

STATE OF COLORADO
COUNTY OF BOULDER

Walk-Through Authorized
DA [Signature]

COUNTY/DISTRICT COURT, BOULDER COUNTY, COLORADO

Criminal Action Number D0072023CR002137-4

DATE FILED: December 12, 2023 3:02 PM

CASE NUMBER: E0230R117

WARRANT FOR ARREST UPON AFFIDAVIT

BEFORE THE HONORABLE Thomas F. Mulvihill

The People of the State of Colorado,
To: Any person authorized by law to execute arrest warrants.

You are hereby commanded to arrest the person of:

Yeva Smilianska

DOB:	07/08/2000	HAIR:	Brown
HEIGHT:	5'08"	EYES:	Green
WEIGHT:	168 lbs	RACE/SEX:	White female
DL #:	[REDACTED]	SSN:	[REDACTED]
ALIAS:	N/A	ALIAS D.O.B.:	N/A

OFFENSE DATE: 07/29/2023

And take the person above-named without unnecessary delay before the nearest judge of the Court of Record; to be advised that the person is being held for the alleged commission of the following crime(s), to-wit: In violation of C.R.S., 1973 revised:

Charge #	CRS #	Charge	Classification
1	18-3-106(1)(a)	Vehicular Homicide- Reckless	F4

That this warrant for arrest is issued upon affidavit sworn to and affirmed before this court and relating facts sufficient to establish probable cause that the above-named offense has been committed and probable cause that the person named in this warrant committed that offense.

BAIL IS SET AT \$ 25,000 CPS Only WITH CONDITION(S) Surrender passport; PTS; No drive w/o valid DL

DATE: 12/12/23

[Signature]
Judge's Signature

Boulder District Attorney Case#: 23DA76, Colorado State Patrol Case #1D232999

Detective Kristin Weisbach 303-441-3811

RETURN OF SERVICE

I hereby certify that I have duly executed this warrant on this _____ day of _____, 20____,
by _____ as I am herein commanded.

SHERIFF FEES:

Service \$ _____
Mileage \$ _____
Return \$ _____
Total \$ _____

By: _____
Deputy

AFFIDAVIT FOR ARREST WARRANT

Your Affiant, Senior Investigator Kristin Weisbach, is a duly commissioned Police Officer for the County of Boulder, State of Colorado, being duly sworn, deposes and states:

Your Affiant (hereafter referred to as "I") has been an Investigator for the Boulder County District Attorney's Office since January of 2019. Prior to working for the Boulder District Attorney's Office, I worked as a Boulder Police Officer and Detective for 10 years.

In early August of 2023, I was asked to assist the Colorado State Patrol ("CSP") in their investigation into a motor vehicle crash fatality that had occurred on southbound Highway 119 just south of 63rd St. in the County of Boulder, State of Colorado on July 29, 2023, at approximately 1230 hours. This case is documented under CSP case number 1D232999 and under Boulder County District Attorney Case number 23DA76. As a part of my duties, I reviewed initial information relating to the crash and also have reviewed additional reports and documents written by law enforcement officials who were involved in the investigation. Upon reviewing reports, I learned the following:

Excerpts from Trooper McCall's report:

"On 07-29-2023 at approximately 1230 hours, a Toyota Matrix driven by Yeva Smilianska was traveling southbound on Highway 119 just south of 63rd Street. A Trek bicycle ridden by Magnus White was traveling southbound on Highway 119 just south of 63rd Street on the paved right shoulder. The Toyota traveled onto the shoulder and collided its front into the rear of the Trek, causing White to be ejected from the bicycle. The Toyota continued off the roadway's right side and down a grass embankment. The Toyota continued off-road until it collided its right side with a metal fence and came to rest. White was transported to Boulder Community Hospital where he was pronounced deceased at 2220 hours."

"Depicted below is a Google street-view image as you approach the scene of the crash.



Depicted below is an orthomosaic image of the scene that was documented on July 29, 2023.



