

APPLICATION FOR SEARCH WARRANT

Agent S.D. Myers, North Carolina Alcohol Law Enforcement, 5 Barbetta Drive, Asheville, N.C. 28806

(Insert name and address, or if law enforcement officer, name, rank and agency)

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 See Attachment A

(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)

constitutes evidence of a crime and the identity of a person participating in a crime,

Gaming, Keeping gaming tables or slot machines, Operation or possession of slot machines, and is located allowing gaming tables or slot machines to be operated

(Name Crime)

(check appropriate box(es) and fill-in specified information)

☒ in the following premises See Attachment B

(Give address and, if useful, describe premises)

(and)
☒ on the following person(s)

Jim Rhew, Chad Nesbitt, Lee Bryson, Andrew Michael George, James Denver Sharp, Bradley Jordan Michales, Michael Lee Bryson, John Timothy Medford, Benjamin Edwards Magid, Randall Heath Sparks, other persons at the location at the time of the execution of the search warrant.

(Give name(s) and, if useful, describe person(s))

(and)
☐ in the following vehicle(s)

(Describe vehicle(s))

(and)
☐ (Name and/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 Attachment C

SWORN AND SUBSCRIBED TO BEFORE ME

Date

Signature

Page ____ of ____

Signature of Applicant

☐ Deputy CSC ☐ Asst. CSC ☐ Clerk of Superior Court ☐ Mag. ☒ Judge

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

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

This testimony has been (check appropriate box) ☐ 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 a notation saying "see attachment"

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

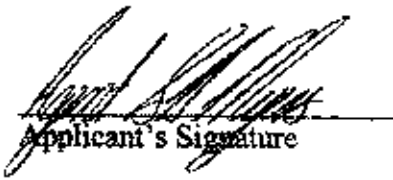
ATTACHMENT A

SEARCH WARRANT FOR

Records relating to gambling, and records identifying those participating in the gambling operation; including all electronic, written, printed, typed, filmed, punched, recorded, or graphic matter of every kind, type, nature, and description, however and by whomever prepared, produced, reproduced, disseminated, or made; including, records of income, expenses, and disbursement of funds; bank records, deposit records, and canceled checks; records identifying ownership of the real and personal property used in the conduct of the gambling operation; records of indebtedness, loans, or liens, relating to the conduct of the gambling operation; and records evidencing ownership, dominion and/or control of premises and property. Personal property including money, checks, manual and electronic charge account devices, credit cards and devices, computers, and calculators; any equipment intended for the use in the gambling operation; any equipment or containers used to store proceeds from the gambling operation. Any vehicle or conveyance used or intended to be used in conjunction with the business of the gambling operation.



Judicial Signature



Applicant's Signature

Feb 24, 2008 @ 9:45 am
Date and Time

Attachment B

Directions to

128 Newfound, Asheville, N.C. 28806

The location to be searched is at 128 Newfound Road, Asheville, N.C. 28806. Begin at the intersection of Highway 19/23 and Highway 63 (Leicester Highway). Travel 4.4 miles North on Highway 63 to a red light located at the intersection of Highway 63 (Leicester Highway) and Newfound Road. Turn left onto Newfound Road. Travel .5 miles. Turn left into the parking area of Kangaroo Convenience store. Target location entrance is straight ahead approximately 100 feet. Target location will be the two-story green and white metal clad building that is perpendicular to the convenience store (See attached photograph). The windows along the bottom are mirrored to prevent seeing the inside of the premise. Affiant will be present at the time of execution and is familiar with the target location.



[Handwritten signature]
Randy K. Day

Attachment C

PROBABLE CAUSE AFFIDAVIT

I, Agent Steven D. Myers, have been employed as a full time law enforcement officer for approximately sixteen years and have been employed as a North Carolina Law Enforcement Agent for five years. During my employment as an Alcohol Law Enforcement Agent I have participated in multiple gambling investigations. My duties have included conducting surveillance, executing search warrants, gathering evidence, arresting suspects, handling informants, and case preparation for trial. Through these experiences I have gained considerable experience in the enforcement of the North Carolina gambling laws.

Based on information hereafter described in detail, I believe probable cause exists that violations of North Carolina gambling laws are occurring inside the building located at 128 Newfound Road, Asheville, North Carolina.

