



## AFFIDAVIT OF BRIAN W. RITTER

I, Brian W. Ritter, having been first duly sworn, do hereby depose and state as follows:

1. Your affiant has been employed with the Federal Bureau of Investigation (FBI) since 1996. Since 2001, your affiant has been assigned as a Special Agent in the St. Louis Division. Your affiant has been involved in numerous investigations, including Interstate Threats on the Internet via computer. As a Special Agent, I am authorized to investigate violations of laws of the United States, and I am a law enforcement officer with authority to execute arrest and search warrants issued under the authority of the United States. This affidavit is based on my investigation of a death threat posted on the website Topix.com on July 26, 2011 at approximately 8:27 Pacific Time under the discussion title "Police search for missing Jackson woman" post number 4164. This affidavit is also based upon conversations I have had with other law enforcement officers and witnesses in the investigation.

2. On June 1, 2011, at approximately 3:00 pm James Clay Waller and his wife Jacque Waller met at the law office of Jeffery P. Dix in Cape Girardeau, Missouri to discuss their divorce proceedings.

3. After the meeting with their attorney, Jacque had a telephonic conversation with her boyfriend and told him she was on her way to Waller's house, which was located at 1121 Woodland, Jackson, Missouri, to pick up her son Maddox Waller. That telephonic conversation lasted until her arrival at Waller's residence and ended on or about 4:05 pm. Maddox is five years old and is the son of both James Clay Waller and Jacque Waller.

4. On June 1, 2011 at approximately 11:20 pm, Cheryl Brennecke, sister of Jacque Waller, reported Jacque as a missing person to the Jackson, Missouri Police Department. A missing person report was made at that time. Brennecke advised she last talked to Jacque at approximately 3:50 pm and was told by Jacque that she (Jacque) had just left her attorney's office and was on her way to Waller's residence to pick up her son Maddox and would come straight to her home in Ste. Genevieve, Missouri. Brennecke advised she got worried when Jacque didn't come home and did not get any replies to text messages or any answers when she called Jacque's phone. Brennecke reported that Jacque has told her that James Clay Waller has threatened to kill Jacque and their three children before and was worried. Brennecke reported that Jacque told her Waller has stated how much money he could get for each kid if she died and also told Brennecke that Waller thinks he is smart enough to get by with it. Brennecke reported that Jacque has documented all the threats against her from Waller on her computer at work.

5. Jacque's current boyfriend was contacted by the Jackson Police Department and advised Jacque has also told him of threats made by Waller to kill her in the past and that Jacque has documented everything in her computer at work. One recalled by the boyfriend was that if Waller couldn't have her, no one would.

6. A copy of the diary located on Jacque's work computer, which contained the alleged threats made by Waller and documented by Jacque, was provided to the Cape Girardeau County Sheriff's Department by her employer. A three page copy of the threats recovered from the computer is attached hereto.

7. On June 2, 2011 at approximately 12:30 am, Waller called the Jackson Police Department to make a missing person report on his wife Jacque Waller. Waller advised they met at their attorney's office and Jacque was supposed to bring him a key to their post office box to his residence. Waller reported that Jacque later arrived at his residence, but could not recall the time. Waller advised they sat and talked and then napped. Waller reported that after the nap, they started to argue about the bankruptcy and then Jacque left the residence on foot. Waller advised he left the residence and when he returned, her car was gone.

8. On June 2, 2011 at approximately 10:04 am, Jacque Waller's vehicle was located on Interstate 55 northbound near the 105 mile marker in Jackson, Missouri. The vehicle was on the shoulder of the interstate with a flat tire. Jacque was not located in or around the vehicle.

9. On June 2, 2011 at approximately 6:05 pm, a state search warrant was executed at Waller's residence located at 1121 Woodland, Jackson, Missouri. Some items of evidence were seized as a result of the search. When Waller was presented his copy of the search warrant, Waller ripped it up and asked if he was free to leave. Waller was advised he was free to leave. During the search, officers observed a hallway area in the home in which children's play mats and toys had been placed on and along the carpet. The officers did not examine the floor under the mats.

