

SEARCH WARRANT

G.L. c. 276, §§ 1-7

TRIAL COURT OF MASSACHUSETTS

West Roxbury District

COURT DEPARTMENT

Criminal

DIVISION

SEARCH WARRANT DOCKET NUMBER

91 06 SW 295

THE SHERIFFS OF OUR SEVERAL COUNTIES OR THEIR DEPUTIES, ANY STATE POLICE OFFICER, OR ANY CONSTABLE OR POLICE OFFICER OF ANY CITY OR TOWN, WITHIN OUR COMMONWEALTH:

Proof by affidavit, which is hereby incorporated by reference, has been made this day and I find that there is PROBABLE CAUSE to believe that the property described below:

- has been stolen, embezzled, or obtained by false pretenses.
- is intended for use or has been used as the means of committing a crime.
- has been concealed to prevent a crime from being discovered.
- is unlawfully possessed or concealed for an unlawful purpose.
- is evidence of a crime or is evidence of criminal activity.
- other (specify) _____

YOU ARE THEREFORE COMMANDED within a reasonable time and in no event later than seven days from the issuance of this search warrant to search for the following property:

Fingerprints and/or palm prints; the detection of explosive residue fumes.

at:

A black 1986 Buick Century, four door sedan, with Massachusetts Registration number of 125-110, Vehicle Identification Number of 1G4AL19R3G6415738.

which is occupied by and/or in the possession of: Thomas Shay (Owner); secured at the Boston Police garage at 273 D Street, South Boston.

on the person or in the possession of:

You are are not also authorized to conduct the search at any time during the night.

You are are not also authorized to enter the premises without announcement.

You are are not also commanded to search any person present who may be found to have such property in his or her possession or under his or her control or to whom such property may have been delivered.

YOU ARE FURTHER COMMANDED if you find such property or any part thereof, to bring it, and when appropriate, the persons in whose possession it is found before the _____ Division of the _____ Court Department.

ISSUED

10/31/91

SIGNATURE OF JUSTICE, CLERK, MAGISTRATE OR ASSISTANT CLERK

Maria I. Lopez

WITNESS OR ADMINISTRATIVE JUSTICE

WITNESS: PAUL MURPHY

PRINTED NAME OF JUSTICE, CLERK, MAGISTRATE OR ASSISTANT CLERK

MARIA I LOPEZ

SEARCH WARRANT

G.L. c. 276, §§ 1-7

TRIAL COURT OF MASSACHUSETTS

West Roxbury COURT DEPARTMENT

Criminal DIVISION

SEARCH WARRANT DOCKET NUMBER

81 06 SW 292

THE SHERIFFS OF OUR SEVERAL COUNTIES OR THEIR DEPUTIES, ANY STATE POLICE OFFICER, OR ANY CONSTABLE OR POLICE OFFICER OF ANY CITY OR TOWN, WITHIN OUR COMMONWEALTH:

Proof by affidavit, which is hereby incorporated by reference, has been made this day and I find that there is PROBABLE CAUSE to believe that the property described below:

- has been stolen, embezzled, or obtained by false pretenses.
- is intended for use or has been used as the means of committing a crime.
- has been concealed to prevent a crime from being discovered.
- is unlawfully possessed or concealed for an unlawful purpose.
- is evidence of a crime or is evidence of criminal activity.
- other (specify) _____

YOU ARE THEREFORE COMMANDED within a reasonable time and in no event later than seven days from the issuance of this search warrant to search for the following property:

~~Evidence of an explosive device, including explosive material such as black powder, smokeless powder, dynamite, plastic explosives or similar material, including wood and metal fragments; also wire, batteries, timers, clocks, blasting caps, fragmentation particles, nails, screws, tape and fabric, and other miscellaneous debris in the~~
Request permission to search the said motor vehicle and remove and/or dismantle any parts therein or thereon necessary to uncover explosive material.
~~blast area.~~

at:

~~A 1983 Chevrolet white stepvan bearing Massachusetts registration plates numbered A60-443 on the premises of 39 Eastbourne Street, Roslindale, Suffolk County, Massachusetts.~~
which is occupied by and/or in the possession of: Thomas Shay and Mary Flanagan

on the person or in the possession of:

You are are not also authorized to conduct the search at any time during the night.

You are are not also authorized to enter the premises without announcement.

You are are not also commanded to search any person present who may be found to have such property in his or her possession or under his or her control or to whom such property may have been delivered.

YOU ARE FURTHER COMMANDED if you find such property or any part thereof, to bring it, and when appropriate, the persons in whose possession it is found before the _____ Division of the _____ Court Department.