Boulder Police Department (“BPD”) Deputy Chief Stephen Redfearn was the first officer on scene, though he was off duty at the time. Deputy Chief Redfearn reported that he had been driving northbound on Highway 119 when he observed commotion that looked to be a traffic collision in the southbound lanes of Hwy 119 (divided highway separated by a grass median in this location). Deputy Chief Redfearn called the crash in over the radio and then responded to the crash location. Deputy Chief Redfearn observed that there was a cyclist wearing cycling gear in the grass, laying on his left side, but on his stomach. This cyclist was later identified as Magnus White [REDACTED]. Another male on scene was tending to him at the time, and Deputy Chief Redfearn observed some things that indicated that White was not in good shape. Deputy Chief Redfearn, who is not a medical professional, observed White having what he described to be “agonal breathing” and said he was also “posturing” or seizing with his body, and White’s body was shaking. He also observed blood around White’s head and above his buttocks. The fire department was already close by at this time, so Deputy Chief Redfearn gave instructions to the citizens attending to White and briefly had contact with the driver of the vehicle that hit White, identified as Yeva Smilianska (DOB 07/08/2000). Deputy Chief Redfearn’s contact with Smilianska was very brief, but in that interaction, he did not observe any indicia of intoxication. White was transported to the hospital shortly after the fire department arrived on scene.

Shortly thereafter, additional BPD Officers and a Boulder Sheriff's Office Deputy arrived on scene to assist. BPD Officer Moses Kahn arrived with his training officer, Officer Andrew Mills. The following is an excerpt from his report:

"I then met with the driver, identified as Yeva Smilianska (DOB 07/08/2000, [REDACTED] [REDACTED] who advised me that she was driving heading South on Diagonal Highway and her car lost control and started swerving to the right-hand side of the road. Smilianska was driving a Silver Toyota Matrix, 2004. It was noted that Smilianska's car was found in a field on the right side of the road.

Smilianska then said that there was a cyclist on the road, and as her car lost control by swerving to the right, her car ran into the cyclist. Smilianska said that she was going about 55 miles per hour just before her car went out of control. Smilianska also said that she was not drinking and that she takes medication for her Bi-Polar Disorder. She also said that she has an inhaler as she suffers from Asthma."

Smilianska also provided a statement on the CSP driver's statement and exchange of information form. In her statement, Smilianska stated, "I was driving my car from Longmont (where I'm working) to home, to Boulder. In the middle of the road my wiels [sic] stopped listen to me, like when you driving on the snow. It is an old car, and sometimes it acting weird, but it was first time on the road it acted like this I totally lost control from my wiels." [sic]. None of the officers on scene observed any indicia of intoxication from Smilianska, and so a blood draw was not conducted on that date.

Officer Mills interviewed another cyclist, Quintin Chiapperoni, who had been riding right behind White when the crash happened. From Officer Mills' report:

"Chiapperoni was riding southbound on Foothills Highway approximately twenty feet behind White when White was struck by the vehicle. Chiapperoni recalled White was traveling at an estimated 25 miles per hour, while the vehicle was traveling an estimated 60 mile per hour. Chiapperoni advised the vehicle was traveling in the southbound number 1 lane (far left lane).

Chiapperoni described seeing the vehicle make an abrupt right turn, traveling in what Chiapperoni described as a "Beeline" straight towards White. Chiapperoni specified that it did not appear the vehicle had swerved to avoid anything, nor did it appear like the driver lost control. Instead, what Chiapperoni described was seeing the vehicle make a hard right turn and subsequently collide with White.

Chiapperoni observed the vehicle continue on and into the embankment next to the road, and he proceeded to assist White who came to rest approximately 60 feet from the point of impact. Chiapperoni only presumed the victim was named Magnus White due to that name being on White's helmet and bike. Chiapperoni also provided a phone number for White's mother."

BPD Officer Anne Johnson also responded to the scene with Officer Conley. Officer Johnson interviewed two witnesses, Clifford and Theresa Tuttle. According to Officer Johnson's report:

“Mr. and Mrs. Tuttle were traveling Southwest on Diagonal Hwy, and were directly behind the vehicle who hit the bicyclist up until the time of the collision. Clifford Tuttle stated that the driver of the vehicle swerved to the right shoulder and back into the correct lane multiple times before eventually making contact with the bicyclist on the shoulder of the road. He stated that he estimates her speed to be around 60mph at the time of impact. Neither witness observed the driver being distracted in any form.”

