

IN THE CIRCUIT COURT OF CAPE GIRARDEAU COUNTY, MISSOURI

STATE OF MISSOURI

Plaintiff,

v.

JAMES CLAY WALLER II

No Permanent Address

White Male DOB: 08/03/1970

FBI: 289522MD4

OCN:

Defendant.

Case No.

PA File No. 031052596

COMPLAINT AND REQUEST FOR A WARRANT IN A FELONY CASE

Comes now, the Prosecuting Attorney of the County of Cape Girardeau, State of Missouri, being duly sworn upon oath and upon information and belief, and states that there is probable cause to believe that the accused committed the following crimes:

COUNT I

The Prosecuting Attorney of County Cape Girardeau, State of Missouri, charges that the defendant either acting alone or knowingly in concert with another, in violation of Section 565.020, RSMo, committed the class A felony of murder in the first degree punishable upon conviction under Section 565.020, RSMo, in that on or about June 1, 2011, in the County of Cape Girardeau, State of Missouri, the defendant after deliberation, knowingly caused the death of Jacque Sue Waller by unknown means.

CHARGE CODE: 1002199.0

COUNT II

The Prosecuting Attorney of County Cape Girardeau, State of Missouri, charges that the defendant either acting alone or knowingly in concert with another, in violation of Section 575.100, RSMo, committed the class D felony of tampering with physical evidence, punishable upon conviction under Sections 558.011 and 560.011, RSMo, in that on or about June 1, 2011, in the County of Cape Girardeau, State of Missouri, the defendant concealed the body of Jacque Sue Waller with the purpose to impair its availability in the investigation of the murder of Jacque Sue Waller, an official investigation, and thereby impaired and obstructed the prosecution of defendant for the crime of murder, a felony.

CHARGE CODE: 2911006.0

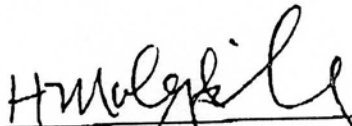
## COUNT III

The Prosecuting Attorney of County Cape Girardeau, State of Missouri, charges that the defendant either acting alone or knowingly in concert with another, in violation of Section 575.100, RSMo, committed the class D felony of tampering with physical evidence, punishable upon conviction under Sections 558.011 and 560.011, RSMo, in that between June 2, 2011 and June 8, 2011, in the County of Cape Girardeau, State of Missouri, the defendant concealed blood-stained carpet from the hallway of his home at 1121 Woodland in Jackson, Missouri, with the purpose to impair its availability in the investigation of the murder of Jacque Sue Waller, an official investigation, and thereby impaired and obstructed the prosecution of defendant for the crime of murder, a felony.

**CHARGE CODE: 2911006.0**

The facts that form the basis for this information and belief are contained in the attached statement of facts concerning this matter, which statement is made a part hereof and is submitted herewith as a basis upon which this court may find the existence of probable cause for the issuance of the warrant.

Wherefore, H. Morley Swingle, Prosecuting Attorney, prays that an arrest warrant be issued as provided by law.

  
\_\_\_\_\_  
Prosecuting Attorney

Sworn and subscribed to before me this \_\_\_\_\_ day of \_\_\_\_\_,  
\_\_\_\_\_.

Susan Wessell  
CLERK OF THE COURT

BY: \_\_\_\_\_

## PROBABLE CAUSE STATEMENT

I, James Humphreys, am the Chief of Police for the City of Jackson Police Department, and knowing that false statements on this form are punishable by law, state that the facts contained herein are true to the best of my knowledge.

1. I have probable cause to believe that James Clay Waller, II, committed one or more criminal offenses, specifically: Murder in the First Degree and multiple instances of Tampering with Physical Evidence.

2. The facts supporting this belief are as follows:

On Wednesday, June 1, 2011, Jacque Sue Waller (hereinafter "Jacque") and her husband, James Clay Waller, II ("Waller"), were separated and in the process of filing for divorce. The Wallers had been married for approximately 17 years and had three children in common, all age 5 at that time. In March 2011, Jacque and the children had moved to Ste. Genevieve County, Missouri to live with Jacque's sister, Cheryl Brenneke. On June 1, 2011, Waller was living rent free in a home located at 1121 Woodland in Jackson, Missouri, which is also in Cape Girardeau County. He had been staying at the residence for approximately six weeks following the separation from Jacque and was suffering from serious financial difficulties.

