

STATE OF NORTH CAROLINA
COUNTY OF WAKE

IN THE GENERAL COURT OF JUSTICE
DISTRICT COURT DIVISION
08CVD 12310

GARY D. RENTZ and)
DONNA RENTZ and)
KRISTA C. LISTER)
BRADLEY COOPER)

MOTION TO QUASH
SUBPOENA, N.C.G.S. 1A-A
RULE 45 (c) (5) and
MOTION FOR PROTECTIVE
ORDER, N.C.G.S. 132-1.5(e)

FILED
OCT 14 PM 2:11
DISTRICT COURT
WAKE COUNTY N.C.

Now comes the State of North Carolina, by and through the undersigned Assistant District Attorney, and respectfully moves the Court to quash certain subpoenas and enter a protective order, and in support thereof alleges:

1. That on July 12, 2008, the Cary Police Department initiated an investigation into the disappearance of Nancy Cooper, a resident of Cary, North Carolina.
2. That Nancy Cooper's remains were found near Cary on July 14, 2008.
3. That Nancy Cooper's death is believed to be a homicide and is being investigated as such by the Cary Police Department.
4. That said investigation is ongoing, and no one has been charged with the death of Nancy Cooper.
5. That on or about July 16, 2008, plaintiffs herein commenced this action seeking custody of the minor children of Nancy Cooper, deceased, and Bradley Cooper, defendant herein.
6. That on July 16, 2008, the Court entered an emergency ex-parte order providing that the plaintiffs should share joint legal and physical custody of the minor children.
7. That on July 25, 2008, the Court entered a consent order which provided that the ex-parte order described above should remain in effect for seventy-five days, and that the hearing previously set for July 25, 2008, should be continued.
8. That, upon information and belief, the hearing is now scheduled for October 16, 2008.
9. That on October 10, 2008, at approximately 8:30 p.m., George Daniels, a detective employed by the Cary Police Department, was served with three

subpoenas duces tecum, copies of which are attached hereto as Exhibits A, B, and C.

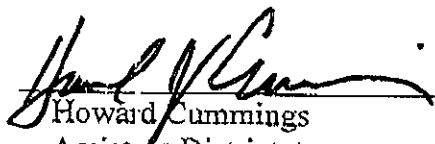
10. That the subpoena duces tecum attached as Exhibit "A" commands the production of:
 - A. Any and all documents and other things including, but not limited to memorandums, notes or recorded statements relied upon by you in preparing your affidavit filed in this action (08CVD 12310).
 - B. Any and all video and/or recordings or any interview conducted with Bradley Cooper regarding the murder of Nancy Cooper.
11. That the subpoena duces tecum attached as Exhibit "B" commands the production of:
 - A. Any and all evidence in the Nancy Cooper investigation, including, but not limited to, all notes of interviews, lists of suspects, list of witnesses, all exculpatory evidence and statements, physical evidence, personal property of Nancy Cooper, notes of any and all investigation officers (including those officers, and their notes, who testified at the ex-parte emergency custody hearing in front of Judge Sasser).
 - B. Any and all testimonial evidence used in any custody proceeding relating to this file number.
12. That the subpoena duces tecum attached as Exhibit "C" commands the production of any and all original hard drives in your possession which were obtained for the purpose of investigating the death of Nancy Cooper, including, but not limited to, the original laptop of Brad Cooper, or any Cooper family computers or any computers of Nancy Cooper, or, in the alternative, produce imaged copies of any and all original hard drives which were obtained for the purpose of investigating the death of Nancy Cooper, including, but not limited to, imaged copies of Brad Cooper's laptop hard drive(s), or any Cooper family computers hard drive(s) or any computers hard drive(s) of Nancy Cooper.
13. That these subpoena duces tecums, served on October 10, 2008, at 8:30 p.m., command the production of the afore described items on October 14, 2008, at 10:00 a.m.
14. That these subpoenas fail to allow a reasonable time for compliance.
15. That these subpoenas subject George Daniels and the Cary Police Department to an undue burden.

16. That these subpoenas are otherwise unreasonable and oppressive.
17. That the disclosure of the requested information and items will jeopardize the right of the State to prosecute a defendant.
18. That the disclosure of the requested information and items will jeopardize the right of a defendant to receive a fair trial.
19. That the disclosure of the requested information and items will undermine an ongoing investigation.
20. That these disclosures of the requested information and items will interfere with and jeopardize an ongoing murder investigation by prematurely disclosing investigative leads and confidential information to unauthorized persons
21. That Brad Cooper was last interviewed by the Cary Police Department on July 15, 2008, at his home.
22. That since that time, despite repeated requests by Cary Police Department, Brad Cooper has refused to be interviewed by, or cooperate with, the Cary Police Department in the investigation of the death of his wife.
23. That lawyers on behalf of Brad Cooper have compelled witnesses in the murder investigation to sit for depositions in an effort to learn what information these witnesses divulged to police.
24. That, upon information and belief, efforts by lawyers on behalf of Brad Cooper to gain information about the pending investigation of Nancy Cooper's death are attempts to prepare a defense for Brad Cooper should he be charged in connection with her death.
25. That attempts to access and review the investigative file in an unsolved active murder investigation is a fishing expedition being done as an attempt to assist Brad Cooper in his defense to a potential criminal charge and are not for the purpose of showing his fitness and suitability as a custodial parent of his minor children.
26. That in order to require production of documents, the moving party must show that
 - (1) The documents are evidentiary and relevant.
 - (2) The documents are not otherwise procurable.
 - (3) That the party cannot properly prepare for trial without the production and inspection of the document and,
 - (4) It is not a fishing expedition
U.S. vs. Nixon, 418 U.S. 683

