

MAGISTRATE'S WARNING

Booking No.: **41798**

STATE OF TEXAS - COUNTY OF **POLK** § Before me, the undersigned magistrate of the State of Texas on this day personally appeared **MCDUGAL, DON STEVEN** in the custody of a police officer, and said person was given the following warning by me:

- WARNING - PART A**
- You are charged with the offense(s) of: (See Part B) An Affidavit charging you with this/those offense(s) (HAS) (HAS NOT) been filed in this court.
 - You have the right to an interpreter if you do not speak or understand the English language or you have a hearing impairment.
 - You have the right to hire an attorney to represent you.
 - You have the right to have an attorney present during any interview or questioning by peace officers or attorneys representing the State.
 - You have the right to request the appointment of an attorney if you cannot afford one. **DOES NOT APPLY TO CLASS C MISDEMEANOR OFFENSES.** Reasonable assistance is available in completing the necessary application and financial statement for the Court to determine if you are indigent.
 - You have the right to remain silent.
 - You are not required to make a statement, and any statement you make can and may be used against you in court.
 - You have the right to stop any interview or questioning at any time.
 - You have the right to have an examining trial in felony cases only.

PROBABLE CAUSE DETERMINATION
Sufficient facts have been presented to me under oath by affidavit, sworn testimony, or otherwise to show that probable cause exist for the continued detention of the defendant as to the charges listed in PART B.

(CHECK ONE)

I DO NOT WANT a court appointed attorney

I WANT a court appointed attorney

X *refused to sign*

Defendant Wamed Signature

[Signature] CPT.

Witness Signature & ID#

[Signature]

Witness Printed Name

1733 N WASHINGTON AVE, LIVINGSTON, TX 77351

CHARGES / OFFENSES - PART B

1. **CAPITAL MURDER PERSON EQUAL MORE THAN 10 YOA LESS**
Court of Jurisdiction Polk
Warrant # F41938
Bond (Magistrate Only) No Bond \$0
2. _____
Court of Jurisdiction _____
Warrant # _____
Bond (Magistrate Only) _____
3. _____
Court of Jurisdiction _____
Warrant # _____
Bond (Magistrate Only) _____
4. _____
Court of Jurisdiction _____
Warrant # _____
Bond (Magistrate Only) _____
5. _____
Court of Jurisdiction _____
Warrant # _____
Bond (Magistrate Only) _____
6. _____
Court of Jurisdiction _____
Warrant # _____
Bond (Magistrate Only) _____
7. _____
Court of Jurisdiction _____
Warrant # _____
Bond (Magistrate Only) _____
8. _____
Court of Jurisdiction _____
Warrant # _____
Bond (Magistrate Only) _____

854994

TOTAL BOND SET AT: No Bond \$0

Bond Conditions Issued

EPO Issued

Defendant wamed and bail granted/denied this day of February, 2024 at 10:45 am/pm by witness of my official signature.

Justice of the Peace

County Judge

Municipal Judge of Mount Vernon

TO THE SHERIFF OF **POLK** COUNTY, TEXAS - GREETINGS: You are directed to receive and place in the jail of your county, the above named defendant wamed by me. The said defendant is committed to jail by my order, sitting as a magistrate, to answer to the State of Texas before the appropriate Court of **POLK** County, Texas, at its next term, to be held at the appropriate court of jurisdiction when notified for the offense(s) of a felony/misdemeanor as listed in PART B above. Bail is granted or denied said defendant as stated above.

If you are not a United States citizen and you have been arrested or detained, you are entitled to have us notify your country's consular. Do you want us to notify your consular? NO YES Country to Notify: _____

Copy: Jail, Judge, Defendant

Magistrate's Warning 2020



CASE# S2400188

IN THE NAME AND BY THE AUTHORITY OF THE STATE OF TEXAS

F41938

COMPLAINT

OFFENSE: Capital Murder of Person => 10 YOA < 15 YOA

CAPITAL FELONY

CJIS# 09990031

BEFORE ME, personally appeared the undersigned affiant, **Det. Kayla Hemperly**, who, after being by me duly sworn, deposes and say that **Don Steven McDougal**, W/M, DOB [REDACTED], TX DL# [REDACTED] who is here in after styled defendant, on or about **February 15, 2024**, and before the making and filing of this complaint, County of Polk and State of Texas, did then and there intentionally and knowingly cause the death of an individual, namely **Audrii Danielle Cunningham**, 10 years of age or older but younger than 15 years of age, by unknown means.

