

APPLICATION FOR SEARCH WARRANT

G.L. c. 276, §§ 1-7

TRIAL COURT OF MASSACHUSETTS

Massachusetts Superior

COURT DEPARTMENT

Hampden

DIVISION



NAME OF APPLICANT

Thomas J. Daly

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OFFICE OF APPLICANT

Trooper, Massachusetts State Police

SEARCH WARRANT DOCKET NUMBER

I, the undersigned APPLICANT, being duly sworn, depose and say that:

Affidavit & Addendums ABCDEFGHIJ

1. I have the following information based upon the attached ~~affidavit and addendums ABCDEFGHIJ~~ which is (are) incorporated herein by reference.

2. Based upon this information, 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) \_\_\_\_\_

3. I am seeking the issuance of a warrant to search for the following property (describe the property to be searched for as particularly as possible):

The blood of Richard R. Lavigne, sample to be drawn by trained medical personnel at a medical facility. This includes the authorization

to use reasonable force only if necessary, permission to transport

Richard R. Lavigne to a convenient place for these purposes, and

authorization to enter the residence of Richard R. Lavigne for these purposes.

4. Based upon this information, there is also probable cause to believe that the property may be found (check as many as apply):

at (identify the exact location or description of the place(s) to be searched):

which is occupied by and/or in the possession of:

on the person or in the possession of (identify any specific person(s) to be searched):  
Richard R. Lavigne

on 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.

THEREFORE, I respectfully request that the court issue a Warrant and order of seizure, authorizing the search of the above described place(s) and person(s), if any, to be searched, and directing that such property or evidence or any part thereof, if found, be seized and brought before the court, together with such other and further relief that the court may deem proper.

- I have previously submitted the same application.
- I have not previously submitted the same application.

PRINTED NAME OF APPLICANT

THOMAS J. DALY

SIGNED UNDER THE PENALTIES OF PERJURY

Thomas J. Daly

Signature of Applicant

SWORN AND SUBSCRIBED TO BEFORE

X John T. Mount

Signature of Justice, Officer, or Notary Public

September 2, 1993

DATE

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AFFIDAVIT IN SUPPORT OF APPLICATION FOR SEARCH WARRANT

I, being duly sworn, depose and say:

My name is Thomas J. Daly. I am a Trooper with the Massachusetts State Police assigned to the Crime Prevention and Control Unit (CPAC) attached to the Hampden County District Attorney's Office. I have been a state police officer for eight years. I was recently assigned to the CPAC unit in December of 1992. The officers in CPAC are responsible for conducting investigations into allegations of criminal conduct and particularly serious felonies including murder. I have graduated from the State Police Academy in Framingham, Massachusetts. I have a Bachelor of Science degree in Criminal Justice. I have attended courses in criminal investigation, forensic science and violent sexual assault. During my time in CPAC I have participated in the investigations of several homicides and have worked closely with other officers having training relevant to the investigation of homicides.

The purpose of this affidavit is to support an application for a search warrant to seize the blood of Richard R. Lavigne for blood typing and DNA comparison.

On Saturday, April 15, 1972 at 8:25 AM, the body of Daniel Croteau was discovered in the Chicopee River in the area under the Governor Robinson Bridge overpass which crosses over East Main Street in the Chicopee Falls section of Chicopee, Massachusetts. East Main Street is also known as Rte. 141 which runs in a east-west direction. Based upon the results of an autopsy conducted, the cause of death was determined to be blunt trauma to the head which had caused fractures of the skull. The manner of death was ruled homicide. Investigation revealed that the time of death was between the hours of 4:30 PM on April 14, 1972 when the victim was last seen alive and 8:25 AM on April 15, 1972 when the body had been found.