10. On June 3, 2011 at approximately 12:45 pm, Jacque and Clay Waller's three children were taken into protective custody by law enforcement due to Jacque Waller being reported as missing and alleged threats made by James Clay Waller to harm



Jacque and their three children. The three children were put in the custody of the Missouri Children's Division and temporarily placed with Cheryl Brennecke. James Clay Waller has been denied visitation with the three children.

11. On June 6, 2011, affiant and Corporal Jeff Bonham of the Cape Girardeau, Missouri Police Department conducted a consent search at 1121 Woodland, Jackson, Missouri after the home owner and consenting party, who is not James Clay Waller, reported that a carpet was missing from the residence. As a result of the search, affiant and Corporal Bonham located and collected blood spatter evidence from two walls inside the residence. Blood spatter occurs when blood moves from one object through the air and lands on another object. On June 8, 2011, as the consent search continued, affiant and Corporal Bonham located and collected several pieces of cut up carpet and carpet pad from a crawl space accessible in the basement of the residence. The carpet pieces and carpet pad were hidden out of view in the back of the crawl space. One piece of cut up carpet had a large apparent blood stain that was visible on the bottom of the carpet and was hidden separate from the others in the crawl space. The Missouri State Highway Patrol Crime Lab later reported that the blood located on the two walls and the blood on the piece of carpet contained Jacque Waller's DNA.

12. On July 11, 2011, Waller was interviewed by affiant at the Cape Girardeau Resident Agency of the Federal Bureau of Investigation. Waller denied that Jacque came to his house to pick up their son Maddox and claimed that she came to the house for personal reasons and to talk about the bankruptcy. Waller advised that Maddox was with his girlfriend at the time Jacque came by and was not at his house. During the

interview, Waller was asked if his wife Jacque Waller had ever been injured in the house located at 1121 Woodland, Jackson, Missouri. Waller paused and advised "yes" but did not want to talk about it and that "it was not a big deal." Waller later advised that his wife was injured while at the house on June 1, 2011 as a result of an accident in the kitchen that caused her face to bleed. Waller stated, "she started bleeding like a ....., a lot." Waller told her to run to the bathroom. Waller advised she used her hands to catch the blood and ran through the house toward the master bathroom. Waller advised Jacque tripped in a hallway and fell down. Waller advised Jacque started to scream and stood up and was dizzy. Waller advised Jacque fell back down and laid there. Waller advised Jacque was conscious and was "thrashing around and was pissed." Waller advised he and Jacque cleaned up the blood together. Waller advised he never told the police about the blood because "it was no big deal." Waller then admitted he cut up and removed the carpet with the blood on it and hid it in the crawl space where it was later located by affiant and Corporal Bonham. Waller advised he scraped up his knees moving the carpet to the back of the crawl space and mentioned that the emergency room doctor noted the scars on his knees when he later went to the Emergency Room at Southeast Missouri Hospital to be treated for stress. Waller advised he removed the carpet after the police conducted the search warrant at the residence and was told by police that he "could do whatever he wanted with the house." Waller again advised he did not tell the police about the blood in the house and on the carpet because "it was no big deal." Waller advised he removed and hid the carpet because he did not want the homeowner to find it and think that something wrong had happened. Waller advised



when Jacque left the house, Jacque got mad at him because he would not give her car keys to her and called Waller a "fucking idiot." Waller then threw the keys up in the air toward the driveway and they got stuck in a tree. Waller claims he last saw Jacque walking away on foot. Waller denied that he had anything to do with his wife's disappearance.