The affiant being identified herein as Det. Kayla Hemperly employed with the Polk County Sheriff's Office Criminal Investigation Division. The affiant, Det. Hemperly, has over 6 years' experience in the field of Law Enforcement. Your affiant has specialized training in the field of murder offenses, assaults, sex crimes, crimes against children, and other felony offenses.

1. Affiant shall show that on the morning of February 15, 2024, Polk County Sheriff's Office detectives' investigation has revealed that said defendant Don Steven McDougal along with the child victim left the home of the child victim located at [REDACTED] Dr in the Lake Livingston Village Subdivision in Livingston, Polk County, TX. McDougal and the child victim left in McDougal's 2003 Chevrolet Suburban with intent to drop the child victim off at the school bus stop, near the entrance of the subdivision. It was discovered the child victim was not at that bus stop when a Livingston ISD bus arrived at the location and discovered that the child did not make it to Creekside Elementary that day.
2. Affiant shall show that on February 20, 2024, the body of the 11-year-old child victim Audrii Danielle Cunningham was located during a search of the Trinity River. Law enforcement Dive Teams located the child victim's body within the Trinity River, near State HWY 59 South, at the Polk / San Jacinto County Line. San Jacinto County Justice of the Peace C. McGee ordered the child victim's body to be transported to the Harris County Medical Examiner's Office for autopsy and to determine the cause of death.
3. The affiant shall show Don Steven McDougal was a friend of the Cunningham family and resided on the family property in a cab over camper. McDougal had access to the interior of the child victim's home.
4. The affiant shall show that video footage and cell phone data places McDougal at three locations of interest. Evidence in connection with the defendant and the child victim was located at two of those locations and recovered. One of these locations is the Trinity River near State HWY 59 South, where Audrii's body was later located.
5. Affiant shall show throughout the investigation, investigators were able to determine through cell phone data, video footage and other forensic evidence McDougal lied about his whereabouts and activities on the day of February 15, 2024.

6. Affiant shall further show that upon recovery of the child victims' body, law enforcement discovered a large rock tied to the child victims' body. The rope used was consistent with rope that was observed in McDougal's vehicle on a traffic stop two days prior.
7. Affiant shall further show that through investigation there is sufficient evidence to show that on the date of February 15, 2024, said defendant Don Steven McDougal committed the offense of Capital Murder

AGAINST THE PEACE AND DIGNITY OF THE STATE OF TEXAS

Witness my signature this the 20 day of February, 2024

Det. Kayla Hemperly
Affiant

Polk County Sheriff's Office

Agency

SWORN TO AND SUBSCRIBED BEFORE ME BY Det. Kayla Hemperly, a credible person, this 20th day of February, A.D. 2024.



Jamie Richardson
MAGISTRATE,
Polk County, Texas

WARRANT OF ARREST

Copy

CASE #: S2400188

CAUSE #: F41938

ISSUED: 2-20-2024

THE STATE OF TEXAS

VS

DON STEVEN MCDOUGAL

DL/ID: [REDACTED]

S.S.: [REDACTED]

DOB: [REDACTED]

THE STATE OF TEXAS

TO ANY PEACE OFFICER OF THE STATE OF TEXAS, GREETING:

YOU ARE HEREBY COMMANDED TO ARREST DON STEVEN MCDOUGAL IF FOUND TO BE IN YOUR COUNTY, AND BRING BEFORE ME, A MAGISTRATE, IN AND FOR POLK COUNTY, TEXAS.