On July 24, 2007 North Carolina Alcohol Law Enforcement received an anonymous complaint that live poker games were being held every Sunday evening at 8:00PM at 128 Newfound Road, Asheville, North Carolina. The complaint said 5-6 video poker machines were also in use on the 2nd floor inside the location. Chad Nesbitt and Jim Roos (Knew is the correct spelling.) were operating an ABC licensed establishment at this location (Affiant worked the ABC license investigation for this location and is familiar with Chad A. Nesbitt). This is a two story building and the complaint indicated the doors were kept locked at all times.

Agent D. Miller conducted surveillance at the location on several different occasions. On Sunday August 19, 2007 a North Carolina Alcohol Law Enforcement Agent Miller conducted surveillance at this location. He observed 13 vehicles in the parking area and an unidentified White male at the front door watching the parking lot.

On Friday, August 24, 2007, at approximately 10:00PM, Agent Miller conducted surveillance at this location and it was observed to be closed.

On Saturday, August 25, 2007, at approximately 7:00PM, a North Carolina Alcohol Law Enforcement agent performed surveillance at 128 Newfound Road, Asheville, North Carolina. The ABC licensed establishment was observed to be closed.

On Sunday, September 16, 2007, Agent Miller conducted surveillance at this location and observed it to be closed. Through my training and experience, I have ascertained that Friday and Saturday evenings are normally the most productive times for ABC licensed establishments to be open.



On Wednesday, November 14, 2007 the establishment cancelled its ABC permits.

On Tuesday, January 8, 2008 I received a complaint through the Alcohol Law Enforcement CTS system from the Buncombe County Sheriff's Deputy, Lt. Kevin Calhoun, that a subject named Chad Nesbitt may be operating video poker machines at this location. I was also informed this occurred on Sunday evenings.

On Saturday, January 12, 2008, at approximately 9:00Pm, Agent B. Ogle, Agent B. Reeves, and I performed surveillance at this location. We observed the windows of the location had been blacked out. No one appeared to be present and the location appeared closed.

On Sunday, January 27, 2008, at approximately 9:30PM, I performed surveillance of this location. I observed approximately twenty vehicles parked in front of 128 Newfound Road, Asheville. I also observed an unidentified white male to be in the parking area watching the surrounding area.

In February 2008, North Carolina Alcohol Law Enforcement received information from a confidential and reliable source of information, hereafter referred to as CSI, about gambling activities occurring in numerous Western North Carolina counties. CSI indicated illegal card games were occurring on Sunday afternoons in a two-story, green and white, metal clad building located perpendicular to and behind Kangaroos Outback Pub, 128 Newfound Road, Asheville, North Carolina. Numerous players travel to this location and wager large sums of money on card dealt poker games. Alcohol Law Enforcement was informed a subject identified as Michael Lee Bryson was operating the live dealt poker games. *CSI referred to has provided information which has proved reliable and has led to arrests and convictions. April 2008 R&P*

Within the last six weeks, North Carolina Alcohol Law Enforcement Supervisor R. Page was informed by a different confidential and reliable source of information Michael Lee Bryson would travel to the location in a 1998 Dodge pickup around 6:00PM to 8:00PM on Sunday evenings. Supervisor Page was also informed the cost to play ranged between \$800.00 and \$1000.00.

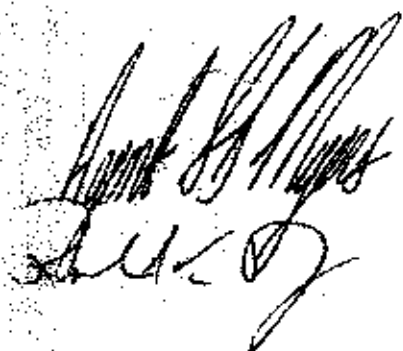
On Sunday, February 10, 2008 at approximately 8:45PM, Agent Ogle and I performed surveillance at this location. There were approximately twelve vehicles parked in front of the location. Agent Ogle entered the convenience store and observed one customer and one cashier inside the convenience store. I gathered registration information from the vehicles parked outside the location. I verified a 1998 Dodge pickup registered to Michael Lee Bryson was parked in front of the location. I also verified there were vehicles registered to individuals from places as far way as Mount Airy, North Carolina and Bakersville, North Carolina. This is consistent with the information provided to North Carolina Alcohol Law Enforcement.