Boulder County Sheriff's Office Deputy John Finkbiner responded to the scene and handed out witness statements to be filled out. These were later provided to Trooper Heidi Jewett, who responded to investigate the scene and complete the initial documentation of the accident. The investigation was later handed over to Trooper Sean McCall.

On July 31, 2023, at 1100 hours, an autopsy was performed on White at the Boulder County Coroner's Office by Dr. Lingamfelter. Dr. Lingamfelter noted that the cause of death was blunt force head trauma, and the manner of death was accident. The only positive toxicology noted in White's system was caffeine.

Trooper McCall completed a follow up interview with witness Patrick Grace by phone on August 6, 2023. According to Trooper McCall's report, “Grace told me that he interacted with the driver of the car who had one foot out of, and her face and body were facing out of the car. Grace told me it looked like she was on her phone like she was texting someone both of her hands were on her cell phone at the time. He thought she might have already exited and re-entered the car by the time he spoke with her but couldn't be certain.” In Grace's written statement, he noted that Smilianska had asked him if she and her car were mostly alright, if she should leave. Grace told her to stay for police. Grace wrote, “I'm not sure if she had realized she had just hit someone.”

Trooper McCall next followed up with witness Rachel Blaydes that same day. According to Trooper McCall's report,

“During our conversation, Blaydes told me that she did not know if the driver had known what she had done because she had asked Patrick if she could leave. Blaydes would later state this occurred after she had run to check on the biker. While discussing the moments leading up to the crash Blaydes told me she was going straight and then pulled so fast into him. I asked Blaydes if she was doing anything in the car. Blaydes told me that she had a vape in her hands. While discussing Smilianska's lane position prior to the crash, Blaydes told me that they almost thought that there had to have been someone else like a kid pull the steering wheel really fast because it happened so fast. Blaydes said it was almost like someone else jerked the wheel really fast into the bike, but she said there was no one else in the car. After the crash, Blaydes said it was almost like she was on pills then went on to explain how everyone else around had more reaction than she did.”

A review of the Body Worn Camera footage indicates that Blaydes stated that the driver had her vape in her hand after the crash.

That same day, Trooper McCall spoke with Preet Flora about the crash. According to Trooper McCall's report, "During our conversation, Flora told me that she was in the right lane and she was going probably 57 58 and traffic was good. Flora told me that she usually keeps an eye out on her rear mirrors. Flora described the vehicle as a beige Toyota. Flora said it took her a little while to get out of the car because she was in shock. Flora thought that there was just a car between them."

Trooper McCall also spoke with Freddy Cooper by phone on August 6, 2023. According to Trooper McCall's report, "During our conversation, Cooper told me that he did not witness the crash and had no direct interaction with Smilianska or White. He told me that he only observed the person, who he had been told was the driver of the car, doing what he thought was vaping."

Trooper McCall next spoke with Abigail Smith. According to Trooper McCall's report, "During our conversation, Smith told me that while running back to the crash they observed the driver out looking at the front of her vehicle. She also told me that the driver had a conversation with another bystander next to her and was indicating an issue with her steering wheel. She did not believe the driver was under the influence and did not observe the driver utilizing a phone." I also reviewed the written statement, where Smith said,

"We were on in the outside (left) lane and noticed a gray compact car veering off onto the shoulder. The car was getting close to a biker & I said that person should probably correct themselves before they hit the biker. The gray car did not slow down or correct themselves, instead we saw them hit the biker from behind. The biker hit the car's windshield & then he went flying....There was another biker already helping the injured biker- who was face down on the grass. We could see he was shaking & bleeding.... I want to reiterate that the driver of the gray car was driving in the right hand lane, veered off and it looked like they were aiming for the biker."

Trooper McCall spoke with Monica Bonney, and she provided similar information that she saw the driver with a vape. Bonney also indicated that she did not think the driver knew that she hit someone. In Bonney's written statement she noted that the vehicle suddenly swerved to the right without a signal. The vehicle directly impacted the first cyclist, "...sending cyclist flying. Vehicle decelerated as it continued off the road. After stopping, driver entered from vehicle and said they were 'fine.'"

