

SEARCH WARRANT

IN THE MATTER OF

Joseph A Mitchell

Date Issued: 09/30/2010 Time Issued: 9:46 AM AM PM

Name Of Applicant: Detective C. L. Roberts

Name Of Additional Affiant:

Name Of Additional Affiant:

RETURN OF SERVICE

I certify that this Search Warrant was received and executed as follows:

Date Received: 09/30/2010 Time Received: AM PM

Date Executed: 9/30/2010 Time Executed: 2:16 AM PM


made a search of JOSEPH MITCHELL

_____ as commanded.
_____ as commanded.

I seized the items listed on the attached inventory.

I did not seize any items.

This Warrant WAS NOT executed within forty-eight (48) hours of the date of issuance and I hereby return it not executed.

Signature Of Officer Making Return: 

Department Of Agency Of Officer: Durham County Sheriff's Office District Number: 10-09-0503

Signature: PAULINE ROLFE

STATE OF NORTH CAROLINA

DURHAM County

In The General Court Of Justice
District/Superior Court Division

To any officer with authority and jurisdiction to conduct the search authorized by this Search Warrant: I, the undersigned, find that there is probable cause to believe that the property and person described in the application on the reverse side and related to the commission of a crime is located as described in the application.

You are commanded to search the premises, vehicle, person and other place or item described in the application for the property and person in question. If the property and/or person are found, make the seizure and keep the property subject to Court Order and process the person according to law.

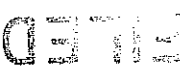
You are directed to execute this Search Warrant within forty-eight (48) hours from the time indicated on this Warrant and make due return to the Clerk of the Issuing Court.

This Search Warrant is issued upon information furnished under oath by the person(s) shown.

Date: 9-30-10 Signature:  Deputy CSC Magistrate Assistant CSC District Ct. Judge CSC Superior Ct. Judge

This Search Warrant was returned to me on the date and time shown below.

Date: 9-30-2010 Time: 10:00 AM AM PM Signature:  Deputy CSC Assistant CSC Clerk Of Superior Court

DURHAM COUNTY, N.C.
200 SEP 30 P 10:02


APPLICATION FOR SEARCH WARRANT

1. Detective C. L. Roberts, Durham County Sheriff's Office

(Insert name and address, or if law enforcement officer, name, rank and agency)

being duly sworn, request that the Court issue a warrant to search the person, place, vehicle, and other items described in this application and to find and seize the property and person described in this application. There is probable cause to believe that *(Describe property to be seized, or if search warrant is to be used for searching a place to serve an arrest warrant or other process, name person to be arrested)*

See Attached

constitutes evidence of a crime and the identity of a person participating in a crime, *(Name crime)* Murder NCGS 14-17

and is located *(Check appropriate box(es) and fill-in specified information)*

in the following premises *(Give address and, if useful, describe premises)*

(and) on the following person(s) *(Give name(s) and, if useful, describe person(s))*

See Attached

(and) in the following vehicle(s) *(Describe vehicle(s))*

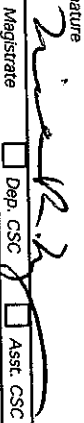
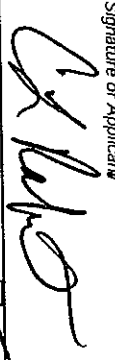
(and)

(Name and/or describe other places or items to be searched, if applicable)

The applicant swears to the following facts to establish probable cause for the issuance of a search warrant:

See Attached

SWORN AND SUBSCRIBED TO BEFORE ME

Date <u>9-30-10</u>	Date <u>09/30/2010</u>
Signature 	Signature of Applicant 
<input type="checkbox"/> Magistrate <input type="checkbox"/> Dep. CSC <input type="checkbox"/> Asst. CSC	<input type="checkbox"/> Clerk of Superior Court <input checked="" type="checkbox"/> Judge

In addition to the affidavit included above, this application is supported by additional affidavits, attached, made by _____

In addition to the affidavit included above, this application is supported by sworn testimony, given by _____

This testimony has been *(check appropriate box)* reduced to writing tape recorded and I have filed each with the clerk.

NOTE: If more space is needed for any section, continue the statement on an attached sheet of paper with a notation saying "see attachment." Date the continuation and include on it the signatures of applicant and issuing official.

Continuation page attached to search warrant application by Det. C. L. Roberts, dated September 30, 2010, to search the body of Joseph A Mitchell, DOB 05/29/1964.

I. Property to be seized

The property to be seized is the DNA, head hair sample and cheek scraping of Joseph A Mitchell, DOB 05/29/1964, and currently incarcerated in the North Carolina Central Prison, 1300 Western Blvd, Raleigh NC, and obtainable by swabbing the inside of the Mitchell's cheek and pulling samples of Mitchell's head hair.