INSTANTER, THEN AND THERE TO ANSWER THE STATE OF TEXAS FOR AN OFFENSE AGAINST THE LAWS OF SAID STATE, TO-WIT: CAPITAL MURDER OFFPERSON =>10YOA<15YOA (FX), CJIS NUMBER 09990031 OF WHICH OFFENSE DON STEVEN MCDOUGAL IS ACCUSED BY THE WRITTEN COMPLAINT, UNDER OATH, OF DETECTIVE KAYLA HEMPERLY, FILED BEFORE ME.

HEREIN FAIL NOT, BUT OF THIS WRIT MAKE DUE RETURN, SHOWING HOW YOU HAVE EXECUTED SAME:

WITNESS OF OFFICIAL SIGNATURE, THIS

February 20th, 2024

No BOND



Jamie Richardson
MAGISTRATE, Polk County, Texas

OFFICER'S RETURN

Came to hand this _____ day of _____, A.D. 20____, at _____ o'clock ____M. And Executed on the _____ day of _____, A.D. 20____, at _____ o'clock ____M, by arresting the within named DON STEVEN MCDOUGAL at _____, in _____ County, Texas and taking HIS/HER bond, which is herewith returned; placing HIM/HER in the county jail of Polk County in Livingston, Texas.

I actually and necessarily traveled _____ miles in the service of this writ, in addition to any other mileage I may have traveled in the service of other process in this case during the same trip.

FEES: Making arrest \$ _____
Mileage _____ miles \$ _____
Taking Bond \$ _____
Commitment \$ _____
Release \$ _____
TOTAL \$ _____

Sheriff Byron Lyons
Polk County, Texas
by

Deputy _____

WARRANT OF ARREST

CASE #: S2400188

CAUSE #: F41938

ISSUED: 2-20-2024

THE STATE OF TEXAS

VS

DON STEVEN MCDUGAL

DL/ID: [REDACTED]

S.S.: [REDACTED]

DOB: [REDACTED]

THE STATE OF TEXAS

TO ANY PEACE OFFICER OF THE STATE OF TEXAS, GREETING:

YOU ARE HEREBY COMMANDED TO ARREST DON STEVEN MCDUGAL IF FOUND TO BE IN YOUR COUNTY, AND BRING BEFORE ME, A MAGISTRATE, IN AND FOR POLK COUNTY, TEXAS.

INSTANTER, THEN AND THERE TO ANSWER THE STATE OF TEXAS FOR AN OFFENSE AGAINST THE LAWS OF SAID STATE, TO-WIT: CAPITAL MURDER OF PERSON => 10 YOA < 15 YOA (FX), CJIS NUMBER 09990031 OF WHICH OFFENSE DON STEVEN MCDUGAL IS ACCUSED BY THE WRITTEN COMPLAINT, UNDER OATH, OF DETECTIVE KAYLA HEMPERLY, FILED BEFORE ME.

HEREIN FAIL NOT, BUT OF THIS WRIT MAKE DUE RETURN, SHOWING HOW YOU HAVE EXECUTED SAME:

WITNESS OF OFFICIAL SIGNATURE, THIS

February 20th, 2024

No BOND



Jamie Richardson
MAGISTRATE, Polk County, Texas

OFFICER'S RETURN

Came to hand this 20 day of February, A.D. 2024, at 1843 o'clock P.M. And Executed on the 20 day of February, A.D. 2024, at 1843 o'clock P.M, by arresting the within named DON STEVEN MCDUGAL at 1733 W. Washington Ave, in Polk County, Texas and taking HIS/HER bond, which is herewith returned; placing HIM/HER in the county jail of Polk County in Livingston, Texas.

I actually and necessarily traveled 0 miles in the service of this writ, in addition to any other mileage I may have traveled in the service of other process in this case during the same trip.

FEES: Making arrest \$ _____
Mileage _____ miles \$ _____
Taking Bond \$ _____
Commitment \$ _____
Release \$ _____
TOTAL \$ _____

Sheriff Byron Lyons
Polk County, Texas

by
Deputy [Signature]