On August 9, 2023, Trooper McCall followed up with Chiapperino. Chiapperino told Trooper McCall that he spoke with Smilianska before he left the scene. According to Trooper McCall's report, Chiapperino said, "right when I was told I was free to go, she came over to ask me what happened. So I gave her like a brief explanation, um, and she said she passed out at the wheel." At [05:29 PM and minute 07:47] in the transcript, Chiapperino stated "she did say I, I don't know if those were the exact words she passed out. I believe that's what she said. Um, she could have said I had a medical problem, um, but I believe she said passed out. Um, and then she, or

<inaudible>, something like that. And then she just, she woke up and she didn't know what happened. That's kind of what she said pretty much. I mean, maybe not word for word”.

On August 14, 2023, Trooper McCall spoke with Trinity Wilbourn about what she observed. According to Trooper McCall's report,

“During our conversation, Wilbourn told me that she was in the passenger seat as her 15-year-old son was driving and her daughter was passed out in the back seat. Wilbourn told me that she saw the vehicle that hit Magnus go off the side of the road and drive all the way across the field. Wilbourn said she did not see the moment of impact. Wilbourn told me that they were in the right lane continuing to drive and saw a person with long hair pulling AirPods out of their ears. I followed up by asking what was going on with the driver when Wilbourn saw the AirPods come out. Wilbourn told me they had stopped at the end of the field and the door wasn't open yet and they hadn't gotten out of the car yet and they were just pulling their AirPods out of their ears. Wilbourn told me she did not see the driver get out of the car. I asked Wilbourn if she has AirPods and she told me she does. I asked her if they looked similar to that or if she could describe them. Wilbourn told me that she just saw her reaching up and reaching into her ears and taking them out. Wilbourn went on to tell me that you could say that was assumptive but the gesture seemed like there would be no other gesture you would be doing. Wilbourn said she was bent over the wheel with her head cocked to the side and I saw her reaching up into her ears.”

Trooper McCall also received an e-mailed statement from the Tuttle, who had previously been interviewed. In this statement, the only new information was that Tuttle estimated Smilianska was going between 55 and 60 miles per hours.

On August 4, 2023, CSP Sergeant Madden went to Smilianska's residence in Westminster to collect her phone. Smilianska indicated she would be willing to make a statement with an attorney. Smilianska's phone was later downloaded twice based off of two different search warrants. Trooper McCall also obtained a search warrant for Smilianska's phone records.

CSP troopers attempted to obtain surveillance footage of the crash from LFP Broadcasting, which is located near the crash site. However, they determined the camera angle did not capture the crash.

According to Trooper McCall's report, “On 08-17-2023, I spoke with Clint Quintana of CDOT. He told me that the intersection of Highway 119 at 63rd Street is marked for bicycles but the shoulder in the location of the crash is not a specific bicycle facility. He told me that outside of city limits, these are few and far between.” On September 5, 2023, CDOT Region 4 Traffic Program Engineer Katrina Kloberdanz provided Trooper McCall with a memorandum stating that the shoulder in and around the area of CO 119 at MM 47.7 is a standard highway shoulder and is not designated as a bike lane. The memorandum would go on to state that bicyclists are not prohibited from using the shoulder of the highway.

In addition, Trooper McCall did some examinations of Smilianska's vehicle. According to his report,

"I located a mechanic who was able to assist and applied for a search warrant for the Matrix which was signed on 08-22-2023. On the morning of 08-23-2023, I traveled to Hamilton Towing. I sealed the vehicle with evidence tape and followed it down to the City of Arvada vehicle maintenance shop. The post-crash inspection was then completed with the assistance of Chuck Mills and Travis Mills. After the inspection, I asked Chuck Mills if anything of significance was found that could have contributed to this crash and he told me no. While at the maintenance shop, I also downloaded the vehicle's EDR which contained no recorded events. After this was completed I placed a copy of the warrant and a copy of the CSP 81 in the center console area of the vehicle, re-sealed the vehicle with evidence tape, and followed it back to Hamilton Towing where the vehicle was unloaded at their lot. The CSP 80 was completed with the Hamilton Towing Boulder location which was utilized in the warrant for the location of the vehicle, however, I learned on the morning of 08-23-2023 that the vehicle was located at Hamilton Towing's Longmont location. I completed a warrant return for this which was submitted to the Boulder County court clerk on 09-05-2023. While at Hamilton Towing I collected White's bicycle and transported it to the District 1 West VCU Office. The bicycle was collected and transported by an evidence technician on 10-04-2023.

