

District Court, City and County of Denver, Colorado
Lindsey-Flanigan Courthouse, Room 135
520 W. Colfax Ave.
Denver, CO 80204

Plaintiff: The People of the State of Colorado

Defendant: **STEVEN CUMBERBATCH**
(DOB 05/06/1962)

Race: Black

Gender: Male

Height: 5' 8"

Weight: 220 lbs.

Hair: Black

Eye: Brown

2020 SEP 2:19 PM
**No
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Required**

▲ COURT USE ONLY ▲

Case Number: 20CR20010

Div: Criminal Ctrm: 5A/SH

SUPPORTING AFFIDAVIT FOR AT LARGE ARREST WARRANT

I, Detective Kari E Johnson, #97028, of lawful age do swear upon my oath to the facts set forth below and on 7 continuation pages:

Your affiant, Detective Kari E Johnson, #97028, a Police Officer with the Denver Police Department, was assigned to investigate allegations of MURDER IN THE FIRST DEGREE in violation of 18-3-102(1)(a), C.R.S. (F1) and MURDER IN THE FIRST DEGREE in violation of 18-3-102(1)(b), C.R.S. (F1) by **STEVEN CUMBERBATCH** against **RITA DESJARDINE** on DPD offense number 1994666601.

On December 7, 1994 at approximately 10:23 a.m. Denver emergency dispatch (911) received a call on a possible deceased party at the Broadway Plaza Motel, room #202, located at 1111 Broadway Street in the City and County of Denver. Emergency medical personnel, members of the Denver Fire Department and the Denver Police Department responded to the scene. They discovered a female lying on the bed in room #202, and that the victim, who was found unclothed and partially covered with some of the bedding, appeared to have been assaulted. She had visible bruising and swelling about her face and on her neck and blood was visible on her face, body and on the bed and bedding around her. The victim was subsequently pronounced deceased at the scene at 10:30 a.m. The victim was later positively identified as Rita Kay Desjardine, dob: [REDACTED] 1958. Mrs. Desjardine was a white female, approximately 5'6", 130 pounds with brown hair and blue eyes.

In the initial investigation, [REDACTED], dob: [REDACTED] a [REDACTED] at the motel, related the following:

On December 6, 1994, at approximately 11:00 a.m. [REDACTED] knocked on the door of room #202 in order to [REDACTED]. When she received no answer, she left and returned later. After again receiving no answer to her knock, she used her pass key and opened the door to the room

and observed a female lying on the bed, observing only her feet. Thinking she was sleeping, [REDACTED] closed the door and left.

On December 7, 1994, at approximately 10:30 a.m., [REDACTED] and her [REDACTED], [REDACTED] dob: [REDACTED], also a [REDACTED] at the motel, knocked on the door of room #202. Upon receiving no answer, they unlocked and opened the door. They both observed the female lying on the bed in the same position as the day before. They entered the room further and could see the victim had bruises on her face and that there was blood on the sheets. They exited the room and contacted the [REDACTED] of the hotel, [REDACTED], [REDACTED], who called 911.

The Denver Police Homicide Unit responded to the scene and the case was assigned to Denver Homicide Detective Gary Hoffman, 70120. The Denver Crime Scene Unit also responded and documented and collected evidence from room 202. Among other items, that evidence included:

- male and female clothing with suspected blood
- a broken hotel room table with three legs still attached and a matching table leg that had been separated from the table
- a metal brace/bracket and washer from the bed, consistent with the brackets and washers that held the three attached table legs to the small table
- a bottom bedsheet recovered from beneath Mrs. Desjardine's body that contained what appeared to be a palm print and finger prints in blood
- a McCormick gin bottle

On December 8, 1994, an autopsy was conducted by Doctor Thomas Henry, MD, of the Denver Coroner's Office. Doctor Henry's completed autopsy report indicated that the victim had injuries that included [REDACTED]

[REDACTED] Doctor Henry determined that the victim died as a result of asphyxia by smothering. During the autopsy, samples of head hair, combed and pulled pubic hair, fingernail scrapings, and [REDACTED] swabs and smears were collected as evidence.

On December 9, 1994, [REDACTED] dob: [REDACTED], a [REDACTED] for the [REDACTED] wrote a statement saying he had assisted the victim in getting set up with groceries and checked into a room at the Broadway Plaza Motel on December 2, 1994. The victim originally checked into room #201, but later moved to room #202. On Tuesday, December 6, 1994 at approximately 8:30 a.m., [REDACTED] had stopped by the Broadway Plaza Motel on a health and welfare check. He went to room #202 and knocked on the door several times. There was no answer, but he observed a hand belonging to an African American individual part the curtain of the window next to the door to room #202, then close the curtain. When no one answered the door, [REDACTED] left and as he got into his vehicle, he observed a black male come out of room #202. He described this male as approximately 5'8" with a slender build.