Probable Cause Affidavit

- I. I, C.L. Roberts, being sworn, deposes and says that I am a Deputy Sheriff assigned to the Durham County Sheriff's Office Detective Bureau. I have been a sworn law enforcement officer since 2003. I have been a Detective, or investigator since 2008. I have received over 500 hours of training in Basic Law Enforcement, and over 200 hours in other law enforcement subjects including, but not limited to, Radar Operator's School, Field Training Officer's School, and Standardized Field Sobriety Tests. I have taken the Police Law Institute Class through the North Carolina Justice Academy and I have also taken the Death Investigations class through the same agency. I have also been trained in Interview and Interrogation through a class sponsored by the North Carolina State Bureau of Investigation. I have been involved in the investigation of numerous crimes ranging from property crimes to crimes against persons, such as rape and murder.
- II. On September 22nd, 2010, deputies with the Durham County Sheriff's Office responded to 17 Thistle Trace, Hillsborough, NC. This address is in Hillsborough, but is a part of Northern Durham County. On arrival Deputies and Emergency Medical Services personnel found a four year male who was in cardiac arrest. A subsequent search of the residence revealed that there was a 46 year old male, Joseph Mitchell, the father of the 4 year old, who had numerous self inflicted injuries made with an edged weapon. Both persons were transported to Duke University Medical Center where the 4 year old male died from his injuries. Det. Mellown of this agency viewed the remains of the child at the Emergency Department of Duke University Medical Center. He observed petechial hemorrhages around the child's eyes, and bruising across the child's throat. These injuries are consistent with a death by suffocation or strangulation. Follow-up interviews with two other juvenile residents of the house revealed that they both woke up with something covering their mouths or faces, and had to fend off their father, who was


Issuing Official

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C.L. Roberts

Continuation page attached to search warrant application by Det. C. L. Roberts, dated September 30, 2010, to search the body of Joseph A Mitchell, DOB 05/29/1964.

attempting to cover their mouths. The juveniles also stated their father was wearing gloves and a yellow jacket.

- III. During the investigation into the child's death and the assault on his older siblings, many items of evidentiary value were collected. Some of the items collected were a mask, knife, leather gloves, yellow jacket and blood swabs. These are items believed to have been used by or touched by the offender. These items may contain the DNA, body fluids, skin cells or hair from the offender.
- IV. I know from my training and experience as a law enforcement officer that when a person touches an item, they may leave small amounts of skin cells, skin secretions, hair, and body fluids on that item. Those skin cells, secretions, hair and body fluids contain DNA. The makeup of the DNA is unique to the person who touched that item.
- V. A person's DNA may be obtained from hair samples and by swabbing the inside of the cheek. These cells will contain that person's unique DNA, and their DNA can be compared to items that they may have touched. In this case, DNA obtained from Joseph A Mitchell can be compared to the items collected at the scene and this may confirm that he handled those items.
- VI. Based on the circumstances and information listed above, and in light of my training and experience as a law enforcement officer, I believe that probable cause exists that the DNA, hair and body fluids of Joseph A Mitchell DOB 05/29/1964, currently incarcerated at the North Carolina Central Prison, 1300 Western Blvd, Raleigh NC, can be obtained by swabbing the inside of the Mitchell's cheek and pulling samples of Mitchell's head hair.


Issuing Official

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C. L. Roberts

STATE OF NORTH CAROLINA

File No.

DURHAM County

In The General Court Of Justice
 District Superior Court Division

IN THE MATTER OF:

INVENTORY OF ITEMS SEIZED
PURSUANT TO SEARCH

Name
JOSEPH ANTHONY MITCHELL

G.S. 15A-223, 15A-254. -257

I, the undersigned officer, executed a search of:

Person, Premises Or Vehicle Searched
JOSEPH ANTHONY MITCHELL

Date Of Search
9/30/2010

This search was made pursuant to

- 1. a search warrant issued by: SUPERIOR COURT JUDGE MICHAEL MORGAN
- 2. consent to search given by: _____
- 3. other legal justification for the search: _____

The following items were seized:

- #1 Pulled hair samples - from head
- #2 2 Cotton Swabs - inside Cheek

[Handwritten signature]

Items Seized Continued:

[Handwritten signature]

1. I left a copy of this inventory with the person named below, who is:

- a. the owner of the premises searched.
- b. the owner of the vehicle searched.
- c. the person in apparent control of the premises searched.
- d. the person in apparent control of the vehicle searched.
- e. the person from whom the items were taken.

2. As no person was present, I left a copy of this inventory:

- a. in the premises searched, identified on the reverse.
- b. in the vehicle searched, identified on the reverse.

Name And Address Of Person To Whom A Copy Of This Inventory Was Delivered, If Any

Joseph Anthony Mitchell

The law enforcement agency identified below will hold the seized property subject to court order.

SWORN AND SUBSCRIBED TO BEFORE ME		Signature Of Law Enforcement Officer <i>[Signature]</i>
Date 9-30-2010		Title Of Law Enforcement Officer Detective <i>[Signature]</i>
Signature <i>[Signature]</i>		Name And Address Of Agency Durham County Sheriffs Office 201 E Main St Durham NC 27704
<input checked="" type="checkbox"/> Deputy CSC <input type="checkbox"/> Clerk Of Superior Court	<input type="checkbox"/> Assistant CSC <input type="checkbox"/> Magistrate	

ACKNOWLEDGMENT OF RECEIPT

I, the undersigned, received a copy of this inventory.

Date	Signature of Person Receiving Inventory
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