Following their separation, the Wallers were sharing custody of their children, though Jacque had primary custody and Waller received visitation. Jacque was gainfully employed and according to her sister Cheryl Brenneke, Jacque was excited about her future plans and was relieved to be getting the divorce process underway to end her marriage. Jacque was close to her family and her children and was in the process of transitioning in her job which would allow her to work from home in Ste. Genevieve County, removing the need to commute. In addition, Jacque was involved in a relationship with [REDACTED] who also lived in the Ste. Genevieve area. The couple had recently acquired a home they planned to live in together along with Jacque's children.

According to her family, over the Memorial Day Weekend, immediately prior to June 1, 2011, the Waller children were in the care of Waller for visitation. Jacque picked up Avery and Addison Waller on Sunday, May 29, 2011, but agreed to allow [REDACTED] to stay with his father for at least another night. At that time, Waller had a girlfriend named [REDACTED] who lived in Illinois and on May 31, 2011, Waller and his son, [REDACTED], stayed at [REDACTED]'s home. The following morning Waller returned to Cape Girardeau and left [REDACTED] in the care of [REDACTED].

On Wednesday, June 1, 2011, at approximately 3:00pm, Jacque and Waller attended a meeting together at attorney Jeffrey Dix's office in Cape Girardeau to discuss filing the necessary court documents to commence divorce proceedings. According to Dix, the Wallers engaged in discussions regarding child custody, payment of debts, settlement of a retirement account held by Jacque through her employer, and the possible filing of bankruptcy. Dix reported that Waller became agitated regarding details of child custody, tax deduction filings and the settling of the retirement account. Following the discussion, each party was required to sign a document that

would be filed with the court to commence the divorce proceedings. Dix stated Waller signed the document but would not leave it with him. Waller also compelled Jacque to take her signed copy with her. Dix stated he believed Waller feared Dix would file the documents immediately and commence the divorce. During the hour together, Waller was visibly angered on some of the financial issues. In the course of the meeting, the two ultimately decided they needed to talk to a bankruptcy lawyer before filing for divorce in order to avoid complications between the two proceedings.

Following the meeting with Dix, Jacque spoke over the phone with her sister at approximately 3:50pm. Jacque reported to her sister that she believed the meeting with the attorney had gone well. Jacque told Cheryl she was on her way to pick up her son [REDACTED] from Waller's home and she would then return "straight home" to Ste. Genevieve County. Following the conversation with her sister, Jacque spoke with [REDACTED] at approximately 3:56pm. [REDACTED] reports that during the conversation, he and Jacque discussed plans for decorating the children's rooms in the home they were planning to move in to soon. Jacque, according to [REDACTED] said she was on her way to pick up [REDACTED] from Waller's home and would then be returning to her home and would see him [REDACTED] then. At the end of the conversation, which lasted just over nine minutes, Jacque stated, "I'm here."

When Jacque did not return to her home in Ste. Genevieve within a reasonable amount of time, her family and [REDACTED] became concerned for her safety and that of her son [REDACTED]. Jacque had previously informed her friends, family and her boyfriend that Waller had repeatedly threatened to kill her and their children if she attempted to leave him. Jacque told those close to her that Waller had informed her she would not be able to enjoy working from home because she would be dead before then.

Also on June 1, 2011, at approximately 6:00pm, [REDACTED], the homeowner of Waller's residence, and [REDACTED], a neighbor, arrived at the Woodland address and observed Waller beside his red pick-up truck. There are two main drives that lead to the residences on the [REDACTED] property and Waller's truck and the boat were parked in the back driveway. The two women were familiar with Jacque's Honda Pilot and reported that when they observed Waller, they also saw Jacque's Honda parked parallel to a large commercial-sized dumpster. Waller's truck and boat were parked directly in front of the dumpster. [REDACTED] reported she then observed Waller leave the residence in his truck, pulling the boat. At no time that evening did [REDACTED] or [REDACTED] see Jacque.

At approximately 8:00pm, multiple individuals reported seeing Jacque's Honda Pilot still parked beside the dumpster at Waller's residence. Jacque was not seen. By this point, repeated efforts by Jacque's family and boyfriend to contact her had been unsuccessful. Between 8:30-9:00pm, [REDACTED], Waller's half-brother, at the request of Ruby Rawson, Jacque's mother, drove to Waller's house in an attempt to locate Jacque and/or Waller. Upon arriving, he contacted [REDACTED] and a young son of the [REDACTED]. [REDACTED] did not locate anyone inside or around the home. While there, the [REDACTED] son reports he and [REDACTED] walked over to the Honda Pilot which was still parked by the dumpster. [REDACTED] looked into one of the passenger side windows but was unable to see well due to the poor lighting in the area. [REDACTED] then left.

