

Film No. File No.

STATE OF NORTH CAROLINA

In the General court of Justice

SEARCH WARRANT

WAKE

Superior Court Division

In the Matter of

Accounts associated with the area near the location 35.785556, -78.617145 between 6:00pm EST and 7:00pm EST, on 11-07-2016, AND between 5:25pm EST and 6:25pm EST on 11-08-2016, maintained on computer Servers controlled by Google, Inc.

Date Issued 03/08/2017 Time issued 9:53 AM PM

Detective Mark Quagliarello

Name of additional Affiant Detective E.R. Emser

Name of Additional Affiant

RETURN OF SERVICE

I certify that this Search WARRANT was received and executed as follows:

Date Received 3/8/2017 Time Received 9:53 AM PM

Date Executed 03/8/2017 Date and Time Return

I made a search of GOOGLE DATA AS LISTED IN SEARCH WARRANT

as commanded.

I seized the items listed on the attached Inventory.

I did not seize any items.

This warrant was not executed within 48 hours of the date of issuance and I hereby return it not executed

Signature of Officer Making Return

Department or Agency of Officer

AOC-CR-119 / Rev 8/83

To any officer with authority and jurisdiction to conduct the search authorized by this Search Warrant:

I, the undersigned, find that there is probable cause to believe that the property and person described in the application on the reverse side and related to the commission of a crime is located as describe the application.

You are commanded to search the premises, vehicle, person, and other place or item described in the application for the property and person in question. If the property and/or person are found, make the seizure and keep the property subject to Court Order and process the person according to law.

You are directed to execute this Search Warrant within forty-eight (48) hours from the time indicated on this warrant and make due return to the Clerk of Issuing Court.

This Search Warrant is issued upon information furnished under oath by the person or persons shown.

Date March 8, 2017 Signature Keshen F. Young Deputy CSC Asst. CSC Clerk of Superior Court Magistrate District Ct. Judge Superior Ct. Judge

Date 1/23/18 Time 2 AM PM

Signature Cynthia S. Cobbitt Deputy Asst. CSC Clerk of Superior Court

APPLICATION FOR SEARCH WARRANT

I, Mark Quagliarello of the Raleigh Police Department, being duly sworn, request that the Court issue a warrant to search the person, place, vehicle, and other items described in this application and to find and seize the property and person described in this application. There is probable cause to believe that (Describe property to be seized; or if search warrant is to be used for searching a place to serve an arrest warrant or other process, name person to be arrested.)

SEE ATTACHED "PROPERTY/EVIDENCE TO BE SEIZED"

constitutes evidence of a crime and the identity of a person participating in a crime, NCGS14-17; Murder

and is located (check appropriate box(s) and fill-in specified information)

in the following premises: SEE ATTACHED "PLACES TO BE SEARCHED"

(and) on the following person(s)

(and) in the following vehicle(s)

(and) (Name or describe other places or items to be searched, if applicable)

The applicant swears to the following facts to establish probable cause for the issuance of a search warrant:

SEE ATTACHED "PROBABLE CAUSE AFFIDAVIT".

SWORN AND SUBSCRIBED TO BEFORE ME


Date

March 8, 2017

Signature

Kenley F. Young

Deputy CSC Asst CSC Clerk of Superior Court
 Magistrate Judge


Signature of Applicant

In addition to the affidavit included above, this application is supported by additional affidavit(s), attached, made by the above named applicant

In addition to the affidavit included above, this application is supported by sworn testimony given by: _____

This testimony has been reduced to writing tape recorded and I have filed each with the Clerk.

If a continuation is necessary, continue the statement on an attached sheet of paper with notation saying "see attachment."

Date the continuation and include on it the signatures of applicant and issuing official.

APPLICATION FOR SEARCH WARRANT

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(and) on the following person(s)

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The applicant swears to the following facts to establish probable cause for the issuance of a search warrant:

SEE ATTACHED "PROBABLE CAUSE AFFIDAVIT".