The body was found floating face down in the river about five feet from the south bank. The body was clothed in a tan suede zippered short jacket with left pocket torn off, white tee shirt, blue corduroy trousers with a wide brown leather belt, blue socks and high canvas shoes with white soles. In a pocket of the jacket the following items were found: a small wooden box containing a student's dissecting instruments; a blue neck tie with the initials "OLSH" in white; and an examination paper on yellow paper with the heading, "Daniel Croteau, Grade 7, Our Lady of Sacred Heart School." Sister Helen Elizabeth, principal of Our Lady of Sacred Heart School at the time confirmed that Daniel Croteau, date of birth November, 12 1958 of 107 Fernclift Street, Springfield, MA was a seventh grade pupil at the school. Upon discovery of the body, the Chicopee Police Department learned through a missing persons report that Daniel Croteau had been reported missing by his parents Carl and Bernice Croteau at 2:11 AM on the morning of April 15, 1972.

The primary investigating officers at the time of the initial investigation were Captain Edward Rojowski, Lieutenant Edmund Radwanski and Lieutenant Francis Saccavino of the Chicopee Police Department and Detective Lieutenant James Fitzgibbon, Lieutenant Thomas Gilmartin and Trooper James Mitchell of the Massachusetts State Police.

According to a Chicopee Police Department report filed by Lieutenant Radwanski dated April 15, 1972, initial examination of the crime scene revealed the following: "From the north side of E. Main St. to the river bank there are two cement piers each 9 ft. wide and 33 ft. long, which support the Robinson Bridge. A large section of blood-stained sand, about 6"x12" was found about 16 ft. from the south side of the northern most pier. Nearby were marks in the sand which seem to indicate some sort of a scuffle had taken place. These marks and the bloodstain were close to a set of tire tracks from a m/v vehicle which had driven into the area, backed around and then taken off at a high rate of speed. From this blood stained area, marks in the sandy soil indicated that some heavy object had been dragged 83' feet to the edge of the river and ended in a large pool of blood on the river bank directly south of the location of the body in the river. From this pool of blood, bloodstains were found spattered on the rocks and soil for a distance of 15 ft. in a westerly direction. Photographs of the entire area were taken by Lt. Saccavino and plaster casts of the tire marks were made by Officer Ramos and Lt. Saccavino". (Refer to Addendum A)

The investigation first conducted in 1972 eventually became inactive due to lack of evidence. Although a primary suspect was developed early on in the case, no charges were ever brought. This suspect was identified as Richard R. Lavigne, a Roman Catholic Priest who at the time was assigned to St. Mary's parish located at 840 Page Boulevard, Springfield, MA. At the time of the murder, Father Lavigne had been closely associated with the Croteau family which included the five boys, Carl, Gregory, Michael, Joseph and the decedent, Daniel, who was the youngest.

In October of 1991, an investigation was conducted by Troopers assigned to the Crime Prevention and Control Unit attached to the Northwestern District Attorney's Office. This investigation was initiated as a result of allegations made in Franklin County against Father Lavigne charging him with two counts of Rape of a Child and Indecent Sexual Assault of a Child. At this time, Father Lavigne was assigned to St. Joseph's Parish in Shelburne, Falls, MA. He had been transferred from St. Mary's parish in Springfield to St. Francis' parish in North Adams on July 6, 1976 but was later transferred to St. Joseph's parish on November 30, 1977. This investigation later expanded to include a total of eighteen persons who have come forward to claim they have at one time been sexually molested by Father Lavigne. These include

persons who have been parishioners of three separate parishes where Lavigne has been assigned. These parishes include St. Catherine of Siena and St. Mary's in Springfield, and St. Joseph's in Shelburne Falls. A total of five victims have made allegations against Lavigne which fell within the statute of limitations. (Refer to Addendum B)