DATE ISSUED

10/29/91

FIRST OR ADMINISTRATIVE JUSTICE

WITNESS: PAUL MURPHY

SIGNATURE OF JUSTICE, CLERK-MAGISTRATE OR ASSISTANT CLERK

Maria I Lopez

PRINTED NAME OF JUSTICE, CLERK-MAGISTRATE OR ASSISTANT CLERK

MARIA I LOPEZ

Now comes the affiant who swears to the following. I William Fogerty am a Boston Police Detective assigned to the Homicide Unit of the Boston Police Dept. I have been a police officer for twenty four years. I have been rated a detective for the past sixteen years. I have been assigned to the Homicide Unit for six years. During my police career I have been involved in over one hundred homicide investigations, including bombings and arson investigations.

On Monday 10-28-91 I was one of numerous Homicide Investigators assigned to investigate the Homicide of Jeremiah Hurley. Jeremiah Hurley was a Boston Police Officer assigned to the Boston Special Operations Bomb Squad. His duties included responding to calls of suspicious objects that may be explosive. On 10-28-91 at about 11:55A.M. Officer Hurley with Officer Frank Foley responded to 39 Eastbourne St. in Roslindale to investigate a suspicious object. Once there, Officers Hurley and Foley were met by the E433 a marked police unit, and the occupant of 39 Eastbourne St, a Mr. Tom L. Shay, who lives with his girlfriend Mary Flanagan who owns the residence. The officers were directed to the driveway of 39 Eastbourne St. where they observed an object black in color. The object was described by Mr. Shay, who had reportedly already handled it, as being about 10 to 12 inches long, 5 to 6 inches wide and 1 inch thick. Mr. Shay stated that the object had several magnets on one side with two donut shaped circles about 3 or 4 inches in diameter on one side and a black box about 2 inches by 4 inches by 2 inches on the other side. This black box had a wire coming out of it and running towards the end of the wooden piece that it was attached to. The object had two magnets that had been removed or fallen off while Mr. Shay was handling it.

While the two Officers from the Bomb Squad were examining the above described device it exploded. The two Officers were removed to Brigham and Womens Hospital where Officer Hurley died as a result of his wounds at 7:22PM 10-28-91, and was pronounced by Dr. Neil Fine. Det. Fogerty along with other homicide investigators responded to 39 Eastbourne St. arriving at about 1:00P.M.

The initial observations in the area of the detonation shows that the explosion went in a 360 degree circle. The explosion occurred in the rear of the driveway between a white Chevrolet Ma. Reg. A60443 and a 1969 Grey GTO Pontiac, unregistered which were parked in the driveway. The explosion blast traveled towards the rear of the driveway up to and beyond the garage which is behind the grey Pontiac, as evidenced by the existence of fragmentation particles fanning in that direction. The explosion also traveled towards and over the 6 foot fence

into the rear of the yard behind the house and to the left of the above mentioned garage. The explosion also traveled forward towards the front of the street, as evidenced by the existence of fragmentation particles fanning in that direction. The fragmentation particles also were observed fanning towards and into the adjoining house at 35 Eastbourne St. as evidenced by an unexploded detonator stuck into the side of the house.