SWORN AND SUBSCRIBED TO BEFORE ME

Date

March 8, 2017

Signature

Keenan F. Young

Signature of Applicant

Deputy CSC Asst CSC Clerk of Superior Court
 Magistrate Judge

In addition to the affidavit included above, this application is supported by additional affidavit(s), attached, made by the above named applicant

In addition to the affidavit included above, this application is supported by sworn testimony given by: _____

This testimony has been reduced to writing tape recorded and I have filed each with the Clerk.

If a continuation is necessary, continue the statement on an attached sheet of paper with notation saying "see attachment."
Date the continuation and include on it the signatures of applicant and issuing official.

IN THE MATTER OF:

ATTACHMENT TO APPLICATION
FOR SEARCH WARRANT

Accounts associated with the area near the location
35.785556, -78.617145 between 6:00pm EST and 7:00pm EST, on 11-07-2016, AND between 5:25pm EST and 6:25pm EST on
11-08-2016, maintained
on computer Servers controlled by Google, Inc.

ATTACHMENT I- PROPERTY/EVIDENCE TO BE SEIZED:

The facts and circumstances outlined in this affidavit suggest that there is cause to believe evidence of the commission of the crime of Murder, a violation of North Carolina General Statute 14-17 (hereinafter "Subject Offense), may be found within Google, Inc. or Google Payment Corp. accounts described further in ATTACHMENT II (hereinafter "the Accounts") stored at premises controlled by Google, a company that accepts service of legal process at 1600 Amphitheatre Parkway, Mountain View, California 94043. The following material is sought for the time period of **between 6:00pm EST and 7:00pm EST, on 11-07-2016, AND between 5:25pm EST and 6:25pm EST on 11-08-2016:**

- Each account/device corresponding to the location data described further in ATTACHMENT II to be provided by Google will be identified only by a numerical identifier, without any further content or information identifying the user of a particular device. Law enforcement will analyze this location data to identify users who may have witnessed or participated in the Subject Offenses and will seek any additional information regarding those devices through further legal process.

SWORN TO AND SUBSCRIBED BEFORE ME

THIS 8th DAY OF March, 2017.