On January 31, 1995, Detective Charles Martinez, badge 73038, of the Latent Print Section of the Crime Laboratory submitted a report stating that during the examination of the bottom bedsheet they observed a palm print and finger impressions in suspected blood, but at the time of that report, stated the ridge detail was not enough to make a comparison. The bedsheet was sent to the Federal Bureau of Investigation and on November 9, 1995, a report was completed and sent to Detective Donald Vecchi, stating that one latent palm print of value for identification purposes had been developed from the bloody bottom bedsheet. At that time, no identification to a possible suspect was made using the latent print.

On November 8, 2004, Denver Police Captain W. Abrams, badge 71063, submitted a request to the Denver Police Department Crime Laboratory asking that several items be tested to determine if biological material suitable for DNA comparison existed.

Despite ongoing investigation, the case remained unsolved.

On March 16, 2018, Denver Crime Lab Forensic Scientist Eric Duvall submitted a DNA Unit Laboratory Report stating the following:

A major male DNA profile (Male 1) had been developed and was present in [REDACTED] swabs [REDACTED] and on a gin bottle collected from the hotel room where the victim was found deceased. The [REDACTED] swabs [REDACTED] would be submitted to CODIS and any matches would be reported.

On July 18, 2018, Denver Crime Lab Forensic Scientist Eric Duvall submitted a CODIS Match Laboratory Report stating that the major male DNA profile from [REDACTED] swabs [REDACTED] resulted in a CODIS hit to Virginia offender Steven Cumberbatch, and that the match was at 13 or more genetic loci. Mr. Cumberbatch was identified by the following information:

Name: Steven Cumberbatch
DOB: 5/6/1962
Race: African American
Gender: Male
State ID#: [REDACTED]

On July 23, 2018, your Affiant was assigned to this case for follow-up investigation.

Your Affiant researched Mr. Cumberbatch and confirmed his identifying information. In a Denver Police Department arrest record from October 31, 1994, the following descriptors for Mr. Cumberbatch at the time of his arrest were provided:

DOB: 5/6/1962
Height: 5'8" (the description [REDACTED] gave of the African-American male seen leaving room #202 on December 6, 1994 was 5'8")
Weight: 180-185 pounds

Eyes: Brown

Hair: Black

SSN#: [REDACTED]

Your Affiant noted that the location of arrest on October 31, 1994 was [REDACTED] approximately 2 blocks east of the location of the Broadway Plaza Motel, where the victim was found deceased.

[REDACTED]

On September 19, 2018 Your Affiant submitted a request to the Denver Crime Lab for testing on items of evidence recovered at the crime scene, to include a pair of white men's shorts found on the floor immediately next to the bed where the victim was located.

On September 23, 2019, Denver Crime Lab Forensic Scientist Supervisor Duvall submitted a DNA Unit Lab report stating that the DNA profile obtained from the shorts inside waistband presented a mixture of people, a partial DNA profile consistent with Male 1 (Cumberbatch).

On October 7, 2019, using information obtained from your Affiant, Virginia State Police Special Agent Stuart Williams authored a Search Warrant and Affidavit in the Commonwealth of Virginia, for collection of a known buccal sample and palm prints and fingerprints from Mr. Cumberbatch, which was approved by Magistrate Amelia COVINGTON.

On October 10, 2019, Special Agent Williams and Denver Crime Lab Supervisor Amy Williams from the Latent Print Unit traveled to the Greensville Correctional Center in Jarratt, Virginia, where the warrant for the collection of the known buccal sample and palm and finger prints from Mr. Cumberbatch was executed with Supervisor Williams collecting both. Those samples were retained by Supervisor Williams and placed by her into the Denver Police Department Property Management Bureau on October 11, 2019. On October 22, 2019 your Affiant submitted a request to the Denver Crime Lab for comparison of those items to evidence collected from the scene and the victim.

On December 23, 2019, Denver Crime Lab Supervisor Williams submitted a Latent Print Unit report stating that an examination was conducted on the bedsheet collected from the scene that contained the palm and fingerprints in suspected blood. That bedsheet was recovered from underneath the body of the victim once her body was removed from the scene to the medical examiner's office. Supervisor Williams report stated that a patent print located on the bedsheet was identified to the known exemplars obtained from Mr. Cumberbatch.

On May 20, 2020, Supervisor Williams submitted a Latent Print Unit report stating that a metal brace/bracket collected from the bed near the victim's body had been examined for potential ridge friction detail of evidentiary value. Her report indicated that a latent print had been

developed from the metal brace and was identified to the known exemplars for Steven Cumberbatch.

