

1 JUSTICE COURT, BOULDER TOWNSHIP

2 CLARK COUNTY, NEVADA

3 FILED ***

4 THE STATE OF NEVADA

5 Plaintiff,

6 vs.

7 TERRY R. ATWOOD (a),
8 ID No. 0203265, and
9 DENEEN M. ATWOOD (b),
10 ID No. 0747219,

11 Defendants.

2004 MAR -8 P 3:01

CASE NO. 04FB0037 (A, B)

JUSTICE COURT
BOULDER, NEVADA DEPT. NO. 1
BY NS DEPUTY

AFFIDAVIT OF PROBABLE CAUSE
IN SUPPORT OF CRIMINAL COMPLAINT
AND ISSUANCE OF WARRANTS

12
13 STATE OF NEVADA

14 COUNTY OF CLARK

} ss.

15 I, Shaun S. Bowen, do hereby swear under penalty of perjury that the assertions of this

16 Affidavit are true:

17 1. That since September 4, 2001, I have been employed by the Nevada Office of
18 the Attorney General, Department of Justice. I am presently a Sr. Investigator, with peace
19 officer status assigned to the Medicaid Fraud Control Unit (MFCU).

20 2. The MFCU recently conducted an investigation concerning offenses of
21 Exploitation of an Older Person.

22 3. Based upon the investigation, there is probable cause to believe Defendants did
23 have the trust and confidence of an older person, L.B. age 78; and did act through deception,
24 intimidation or undue influence over L.B. to obtain control of L.B's money, assets or property;
25 with the intention of permanently depriving L.B. of the ownership, use, benefit or possession
26 of the property, a felony violation of NRS 200.5099 and 200.5092. Furthermore, I have
27 probable cause to believe that as an additional cause of action, Defendants did commit an
28

Attorney General's Office
555 E. Washington, Suite 3900
Las Vegas, NV 89101

1 additional crime of Attempt Exploitation of an Older Person, a felony violation of NRS
2 193.330, 200.5092 and 200.5099.

3 The facts which Affiant, upon personal knowledge and/or information and belief, verily
4 believes to be true and which establishes probable cause are as follows:

5 4. The investigation began after the MFCU obtained information that Defendants
6 were attempting to gain control of L.B.'s credit union account.

7 5. In connection with the investigation, law enforcement officers, care providers,
8 credit union employees, hospital employees, L.B., and Defendants were interviewed. I have
9 also reviewed numerous documents and items of personal property, including documents
10 that indicate L.B. is over the age of 60.

11 **EXPLOITATION OF AN OLDER PERSON**

12 **NRS 200.5092**

13 6. On September 25, 2003, I interviewed L.B. L.B. said she resides in a house in
14 Boulder City, in the immediate vicinity of Defendants, and that she is legally blind. L.B.
15 originally met Defendants when her husband (K.B.) was in the hospital around March or April,
16 2003. L.B. relied on Defendants to drive L.B. to the hospital to visit K.B. L.B. also allowed the
17 Defendants to use L.B.'s automobile when they were transporting L.B. and assisting L.B. with
18 errands. During May, 2003, L.B. entrusted Defendants with a key to L.B.'s house.

19 L.B. also said that during her trips to the Boulder Dam Credit Union, Defendants would
20 position themselves near her so as to ascertain her account balance. L.B. notified credit union
21 staff of her financial privacy concerns.

22 L.B. stated that sometime around August 2003, Deneen Atwood became upset with
23 L.B. and Deneen said Deneen's services would cost L.B. \$500.00. Deneen also made
24 insulting remarks about a friend of L.B.'s, Toni Ponich, indicating that Toni Ponich liked to use
25 people.

26 On September 19, 2003, LB. fell in her home and called Defendants for emergency
27 help. The Defendants transported L.B. to the Boulder City Hospital. L.B. was later
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1 transported to St. Rose Dominican Hospital, Siena (St. Rose) where it was learned L.B. had
2 broken a hip.

3 7. On September 25, 2004, I reviewed Boulder City Police Department report
4 DR#03-2204. The report, taken by Officer M.C.Barth, P#259, stated he arrived at Defendant's
5 residence on September 24, 2003. While he was in the process of receiving numerous items
6 of personal property, Deneen Atwood said L.B. had given the property to her (Deneen) and
7 that she (Deneen) wanted to turn it over to the police to avoid trouble with the authorities.

8 The property received by Officer Barth included:

- 9 a. Copies of land deeds, miscellaneous bills and tax records;
- 10 b. Two (2) credit cards (K.B.-Sears; L.B.-Montgomery Ward);
- 11 c. Four (4) two dollar bills;
- 12 d. Seven (7) five dollar bills;
- 13 e. Five (5) Peace silver dollars in a blue presentation box;
- 14 f. Thirteen (13) Peace silver dollars;
- 15 g. Twelve (12) Morgan silver dollars;
- 16 h. One (1) Peace silver dollar in a plastic case;
- 17 i. One (1) roll of dimes
- 18 j. One (1) Barber quarter;
- 19 k. Nineteen (19) Eisenhower silver dollars;
- 20 l. Fifty-nine (59) Kennedy half dollars.