On Sunday, February 17, 2008, at approximately 9:30PM, I performed surveillance at this location and observed approximately eleven vehicles parked in front of the location. The door to the location was open when I passed by and I observed several subjects standing inside the location. An unidentified white male subject was holding the door open.

On Friday, February 22, 2008, North Carolina Alcohol Law Enforcement Agent W. Cortrell was told by the CSI, Lee Bryson operates as the bank for the poker games held at the location. Agent Cortrell was told Lee Bryson travels to the location in a grey Dodge pickup. He was informed the bank will typically total from \$4000.00 to \$8000.00. Agent Cortrell was told eight to ten players normally attend but more have been observed.

Through confidential sources of information North Carolina Alcohol Law Enforcement was told of the illegal gambling activities occurring at 128 Newfound Road, Asheville, N.C. 28806. By conducting surveillance of said location, North Carolina Alcohol Law Enforcement agents were able to verify the ABC licensed establishment was closed on what are normally the most productive nights, Friday and Saturday; the location canceled the issued ABC license; the windows of the location have been blacked or mirrored to prevent viewing inside the location. Agents have verified activity is occurring inside the location; persons travel from some distance to this location on Sunday evenings. Affiant has verified a vehicle belonging to Michael Lee Bryson was parked in front of the location on Sunday, February 10, 2008 at approximately 8:45PM. Based on the aforementioned facts and information, I believe probable cause exists to issue a search warrant for the location, formally known as Legends Sports Bar, located at 128 Newfound Road, Asheville, N.C. 28806



Form No.

File No. 00-234-001

SEARCH WARRANT

In the Matter of
732 Newfound Road
Asheville, N.C. 28908

Date Issued

February 24, 2008

Time Issued

PM 9:58 AM ☒

Name of Applicant

Agent SD Myers, NC/ALC District IX

Name of Additional Affiant

Name of Additional Affiant

RETURN OF SERVICE

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

Date Received

Time Received

☐ AM ☐

Date Executed

PM
Date and Time of Return☐ I made a search of _____

_____ 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 thereby
return it not executed

Signature of Officer Making Return

Department or Agency of Officer

STATE OF NORTH CAROLINA

In the General Court of Justice

Buncombe

County

District Court Division

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 described in
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 the Issuing Court.

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

This Search Warrant was returned to me on the date
and time shown below

Date

Time ☐ AM ☐ PM

Signature

☐ Deputy CSC ☐ Juel CSC ☐ Clerk of Superior Court

Date

Feb 24 2008

Signature

☐ Deputy CSC ☐ Juel CSC ☐ Clerk of Superior Court
☐ Magistrate ☐ District Ct. Judge ☐ Superior Ct. Judge

Agency Law Enforcement Property Report		PAGE OF PAGES	CASE NUMBER			
PROPERTY ACQUIRED		ADDRESS AND PHONE				
PROPERTY OBTAINED		PURPOSE FOR OBTAINING PROPERTY				
		<input type="checkbox"/> ARREST <input type="checkbox"/> UNDERCOVER PURCHASE <input type="checkbox"/> INVESTIGATION <input type="checkbox"/> FOUND-RECOVERED <input checked="" type="checkbox"/> SEARCH WARRANT <input type="checkbox"/> OTHER				
DATE	ITEM #	QUANTITY	DESCRIPTION OF PROPERTY	LITERS	GRAMS	VALUE
11/15/86	1	-	83145 w US Bullion			345.00
	2	5	yellow Bullion			
	3	20	heavy and white Bullion			
	4	1	1 yellow Bullion			
	5	1	yellow US Bullion			126.00
	6	1	business Card of Deputy Sheriff			
TOTAL VALUES OF PROPERTY SEIZED				ALCOHOL VALUE		
				DRUG VALUE		
CHAIN OF CUSTODY (SIGNATURES)						
RELINQUISHED BY		RECEIVED BY		PURPOSE		
[Signature]		[Signature]		[Signature]		
DISPOSITION OF PROPERTY						
DESTROYED (BY ITEM NUMBER)	DATE	METHOD				
AGENCY NAME SIGNATURE		AGENT SIGNATURE		DATE		
AGENT SIGNATURE		DATE FORM PREPARED		SUPERVISOR FINAL REVIEW		
SWORN AND SUBSCRIBED BEFORE ME ON THIS THE ____ DAY OF ____ 20__						
MAGISTRATE			AGENT			
Goldenrod Other Agency Green Supervisor Pink Person/Location						