13. On July 26, 2011, affiant became aware through Cape Girardeau County Sheriff's Department Lieutenant David James, of a death threat posting on Internet site "Topix" which can be found at Permalink:

<http://www.topix.com/forum/city/jackson-mo/T885G3PF5MEED7UM7/post4164>. The death threat was found under discussion title "Police search for missing Jackson woman" post number "4164". The content of the posting was "You are dead I promise If those kids get hurt, your fault, accident, nobodys fault. Your dad threaten clay, I know he's all talk, I will get you 5, 10, 25 years from now. You have it coming." The user name was identified as "Cherl".

14. Affiant is aware that the sister of the missing adult female, Jacque Waller, is Cheryl Brennecke and that Jacque's three children have been temporarily placed with Brennecke by the Missouri Children's Division. On June 1, 2011, Jacque Waller was reported missing to the Jackson, Missouri Police Department. Upon learning of the aforementioned post on Topix's website, Brennecke informed affiant that she believes the death threat was directed to her and that it made her in fear for her life and has caused her to take precautions to protect herself and the children. Brennecke further advised that

she immediately suspected the source of the threat was James Clay Waller, Jacque Waller's husband and father of Jacque's three children.

15. On July 27, 2011, website "Topix" advised your affiant that the aforementioned posting, number 4164 under discussion title "Police search for missing Jackson woman" was submitted to Topix on July 26, 2011 at 08:27 Pacific Time from IP address 97.87.97.240. Topix advised that the internet service provider for IP address 97.87.97.240 is Charter Communications.

16. On July 27, 2011, Charter Communications advised your affiant that IP address 97.87.97.240 is registered to an Irene Spinner, 2100 William #A, Cape Girardeau, Missouri 63703 and the account was still active on July 26, 2011. Charter Communications advised that telephone number (573) 335-3556 is associated with the account.

17. On July 27, 2011, affiant verified that 2100 William, Cape Girardeau, Missouri 63703 is Plaza Pawn. Detective Sergeant Don Perry of the Cape Girardeau Police Department advised that Irene Spinner used to be an employee of Plaza Pawn, but no longer works there.

18. A query of a publicly available database revealed that telephone number 573-335-3556 is subscribed to by Plaza Pawn, 2100 William Street, Cape Girardeau, Missouri.

19. On July 28, 2011, a Federal Search Warrant was executed at Plaza Pawn, 2100 William, Cape Girardeau, Missouri 63703. Store Manager Veronica Langston advised on July 26, 2011 at approximately 10:00 am Central Standard Time, James Clay

Waller came in the store and asked if he could use the computer so he could use the internet. Langston allowed Waller to use a computer with internet access in the business office of Plaza Pawn. After Waller left the business, Langston reviewed the internet history on the computer used by Waller and noticed that he had viewed the website Topix.com and other web sites. Langston and other employees of Plaza Pawn all advised Waller was the only person to use the computer while he was in the business office.

20. Affiant reviewed the video surveillance system maintained by Plaza Pawn on July 28, 2011. According to the time stamp on the video surveillance system, on July 26, 2011, James Clay Waller is observed entering the main entrance of Plaza Pawn at approximately 10:00 am. Waller is observed entering the business office at approximately 10:03 am. Waller is the only person in the business office between approximately 10:11 am and 10:29 am. Waller leaves the business office at approximately 10:51 am and exits the business at approximately 10:53 am.

21. During the search warrant at Plaza Pawn on July 28, 2011, FBI Special Agent John Wood conducted a search of an emachines Model W3650 desktop computer with serial number XGM8460018517. The computer contained a single Seagate 160 GB hard drive with serial number 5RX47JJF. The hard drive was imaged on scene by SA Wood. This computer was identified by Plaza Pawn employees as the computer used by Waller on July 26, 2011 in the business office.



22. On July 29, 2011, SA Wood advised affiant that a preliminary review of the computer data from the aforementioned computer determined the Topix website was visited during the time the aforementioned posting was made.