On the afternoon of 09-14-2023, I traveled to the Hamilton Towing lot located at 131 3rd Avenue in Longmont. I had a signed warrant to drive the Matrix that was acquired earlier on this day. The bumper of the vehicle was zip-tied up by an employee of Hamilton Towing and I photographed the evidence tape that I had used to seal the doors and rear hatch after the post-crash inspection. I then re-set the "trip a" digital gauge to 0.0 and took a photograph. I then drove the vehicle along the following route; eastbound on 3rd Avenue to southbound Highway 119 to northbound Martin Street to westbound 3rd Avenue where I pulled back into the Hamilton Towing lot. I reached a maximum vehicle-indicated speed of over 50 MPH during my drive and noted the vehicle would pull slightly to the right if I did not provide any steering input."

As a result of the initial download of Smilianska's phone on August 22, 2023, Trooper McCall looked through the messages on the phone and found, "An outgoing instant message sent from this phone to + [REDACTED] Neddy on 07/29/2023 at 6:11:41 PM (UTC+0) stated "I'm falling asleep. So I'm going home. I asked Mo about you so they probably will drop it to you when they came". When converted to mountain time this is 12:11:41 PM."

On September 2, 2023, Officer Glenn of the Longmont Police Department went to 3s Bar in Longmont, which is where Smilianska was believed to work, to speak with someone about Smilianska's work schedule on the evening before the crash. Officer Glen spoke with Nereida "Neddy" Cooper, who was working at the time. Cooper reported that Smilianska had worked with her until approximately 0200 hours on July 29, 2023. They then left around 0215 hours. Smilianska went to Cooper's house for the night. They stayed up until approximately 0500 hours singing karaoke. Cooper had to be at work at 1130 hours the next morning, and both of them left

Cooper's residence at approximately 1100 hours. Cooper denied that she or Smilianska were drinking at her residence and stated that she (Cooper) does not allow alcohol in her house. Cooper stated that Smilianska wanted to continue hanging out, and Cooper suggested Smilianska could go with her to work, and they could continue to hang out. Ultimately, Smilianska decided she did not want to go to 3s Bar and decided to go home.

In September of 2023, I was asked to complete a review of Smilianska's AT&T phone records, which included Call Detail Records (with location), NELOS records and Timing Advance records. I am trained in the mapping and analysis of CDR records, and I utilize a program called Cell Hawk to facilitate this. On the date of the crash, I found that Smilianska's device continues to hit off of cell sites that face the area of 3s Bar, located at 333 Main St. in Longmont, CO, around 0315 hours. After that point, the phone begins to hit off cell sites that aim away from the downtown Main Street area of 3s, and the phone appears to move a little north in Longmont. By 0317 hours, the phone begins to hit off of cell sites that face an area a little farther north of 3s and aimed on the western side of old town Longmont (west of Main Street). There remains a possibility that the phone could be in the vicinity of the Main Street downtown area of Longmont. However, the cell sites face away from Cooper's residence, located at [REDACTED] in Longmont, CO. It is not until approximately 0425 hours that the CDR, Timing Advance, and NELOS data indicate that Smilianska's phone is likely in the area of Cooper's residence. According to the phone records, Smilianska's phone appears to remain in the general area of Cooper's home from 0400 to 0500 hours. The last active data point (of a text or call versus data) happens at approximately 0544 hours. The next active data point from the cell phone was at 0952 hours. The phone is still in the area of Cooper's residence at this time. The device does not appear to indicate movement until approximately 1146 hours, when the device hits off of a cell tower at 6th Ave. and Coffman St. in Longmont with an antenna facing a southeastern direction. By 1147 hours, Smilianska's phone was using different cell sites that face the downtown Main Street area of Longmont. The device last hit off of a west-facing sector of a tower just east of 2nd Ave and Collyer St at 1214 hours before it hits off of a north-facing antenna of a cell tower at Ken Pratt Blvd just northeast of S. Sunset St. This would indicate that the device was moving in a generally western and southern direction. By 1219 and 1220 hours, the phone appears to be hitting off of multiple towers that are farther away from the device, likely indicating it is leaving the main part of Longmont. It hits off a tower at 6th Ave. and Coffman St., then one at the Vance Brand Airport in Longmont (off Airport Rd) and then one off of Hwy 52 and N 79th St. at 1219 and 1220. There is a 1219 Timing Advance and NELOS data point that confirms this as it shows the device likely on southbound Hwy 119 a little outside of the city of Longmont. The device continues to move south along Hwy 119 until ultimately it arrives in the general area of the crash at 1226 hours.

