

STATE OF CALIFORNIA – COUNTY OF SAN BERNARDINO
**SEARCH WARRANT AND AFFIDAVIT
(ATTACHMENT)**

STATEMENT OF PROBABLE CAUSE:

On Monday, November 11, 2013, at about 1000 hours, Deputies from the Victorville Sheriff's station responded to a call of possible human remains found in the desert area near Stoddard Wells Road and Quarry Road, Victorville.

Coroner Investigator Andy Avery responded to the scene and identified what appeared to be the partial skull of a child. The partial skull was bleached white due to exposure to the elements for an undetermined amount of time. The skull contained the upper portion of the orbital sockets and nasal cavity.

Based on this information, Avery requested the assistance of Forensic Anthropologist Dr. Alexis Gray.

Avery and Gray conducted an area search and found additional human remains exposed to the elements and two shallow graves. The Sheriff's Department Homicide Detail was notified and assumed the investigation on Tuesday, November 12, 2013.

Homicide investigators and Coroner's personnel excavated the two graves and found the remains of three additional bodies. The human remains of the four bodies were later matched and identified to Joseph McStay, Summer McStay, Gianni McStay and Joseph McStay Jr [The McStay Family] through dental records and deoxyribonucleic (DNA) comparison.

The McStay family lived in Fallbrook, CA and were reported missing to the San Diego Sheriff's office on February 15, 2010. Joseph Sr. had an Internet fountain business named Earth Inspired Products (EIP).

On Wednesday, November 13, 2013, San Diego Sheriff's Office (SDSO) investigators met with San Bernardino County Sheriff's Department (SBCSD) investigators. During the meeting, SDSO Sergeant Patrick Gardner called SDSO lead investigator of the missing persons' investigation, Detective Troy DuGal, and put him on speaker. DuGal briefed SBCSD homicide investigators and Gardner provided us copy of their missing persons report related to the McStay Family. SDSO investigators conducted an extensive search for the McStay family to no avail.

On Thursday and Friday, November 14 and 15, 2013, Dr. C. Changsri conducted an autopsy of Joseph Sr., Summer, Gianni, and Joseph McStay Jr. Changsri ruled Joseph, Summer, and Gianni McStay's cause of death to be blunt force and multiple blunt force trauma to the head, and the manner of death a homicide.

The McStay family were thought to have been missing since February 4, 2010 based on the last communications with family and Joseph's co-workers and their cell phone activity, but were not reported missing until February 15, 2010. Joseph McStay was found to own and use a T-Mobile cell phone (949) 295-7451. Summer McStay was found to own and use an AT&T cell phone (949) 295-6411.

During the missing person investigation, San Diego County Sheriff's investigators interviewed Charles "Chase" Merritt. Merritt, Joseph and Daniel Kavanaugh partnered together in Joseph's business, Earth Inspired Products (EIP). EIP was a water fountain design and distribution company started by Joseph. Merritt was hired as a designer/builder of the custom fountains sold by EIP.

During the missing person investigation, San Diego County Sheriff's investigators learned the McStay's Isuzu Trooper was found and towed on February 8, 2010, in a parking lot in San Ysidro. Investigators towed the vehicle and authored a search warrant for the vehicle, during which they collected DNA swabs, fingerprint lifts and searched the vehicle.

STATE OF CALIFORNIA – COUNTY OF SAN BERNARDINO
SEARCH WARRANT AND AFFIDAVIT
(ATTACHMENT)

STATEMENT OF PROBABLE CAUSE CONTINUED:

Through investigation conducted by San Diego County Sheriff's and San Bernardino County Sheriff's investigators, it was learned Merritt was the last person to see and talk to Joseph alive. Merritt met with Joseph at "Chick-fil-a" restaurant, in Rancho Cucamonga. Merritt told investigators he and Joseph discussed business dealings.