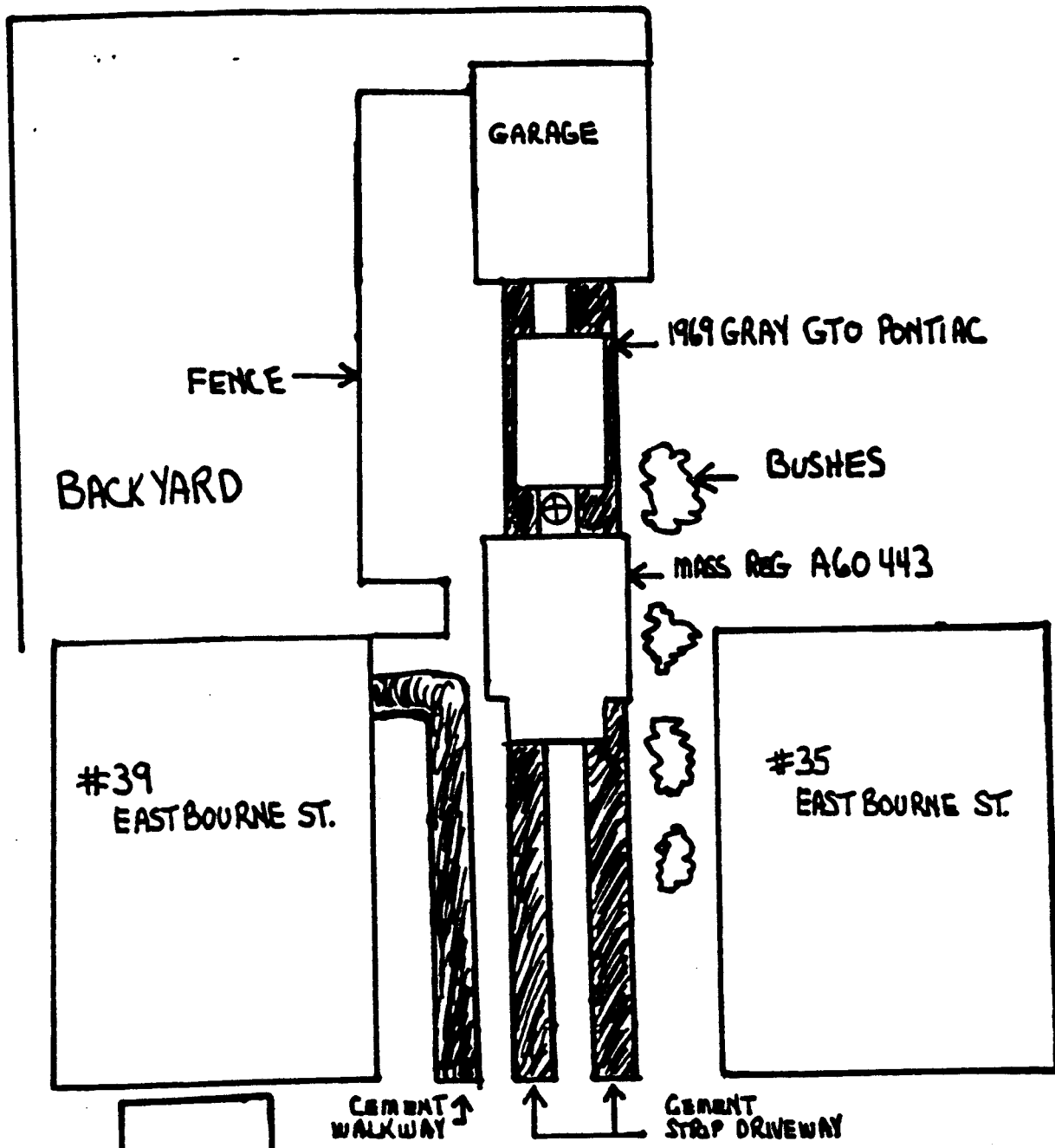
As part of the investigation, Agents from the Bureau of Alcohol, Tobacco and Firearms were called in for consultation. Agent Wayne M. Miller, who has over ten years experience in that agency, told Det. Fogerty that an explosion of the demonstrated power, which he observed evidence of, would probably cause fragments and other evidence to travel minimally one hundred feet. The exact dimensions of the lot at 39 Eastbourne were not measured to minimize any contamination of the crime scene. Det. Fogerty would estimate the lot at 39 Eastbourne to be 70 feet wide and 90 feet deep.

The aforementioned white Chevy, step van, Mass Reg:A60443, showed evidence of damage from the blast at the rear of the van, specifically a broken lens cap. The aforementioned, unregistered Pontiac GTO, showed evidence of damage from the blast to the front of the vehicle.

Agents from ATF have agreed to give expert consultation. As part of their consultation, in order to adequately investigate the explosion area, soil sifting to a depth of 5 inches is necessary. It is also the collective opinion of Agent Miller and other ATF agents consulted that evidence of an explosive device might have fanned into the above mentioned garage, Chevy stepvan and Pontiac GTO. Agent Miller informed Det. Fogerty that in his cursory examination of the blast area he saw evidence of wood and metal fragments, wires, batteries, timers, blasting caps, nails, and other fragmentation particles. It was also his opinion that a device of this type would leave evidence of explosive material such as black powder, smokeless powder, dynamite, plastic explosive, or similar material, and clocks, screws, tape, and fabric.

It is this affiant's opinion and the collective opinion of other Homicide Investigators and consulted ATF agents that issuance of a search warrant for the lot at 39 Eastbourne St. excluding the house itself but including the entire lot, the assigned garage, the Chevrolet Step Van, and the Pontiac GTO will produce evidence which will further aid in identifying the exact make-up of the explosive device which caused the death of Officer Jeremiah Hurley.

The attached map is hereby incorporated by reference into this affidavit.