I later began to review some of the records from the download that was completed of Smilianska's phone by CSP to look at in conjunction with the cell phone records. I noted that there is a location reported by the phone at approximately 0435 hours, that indicates Smilianska's phone was right around 3s Bar at that time (with a small radius). This is different from the other location information I had observed. Upon later review and consultation with

Boulder District Attorney's Office Senior Investigator Matt Beers, I learned that this was the time (in UTC) when the picture was uploaded to the cloud. The picture was actually taken 6 hours earlier the night before. I noted that there were a series of text messages observed as incoming and outgoing on the AT&T records that were not associated with known phone numbers, nor were they corroborated in the information from the phone download report. I contacted AT&T, but they did not have an explanation of what those numbers might be. They suggested that the messages could be related to messaging with a third-party app. Based on this information, a new cell phone warrant was completed, and the phone was processed by Investigator Matt Beers. Ultimately, we have been unable to determine exactly what communication these data points are associated with.

I began to review some of the phone's usage and Smilianska's communication on the phone from the report that Investigator Beers prepared for me. I later had Investigator Beers verify that information he found was consistent with what I found. In the very early morning hours of July 29, 2023, Smilianska sent and received a few messages. There was a message from "Jay (Bar)" that asked if the door was locked. Smilianska responded and said she was with Cooper and would let him know when she drove home. The last outgoing message sent by Smilianska was at 0544 hours and was a response to "Jay (Bar)". The next outgoing text message was at 0952 hours to a contact called "Mo (3's)" which stated, "Hey Mo, sup! (That's Eve from 3s if somehow you don't have my number). I'm just wondering, if there is any chance you're awake already, is there any chance I can buy one more from you?" "Mo" later responded at approximately 1033 saying, "Yes and yes." Smilianska and "Mo" discuss meeting up, though it does not appear that they did actually meet up. Another notable text was one that Smilianska sent to Neddy at 1211 hours, which said, "I'm falling asleep. So I'm going home. I asked Mo about you so they probably will drop it to you when they came." It is shortly after this that the device is observed to be moving according to CDR location information. After this text message, there are no outgoing text messages until after the crash occurs. There are incoming messages from "Mo(3's)" at 1216, 1226, and 1227, and there is one incoming message from Neddy at 1230 hours. Based on the type of phone that Smilianska has, Investigator Beers informed me that he is unable to determine what time these messages were read.

Upon reviewing the media section of the phone, it was difficult to determine when various images were viewed by Smilianska when they did not originate from her phone. However, I was able to find a few images and videos that were created by Smilianska on her phone identified by filenames beginning with the prefix "PXL_". I found a picture of a napkin with a name and number on it taken at 0218 hours. There were also two videos created by the phone that morning. Both videos show Smilianska and Neddy singing to music. They talk a little bit as well. One video was created on July 29, 2023, at approximately 0556 hours. The second video was created on July 29, 2023, at approximately 0605 hours. In these videos, the women appear to be singing along to music at a table in someone's home. Nobody else is around. There is no obvious drug or alcohol use observed in the video. Both women are sitting up at a table and fully dressed in the video. Based on this, they do not appear immediately ready for going to bed.

I also reviewed the web-related section of the phone download for that morning. I found that at approximately 0900 hours, the phone accessed Google (in Russian), which indicated active usage of the phone. I attempted to see if I could more clearly determine phone usage by viewing the charging status of the phone. However, it is difficult to know if the phone stopped charging due to an optimal charging algorithm on the phone as opposed to being plugged in and then unplugged. Ultimately, that information did not prove helpful in determining a sleep timeline. Based on the information I was able to glean, however, at the most, Smilianska was sleeping from 0606 hours until 0900 hours. More than likely, she was asleep for less time, as she would have needed to find a time to lay down and go to sleep.