Kenner F. Young
 Deputy CSC Asst. CSC Clerk of Sup. Ct. Mag. Judge

[Signature]
Signature of Applicant

Page _____ of _____ Pages

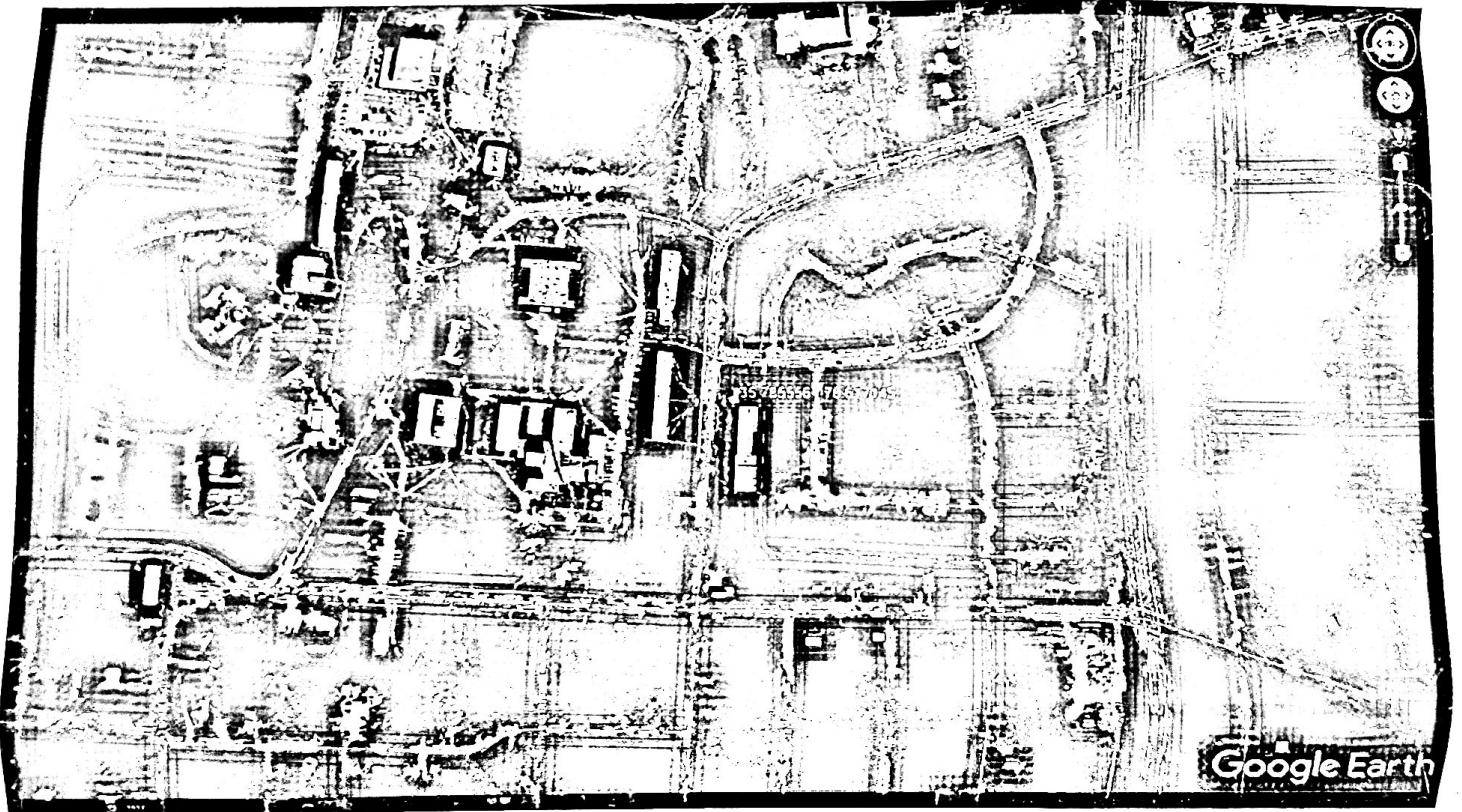
IN THE MATTER OF:

ATTACHMENT TO APPLICATION
FOR SEARCH WARRANT

Accounts associated with the area near the location
35.785556, -78.617145 between 6:00pm EST and 7:00pm EST, on 11-07-2016, AND between 5:25pm EST and 6:25pm EST on
11-08-2016, maintained
on computer Servers controlled by Google, Inc.

ATTACHMENT II- PLACES TO BE SEARCHED:

This warrant applies to information associated with the Google accounts located within the geographical region defined as being within 150 meters of the GPS coordinates 35.785556, -78.617145 between 6:00pm EST and 7:00pm EST, on 11-07-2016, AND between 5:25pm EST and 6:25pm EST on 11-08-2016, that is stored at premises controlled by Google, a company that accepts service of legal process at 1600 Amphitheatre Parkway, Mountain View, California 94043.



A law enforcement officer will serve this warrant by transmitting it via email or another appropriate manner to the Provider. The Provider is directed to produce to the law enforcement officer an electronic copy of the information specified in ATTACHMENT I.

SWORN TO AND SUBSCRIBED BEFORE ME
THIS 8th DAY OF March, 2017.

Debra K. Young
 Deputy CSC Asst. CSC Clerk of Sup. Ct. Mag. Judge

[Signature]
Signature of Applicant

Page _____ of _____ Pages

IN THE MATTER OF:

ATTACHMENT TO APPLICATION
FOR SEARCH WARRANT

Accounts associated with the area near the location
35.785556, -78.617145 between 6:00pm EST and 7:00pm EST, on 11-07-2016, AND between 5:25pm EST and 6:25pm EST on
11-08-2016, maintained
on computer Servers controlled by Google, Inc.