As a result of the Northwestern District Attorney's Office investigation, Lavigne was arraigned on February 25, 1992 in Greenfield Superior Court on two counts of Rape of a Child, seven counts of Indecent Assault and Battery on a Child Under Fourteen, and three counts of Indecent Assault and Battery on a Child Over Fourteen. Lavigne subsequently pleaded guilty on June 25, 1992 to one charge of Indecent Assault and Battery on a Person Over Fourteen and was placed on ten years probation. As part of the conditions of probation, Lavigne agreed to receive treatment at St. Luke's Institute located at 2420 Brooks Dr., Suitland, MD 20746. This center specializes in the psychiatric treatment of clergy who have sexual or alcohol related disorders. As of this writing, Lavigne has been released from this treatment center but as part of probation he is required to report back to the center on a regular basis for continuing treatment. The conditions also include that Lavigne not live in any household occupied by children under sixteen years of age and that he not hold any job which involves unsupervised children under sixteen years of age. He has been further ordered to have no contact with the victims in this case. (Refer to Addendum C)

Publicity generated by the Franklin County investigation and subsequent indictment of Father Lavigne caused persons to come forward with new and previously undisclosed information relating to the Croteau homicide investigation. The case had remained open through the years and with the discovery of this new information, a decision was made to reactivate the case. When this officer was transferred to the Hampden County CPAC unit, I was assigned as case officer.

As a result of the Franklin County investigation, a report was filed by Trooper Susan Mosman of the Crime Prevention and Control unit (CPAC) attached to the Northwestern District Attorney's Office which covers both Hampshire and Franklin counties. A copy of that report has been included in this affidavit. This report is relevant to the Croteau homicide investigation in that it clearly reveals a widespread pattern of sexual molestation allegedly committed by Father Lavigne on numerous victims. This pattern of abuse ranges in time from 1958 when Lavigne was seventeen years of age throughout his adult life until 1991 when he was indicted in Franklin County. When he was seventeen, Lavigne had worked as an Assistant Recreation Leader for the Chicopee Park and Recreation Department. He was fired from that position for touching the genitals of a six year old boy who was under his supervision. (Refer to Addendum D)

Trooper Mosman's report reflects a pattern whereby Lavigne would develop deeply rooted relationships with his victims which would progress to the point where these victims felt committed and indebted to Lavigne. The information contained within Trooper Mosman's report demonstrates a clear pattern of manipulation and seduction. This pattern includes Lavigne giving many of the boys alcohol and inviting them to sleep over at the rectories in Springfield and Shelburne Falls. It was during these sleep overs that Lavigne would often invite the boys to take a shower and to dress in a long nightshirt. He would then invite the boys to sleep in the same bed with him. It was at this point where Lavigne would initiate physical contact with the boys which included back rubs, massages and tickling. This in turn would lead to Lavigne indecently touching the boys.

This pattern is relevant to the Croteau case because it reveals that these victims were for the most part, altar boys supervised by Lavigne at the various parishes where he was assigned. Further, it demonstrates that many of these victims included brothers of the same family. Such is the case with the Croteau family. At the time of the murder, Father Lavigne was a close friend of the family. Father Lavigne had been previously assigned to St. Catherine of Siena Parish located at 1001 Parker St., Springfield, MA. He served there from May 6, 1967 until June 29, 1968. The Croteau family were parishioners of St. Catherine's and Daniel Croteau had been an altar boy at the church along with his four brothers, Carl, Gregory, Joseph and Michael. Father Lavigne developed a close relationship with the Croteau boys and this relationship continued after Father Lavigne was transferred to St. Mary's Parish. Statements on file from Carl, Gregory and Joseph Croteau reveal that Father Lavigne would often visit the Croteau family home and would take the Croteau boys on camping trips and other outings. Carl Croteau Jr. has stated that at the time of the murder, Father Lavigne was a trusted friend and confidant. This type of close relationship is consistent with the pattern which emerges from Trooper Mosman's report. (Refer to Trooper Mosman's report attached as Addendum E)

Despite this outward appearance of being a trusted family friend however, Daniel's brother, [REDACTED] has stated that while a student at Our Lady of Sacred Heart School, Father Lavigne repeatedly molested him over a period of time. [REDACTED] Croteau has said that he has stayed many nights at St. Mary's Rectory in Springfield and at Father Lavigne's parents house in Chicopee and that while on these overnight stays, Lavigne sexually molested him. [REDACTED] Croteau has stated that when he was about fourteen years of age, Lavigne had initiated this same type of activity toward him and has in the past given him alcohol. At the time of his murder, Daniel Croteau too, was thirteen years old and in the seventh grade at Our Lady of Sacred Heart School.