On November 27, 2023, I reached out and spoke with “Mo (3’s),” who was identified as Moriah Allen, by phone. Allen confirmed that she knows Smilianska and that she was messaging with her the morning of the crash. Allen explained that the night before, she had seen Smilianska at 3’s Bar while Smilianska was working. Smilianska was making plans to go to a strip club the next night and invited Allen to go with them. Allen said she had not been sure if she would go or not. She explained that she and Smilianska had a “rough” introduction to each other, based on some things other people said. As such, Smilianska was wanting to have a “personal one on one” with Allen. Allen said she tried to message Smilianska the following day about meeting up, but Smilianska did not reply.

I asked Allen about the message from Smilianska asking to buy something from her. Allen thought Smilianska was asking to buy phones. Allen explained she was trying to get rid of stuff and had several phones. When I later asked if Smilianska had already purchased a phone, given she was asking to buy “one more,” Allen said, “Well she must have if she talked about getting one more” and went on to say that she (Allen) had a couple of them, “So ...yeah....I guess so,” indicating to me that she had multiple phones that Smilianska could have purchased. Allen said her memory was not very great. Allen claimed that the later text that Smilianska sent to Neddy about Allen dropping something by had to do with a vape pen that Neddy had lost at a mutual friend’s house.

I later attempted to call Allen back on multiple occasions to clarify some of her statements, but I was unable to get in touch with her again.

On October 5, 2023, Trooper McCall tried to call Smilianska a few times without success. He reached out to Smilianska’s friend Sofia, who answered and indicated Smilianska was with her. Smilianska told Trooper McCall that she would call him back when he asked that she reach out to her attorney about setting up a potential meeting. Smilianska’s attorney reached back out to Trooper McCall on October 6, 2023, and said that she would not be providing any further statements.

On November 21, 2023, our office reached out to Smilianska’s attorney to offer one additional chance for Smilianska to make a statement. At that point, her attorney agreed to set something up with an interpreter. On December 7, 2023, at approximately 1300 hours, we met with

Smilianska and her attorney at the Boulder District Attorney's Office for an interview. According to Smilianska, she had been working the night before until approximately 0200 hours. From there, she went to her colleague "Neddy's" house. They had a drink of Jack and Coke, and talked. Smilianska denied any drug use, to include marijuana use that night, stating marijuana does not sit well with her. Smilianska initially reported that they went to bed around 0300 hours and woke up at approximately 1100 hours. Smilianska drove to McDonalds, where she had some food and coffee, and then went to Highway 119 to drive home to Boulder. While driving along Highway 119, her car started to move to the right. Smilianska said she attempted to steer her car back into her lane, but it did not work. Smilianska became very afraid. She said the next thing she remembered, she was off the side of the highway and felt "fuzzy." Smilianska knew the windshield was cracked. She noticed other people on the side of the road and thought they were coming to check on her. She came out of the car and indicated that she was alright. It was then that she observed the other person who was injured. Smilianska said she wanted to call 911, but someone already had.

During the course of the interview, I discussed some of the discrepancies in the time frame that Smilianska had provided us of her time after work at Neddy's house. I explained that she was sending text messages as late as 0544 hours, and had created videos with her friend as late as 0605 hours. Smilianska initially said, "Of course we were singing karaoke before we went to bed" and said that must mean that they went to bed later than she initially thought. She also said she believed that the video was made from Neddy's bed, and that they went to sleep right after that. However, as the interview progressed, she said that she had been "dozing" in the bed while Neddy did chores, and then they got up, had one drink, sang karaoke and went to bed. I mentioned that there was an outgoing text message at 0952 hours to "Mo (3s)." Smilianska said that she had been reaching out to Mo (she did not know her full name) to inquire about purchasing some marijuana for her friends for an outing that was being planned for later in the day on July 29, 2023. Smilianska thought she had woken up to send this message and then went back to sleep. She made a similar explanation for why her phone accessed Google at approximately 0900 hours. Smilianska explained that since the war in Ukraine, she has not been sleeping well. She rarely sleeps for long stretches of time, and often gets only 5 or 6 hours of sleep at night. However, Smilianska said she can function normally with this amount of sleep. Smilianska said she had woken up around 1100 hours. I told her the next outgoing text message was at approximately 1040 hours. Smilianska did not know how long she stayed at Neddy's house before leaving, but thought it was not hours.