ATTACHMENT III - PROBABLE CAUSE AFFIDAVIT:

The Affiant swears to the following facts to establish probable cause for the issuance of a search warrant:

On November 08, 2016 at approximately 1815 hours, the Raleigh Police Department uniformed patrol officers were dispatched to 432 Hill Street in regards to a shooting. Upon arrival, the uniformed patrol units found Nwabu Cyril Efobi deceased out front of the business. Nwabu Efobi was a cab driver for Universal Cab Company. Universal Cab Company is the business located at 432 Hill Street. Nwabu Efobi had been shot multiple times.

In the course of the investigation, a video surveillance system was identified that monitored and recorded the buildings at the shopping center. The cameras covered the back, front and sides of the buildings. The camera system was reviewed. On 11/08/2016 at approximately 1800 hours a black male subject is recorded walking behind the shopping center and Universal Cab Company. This subject is wearing a hooded sweatshirt. The subject comes around the side of the building to the front door area of the Universal Cab Company. The victim exits the cab company and a confrontation ensues between the cab driver and the subject. The subject shoots the cab driver multiple times and then flees the area on foot around the side of the business and to the rear.

In the course of the investigation, the video surveillance from the building was reviewed for the days leading up to the incident. It should be noted that on 11/07/2016, the same black male subject in the hooded sweatshirt is observed behind the business on three separate times. The first incident is at approximately 1810 hours and the subject is observed walking behind the business to the front of the business. The subject then leaves and walks towards the rear of business. The subject is also observed at approximately 1833 hours walking again behind the business and to the front of the business. The subject stays outside the front of business for a short time period than walks around to the rear of the business. At approximately 1840 hours, the subject is seen on camera coming around to the side of the business from the rear. The subject has a CELLULAR DEVICE in his left hand that is positioned near his left ear. The subject appears to be on the phone. On this date, the subject also comes around to the front of the Universal Cab Company but leaves without incident. It should be noted that no cabs are parked in front of the business and no employees were present at the time during these three instances.

This applicant knows that a cellular telephone or mobile telephone is a handheld wireless device primarily used for voice, text, and data communication through radio signals. Cellular telephones send signals through networks of transmitter/receivers called "cells" or "cell sites," enabling communication with other cellular telephones or traditional "landline" telephones. Cellular telephones rely on cellular towers, the location of which may provide information on the location of the subject telephone. Cellular telephones may also include global positioning system ("GPS") or other technology for determining a more precise location of the device.

SWORN TO AND SUBSCRIBED BEFORE ME
THIS 8th DAY OF March, 2017.

Renley F. Young
 Deputy CSC Asst. CSC Clerk of Sup. Ct. Mag. Judge


Signature of Applicant

Page _____ of _____ Pages

IN THE MATTER OF:

ATTACHMENT TO APPLICATION
FOR SEARCH WARRANT

Accounts associated with the area near the location
35.785556, -78.617145 between 6:00pm EST and 7:00pm EST, on 11-07-2016, AND between 5:25pm EST and 6:25pm EST on
11-08-2016, maintained
on computer Servers controlled by Google, Inc.

This applicant also knows that Google is a company which, among other things, provides electronic communication services to subscribers, including email services. Google allows subscribers to obtain email accounts at the domain name gmail.com and/or google.com. Subscribers obtain an account by registering with Google. A subscriber using the Provider's services can access his or her email account from any computer/device connected to the Internet.

This applicant knows that Google has also developed a proprietary operating system for mobile devices, including cellular phones, known as Android. Nearly every cellular phone using the Android operating system has an associated Google account, and users are prompted to add a Google account when they first turn on a new Android device.