As of the date of this warrant, the results of requested DNA comparison from the known buccal sample obtained from Mr. Cumberbatch and the items of DNA evidence collected during the course of this investigation are still pending.

It should be noted that during the initial investigation, five other individuals were identified or included in the case file as possible suspects. Information related to these individuals is included here in an abundance of caution:

[REDACTED]:

On December 7, 1994, Detective Dan Wyckoff, badge 74042, located and interviewed [REDACTED], dob [REDACTED], who identified himself as [REDACTED]. [REDACTED] related that he had stayed the night at the Broadway Plaza Motel with the victim on Saturday, December 3, 1994 and he had left on Sunday, December 4, 1994. [REDACTED] was present in the victim's hotel room on Sunday, December 4, 1994 with two other parties ([REDACTED]) but all three men left the victim's apartment at approximately 2:00 p.m. [REDACTED] saw the victim again the next day, Monday, December 5, 1994, just prior to lunch at a location known as "the bleachers". According to [REDACTED], that was the last time he saw the victim. [REDACTED] provided voluntary hair samples to the police and, on March 15, 2018, Denver Crime Laboratory DNA Analyst Eric Duvall reported that [REDACTED] was excluded as a contributor to the DNA on the various items of evidence. [REDACTED] is now deceased.

[REDACTED]:

On December 7, 1994, [REDACTED], dob: [REDACTED], told Denver Detective Calvin Hemphill, 75063, that she was staying in room #407 at the Broadway Plaza Motel and, late the night before, a male known to [REDACTED] as [REDACTED], had knocked on her door looking for someone else. [REDACTED] had told her that if the person he was looking for came by, to tell that person that [REDACTED] would be in room #202 with "some white woman". [REDACTED] showed Detective Hemphill a residence in a row of houses on W. 11th Avenue by Cherokee Street and advised that was where [REDACTED] lived. On December 8, 1994, Detective Hoffman received a call from an unknown female who related she had seen the victim in the company of an African-American male named [REDACTED] and that the victim was seen going into her room with him on December 5, 1994. According to the caller, [REDACTED] was later seen leaving the victim's room on the morning of December 6, 1994. The caller stated that [REDACTED] was approximately 6'0" with a medium build, that he was a cocaine dealer who frequented the Broadway Plaza Motel and that his mother's name was [REDACTED].

Based upon information in the original case file, your Affiant located [REDACTED]. On March 12, 2020, [REDACTED] voluntarily agreed to be interviewed at Denver Police headquarters by your Affiant. After being advised of his Miranda rights, which he voluntarily waived, [REDACTED] again

agreed to speak to your Affiant. He confirmed that he had lived on W. 11th Avenue, that he was familiar with the Broadway Plaza motel and would stay there on occasion, that he had indeed dealt drugs in 1994 but that he did not recognize any of the photographs of individuals shown to him, including the victim. He stated he was not aware of a homicide that had occurred at the hotel. He denied any involvement in the victim's death and denied that his DNA would be present in any aspect of the investigation. Pursuant to an Order for Non-Testimonial Identification pursuant to Rule 41.1 obtained by your Affiant, [REDACTED] provided a known buccal sample and known palm and fingerprints to your Affiant. As of the date of this warrant, the results of requested DNA comparison are still pending.

[REDACTED] :

On December 7, 1994, Detective Wyckoff, in an attempt to identify the individual named [REDACTED] who had been identified by [REDACTED] as having been in the victim's room, contacted Denver Police Officer Matt Murray, badge 91021, and asked Officer Murray to obtain information for the individual that had been registered in room #110 at the Broadway Plaza Motel. The individual was subsequently identified as [REDACTED], dob: [REDACTED]. On December 13, 1994, Detective Robert Stratton, badge 75053, of the Denver Crime Lab Latent Print Section identified a latent print in an unknown substance on one of the attached table legs from the table in the victim's room as belonging to [REDACTED]. [REDACTED] was arrested pursuant to a warrant for First Degree Murder in connection with this case and was interviewed on December 15, 1994 by Detective Wyckoff. [REDACTED] right arm was in a cast and sling from a recent surgery. He confirmed he and his friend [REDACTED], aka [REDACTED], had spent the day of Sunday, December 4, 1994 watching football in the victim's room with the victim and her boyfriend, but they left sometime later in the day on Sunday. He went to the hospital Monday, December 5, 1994 because he was supposed to have surgery on his arm. He stated he had stayed at the hospital most of the day then went to a shelter and stayed the night. On Tuesday, December 6, 1994 he went to the Stout Street Clinic in the morning then returned to the shelter for lunch. On December 16, 1994 [REDACTED] provided hair samples to the Denver Crime Lab. Your Affiant obtained medical records for [REDACTED] from Denver Health Medical Center that confirmed [REDACTED] was seen at Denver General Hospital on November 29, 1994 for a [REDACTED] [REDACTED] was provided a splint for the wrist and was scheduled for surgery on December 5, 1994. Medical records indicated that he did appear at Denver General Hospital for his scheduled surgery, however that procedure was postponed until December 8, 1994 for "medical reasons" and that the Denver Rescue Mission was notified the patient would be late to their location.