Cell phone records indicated Joseph left the meeting and drove to his residence in Fallbrook. At 2028 hours, Joseph called Merritt and they spoke about a fountain being fabricated for a company in Saudi Arabia. Per cell phone records, this was the last activity on Joseph's cell phone. Merritt claimed he attempted to call Joseph several times in the days following the McStay family disappearance, but could not locate them. Merritt was the first person to respond to the McStay residence after their disappearance in an attempt to locate them and believed it was on either February 9 or 10, 2010, but was unable to locate them.

On Thursday, February 20, 2014, Detective Armando Avila received a DNA analysis result report, for DNA swabs collected from the McStay's Isuzu Trooper. San Bernardino County Sheriff's criminalists analyzed DNA samples collected from various items of evidence, including swabs collected from the Trooper. During the analysis, criminalists matched DNA collected from the Trooper to Merritt. Merritt's DNA was collected during the missing person investigation by San Diego County Sheriff's Detective Troy DuGall, via buccal swab. The DNA swabs matching Merritt were collected from the steering wheel, 4x4 shifter, and radio/AC control panel.

Merritt was interviewed several times by San Diego County Sheriff's investigators during the missing person investigation. During an interview on February 17, 2010, Merritt told San Diego County Sheriff's investigators he was last in the Isuzu Trooper approximately 6 weeks prior to the McStay family disappearance. Merritt rode with Joseph in the Trooper and sat in the passenger seat. Merritt told investigators he had never driven the Trooper. Merritt had a fresh injury to his hand, which he claimed happened when he cut his hand on sheet metal. Merritt made several statements about Joseph in past tense, including "Joseph was," leading investigators to believe Merritt knew Joseph and family were deceased.

In subsequent interviews with Merritt, he told San Diego County Sheriff's investigators he did not like Summer. Merritt also told investigators he did not like Kavanaugh and stated, "If I were ever going to commit murder it would be with him," referring to harming Kavanaugh. At the time of Merritt's statement, no evidence of foul play was found in the McStay family disappearance which would warrant a statement from Merritt.

According to Kavanaugh, Joseph lent Merritt \$30,000 to pay a gambling debt Merritt incurred. Kavanaugh told San Diego County investigators Joseph planned to fire Merritt.

During the investigation, Merritt provided San Diego County Sheriff's Department investigators with a contact phone number (909) 374-0102. Merritt claimed this was his cell phone and investigators contacted him several times on the number. Merritt has an extensive criminal record and has served multiple prison terms

On Friday, February 21, 2014, I called AT&T wireless to confirm ownership of the phone (909) 374-0102. Per AT&T, they owned the phone number at the time of the McStay family disappearance and coincidentally, the phone service was disconnected shortly after the family went missing. As of the

STATE OF CALIFORNIA – COUNTY OF SAN BERNARDINO
**SEARCH WARRANT AND AFFIDAVIT
(ATTACHMENT)**

telephone call, AT&T still possessed cell phone records and subscriber information for the requested time period.

I received telephone records for (909) 374-0102 and sent the telephone records to L.A. Clear Hemisphere to have the records plotted to analyze the Merritt's whereabouts during the time of the McStay family disappearance. Through examining telephone records, I learned the Merritt was in a position to access the cellular telephone tower northeast of the McStay family gravesite on February 6th, 2010, two days after the family disappeared. Merritt made six telephone calls while in the area between 1046 hours and 1330 hours. Four of the six calls the Merritt made were to (909) 374-8951, a number owned by AT&T / Cingular Wireless.

I believe the phone records for (909) 374-8951 and cell site information for the time frame around the disappearance will assist with determining Merritt's and the owner of the cell phone's location at the time the McStay's were murdered. Your affiant is requesting the issuance of this search warrant for (909) 374-8951 in an effort to develop additional investigative leads that may assist in this murder investigation of the McStay family members, Joseph, Summer, Gianni and Joseph McStay Jr. I request Hobbs' sealing of the search warrant to protect known facts of the case, based on the fact the case is an ongoing homicide investigation and any release of information could jeopardize the case.