Based on this applicant's training and experience, this applicant knows that Google collects and retains location data from Android-enabled mobile devices when a Google account user has enabled Google location services. Google can also collect location data from non-Android devices if the device is registered to a Google account and the user has location services enabled. The company uses this information for location-based advertising and location-based search results and stored such data in perpetuity unless it is manually deleted by the user. This location information is derived from GPS data, cell site/cell tower information, Bluetooth connections, and Wi-Fi access points.

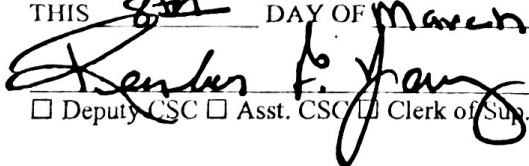
This applicant knows that location data can assist investigators in forming a fuller geospatial understanding and timeline related to a specific criminal investigation; and may tend to identify potential witnesses and/or suspects. Such information can also aid investigators in possibly inculcating or exculpating persons of interest.

Additionally, location information can be digitally integrated into image, video, or other computer files associated with a Google account and can indicate the geographic location of the accounts user at a particular date and time (e.g., digital cameras, including on cellular telephones, frequently store GPS coordinates indicating where a photo was taken in the "metadata" of an image file).

This applicant respectfully submits that there is probable cause to believe that information stored on the Providers' servers associated with the Google accounts and/or devices located at the location and timeframe specified in ATTACHMENT II, will contain evidence, fruits and instrumentalities of the Subject Offense¹.

¹ The State of North Carolina maintains that the information sought herein consists entirely of "record[s]" other than the "contents of communications" which is subject to the provisions outlined in 18 U.S.C. § 2703(d). Such records, requires only a showing that there are reasonable grounds to believe that the information sought is relevant and material to an ongoing criminal investigation. See 18 U.S.C. § 2703(c)(1)(A). Despite this, Google has indicated that it believes a search warrant, and not a court order, is required to obtain the location data sought in this application. Although the Government disagrees with Google's position, because there is

THIS 8th DAY OF March, 2017.


Kender F. Jones

Deputy CSC Asst. CSC Clerk of Sup. Ct. Mag. Judge


Signature of Applicant

Page _____ of _____ Pages

IN THE MATTER OF:

ATTACHMENT TO APPLICATION
FOR SEARCH WARRANT

Accounts associated with the area near the location
35.785556, -78.617145 between 6:00pm EST and 7:00pm EST, on 11-07-2016, AND between 5:25pm EST and 6:25pm EST on
11-08-2016, maintained
on computer Servers controlled by Google, Inc.

The geographical region described in ATTACHMENT II is the area in close proximity to the location of where the Subject Offense being investigated was committed. The specific longitude and latitude indicated was identified through a mapping software and a screenshot of this location is included within ATTACHMENT II. This affidavit seeks authority to collect certain specified non-content and limited content information related to Google accounts that were located within the Target Area during the Target Time Period (the "Subject Accounts").

The information sought from Google regarding the Subject Accounts, specified in ATTACHMENT I to this warrant, will assist in identifying which cellular devices were near the location where the crime being investigated occurred during the time frame it is currently believed to have occurred. This information may assist law enforcement in determining which persons were present or involved with the Subject Offense under investigation.

The applicant would respectfully request the court issue a search warrant for the material outlined in ATTACHMENT I of the above-mentioned premises controlled by Google.

All information and facts provided in this affidavit are true and accurate to the best of the applicant's knowledge. The applicant feels that there is sufficient probable cause for the issuance of a search warrant for the evidence, fruits, and instrumentalities of violations of Subject Offense which may be contained within the records.

probable cause to believe that the information sought herein will contain evidence of the criminal offenses specified in this affidavit, the Government is seeking a search warrant in this case.

SWORN TO AND SUBSCRIBED BEFORE ME

THIS 8th DAY OF March, 2017.

