

Towns County, Georgia
Entered
7-30-07
Cecil Dye
Clerk Superior Court

Affidavit

At approximately 3:00 p.m. on July 9, 2007, the Georgia Bureau of Investigation (GBI) was requested by Towns County Sheriff Rudy Eller to investigate the circumstances surrounding an incident where gunshots were fired into the residence of Gary Dean. The investigation has revealed the following: Michelle Osborn, the wife of Towns County Chief Deputy Eddie Osborn, and Gary Dean, the victim of the drive-by shooting, confirmed they have been involved in an ongoing intimate relationship. As a result of the tension building between Gary Dean and Eddie Osborn, Gary Dean and Scotty Fain traveled to Sheriff's Rudy Eller's residence on or about Friday, July 6, 2007 or Saturday, July 7, 2007. During this meeting, Gary Dean expressed his concern to Sheriff Eller about the demeanor and actions of Chief Deputy Osborn. Gary Dean told Sheriff Eller that he was afraid someone was going to get hurt. According to Dean, Sheriff Eller stated that he had already tried to talk with Chief Deputy Osborn but that he was not sure if it had done any good.

During the early morning hours of July 9, 2007, multiple gunshots were fired into the residence of Gary Dean at 2824 Cynth Creek Road, Hiawassee, Georgia. The residence was occupied by Gary Dean and Tim Shelton at the time of the shooting and the lights were on. The Towns County Sheriff's Office responded to the 911 call made by Gary Dean. Initial statements were taken from Dean and Shelton. Deputies also interviewed Chief Deputy Eddie Osborn at his (Osborn's) residence. Eddie Osborn denied any knowledge of the shooting; however, he did admit during a follow-up interview with GBI agents that he had driven by Dean's residence at least two (2) times on Sunday, July 8,

2007 in an effort to determine if Dean was alone and if so, Osborn was going to "kick his ass." On July 10, 2007, a crime scene investigation was conducted and numerous projectiles were recovered from within the residence and shop of Gary Dean. Additionally, several .40 caliber Federal brand shell casings were located near the roadway. The shell casings were of the same brand and caliber of ammunition that are issued to the Towns County Sheriff's Office deputies.

When questioned by GBI agents concerning what type handguns he had, Eddie Osborn initially failed to disclose the existence of a SIG Sauer P229 .357 SIG/.40 caliber S&W semi-automatic handgun and did so only after GBI agents told him they were already aware that he had such a weapon. (It should be noted that this type semi-automatic handgun has an interchangeable .40 caliber barrel and a .357 barrel allowing it to fire both .357 projectiles as well as .40 caliber projectiles.) Osborn stated that the gun had been at the residence of Towns County Sheriff Rudy Eller for a couple of months. Osborn retrieved the handgun from Sheriff Eller and turned it over to GBI agents indicating at that time he did not know where the .40 caliber barrel was located.

The projectiles recovered from the residence of Gary Dean and the shell casings recovered near the roadway were submitted to the GBI Crime Lab for analysis along with Osborn's SIG Sauer P229 .357 SIG/.40 caliber S&W handgun. The projectiles were determined to be .40 caliber projectiles all having been fired from the same weapon. The shell casings ejected at the scene were identified as being fired from Eddie Osborn's handgun by comparison of the firing pin and ejector marks.