At approximately, 9:45pm, [REDACTED] the homeowner, had become aware of the concern of Jacque's family and walked to Waller's home to check on him. [REDACTED] encountered Waller sitting on the patio floor out of breath. Waller informed [REDACTED] he had "just completed a bike ride." [REDACTED] informed Waller he had received several phone calls from Jacque's mother and suggested Waller call Ruby Rawson to let her know where Jacque and [REDACTED] were.

Over the course of the late afternoon, evening and night of June 1, 2011, Waller's whereabouts are largely unknown and unaccounted for. His girlfriend, [REDACTED] reports she, Waller, [REDACTED] and one of her children were to spend at least the evening together and have dinner. However, Waller, in a brief face to face meeting with [REDACTED] at approximately 6:47pm in Cape Girardeau, indicated he would not be having dinner with them and asked [REDACTED] to keep [REDACTED] for a while longer. This meeting occurred on the parking lot of a local business and Waller was captured on surveillance video at approximately 6:47pm in relation to that meeting. At that time, Waller indicated he would call [REDACTED] later in the evening to discuss plans on retrieving [REDACTED]. [REDACTED] reported she ran various errands in Cape Girardeau and ultimately parked her car in a business parking lot waiting for Waller to contact her. Waller finally called [REDACTED] just after 10:00pm and requested she take [REDACTED] home with her to Illinois. [REDACTED] did as Waller requested and returned to Illinois. [REDACTED] reports she did not plan to have [REDACTED] for the entirety of the day, evening and overnight of June 1, 2011, and that she had never had [REDACTED] overnight without Waller also being present until the night of June 1.

At approximately 11:25pm, Cheryl Brenneke arrived at the Jackson Police Department to report that Jacque was missing. Shortly after midnight on June 2, 2011, Waller called the Jackson Police Department and reported Jacque as missing. Officers made initial contact, in person, with Waller at approximately 2:36am on June 2, 2011. Over the course of the next several hours, three separate attempts were made to gain additional information from Waller regarding Jacque's disappearance. Waller gave varying accounts of his encounter with Jacque. Waller acknowledged that Jacque had come to his home but was unclear on details and indicated at various times that they had argued about filing bankruptcy and/or they argued following Waller's disclosure of an affair. Ultimately Waller indicated Jacque had left his home on foot following an argument, though at one point he said she then returned to use the bathroom. Waller said following the argument and Jacque's departure, he left the residence as well and when he returned both Jacque and her car were gone and he had not seen her since then. During the third meeting with officers at 6:31am on June 2, Waller remained vague regarding details and advised the officers he would have to look at the statement he had provided earlier to remember specific details.

The missing person investigation very quickly became a murder investigation. The Cape Girardeau/Bollinger County Major Case Squad was activated in the early morning hours of June 2, 2011, to continue the investigation of the disappearance and potential murder of Jacque Sue Waller.

On June 2, 2011, at 10:10am, Jacque's Honda Pilot was located abandoned on the northbound shoulder of Interstate 55, approximately 40 yards north of the 104.8 mm. The vehicle was locked, but Jacque's keys, purse and cell phones were not located. The front passenger side tire



of the Honda Pilot was flat and further examination revealed the tire had been punctured multiple times while sitting stationary. Based on the condition of the tire it was apparent it had not been driven after the tire had been punctured, leading investigators to conclude the tire was punctured and flattened after being parked roadside on Interstate 55.

On June 2, 2011, at approximately 6:00pm, officers executed a search warrant on the premises and vehicles located at 1121 Woodland. Waller was present at the time and laid on the couch as the search was conducted. A hallway on the main floor of the house was darkened and the lights in the hallway did not work. A green carpet ran the length of the hall. It was partially covered with play mats and children's toys lined both sides of the hallway. Officers did not remove the mats or examine the carpet.

On Friday, June 3, 2011, Waller was advised by the [REDACTED] family that in light of the on-going investigation into the disappearance of Jacque, Waller needed to vacate the premises. Waller requested [REDACTED] assist him in cleaning the home. Waller told [REDACTED] he wanted to leave the house in good condition in light of the [REDACTED] family being so generous to him. Waller specifically asked [REDACTED] the best method for cleaning wood floors. [REDACTED] after buying cleaning supplies proceeded to the home on June 3 and did assist in cleaning various areas of the home. When she arrived, Waller was already in the process of cleaning and had a mop and bucket out that he had already used.