Richard F. Young
 Deputy CSC Asst. CSC Clerk of Sup. Ct. Mag. Judge


Signature of Applicant

Page _____ of _____ Pages

STATE OF NORTH CAROLINA

COUNTY OF WAKE

IN THE GENERAL COURT OF JUSTICE -
SUPERIOR COURT
DIVISION

APPLICATION FOR ORDER TO PREVENT DISCLOSURE OF THE EXISTENCE OF A SEARCH WARRANT FOR SEARCHES RELATED TO GOOGLE ACCOUNTS ASSOCIATED WITH THE AREA NEAR THE LOCATION 35.785556, -78.617145 between 6:00pm EST and 7:00pm EST, on 11-07-2016, AND between 5:25pm EST and 6:25pm EST on 11-08-2016, MAINTAINED ON COMPUTER SERVERS CONTROLLED BY GOOGLE, INC., DATED 03/08/2017

NOW COMES Raleigh Police Department, Detective Mark Quagliarello, and petitions the Court to authorize the search of Google servers for accounts associated with the area near the location 35.785556, -78.617145 between 6:00pm EST and 7:00pm EST, on 11-07-2016, AND between 5:25pm EST and 6:25pm EST on 11-08-2016.

Pursuant to 18 U.S.C. § 2705(b), and 3103a(b), this applicant requests that the proposed order direct the provider, and all other communications providers, persons or entities who are obligated by the proposed warrant to provide assistance to the investigative agency, not to disclose in any manner, directly or indirectly, by any action or inaction, to the subscriber(s) or to any other person, the existence of the proposed warrant, in full or redacted form, the existence of the legal request or the existence of this investigation, unless otherwise ordered by this Court; and that the identity of any account users included within the search results may be redacted from any copy of the proposed warrant to be served on any service provider or other person.

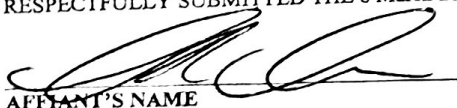
The existence and scope of this ongoing criminal investigation is not publicly known. As a result, premature public disclosure of this affidavit or the requested warrant could alert potential criminal targets that they are under investigation, causing them to destroy evidence, flee from prosecution, or otherwise seriously jeopardize the investigation. In light of the serious nature of the crime under investigation, premature revelation of this investigation may alert dangerous targets that they have been identified by others and endanger the safety of witnesses who have been cooperating with the Government.

Accordingly, there is reason to believe that, were the Provider to notify subscribers of the Subject Accounts or others of the existence of the warrant, the investigation would be seriously jeopardized. Pursuant to 18 U.S.C. § 2705(a), I therefore respectfully request that the Court direct the PROVIDER not to notify any person of the existence of the warrant for a period of 90 days from issuance, subject to extension upon application to the Court, if necessary.

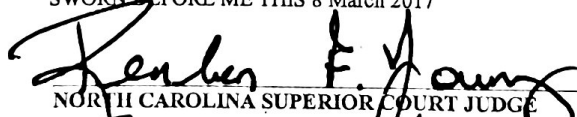
The Applicant declares under penalty of perjury that the foregoing is true and correct to the best of my knowledge and belief and that this declaration was executed on March 08, 2017.

RESPECTFULLY SUBMITTED THE 8 March 2017

SWORN BEFORE ME THIS 8 March 2017


AFFIANT'S NAME

Det. ERIC L. EMSEK
PRINTED


NORTH CAROLINA SUPERIOR COURT JUDGE

Reuben F. Young
PRINTED

STATE OF NORTH CAROLINA
COUNTY OF WAKE

IN THE GENERAL COURT OF JUSTICE -
SUPERIOR COURT
DIVISION


ORDER TO PREVENT DISCLOSURE OF THE EXISTENCE OF A SEARCH WARRANT FOR SEARCHES RELATED TO GOOGLE ACCOUNTS ASSOCIATED WITH THE AREA NEAR THE LOCATION 35.785556, -78.617145 between 6:00pm EST and 7:00pm EST, on 11-07-2016, AND between 5:25pm EST and 6:25pm EST on 11-08-2016, MAINTAINED ON COMPUTER SERVERS CONTROLLED BY GOOGLE, INC., DATED 03/08/2017