As the 1972 investigation into the murder of Daniel Croteau continued, numerous subjects were interviewed. In light of his close ties to the family, Father Lavigne was one of the persons interviewed. Based upon these initial conversations with Father Lavigne which began to reveal an unusually close relationship between Lavigne and Daniel Croteau, and in light of some unusual questions asked by Lavigne of investigators, Father Lavigne began to develop as a suspect in the homicide.

The unusual questions asked by Lavigne came during an April 17, 1972 interview with Father Lavigne when he asked two questions of Lieutenant Radwanski. Father Lavigne asked, "If a stone was used and thrown in the river, would the blood still be on it?" And he then asked, "In such a popular hang out with so many cars and footprints, how can the prints you have be of any help?"

I know from my experience and training that questions of this nature are often asked of investigators by perpetrators of crimes in order to monitor the progress of the investigation or to obtain information as to the possible identification of suspects or the collection of evidence. The questions asked by Father Lavigne during the initial phase of the investigation were consistent with those that are often asked by the perpetrator of a crime.

Lieutenant Radwanski states in his report that on April 16, 1972 he observed Father Lavigne at the crime scene alone.

According to Chicopee Police Department log notes dated April 16, 1972 information had been received from a \_\_\_\_\_ which indicated the following: \_\_\_\_\_ reported that Daniel Croteau came to the door of her home on Friday, April 7, 1972 at approximately 10:30 PM. This was one week prior to his murder. According to Daniel Croteau had said that he was lost and that he was looking for Father Lavigne. \_\_\_\_\_ allowed him to use the telephone at which time Daniel placed a call. \_\_\_\_\_ overheard Daniel ask over the phone, "Is Father Lavigne still there?" After a short conversation, Daniel hung up and said to \_\_\_\_\_ that he would wait outside. Within approximately five minutes, someone drove up in a car and picked Daniel up and then drove off. The car was described as a Ford Mustang. Statements on file describe Father Lavigne's car as being a maroon colored Ford Mustang. \_\_\_\_\_ positively identified Daniel Croteau from a photograph shown to her and had also identified a jacket belonging to Daniel Croteau as that which he was wearing when he arrived at her home.

According to Lieutenant Radwanski's report, Father Lavigne was interviewed on April 17, 1972 at which time he admitted to receiving a phone call from Danny from a home .

Danny said he was lost. Father Lavigne stated he had picked Danny up and notified his parents and that Danny had spent the night at Father Lavigne's parents house in the Aldenville section of Chicopee. Father Lavigne claimed at the time of the initial investigation however, that whenever he took Danny anywhere, it had always been with his brothers or a gang of kids. The information that Danny slept over at Father Lavigne's parents house on the night of April 7 contradicts this claim and demonstrates that at times, Father Lavigne and Daniel were alone.

In a subsequent interview with Father Lavigne dated May 11, 1972, Father Lavigne added additional information regarding the night of April 7, 1972 when Daniel had stayed at Lavigne's parent's house. According to notes from the interview, Father Lavigne stated that he believed he had called Daniel and spoke with him prior to Daniel going to a scout's meeting. Father Lavigne had said that Daniel had asked about going to Vermont. According to Father Lavigne, Daniel had indicated during this phone call that he (Daniel) wanted to go to Father Lavigne's house. Father Lavigne stated that he told Daniel not to come to his house.