In the days following Waller's departure from the home at 1121 Woodland, [REDACTED] entered the house and noted a quilt was missing from one of the bedrooms. [REDACTED] further noted the green carpet was missing from the hallway. On Sunday, June 5, 2011, [REDACTED] contacted investigators and reported he had observed small spots of what appeared to be blood on the hallway bathroom floor, as well as scratch marks on the walls of the hallway that indicated to him someone had attempted to wash down the walls. He gave officers consent to search and process the house as needed for evidence collection.

On Monday, June 6, 2011, investigators conducted a more thorough search of Waller's residence and located blood spatter on the walls of the darkened hallway. The blood consisted of patterns of small spots which were located on both the east and west sides of the hallway, beginning midway in the hall and continuing towards the south, toward the master bedroom. It did appear an attempt had been made to clean the walls. In addition, fine blood spots were located on the door trim leading into the hall bathroom on the sides and top of the door jamb. Samples were collected by the officers and tested by the Missouri State Highway Patrol Crime Laboratory Division. DNA analysis confirmed that the blood samples collected from the walls contained the same DNA profile as Jacque Waller. Specifically, the testing indicated the blood came from a female and the frequency of the DNA appearing in the Caucasian population is 1 in 7.062 quadrillion people.

On June 8, 2011, while continuing to process the house for evidence, investigators searched a crawlspace accessible from the basement of the home. In the crawlspace the officers observed a pathway of broken spider webs leading through the area. It also appeared the dust on the concrete floor of the crawl space had been disturbed. In order to gain access to the furthest southwest corner of the crawl space, there were two sections of duct work and two large steel

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beams with a 1'11" clearance for the duct work and 1'8" clearance for the steel beam that investigators had to maneuver under. Approximately 54 feet from the entry of the crawl space a large amount of green carpeting was discovered. The carpeting was cut into several pieces. Approximately 55'5" from the entry of the crawl space, three large sections of carpet under padding were laid out flat in the southwest furthest corner of the crawl space. In addition, several smaller pieces of carpet and padding were located in the rafters inside the crawl space near the area of where the large amount of carpet pieces and padding were found.

The carpet and padding were removed from the crawlspace by investigators and the carpet pieces, approximately 20 feet in length, were then pieced together in the hallway. Once pieced together it was apparent that the green carpet discovered in the crawl space was the missing hallway carpeting. Areas of the carpeting had apparent blood stains on it. Specifically, the blood spots began about mid-way down the length of the runner, close to the entry into the hallway bathroom and continued south, towards the master bedroom. There are areas of blood pooling evident on the carpet. Samples were collected and DNA analysis confirmed that the blood matched the DNA profile of Jacque Waller. Specifically, the testing indicated the blood came from a female and the frequency of the DNA appearing in the Caucasian population is 1 in 87.49 trillion people.

During the month of July, Waller agreed to speak with an investigator regarding the circumstances of Jacque's disappearance. During the interview, Waller indicated that on the evening on June 1, 2011, Jacque had come to his home to have sex and discuss the issue of bankruptcy. Waller denied Jacque was there to pick up their son. Waller indicated Jacque was accidentally injured while at the home that day. Waller said the back of his head struck Jacque's face while in the kitchen of the home. According to Waller, Jacque's nose began to bleed and she had an apparent injury on her face where her nose met her forehead. Waller stated, "She started bleeding like a...a lot." Waller claimed Jacque used only her hands in front of her face to catch the blood and ran through the house toward the master bathroom which is located at the furthest end of the home. According to Waller, while in the hallway, Jacque tripped on either the green carpet runner or something else in the hallway and fell. Waller said Jacque started to scream and stood up and was dizzy. Waller reported he saw Jacque fall back down and she just laid on the floor about midway in the hallway. Waller said he tried to help Jacque. Waller advised Jacque was conscious and was "thrashing around and was pissed." Waller said Jacque suffered additional facial injuries as a result of the fall in the hallway. Waller stated Jacque laid on the floor for approximately 5-10 minutes, after which Waller helped her to the bathroom to clean up. Waller said while sitting on the hallway bathroom floor, with her back against the sink cabinets, he could hear Jacque getting ready to sneeze and then heard her sneeze. He advised "blood and snot was in the bathroom." Waller advised Jacque cleaned that up herself.

