

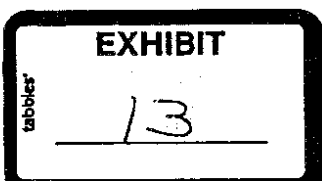
**IN THE
MISSOURI COURT OF APPEALS
WESTERN DISTRICT**

RYAN FERGUSON,)
)
 Appellant,)
)
 v.) No. WD71624
)
 STATE OF MISSOURI,)
)
 Respondent.)

AFFIDAVIT OF STEVEN L. KIRBY

I, Steven L. Kirby first duly sworn under oath and based upon my personal and direct knowledge, hereby depose and state as follows:

1. I am a licensed professional investigator and polygraph examiner and have been so licensed as an investigator since 1975 and a polygraph examiner since 1976.
2. I have interviewed over 10,000 persons during my career, investigating a variety of crimes, including but not limited to murder, sexual assault, arson, robbery, official misconduct, perjury, theft and other felonies.
3. Between August 2010 and January 2011 I interviewed Michael Boyd, an employee at the Columbia Tribune and a subordinate of Kent Heitholt, on four separate occasions; questioning him about his activities during the early morning hours of November 1, 2001, the day Kent Heitholt was murdered. Boyd was the last known person to see Kent Heitholt alive.



4. I have also read and studied Columbia Police Department police reports #18 and #25 relating to their interviews with Michael Boyd.
5. I have read and studied a report filed by Bill Haws, an investigator working for the Prosecutor. The report is dated July 25, 2005.
6. I have read and studied investigative reports by private investigator Jim Miller (dated February 18, 2005) relating to an interview on February 14th he had with Michael Boyd.
7. I have read and studied an investigative report prepared by private investigator Matthew E. Allen dated June 5, 2006 regarding Boyd's vehicle ownership at the time of Kent Heitholt's murder.
8. I have interviewed other witnesses to this case who have knowledge of Michael Boyd's whereabouts that evening and his relationship with Kent Heitholt, specifically Shawna Ornt and Russell Baer, a Tribune employee, both who were working at the Tribune the night of the murder.
9. As a result of my four interviews with Michael Boyd, interviews with other people working at the Columbia Tribune that night, and my study of the information contained in the police and defense investigative reports I have noted several significant discrepancies in Boyd's rendition of certain facts relating to this case as follows:
 - a. Boyd claimed to both the police and the affiant that he left the Tribune building at approximately 2:00 AM the morning of the murder. Shawna Ornt stated that she was sure that he left prior to 1:45 AM because she went to look for him to use his

computer at that time and he was nowhere to be found. Russell Baer, a Tribune employee, told the affiant that Boyd "left around 1 AM" on November 1, 2001.

- b. In interviews with the police and the affiant Boyd stated that he was waiting in the parking lot from ten to twenty minutes after he left work. According to his co-workers he would have been in the lot anywhere from 30 to approximately 80 minutes.
- c. In police #18, Boyd's first interview with Detective Short on November 1, 2001, Boyd stated that he talked to Heitholt, by Heitholt's car, and then proceeded to his own car. In subsequent interviews Boyd maintained that he remained in his vehicle, however police report #18 is clear that Boyd said that he was "standing there talking with Heitholt" and that after the conversation "Boyd stated he went to his vehicle."
- d. In police report #25 Boyd claims he exited the Tribune Building at 2:10 a.m. and proceeded to his car. He sat in his car for a couple of minutes adjusting the radio. Boyd observed Heitholt exit the back door of the Tribune. Boyd started his car, backed up, headed south towards the building, rolled down his driver's window and spoke to Kent then turned west in the alley and exited going northbound onto Providence. Boyd says it was 2:15 a.m. to 2:20 a.m. when he left the parking lot.
- e. In police report #18 dated November 1, 2001, Detective Short reported that Boyd had stated that he last saw Heitholt "climbing head first into his vehicle."

