyzykowski's speech as slurred and said Wyzykowski mumbled when he spoke. He also noticed that Wyzykowski swayed and described his attitude as uncooperative, indifferent and cocky.

Austin EMS transported Wyzykowski to University Medical Center at Brackenridge for minor injuries sustained during the crash. Officer Foster followed Austin EMS to the hospital and tried to administer to Wyzykowski the Horizontal Gaze Nystagmus Test from the National Highway and Traffic Safety Administration's Standardized Field Sobriety Tests. Officer Foster did notice two clues from the test before Wyzykowski refused to continue the test. Wyzykowski closed his eyes and refused to say anything further.

Officer Foster determined that Wyzykowski was intoxicated and placed him under arrest. The DIC-24 was read to Wyzykowski and a voluntary specimen of his blood was asked for. Wyzykowski answered that his attorney would get a specimen of Wyzykowski's blood to Officer Foster in a few days.

Wyzykowski's blood serum alcohol concentration was 0.27 grams of alcohol per 100 milliliters of blood serum that was taken by hospital personnel for medical purposes.

Austin Police Detective J. Cartier arrived at the scene. From evidence at the scene Detective Cartier was able to determine that the Chevrolet Avalanche had been southbound in the left lane of N FM-620. In the 7600 block the Chevrolet Avalanche struck the back of the Toyota Prius, which had also been southbound in the left lane of N FM-620. Both vehicles then went into oncoming northbound traffic and the Chevrolet Avalanche struck the northbound Toyota Camry. The Chevrolet Avalanche continued off the roadway and into a tree and the wall of the apartment complex at 7655 N FM-620.

From Detective Cartier's training and experience, he felt the evidence was consistent with the speed of the Chevrolet Avalanche being much greater than the speed of the Toyota Prius at impact, which would be consistent with what the witness, Floyd, had said.

The three occupants of the Toyota Prius were Margaret Jenkins Howard, Cale Howard,

and Wolfgang Theodore Sumner Sargent. Austin EMS arrived and declared Margaret Jenkins Howard deceased at 23:36. Austin EMS transported Cale Howard to Saint David's Round Rock Medical Center, where he was pronounced deceased at 04:06 on December 28, 2013. Austin EMS transported Wolfgang Theodore Sumner Sargent to Saint David's Round Rock Medical Center with a broken left femur.

The four occupants of the Toyota Camry were Karen Ruth Kent, Karen Lee Kent, Donald Greg Fourqurean, and Susan Smart. Austin EMS transported Karen Ruth Kent and Karen Lee Kent to University Medical Center at Brackenridge. Karen Ruth Kent suffered a broken back and broken ribs. Karen Lee Kent suffered a broken neck, a broken back, broken ribs, and a punctured lung. Austin EMS transported Donald Greg Fourqurean and Susan Smart to Saint David's Round Rock Medical Center. Donald Greg Fourqurean suffered a minor laceration to his head. Susan Smart suffered a broken pelvis, a broken nose, and broken ribs.

It was reckless of Wyzykowski to ingest alcoholic beverages before driving a motor vehicle on a public roadway. This was aggravated by the fact that Wyzykowski actually ingested alcoholic beverages to the point of intoxication, losing his mental and physical faculties, and then drove a motor vehicle on a public roadway.

It was reckless of Wyzykowski to fail to keep a proper lookout for vehicles or anything else that could possibly be in the roadway.

It was reckless of Wyzykowski to drive faster than the established flow of traffic.

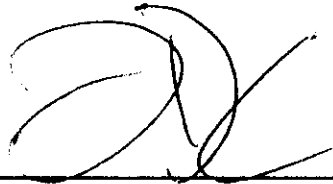
I believe Nicholas Michael Justin Wyzykowski violated Texas Penal Code 49.08, Intoxication Manslaughter, by operating a motor vehicle in a public place while intoxicated, and causing death to Margaret Jenkins Howard by reason of that intoxication.

J. EADS # 2640

AFFIANT

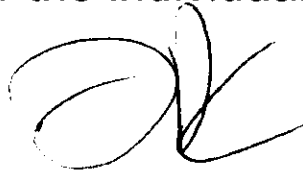
Detective J.Eads #2640

Sworn & Subscribed to before me by the said Affiant on this 28th day of December, 2013,



Magistrate

On this the 28th day of December, 2013, I hereby acknowledge I have examined the foregoing Affidavit and have determined that Probable Cause exists for the issuance of an Arrest Warrant for the individual accused therein.



Magistrate, Travis County, Texas

Offense No. 2013-3611885

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