23. During a telephone conversation between SA Brian W. Ritter and James Clay Waller on July 28, 2011 at approximately 3:20 pm, Waller was requested to come to the Cape Girardeau Police Department for an interview. Waller advised he was out of town and was driving to Tampa, Florida and declined to come to the Police Department to be interviewed. Waller had previously informed the Cape Girardeau Police Department that he would come in after 3:00 pm on same date to be served an Ex Parte Order of Protection. On July 29, 2011, Waller was located and arrested on state charges in Malden, Missouri.

24. On August 24, 2011, SA Wood advised that an internet cookie file found on the computer contained evidence verifying the threat was sent from the computer seized at Plaza Pawn. The internet cookie file found by SA Wood was decrypted by the Senior Director of Engineering at Topix.

25. Based on Waller's conduct of threatening to kill the sister of Jacque Waller and the ongoing investigation of his missing wife, it is the opinion of this agent that there are no conditions or combination of conditions which will reasonably assure the appearance of Waller as required, or the safety of any other person and the community. Therefore, it is respectfully requested that James Clay Waller be detained without bond.

  
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Brian W. Ritter, Special Agent  
Federal Bureau of Investigation

Subscribed and sworn to before me this 8<sup>th</sup> day of September, 2011.

  
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Cynthia A. Glueck

CYNTHIA A. GLUECK  
Notary Public - Notary Seal  
State of Missouri  
Commissioned for Scott County  
My Commission Expires: October 28, 2014  
Commission Number: 104885582

1100 # 11  
L... (H 22)

COPY

- Clay states that when he was a cop in Sikeston (1995), 1<sup>st</sup> National Bank was robbed. The person that robbed it threw the money in a tree. Clay saw it and took the money and spent the money. I asked how he knew the bills were not marked and he said he knew because he was a cop that was involved with the robbery.
- Clay states that he robbed a bank earlier this year. I am not sure where.
- On Friday, December 3<sup>rd</sup>, I took the kids and went to my sister's house. Clay called me and I told him that I was going to file for divorce. He told me that he wanted Maddox and he was going to move with him to California. He said that was the only way he could ensure my safety. He said that he cannot live near me knowing that another man may be with me. He made numerous threats during this conversation. He asked me if I had someone lined out to raise our kids. He also said that he had a feeling that one of us would not be around to watch our kids grow up.
- On Saturday, December 4<sup>th</sup>, Clay threatened me again. He asked me why I didn't just take his gun out of my car, put it in my mouth and end myself so he could raise the kids.
- Wednesday, February 16<sup>th</sup>: Clay told me that he thought many times over the summer about killing himself and our kids so that I could start my new life. He also said that he is afraid that we won't see our kids grow up. He stated that he is starting to hate me and he will get me. Someday there might be a knock at the door and I open the door and get blown away.
- Saturday, February 19<sup>th</sup>: We were eating dinner at BWW with Darrin & Jamie Hefner. Clay took Maddox to the bathroom and came out laughing saying that he was holding Maddox's penis while he went to the bathroom & another patron asked, "Isn't that a bit extreme?" I then asked Clay why he was holding Maddox's penis as I have told him before that Maddox was big enough and did not need any help. He said that he always does because Maddox asks him to. In the car on the way home I asked him again about it and he said that Maddox asked him to hold it. Maddox overheard the conversation and said that he did not ask his dad to hold it. Clay kept saying he did and Maddox insisted that he didn't. I then told Clay to specifically tell me what Maddox said and he said that Maddox did not ask him that time.
- Friday, March 18<sup>th</sup>: Clay told me that I didn't deserve to live and he wishes he had a gun so he could blow my head off that day. He told me that a divorce would be my death sentence.
- Wednesday, March 23<sup>rd</sup>: Clay called me at 7 AM. He was threatening me and yelling at me. I met him at the airport. He told me that divorcing him was a death sentence. He would get me and, if he couldn't get to me, he would kill our kids. He would take them for a weekend fishing trip and then he would personally tell me they drowned so he could see my face. If he is not happy, then I will not be happy. He also told me that he shot at Gary Hill within the last few weeks as Gary was taking a drink. I do not know where this happened. He told me that I know too much about the things he has done in the past and he can't take a chance on me divorcing him because I would be able to testify against him.