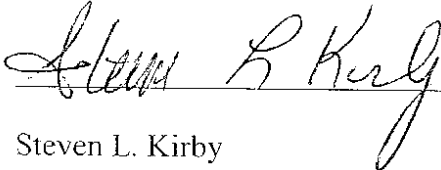
- f. In Boyd's interview with Jim Miller on February 14, 2005 he claims he went to his vehicle, listened to a cassette tape of music, saw Heitholt exit the Tribune building, pulled his car out, headed south towards the building, made a U-turn in the parking lot, pulled up next to Heitholt and spoke to him through the passenger window. Boyd also stated that he "observed Heitholt's car tail lights come on." Boyd stated "Kent drove off the parking lot I was driving off."
- g. In police report #18, dated November 1, 2001, Boyd specifically told the police that "he did not see anyone around the parking lot or anybody who was suspicious." In his second police interview dated November 2, 2001 (police report #25) Boyd again said that "he did not see anything suspicious." In his subsequent interview with William Haws on June 25, 2005, Boyd stated that as he was driving out of the parking lot, after seeing Kent Heitholt, "there were two young white guys standing near the dumpsters as he drove away." This was the first time that Boyd mentioned two other individuals in the parking lot that night.
- h. In an interview with your affiant on four occasions, Boyd stated that he saw two people, but could not identify their race or sex walking down the alley next to the wall by the dumpster towards Kent Heitholt. Boyd told the affiant on four occasions that he almost hit them.
- i. He told Haws that he could hear music from "George's" which is impossible because it closed at 1:30 a.m. Boyd told your affiant he wasn't sure the music was coming from By Georges. Your affiant confirmed the By George was closed

at 1:30 a.m. Boyd told the police that he thought he heard music from By George the night of the murder but later stated that he may have just read that in the newspaper.

- j. On February 14, 2005, Boyd initially told the defense investigator, Jim Miller, that he was driving his blue Oldsmobile Cutlass Ciera the night of the murder. He told Miller that he still owned that car as of that date. On July 25, 2005 Boyd told Haws that he was driving his red Plymouth car that night. In an interview with the affiant Boyd stated that he traded the Blue Oldsmobile in 2004. Boyd claimed in an interview with Matthew Allen and in a subsequent interview with the affiant, that he traded the blue Oldsmobile as part of a lease deal with Enterprise Car Rental in St. Louis.
- k. In November 2010 the affiant received official documentation from Missouri Department of Revenue that the blue Oldsmobile in question VIN 1G3AL54R4M6310284 is still listed as of November 26, 2010 registered to Michael and Dawn Boyd. Further, in a report prepared by investigator Matthew Allen, Allen reports that on May 1, 2006, Fred Price from Enterprise confirmed that there was no record of Enterprise taking title to the vehicle in question
- l. Boyd claimed to the affiant on several occasions that he had a good relationship with Heitholt. In interviews with Shawna Ornt she claimed that on an almost nightly basis Boyd complained to her about how Heitholt treated him as an

employee and subordinate. Co-worker Russell Baer told the affiant that Boyd was a poor reporter and writer and not held in high regard by his co-workers.

- m. Initially, Boyd never said that he had returned to the crime scene. Subsequently, Boyd admitted to the affiant he returned to the scene and watched the crime scene processed. He also said the body was face down when he returned at about 3:30-3:45 a.m., but employees turned Kent face up prior to calling 911 at 2:26 a.m.
10. Boyd was the high school sports reporter for the Columbia Tribune. The crime scene reports Hickman (high school) girls' basketball schedules found at the crime scene. There is no report of those documents being processed for latent prints.
11. Boyd's car, clothing and shoes were never checked for evidence. His DNA was not taken by law enforcement. He was never fingerprinted, notwithstanding that unknown fingerprints as well as unknown hair profiled through mitochondrial testing exist.


Steven L. Kirby

SUBSCRIBED AND SWORN TO
before me this 17th day
of January 2011


NOTARY PUBLIC