On July 16, 2007, Sheriff Rudy Eller was interviewed by GBI agents. During the initial portion of the interview, Eller stated that he had been keeping a semi-automatic handgun for Eddie Osborn and had cleaned the weapon and attempted to replace a screw in the handle. Eller stated that he had the handgun for several weeks. Eller stated he had stored the handgun inside his residence where no one knew where it was located. When informed that Eddie Osborn's SIG Sauer P229 .357 SIG/.40 caliber S&W semi-automatic handgun (the one he said he had stored) was the gun that had ejected the shell casings near the residence of Gary Dean on July 9, 2007, Eller changed his story and admitted to the agents that he had not been truthful with them earlier in the interview. Eller admitted that he did not have that handgun prior to the shooting. He stated that at approximately 11:00 a.m. on the morning of July 9, 2007, Eddie Osborn traveled to Eller's residence and told him that he had fired several shots into Gary Dean's residence. He provided Eller with the gun he had used which was the SIG Sauer P229 .357 SIG/.40 S&W caliber semi-automatic handgun and requested that Eller clean the gun which at that time contained the .357 caliber barrel and requested that Eller "put it up." Additionally, Osborn provided Eller with the .40 caliber barrel that had been in the firearm at the time shots were fired into the Dean residence and requested Eller "hide it." Osborn also told Eller that if the authorities asked him about the gun to tell them that he (Eller) had had it for a couple of months. Eller stated that he agreed to tell that story to the authorities which is in fact what he did.

Eller stated that he took the gun and cleaned it and placed the .40 caliber barrel inside a plastic baggie and using duct tape taped it under a shelf inside a hidden compartment in his dresser in the bedroom of the residence. During this interview, this gun barrel was

recovered by the agents. The GBI Crime Lab has determined that all the projectiles recovered at Gary Dean's residence had been fired through that barrel.

During a subsequent interview with Sheriff Eller on July 17, 2007, he admitted that at the time he requested the G.B.I. investigation into the original shooting incident, he already knew who had fired the shots into the residence and had hidden the gun barrel in hopes that it would not be found.

Based on the physical evidence obtained during this investigation as well as the statements of the witnesses and Sheriff Rudy Eller, affiant has probable cause to believe that Rudy Eller has committed the offenses as outlined below.

Georgia Code 16-10-20, **Making False Statements**, in that he knowingly and willfully falsified, concealed, and covered up a material fact in a matter within the jurisdiction of an official investigation being conducted by the G.B.I. regarding the July 9, 2007, aggravated assault upon the persons of Gary Dean and Tim Shelton.

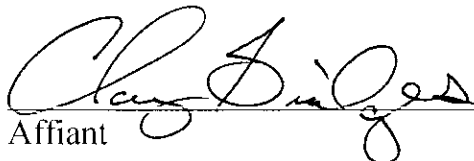
Georgia Code section 16-10-94, **Tampering With Evidence**, in that Rudy Eller did on or about July 9, 2007, receive one (1) SIG Sauer P229 .357 SIG/.40 S&W caliber semi-automatic handgun, serial number AE15833, a weapon he knew was used to fire projectiles into a residence occupied by Gary Dean and Tim Shelton on July 9, 2007 and agreed to conceal the weapon along with the .40 caliber barrel knowing that they were evidence of a crime.

Georgia Code section 16-10-50, **Hindering The Apprehension Or Punishment Of A Criminal**, in that Rudy Eller did hinder the apprehension of Eddie Osborn, a person who he knew or had reasonable grounds to believe committed a felony to wit: Aggravated Assault.

Georgia Code section 16-10-24, **Obstructing Or Hindering Law Enforcement**, in that Rudy Eller obstructed the official investigation being conducted by the Georgia Bureau of Investigation by knowingly and willfully providing false information to the G.B.I. regarding his knowledge of the events of July 9, 2007 during which Eddie Osborn had fired multiple projectiles into a residence occupied by Gary Dean and Tim Shelton.

Georgia Code section 16-10-1, **Violation Of Oath By A Public Officer**, in that Sheriff Rudy Eller after having taken an oath on December 22, 2004, issued to him by Towns County Probate Judge Wayne Garrett to support the Constitutions of the United States and the state of Georgia, he willfully and intentionally violated said oath by committing the offenses of Making False Statements, Tampering With Evidence, Hindering The Apprehension Or Punishment Of A Criminal, and Obstructing Or Hindering Law Enforcement.

Wherefore the affiant requests an arrest warrant be issued for Rudy Eller for the crimes stated herein.


Affiant

07-30-07
Date