21 Additional items received from Officer Barth included :

- 22 m. Two (2) twenty dollar bills;
- 23 n. One (1) five dollar bill;
- 24 o. One (1) one dollar bill;
- 25 p. One (1) peace silver dollar; and
- 26 q. A Boulder Dam Credit Union receipt of 09/13/03 showing a \$600.00
27 withdrawal and an account balance over \$20,000.00.

1 8. On September 25, 2003, Defendant Terry Atwood provided me with an
2 additional item, a .22 caliber rifle, saying it belonged to L.B.

3 9. On November 17, 2003, I reviewed records received from Douglas E.
4 Broadbent's insurance agency concerning L.B. and Defendants. The records indicate that
5 L.B.'s auto was being carried on Defendant's insurance policy. For the auto insurance
6 coverage period of 10/1/03 to 4/01/04, \$191.00 was charged to insure L.B.'s auto as part of
7 the \$465.00 total for Defendants policy (\$274.00 was applicable to Defendant's auto). The
8 minimum amount due was \$240.50 for coverage starting on 10/1/03. The Broadbent records
9 show that on 9/11/03, \$240.50 was received from Defendant Terry Atwood and processed as
10 the minimum amount due. Additional records show that on 09/24/03 (one week prior to the
11 policy start date of 10/01/03) a policy change was enacted deleting L.B.'s auto from the
12 Defendant's policy. This deletion also effected the Defendant's 6/30/03 to 09/30/03 policy.

13 10. On September 25, 2003, I interviewed Terry and Deneen Atwood. I discussed
14 the items Defendants had turned over to the police. Terry initially stated Mr. Kindberg, a friend
15 of L.B.'s step-daughter, requested Terry to remove all of L.B.'s valuables from L.B.'s house.
16 Later in the interview, Terry said it was L.B. who requested Terry to remove her valuables
17 from her house for safe keeping while L.B. was in the hospital.

18 Terry said he and Deneen received a call from L.B. on 09/19/03. L.B. indicated she
19 needed help. Defendants transported L.B. to Boulder City Hospital. From there L.B. was
20 subsequently transferred to St. Rose.

21 Terry said L.B. was sharp enough to handle her own money and he was upset when
22 he learned Toni Ponich had access to her credit union account. Terry said on 09/22/03, he
23 and Deneen visited L.B. in St. Rose and that L.B. was in such great pain that L.B. repeatedly
24 activated her pain medication drip and vomited. While visiting L.B., Deneen telephoned the
25 Boulder Dam Credit Union (BDCU) and explained L.B. no longer wanted Toni Ponich to have
26 signatory authority to her (L.B.'s) account. Deneen then drove to BDCU and obtained a "Joint
27 Share Account Agreement" signature card and instructions from BDCU to have L.B. sign the
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1 card with the services of a notary public. Upon her return to the hospital Deneen and Terry
2 could not locate a notary and then left, leaving the card with L.B.

3 On 09/23/03 they returned to L.B., on this occasion they also met with Mr. Kindberg.
4 After a discussion with Mr. Kindberg about Toni Ponich, they left the signature card with Mr.
5 Kindberg.

6 11. On 09/25/03, I interviewed Deneen Atwood. She said she first became acquainted
7 with L.B. during March, 2003, when L.B. was having difficulty with her furnace. They
8 developed a relationship wherein Defendants would drive L.B. for errands and help L.B. mail
9 bill payments. Deneen also made an inquiry of BDCU regarding K.B.'s pension and cleaned
10 some of L.B.'s jewelry. Deneen admitted that during August 2003, she argued with L.B. She
11 said the argument was over L.B. and Toni Ponich's actions to "cut her off" after Deneen had
12 done so much in the way of assisting L.B. Deneen admitted telling L.B. that Deneen was
13 financially broke and that L.B. had earlier agreed to pay Deneen a \$500.00 lump sum and
14 \$100.00 per month for Deneen's services. Later Deneen apologized to L.B. for her
15 (Deneen's) actions. Deneen next spoke to L.B. on L.B.'s birthday, 09/13/03.

16 Deneen informed affiant that on 09/22/03 L.B. suffered a fall in the hospital, yet L.B.
17 was doing fine. Deneen said L.B. was not in much pain. During a conversation L.B. told
18 Deneen of Toni Ponich's signature authority on L.B.'s BDCU account. Deneen responded by
19 lecturing L.B. to never give this authority to anyone as now Ponich controls everything.
20 Deneen said she then telephoned BDCU and had L.B. instruct the credit union to remove
21 Toni Ponich's name from her account. Deneen went to BDCU and obtained a new "Joint
22 Share Account Agreement" signature card. Upon returning to L.B., Deneen learned L.B. had
23 gotten sick. The card was left with L.B.

24 Deneen says she visited L.B. the morning of 09/23/03 and that social workers
25 requested Deneen leave while they spoke to L.B. Deneen says the social workers were
26 upsetting L.B. Later that day she gave the signature card to Mr. Kindberg and instructed him
27 to have L.B. sign both sides with a Notary Public.