Waller advised that after cleaning herself up from her accident in the kitchen and her fall in the hallway and addressing her facial injuries, he and Jacque began to talk and then argue about the bankruptcy. Waller indicated when Jacque left he would not give her car keys to her. He advised he threw the keys in the air toward the driveway and the keys became stuck in a tree. According to Waller, Jacque told him she would walk to a friend's and Waller then watched Jacque walk away. Waller indicated Jacque had her purse with her when she left on foot. After Jacque left on foot, Waller said he used a broom handle to retrieve the keys from where they

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were stuck in the tree and then placed the keys on Jacque's windshield. Waller indicated he then left the home. Waller said he did not take his cellular telephone with him. Waller said he drove around the Cape Girardeau area over the course of the next few hours and at times would park roadside to leave his truck and use the bathroom in various wooded areas or would park roadside to read or work crossword puzzles or perhaps to work on the boat that was then attached to his truck.

Regarding the bloodstained carpet, Waller advised he had removed the carpet and carpet pad from the hallway because he did not want [REDACTED] to find it and think something bad had happened. Waller advised he could not believe how many times the police had walked over the blood on the carpet during the search warrant, never noticing the blood. Waller indicated that immediately after officers left the home on the evening of June 2, 2011, he used his hands to rip up the carpet from the flooring. Waller indicated he was aware that part of the carpet had a "round circle of blood" on it. He admitted to cutting the carpet into pieces and concealing it in the crawl space beneath the house in order to keep it from being found. Waller advised, "It was no big deal." Waller denied being responsible for Jacque's disappearance or death.

Jacque carried two cellular telephones with her on June 1, 2011. Phone records reflect that both phones were operable until between 9:12pm and 9:21pm when both phones stopped transmitting a signal. The only out-going calls from either of her phones following her conversation with [REDACTED] as she was arriving at Waller's home was a single call to a co-worker at 6:02pm, which was a missed call, and a call to Waller's cellular telephone at 6:03pm, which also went unanswered. Beginning at approximately 6:15pm both of Jacque's phones were stationary until they stopped transmitting/receiving a signal. During the time that Jacque's phones stopped operating, Waller's whereabouts were unknown.

On Thursday, November 3, 2011, investigators were contacted by a Missouri Department of Transportation worker who indicated he had located a camera bag in a ravine on the southbound side of Interstate 55 in the approximate area across from where Jacque's Honda Pilot had been abandoned. Investigators searched the area, which had recently been mowed, and discovered a number of items including pieces of Jacque's purse, parts of cellular telephones without the electrical components that were consistent with Jacque's two cellular telephones, her driver's license, credit cards and other items thought to have come from Jacque's purse.

Jacque's laptop was recovered from her Honda Pilot and a personal diary was located on the computer. In her diary, Jacque details threats dating back to June 2010 where Waller repeatedly threatened to kill her if she left him. Jacque wrote in her diary, "He told me that a divorce would be my death sentence."

Jacque has not accessed any bank accounts or utilized any other form of financial support since June 1, 2011. She has not made any contact with her family or her children. All of her clothing and personal items remain as she left them on June 1, 2011. Extensive searches have been conducted in an effort to locate Jacque Waller's body, but they have, thus far, been unsuccessful.



Waller's whereabouts during the time of Jacque's murder, disposal of her body, disposal of her car and the disabling of her cellular phones are unknown and cannot be accounted for. While the information Waller has provided various sources is limited, it is also contradictory and inconsistent. During the course of the investigation into the disappearance and murder of Jacque Waller, James Clay Waller, II was largely uncooperative, and at times, intentionally obstructive to the investigation by concealing/destroying suspected evidence, planting false evidence and deliberately misleading officers in their efforts to locate his wife.

Based upon the facts described above and the reasonable inferences therefrom, James Clay Waller, II, on June 1, 2011, after deliberation, lured Jacque to his home under the pretense of having her pick up her son, killed her, by means unknown and disposed of her body and then later cut up and hid the carpet stained with Jacque's blood on June 2-3, 2011. His hiding of her body on June 1, 2011, and the removal and concealment of the bloodstained carpet on June 2-3, 2011, were both done with the purpose of obstructing the investigation of her murder and did in fact obstruct the investigation.

Date: 4/17/12

James Humphreys  
Printed Names

James Humphreys  
Signature