

STATE OF NEW MEXICO
COUNTY OF SANDOVAL
IN THE DISTRICT COURT

FILED IN
SANDOVAL COUNTY

2017 OCT 19 10:10:19

STATE OF NEW MEXICO
Plaintiff,

No. M45FR201700919

MAGISTRATE JUDGE
COURT

Vs.

DEFENDANT: Kimsey D. Barboan

DOB: [REDACTED] 1984

SSN: [REDACTED]

ADD: [REDACTED]

Albuquerque, NM, 87102

AFFIDAVIT FOR ARREST WARRANT

The undersigned, being duly sworn, on his oath, states that he has reason to believe that on or about the 16th day of December, 2017, in the City of Cuba, County of Sandoval, State of New Mexico, the above-named defendant did commit the crime of:

1. MURDER 30-2-1

2. TAMPERING WITH EVIDENCE (THIRD DEGREE FELONY) 30-22-5 (A)&(B)(1)

The undersigned further states the following facts on oath to establish probable cause to believe that the above-named defendant committed the crime (s) charged:

Affiant is Agent Marcus Lopez, a full-time, salaried law enforcement officer who has been employed by the New Mexico State Police for approximately twelve years, and is currently assigned to the Investigations Bureau in Zone 3, Albuquerque, New Mexico. Affiant has training consisting of the New Mexico State Police Academy, Police Agency Training Counsel, and Force Science. Affiant has received training in the investigation of crimes including but not limited to violent crime type investigations. Affiant has received both classroom and on the job training concerning the investigation of the above offense(s). Affiant has conducted numerous criminal investigations that led to the arrest and conviction of persons in violation of New Mexico State Statutes. Affiant (I) shall herein after be referred to in the first person.

On December 18, 2017, Affiant was assigned to an investigation of a blunt force type violent crime causing death which occurred at 334 County Road 13, Cuba, New Mexico. Affiant received a briefing of information from Sergeant Tom Christian and Agent John Cunningham regarding the incident. The following is a synopsis of this information.

On December 16, 2017, in the late evening hours Officer Blackhorse New Mexico State Police had been dispatched to be on the lookout for an older model 1980's Chevy pickup. Officer Blackhorse was able to locate the pickup which is a blue GMC pickup displaying New Mexico license plate 2108FR. The pickup had one male laying across the front seat and was at the Circle K in Cuba New Mexico. The male in the pickup had a laceration on the left side of his forehead. The male was identified as Kimsey Barboan [REDACTED]-84.

An ambulance was called to the scene at the Circle K. While waiting for the ambulance Officer Blackhorse was told by Mr. Barboan he had been jumped by numerous white males and that is how he sustained the injury to his head. As this conversation was taking place a Sandoval County Deputy and Cuba Police Officer advised Officer

Blackhorse in the right front passenger area was a baseball bat with blood on it and a rifle. Officer Blackhorse took possession of the rifle and left the baseball bat in the pickup. Mr. Barboan was transported to the Sandoval County Regional Hospital via ambulance for his injuries. He was eventually released from the hospital and booked into Sandoval County Detention Center for Felon in Possession of a Firearm, DWI, Driving on a Revoked License, Open Container and two Felony Arrest Warrants.

On 12-18-17, at approximately 1130a.m. the following incident was reported to the Sandoval County Sheriff Department by Denise Carrejo via a 911 call.

Ms. Carrejo had taken a friend Coby Aragon to 334 County Rd 13 Cuba New Mexico. The address belongs to Anthony Martinez a friend of both of them. Mr. Aragon was going to see if Mr. Martinez had any work for him. Mr. Aragon went into the residence and found Mr. Martinez on the floor and appeared to be deceased. Mr. Aragon came out of the residence and advised Ms. Carrejo that Mr. Martinez appeared to be dead.

Ms. Carrejo called 911 and reported her friend Mr. Martinez was dead. She also called another friend Lonnie Duran.

Deputy Robert Stand arrived on scene and was informed by the people on scene about the deceased male. Deputy Stand entered the residence and looked to the right and observed a male facing up not moving. He observed the male had what appeared to be blunt force trauma to the head and there was lots of blood. The male was cold to the touch and had no pulse. He came back out of the residence. A second Sandoval County Deputy (Bullhead) arrived on scene. She was given a quick brief and both deputies went back into the residence conducted a welfare sweep making sure no one else was requiring assistance.

Deputy Stand noted it appeared as if a struggle had taken place inside of the residence. There was blood on several of the interior walls. He also observed where the kitchen and living room area meet was a dark colored baseball bat which appeared to have blood on it.

The deputies exited the residence and secured the scene. The case at this point was referred to New Mexico State Police Investigations Bureau/Albuquerque Zone 3.

Affiant and Agent Tony DeTavis followed up with a formal interview at the Sandoval County Detention Center with Mr. Barboan. He was advised of his Miranda Rights. In this interview Mr. Barboan advised he had been chopping wood at the residence, [REDACTED] County Rd 13. Mr. Barboan advised he currently lives there with Mr. Anthony Martinez. Mr. Barboan advised around 500p.m. on 12-16-17 he went into the residence and Mr. Martinez jumped him and struck him with a wooden baseball bat. He sustained injuries to the left side of his head and face. Mr. Barboan advised he got the baseball bat away from Mr. Martinez and began to strike Mr. Martinez with the baseball bat. He advised he did see blood on the facial area of Mr. Martinez.

Mr. Barboan advised there are stolen guns within the residence and Mr. Martinez is a user of illegal drugs.

Mr. Barboan stated he left the residence and also stated Mr. Martinez was making some type of groaning noises. He took the baseball bat and broke out the window to the 1985 Blue GMC pickup, the driver's side door. He took the pickup and headed towards Cuba. Mr. Barboan, upon arriving in Cuba made no attempts to seek medical assistance, and have them (Medical) sent to assist Mr. Martinez with his injuries, at the residence.

Based on the above mentioned facts, Affiant feels that there is sufficient probable cause for the issuance of an arrest warrant.

Subscribed and sworn to before me in the above-named

**TELEPHONICALLY APPROVED BY ASSISTANT
DISTRICT ATTORNEY BOB BACA**

County of Bernalillo, the State of New Mexico

this 18th day of Dec., 2017.

George Eichner

Judge, Magistrate, Notary or other officer authorized
to administer oaths

Marcus Lopez
Affiant's name Marcus Lopez

SM 3
Signature of Affiant

Agent
Official Title Agent

NOTE: Article II, Section 10 of the New Mexico Constitution provides that an arrest warrant may issue on a sworn written statement of facts showing probable cause. This affidavit is to be used only when the complaint does not set forth sufficient facts to establish probable cause.