Father Lavigne has admitted that Daniel did in fact arrive at his home on the night of April 7, 1972 and that Father Lavigne had picked him up when Daniel had become lost. Father Lavigne stated that he believes he had Daniel call his parents and that Daniel watched television in the finished cellar of Father Lavigne's parents home. Father Lavigne stated that he woke Danny up on Saturday morning, gave him breakfast and then took him home. Father Lavigne stated he dropped Daniel off at the corner of his street and did not see Daniel's parents. Father Lavigne stated that Daniel did not seem ill. Father Lavigne stated during this interview that he had a well stocked bar in the basement but he denied ever giving alcohol to Daniel. He stated that it was possible Danny could have taken some himself. The next time Father Lavigne stated he saw Danny was at Czerpial's Funeral Home on April 15, 1972. He said he had not spoken with him since April 8, 1972.

In reference to the April 7, incident, Bernice Croteau made a statement to the Chicopee Police on August 7, 1972, in which she stated the following: "On April 7, on Friday at around supper time, my son Danny dressed up, in fact dressed up better than he usually does. He wore his knit shirt, tie, herringbone jacket with a fur collar. He said that he was going some place with father Lavigne. He had been trying to contact the father on the phone, I don't know if he had contacted father Lavigne, but he left. That was the last we had heard of him that evening until we received a call from father Lavigne, it was around 11:30 or around midnight, and the father asked me if Danny could stay over for the night. The following morning at around 8:00 A.M. or 9:00 a.m. Danny walked

into the house. He didn't say too much, he just laid around for a while and complained about his stomach. Towards evening he told me that he had vomited several times during the day. At about 6:30 P.M. he went out for the evening, he said that he was getting on the bus and was going to the YMCA. At no time did Danny tell me how he got to Chicopee and returned home. I thought that father Lavigne had brought him back home."

The autopsy report completed by Dr. George G. Katsas, M.D. on May 15, 1972 indicated that Daniel Croteau's blood-alcohol level at the time of his death was measured at .18 percent. The report also indicated that the contents of Daniel Croteau's stomach contained evidence of chewing gum. The alcohol level and presence of chewing gum are notable in light of the following information. (Refer to Addendum F)

On December 1991, Detective Lieutenant Brad Holmes interviewed

during which he stated the following:

"Danny and I were best friends since about 1965, I was about 6 years old. We both attended Our Lady of Sacred Heart elementary school. I knew Danny as a good natured kid, he didn't have alot (sic) of material goods, and not to (sic) many friends. Danny stayed back a year in school and was therefore a year older than the other kids in our class. We were both alter boys at St. Catherine's Church on Parker St. in Springfield. Most of the other kids in our class went to Our Lady of Sacred Heart. Father Lavigne was one of the Parish priests at St. Catherine's. I served Mass with Danny for Father Lavigne for about a year before I moved with my family at St. Catherine's, he would usually get us out of school. When we did funeral Masses with Father Lavigne at St. Catherine's, he would usually get us out of school. This was always during the week. After the Mass, Father Lavigne would offer us the wine in the chalice. The chalice was always filled with more wine than when he performed the Mass. This only took place during the week, when no one else was around. It never happened on Sunday. Danny and I would share one chalice of wine. Father Lavigne would joke around a little and encourage us to drink the wine. I remember this because I didn't like the wine, but Danny seemed to. While we drank the wine, Father Lavigne would change into his regular clothes. He always wore his regular clothing under his robes, except for his shirt. After we finished Father Lavigne would always tell us to chew gum and provide us with the gum. I think it was Wrigley's gum. After we finished the wine we would go to the locker room to change. Father Lavigne would come with us. We changed from our robes while Father Lavigne watched. We had our regular clothing on under our robes so the most we actually changed was our shirts. I never cared for the wine, but the most important thing for Danny was drinking the wine at the end of the Mass. The highlight for me was getting out of school. I found it strange that the other priests never watched us change, but Father Lavigne always did. In fact he helped us by