On December 18, 1994 the hold was dropped for First Degree Murder and [REDACTED] was released after the Office of the Denver District Attorney refused to accept the case against him.

On January 6, 1995 Denver Crime Lab Detective Robert Stratton, 75053, submitted a document stating that testing had been completed with the aim of discerning whether [REDACTED] fingerprint had been deposited in blood or another substance. Accompanying photographs indicate the testing appeared to be completed on one of the table legs from the hotel room table.

The report was silent as to whether the latent print belonging to [REDACTED] was in blood or in another substance.

On February 21, 1995 Denver Police Crime Lab Forensic Serologist Ann Perry submitted a report documenting items tested for the presence of human blood staining. Included in those items were the table with the missing table leg and two individual table legs. While Analyst Perry noted that blood staining was present on the table itself, her report did *not* indicate that the table legs were positive for blood staining.

On March 16, 2018, Denver Crime Lab Forensic Scientist submitted a DNA Lab report indicating that [REDACTED] was excluded as a contributor to the DNA on the various items of evidence. [REDACTED] is now deceased.

[REDACTED]

On January 11, 1996, Denver Police Officer Ryan Stickney, 93019, submitted a statement to the Homicide Unit stating that on that date he had contacted an individual named [REDACTED], dob: [REDACTED] who was highly intoxicated. During his contact, [REDACTED] repeatedly stated "I killed my girlfriend! I killed Rita!" and that it had occurred at the Broadway Plaza Motel in room #220 (not room #202). When asked how he killed her, [REDACTED] stated he beat her to death with a table leg. This statement was not consistent with the reported cause of death, asphyxiation by smothering. The case records do not indicate that [REDACTED] was further investigated as a suspect in the death of the victim.

To ascertain whether the victim was indeed assaulted with the detached table leg located at the scene, Detective Johnson spoke with DNA Analyst Duvall on September 4, 2019 and confirmed that there was no blood detected on the table legs that were previously tested. To date, there is no physical evidence linking [REDACTED] to the victim's room. [REDACTED] is now deceased. Your Affiant noted that [REDACTED] was killed in Denver and an autopsy was conducted. Your Affiant was unable to locate a post mortem kit to utilize for DNA comparison purposes.

[REDACTED]

Your Affiant located information pertaining to [REDACTED], dob: [REDACTED], in the original case file. [REDACTED], aka [REDACTED] was referred to as being in the victim's room in the original detective's interview with [REDACTED]. Your Affiant researched [REDACTED] and located him living in Denver.

On February 25, 2020, Your Affiant interviewed [REDACTED] at his residence. He stated that he had lived in Denver in 1994, that he had been homeless at the time and that he was familiar with the Broadway Plaza Motel. He stated he did not know [REDACTED] or [REDACTED] and that he had no knowledge of the murder, and that he did not recall if he knew anyone in the photographs. [REDACTED] voluntarily provided Your Affiant with known buccal samples for the purposes of DNA comparison. To date, there is no physical evidence or eyewitness testimony

that places [REDACTED] in the victim's hotel room. As of the date of this warrant, the results of requested DNA comparison are still pending.

To summarize, Mr. Cumberbatch's DNA was found on a gin bottle that contained both his DNA and the victim's fingerprints which was collected inside the victim's hotel room, as well as the [REDACTED] swabs of Ms. Desjardine. His DNA was also found on the inside swab of the shorts found immediately next to her bed where her body was located. [REDACTED]

[REDACTED]

Based on the foregoing, your affiant respectfully requests that an At Large Warrant be issued for the arrest of **STEVEN CUMBERBATCH**, DOB: **05/06/1962** for **MURDER IN THE FIRST DEGREE** in violation of 18-3-102(1)(a), C.R.S. (F1) and **MURDER IN THE FIRST DEGREE** in violation of 18-3-102(1)(b), C.R.S. (F1).

I affirm this information to be true and correct. Det. KE [Signature] 97028
AFFIANT

Subscribed and Sworn to before me this 2 day of September, 2020, at the City and County of Denver, State of Colorado.

My commission expires: 7-15-2023

GILBERT SCOTT HAGAN
NOTARY PUBLIC
STATE OF COLORADO
NOTARY ID 20194026273
MY COMMISSION EXPIRES JULY 15, 2023

[Signature]
NOTARY PUBLIC
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