FILED  
JUN - 3 2011

PATTI WISBENMEYER  
CIRCUIT CLERK



MCS # 41

Lead # 22

COPY

- June 2010: Clay was angry and told me never to keep his kids from him. He ran through the garage saying he was going to get his gun out of his truck. I stopped him before he got it. The kids came out to the garage and they went over to him and tried to comfort him.
- July 2010: In a rage, Clay started packing his bags. As he walked out, he hit my head against the wall and knocked pictures off. I thought he was done packing so I locked the door. He then kicked the door in and told me he was going to get his gun so I could blow my head off. The kids and I all ran outside. He got his gun out of his truck and tried to drag me by the hair into the house. I got away from him and was getting ready to run to a neighbor's house. He took the bullets out of the gun and then threw it to me. We then went inside and talked. I still have the gun.
- July 17, 2010: Clay took the kids camping. Before they left, he had me take a picture. He later told me that he had me take that picture because he planned to kill them that weekend because he knows that would be the way to hurt me the most.
- October 27, 2010: Clay asked me if we were going to get back together or not. I told him I still had trust issues. He stated that we could get divorced and he could get along with me but he will not stand for another man in his kids' lives. I told him that would not be a problem. He then told me that if I thought in a couple years that I could get a man and think everything would be fine, I am wrong. He said he would kill me, the kids and himself. I said, "So you are saying is that you would kill us all and he said, yes."
- November 2, 2010: 6 AM this morning Clay asked for his gun. I told him I had it and he said that either I give it to him or he was going to buy another one that day. I asked him what the problem was and he said he didn't like not having his gun. He then went on to say that he had nightmares that I was cheating. I asked, "Is that why you were asking for the gun?" He said that wasn't the reason. I said, "Well you threatened to kill us all last week." He said that he didn't and asked why he would want to kill our kids. I said I didn't know why but that is what he said. I told him I would give him his gun back but I was going to get one for my protection. He looked at me and smiled.
- Clay stated that he killed a man in Colorado during a forest fire. It would have been 1988 - 1992. He said the man thought he was looting his property while he was only trying to get away from the fire. He thought it was either him or the man. He also said it was close to a river.
- Clay stated that he shot Ron Henson's son in 2010. Clay states that when he was a child, Ron would sexually abuse him and Ron's son, who was 21 at the time, did nothing to stop it.
- Clay states that he left his guns on his toolbox at Wal-Mart and they were stolen. I assume that he hired someone to take them. I believe he has some other guns that are not registered to him. He has 2 handguns registered to him. I have one and my parents have the other.

FILED  
JUN - 3 2011

PATTI WIDENMEYER  
CIRCUIT CLERK

MCS #41  
L. Wittold  
COPY

- Do you love Clay? I am not in love with him. I do not miss him when he is gone and I do not enjoy the time we spend together. I care about him deeply and want only good things for him. I want him to be a good person and a good father. I feel like I am responsible for him and I have the need to take care of him.
- What do you have in common? The kids, snow-skiing.
- What reasons would you have for staying in this marriage? I am afraid he will injure/kill me and/or the kids. If he doesn't do that, I'm afraid of how he will emotionally injure the kids. I feel bad for him, I feel like I am abandoning him. I anticipate the adversarial relationship he will have with me and I'm not sure how I will deal with that.
- What do you love about Clay? He can be funny, is ambitious and takes on new challenges.
- Do you respect Clay? I do not respect the numerous bad decisions he has made and I allowed him to make. I feel like he has taken me for granted and I am not where I would like to be at almost 40 years old and I do blame him for that. He is a selfish person and usually puts himself before anyone else including the kids and myself.

**F I L E D**  
JUN - 3 2011  
PATTI WIBBENMEYER  
CIRCUIT CLERK