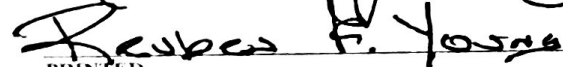
THIS MATTER having come before me on a petition by the Raleigh Police Department and it appearing to the court that release of the information in a search warrant dated 03/08/2017, authorizing the search of Google servers for accounts associated with the area near the location 35.785556, -78.617145 between 6:00pm EST and 7:00pm EST, on 11-07-2016, AND between 5:25pm EST and 6:25pm EST on 11-08-2016 would be detrimental to an ongoing criminal investigation.

Pursuant to 18 U.S.C. § 2705(b), 3123(d), and 3103a(b), it is ordered that the provider, and all other communications providers, persons or entities who are obligated by the proposed order to provide assistance to the investigative agency, not to disclose in any manner, directly or indirectly, by any action or inaction, to the subscriber(s) or to any other person, the existence of the proposed warrant, in full or redacted form, the existence of the legal request, or the existence of this investigation, unless otherwise ordered by this Court; and that the identity of any account users included within the search results may be redacted from any copy of the proposed warrant to be served on any service provider or other person. Specifically, being as disclosure of the requested order and investigation would likely result in continued flight from testimony, a modification of the suspect's activities or the activities of those with whom the suspect communicates and associates, or the destruction or tampering of evidence; and would otherwise seriously jeopardize the investigation; the applicant further requests, pursuant to the delayed notice provisions of 18 U.S.C. § 2705(a), for an order delaying any notification to the subscriber or customer that may be required by 18 U.S.C. § 2703(b) to obtain the contents of communications, for a period of ninety (90) days.

THEREFORE, BE IT SO ORDERED that the search warrant, dated 03/08/2017 authorizing the search of Google servers for accounts associated with the area near the location 35.785556, -78.617145 between 6:00pm EST and 7:00pm EST, on 11-07-2016, AND between 5:25pm EST and 6:25pm EST on 11-08-2016 be not disclosed by Google to the PROVIDER for a period of ninety (90) days.

This the 08 day of March, 2017.



SUPERIOR COURT JUDGE'S SIGNATURE


PRINTED

STATE OF NORTH CAROLINA

File No.

Wake County

In The General Court Of Justice
 District Superior Court Division

IN THE MATTER OF:

Name

Accounts associated with the area near the location 35.785556, -78.617145 between 6:00pm EST and 7:00pm EST, on 11-07-2016, and between 5:25pm EST and 6:25pm EST on

**INVENTORY OF ITEMS SEIZED
PURSUANT TO SEARCH**

G.S. 15A-223, 15A-254. -257

I, the undersigned officer, executed a search of:

Person, Premises Or Vehicle Searched

Accounts associated with the area near the location 35.785556, -78.617145 between 6:00pm EST and 7:00pm EST, on 11-07-2016, and between 5:25pm EST and 6:25pm EST on 11-08-2016, maintained on computer servers controlled by Google, Inc.