1 Deneen said that L.B. requested Defendants remove L.B.'s valuables from L.B.'s
2 house for safekeeping and this was done on 09/20 or 21/03. When Deneen subsequently
3 contacted Mr. Kindberg to pick up the items, he said he was busy, so Deneen then contacted
4 the police to turn the property over for safekeeping.

5 12. On 09/23/03 and later on 12/02/03 I interviewed Jack Kindberg, who resides
6 with L.B.'s daughter, D. Patrick. Kindberg said he first met Defendants at St. Rose when
7 visiting L.B. He said Defendants were talking poorly of Toni Ponich and indicated Ponich had
8 the ability to take L.B.'s money. Defendant's also said they had never taken money from L.B.
9 and they were acting out of friendship. Mr. Kindberg said though he had never heard L.B.
10 mention Defendants, he had heard L.B. speak highly of Toni Ponich. Kindberg said that later
11 on the Defendants said repeatedly they (Defendants) had been taking care of L.B.'s house
12 and most of K.B.'s silver dollar collection was missing. Mr. Kindberg said he did not give
13 Defendants permission to enter L.B.'s house and remove items. He does remember one of
14 the Defendants telephoning him and requesting he go to Defendants to pick up some of L.B.'s
15 valuables that were in Terry Atwood's possession. He was unable to do so.

16 13. On 01/05/04 I interviewed Laura Pucker, a registered nurse assigned to L.B. at
17 St. Rose. Ms. Pucker said Defendants approached her on 09/23/03 and asked if Ms. Pucker
18 would locate a notary public. Defendants said they were helping L.B. pay her bills.
19 Defendants said that a notary public was needed so they (the Defendants) could place their
20 names on L.B.'s account. Defendants further said that they were caring for L.B. since L.B. did
21 not have any family around to care for her. Nurse Pucker advised L.B. appeared afraid of
22 Defendants and would cower when she observed Defendants speaking to L.B.

23 14. On December 9, 2003, Richard B. Harrison of Gold & Silver Pawn, in Las Vegas
24 opined that of the coins received from BCPD, nineteen (19) Peace silver dollars had a retail
25 value of \$190.00; one (1) Barber quarter had a \$4.00 retail value, and twelve (12) Morgan
26 silver dollars had a retail value of \$120.00.

27 15. L.B. was again interviewed. L.B. said she never gave Defendant's permission to
28 have any of her loose silver dollars; and she did not give Defendant's permission to enter her
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1 house and remove valuables while she was in the hospital. L.B. said though she did give
2 Defendants at least \$100.00 for auto insurance purposes, she (L.B.) did not give Defendants
3 permission to keep any unused portions of those funds. This is true of the money she gave to
4 Defendants in September, 2003. Those funds were for period of 10/01/03 to 04/01/04; but her
5 coverage under that policy was cancelled 09/24/03 and no funds were returned to her. L.B.
6 advised she did not give Defendants permission to be signatories on her BDCU account nor
7 did she want Defendants to have access to the account. L.B. also said she had become
8 fearful of Defendants and concerned they would release her cats if they became upset with
9 her.

10 16. On 02/12/04 Annette "Toni" Ponich was interviewed. Ms. Ponich is a long time
11 friend of L.B. and is also L.B.'s medical power of attorney. During the interview Ms. Ponich
12 advised she took L.B. to the Boulder Dam Credit Union on 09/09/03. On that occasion L. B.
13 withdrew \$200.00 cash, which Ms. Ponich documented as automobile insurance. A
14 substantial amount of the \$200.00 was to be provided to Defendants to pay for insurance
15 coverage of L.B.'s auto under the Defendant's policy.


16 17. Based on the foregoing, there is probable cause to believe that Terry R. Atwood
17 and Deneen M. Atwood did each commit the crimes of Exploitation of an Older Person, a
18 category B felony violation of NRS 200.5099, 200.5092, one count as to each Defendant; and
19 Attempt Exploitation of an Older Person, a category B felony violation of NRS 193.330,
20 200.5099, 200.5092, one count as to each Defendant.

21 WHEREFORE your affiant requests that arrest warrants be issued for Terry R. Atwood
22 and for Deneen M. Atwood, and that said Defendants be dealt with according to law.

23 DATED this 4th day of March, 2004.

24 BRIAN SANDOVAL,
25 Attorney General

26 By



Shaun S. Bowen,
27 Sr. Investigator
28
29

1 SUBSCRIBED AND SWORN to before me
2 this 4th day of March, 2004.

3 Carol Zimmer

4 Notary Public in and for
Clark County, Nevada

5 SUBMITTED BY:
6 BRIAN SANDOVAL,
Attorney General

7 By: Mark Kemberling

8 Mark Kemberling
9 Sr. Deputy
Nv. Bar No. 5388
10 555 E. Washington #3900
Las Vegas, NV 89101
11 (702) 486-3111
Attorney for State

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Attorney General's Office
555 E. Washington, Suite 3900
Las Vegas, NV 89101