I asked Smilianska about the message sent to Neddy at approximately 1211 hours, where she talked about falling asleep. Smilianska said that she was "emotionally tired", and did not wish to go out later that day and meet people, as had been the plan. Smilianska denied being physically tired, and said she sent that message as an excuse to get out of going out later in the day. Smilianska said that morning, she felt physically great and was in a good mood because she was going to go home. Smilianska said she was listening to a podcast on her earbuds, since her car's sound system is bad, and remembered the drive clearly up until her car started to malfunction. I asked if Smilianska recalled seeing the cyclist prior to the crash, and she said she did not.

Smilianska also did not specifically recall braking prior to the crash. She just remembered trying to readjust the steering of the car once. Smilianska reported she had the car for about 4 or 5 months prior to the crash, and had not had any problems with it since she got it. Smilianska was told that CSP had taken her car in for an evaluation, and did not observe a steering malfunction during their exam. Smilianska re-iterated that the crash was caused by a steering malfunction, and not because she fell asleep or any other reason. Smilianska said that even though the crash was not her fault, she was a participant. Smilianska said it was a huge tragedy and she feels awful and feels sorry for the boy and his family.

I completed a routine criminal history check on Smilianska. I found that she has no criminal history, nor history of driving violations, however I did learn that her license has been cancelled/denied since the accident, due to a failure of her re-examination on August 30, 2023.

I am aware that at this location, a single white line separates the cars from the shoulder. Cars are not permitted to cross the single white line. Additionally, under CRS § 42-4-1003, Overtaking a Vehicle, the law requires vehicles to give cyclists a three-foot buffer, including all mirrors, when passing or overtaking a cyclist on the left side of the cyclist. From the investigation, it appears that the driver veered across the white line, and then directly into the cyclist. CSP did not find any evidence of braking or skid marks on scene, and based on the mechanical inspection by CSP, it does not appear that the steering failed completely. This is contrary to Smilianska's statements at the scene and during our interview with her.

In a review of the information from this case, it appears as though Smilianska chose to drive her vehicle after receiving very little sleep. She even told her friend "Neddy" that she was "falling asleep" about 20 minutes before the crash, and then getting on the road to drive to Boulder. Witnesses report that Smilianska crossed out of her lane into the shoulder more than once while driving before hitting the cyclist. Further, CSP reported that there was no evidence of braking found on scene prior to Smilianska exiting the roadway. Smilianska's statements to witnesses after the crash indicate that she did not immediately realize that she hit the cyclist. Her statements in her interview with our office confirms this fact. Officers on scene did not observe indicia of drug or alcohol usage to explain Smilianska's behavior. The drive test performed by CSP indicates that, though Smilianska's vehicle does pull to the right, there was no evidence of a steering malfunction. This alone would not explain what witnesses observed, as a conscious and attentive driver would likely be pulling back on the wheel to prevent the drift or brake. Based on the totality of circumstances, it appears most likely that Smilianska was asleep at the time of the crash.

Based on the above information, I believe that sufficient probable cause exists to believe that **Yeva Smilianska**, with a date of birth of **07/08/2000** and is further described as a **White female** who is further described as **5'08" tall, 168 pounds** with **brown hair** and **green eyes** with a **Colorado Driver's License Number of [REDACTED]** committed the crimes of: **Vehicular Homicide, as outlined in C.R.S. 18-3-106(1)(a).**

I respectfully request that a warrant be issued for **Yeva Smilianska** with a date of birth of **07/08/2000**, and is further described as a **White female** who is **5'08"** tall, **168 pounds** with **brown hair** and **green eyes** with a **Colorado Driver's License Number** of [REDACTED] committed the crimes of, **Vehicular Homicide**, a **Class 4 Felony**. I respectfully request that the court issue a warrant for the arrest of **Yeva Smilianska** with a Date of Birth of **07/08/2000**.


Affiant

Sworn to before me and subscribed in my presence this 12 day of DECEMBER, 2023 in the City of Boulder, County of Boulder, and the State of Colorado.


Judge/Notary