Date Of Search

03/08/2017

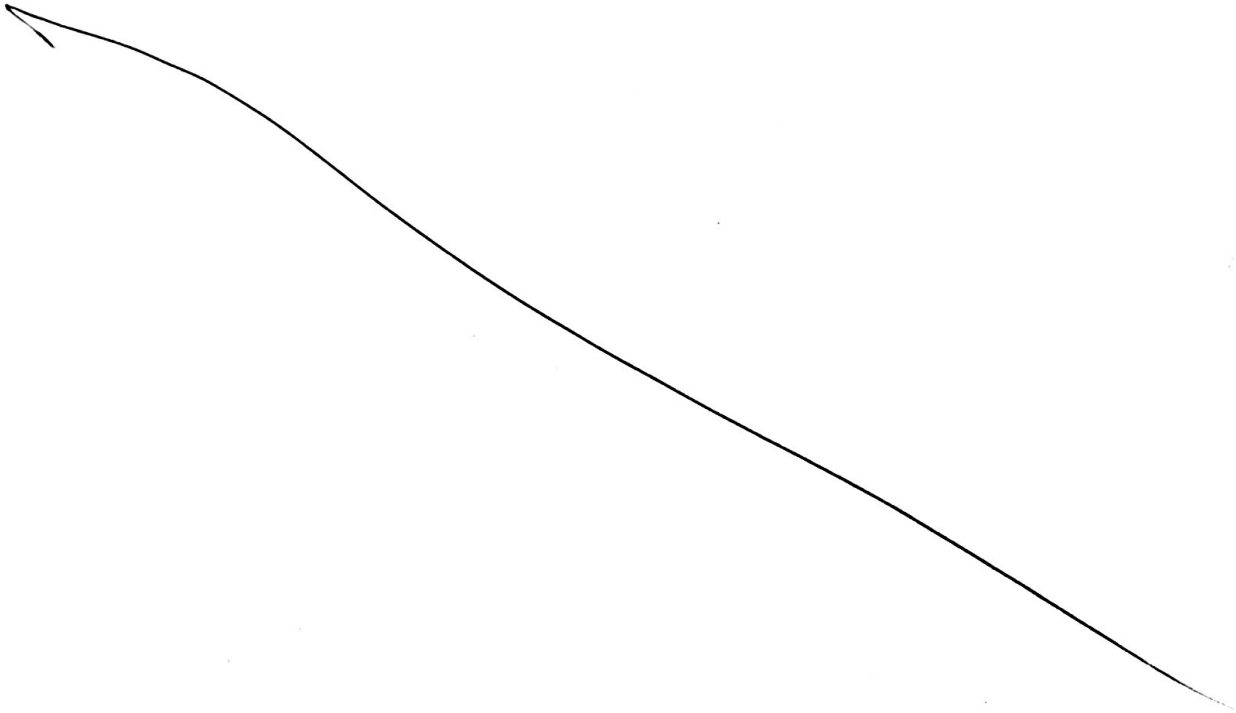
This search was made pursuant to

- 1. a search warrant issued by: Superior Court Judge
- 2. consent to search given by: _____
- 3. other legal justification for the search: _____

The following items were seized:

Data retrieved and reviewed associated with accounts associated with the area near the location 35.785556, -78.617145 between 6:00pm EST and 7:00pm EST, on 11-07-2016, and between 5:25pm EST and 6:25pm EST on 11-08-2016, maintained on computer servers controlled by Google, Inc.

Items Seized Continued:



1. I left a copy of this inventory with the person named below, who is:

- a. the owner of the premises searched.
- b. the owner of the vehicle searched.
- c. the person in apparent control of the premises searched.
- d. the person in apparent control of the vehicle searched.
- e. the person from whom the items were taken.

2. As no person was present, I left a copy of this inventory:

- a. in the premises searched, identified on the reverse.
- b. in the vehicle searched, identified on the reverse.

Name And Address Of Person To Whom A Copy Of This Inventory Was Delivered, If Any

n/a

The law enforcement agency identified below will hold the seized property subject to court order.

SWORN AND SUBSCRIBED TO BEFORE ME

Date: *1-23-18*

Signature: *Synthia H. Bobbitt*

- Deputy CSC
- Clerk Of Superior Court
- Assistant CSC
- Magistrate

Signature Of Law Enforcement Officer *[Signature]*

Title Of Law Enforcement Officer
Detective

Name And Address Of Agency
**Raleigh Police Department
5240 Greens Dairy Rd.
Raleigh, NC 27616**

ACKNOWLEDGMENT OF RECEIPT

I, the undersigned, received a copy of this inventory.

Date: _____ Signature of Person Receiving Inventory _____