↑
MASS REG. 125 LLO

⊕ BOMB EXPLOSION
OCTOBER 28, 1991
JEREMIAH J HURLEY HOMICIDE
#105-91

NOT TO SCALE - DET Wm B FOGERTY
BOSTON POLICE INCIDENT # 11 919 390



SEARCH WARRANT

G.L. c. 276, §§ 1-7

TRIAL COURT OF MASSACHUSETTS
West Roxbury District COURT DEPARTMENT

Criminal DIVISION

SEARCH WARRANT DOCKET NUMBER

91 06 SW 291

THE SHERIFFS OF OUR SEVERAL COUNTIES OR THEIR DEPUTIES, ANY STATE POLICE OFFICER, OR ANY CONSTABLE OR POLICE OFFICER OF ANY CITY OR TOWN, WITHIN OUR COMMONWEALTH:

Proof by affidavit, which is hereby incorporated by reference, has been made this day and I find that there is probable cause to believe that the property described below:

- has been stolen, embezzled, or obtained by false pretenses.
- is intended for use or has been used as the means of committing a crime.
- has been concealed to prevent a crime from being discovered.
- is unlawfully possessed or concealed for an unlawful purpose.
- is evidence of a crime or is evidence of criminal activity.
- other (specify) _____

YOU ARE THEREFORE COMMANDED within a reasonable time and in no event later than seven days from the issuance of this search warrant to search for the following property:

~~Evidence of an explosive device, including explosive material such as black powder, smokeless powder, dynamite, plastic explosives or similar material; including wood and metal fragments; also wires, batteries, timers, clocks, blasting caps, fragmentation particles, nails, screws, tape and fabric, and other miscellaneous debris in the blast area.~~

at:
The lot assigned to 39 Eastbourne Street, Roslindale; a white, unattached, pitched roof, wooden, single stall garage; a 1983 Chevrolet white, stepvan (Mass Reg:A60443); a 1969, grey, GTO Pontiac (Unregistered).

which is occupied by and/or in the possession of: Thomas Shay and Mary Flanagan

on the person or in the possession of:

You are are not also authorized to conduct the search at any time of the day or night.

You are are not also authorized to enter the premises without announcement.

You are are not also commanded to search any person present who may be found to have such property in his or her possession or under his or her control or to whom such property may have been delivered.

YOU ARE FURTHER COMMANDED if you find such property or any part thereof, to bring it before the WEST ROXBURY Division of the DISTRICT Court Department, soon as this search warrant has been served and in any event no later than seven days from its issuance, together with the person(s) in whose possession it is found. (*Strike out final clause if inapplicable.)

JUSTICE OR ADMINISTRATIVE JUSTICE

WITNESS: PAUL MURPHY

DATE ISSUED

10/29/91

SIGNATURE OF JUSTICE, CLERK, MAGISTRATE OR ASSISTANT CLERK

MARIA I. LOPEZ

CONSENT FORM

I consent to a search by officers of the Boston Police Department

of The Premises At 39 Eastbourne Street, Roslindale which
(specify place, vehicle or object and parts thereof to be searched)

I own and
may

I share with ~~and the owner of~~ ^{Tom Shay} ~~Mary J. Finnigan~~ to include
including address, registration number, vehicle identification number, etc.)
the ① basement ② First floor ③ 2nd floor and ④ sub attic

for evidence related to the crime(s) of making, possession, or detaining of an
explosive device. I am giving this consent voluntarily with the
knowledge that evidence of crime found may be used against me in criminal
proceedings and that I have the right to refuse to give this consent.

10-28-91
date

Mary A. Haragan
signature of consenting party
[Signature]
witness to signature

I have been explained of my rights relative to
giving consent to a search of my premise by my Attorney,
Attorney Allan J. Pransky and Lieut. Detective Edward
J. Mc Melley. I fully understand this/these rights
as explained to me by Attorney Alan J. Pransky
and Lieut. Detective Mc Melley and I give
knowingly, voluntarily and ~~freely~~ ^{give me} my consent to
search the above described premises

[Signature]
witness

Mary A. Haragan

CONSENT FORM

I consent to a search by officers of the Boston Police Department

of The Premises At 39 East Avenue St Rosindale which I share
(specify place, vehicle or object and parts thereof to be searched)

with Mary Flanagan to include the ¹ Basement ² First Floor ³ 2nd Floor and
(including address, registration number, vehicle identification number, etc.)

⁴ Sub A/B of building

for evidence related to the crime(s) of Making, possession, OF AN EXPLOSIVE

Device. I am giving this consent voluntarily with the

knowledge that evidence of crime found may be used against me in criminal proceedings and that I have the right to refuse to give this consent.

Oct T.S.
Nov 28 1991
date

[Signature]

[Signature]
signature of consenting party

[Signature]
witness to signature

I have been explained my rights relative to giving consent to a search of my premises by my attorney, attorney Alan J. Pausky and Lieut. Detective Edward J. McNelly. I fully understand this/these rights as explained to me by attorney Alan J. Pausky and Lt McNelly and I give knowingly, voluntarily and freely ^{T.S.} my consent to search the above described premises

[Signature] witness
[Signature]

[Signature] Oct T.S.
Nov 28, 91