29. That the purpose of the subpoena duces tecum is to require the production of items that are patently material to the inquiry. Discovery is not a proper purpose for a subpoena duces tecum and anything in the nature of a fishing expedition will not be allowed. A party is not entitled to have brought in a mass of books and papers in order that he may search them through to gather evidence. The trial judge should consider the relevancy and materiality of the items called for, the right of the subpoenaed person to withhold production on other grounds, such as privilege, and, also, the policy against fishing expeditions. State vs. Newell, 82 N.C. App. 707.

WHEREFORE, the undersigned respectfully moves the Court to quash the attached subpoenas duces tecum and enter a protective order preventing the disclosure of the requested information and items, or in the alternative, for the Judge to make an in camera inspection of these items before ruling on the motion.

This, the 14th day of October, 2008


Howard Cummings
Assistant District Attorney
Post Office Box 31
Raleigh, North Carolina 27602

THIS IS TO CERTIFY that a copy of the foregoing motion was served upon:

Deborah Sandlin
Attorney for the Defendant
Sandlin & Davidian, P.A.
5617 Departure Drive, Suite 109
Post Office Box 58569
Raleigh, North Carolina 27658-8569
FAX: 919-850-9199

This, the 14th day of October, 2008.

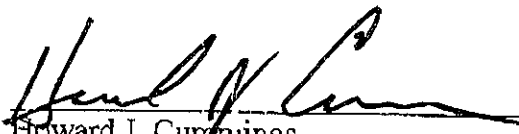

Howard J. Cummings
Assistant District Attorney

EXHIBIT A

08 CVD 12310

WAKE COUNTY

In the General Court of Justice

District Superior Court Division

GARRY D. RENTZ AND DONNA A. RENTZ AND KRISTA C. LISTER

Additional File Numbers

VERSUS

SUBPOENA DUCES TECUM

BRADLEY COOPER

G.S. 1A-1, Rule 45

Party Requesting Subpoena

State/Plaintiff Defendant

NOTE TO PARTIES NOT REPRESENTED BY COUNSEL: Subpoenas may be produced at your request, but must be signed and issued by the office of the Clerk of Superior Court, or by a magistrate or judge.

TO

Name and Address of Person Subpoenaed

George Daniels
Cary Police Department
120 Wilkinson Avenue
Cary, NC 27513

Alternate Address

Telephone No.
469-4012

Telephone No.

YOU ARE COMMANDED TO: (check all that apply)

- appear and testify, in the above entitled action, before the court at the place, date and time indicated below.
- appear and testify, in the above entitled action, at a deposition at the place, date and time indicated below.
- produce and permit inspection and copying of the following items listed on Exhibit A, which is attached hereto and incorporated by reference herein, at the place, date and time indicated below.

1. Produce any and all documents and other things including but not limited to memorandums, notes or recorded statements relied upon by you in preparing your affidavit filed in this action (08 CVD 12310).
2. Produce any and all video and/or recordings of any interview conducted with Bradley Cooper regarding the murder of Nancy Cooper.

Name and Location of Court/Place of Deposition/Place to Produce

Sandlin & Davidian, PA
5617 Departure Drive, Suite 109
Raleigh, North Carolina 27616

Date to Appear/Produce

October 14, 2008

Time to Appear/Produce

10:00 A.M.

Name and Address of Applicant or Applicant's Attorney

Deborah Sandlin
SANDLIN & DAVIDIAN, PA
5617 Departure Drive, Suite 109
Post Office Box 58569
Raleigh, North Carolina 27658-8569

Date

October 10, 2008

Signature

Deborah Sandlin
Deborah Sandlin

Telephone No.
(919) 850-9199

Deputy CSC

Assistant CSC

Clerk of Superior Court

Superior Court Judge

Magistrate

Attorney/DA

District Court Judge

RETURN OF SERVICE

I certify this subpoena was received and served on the person subpoenaed as follows:

By personal delivery.

registered or certified mail, receipt requested and attached.

telephone communication (For use only by the sheriff's office for witness subpoenaed to appear and testify).

I was unable to serve this subpoena.

Service Fee

Paid

Date Served

Signature of Authorized Server

Title

\$

Due

NOTE TO PERSON REQUESTING SUBPOENA: A copy of this subpoena must be delivered, mailed or faxed to the attorney for each party in this case. If a party is not represented by an attorney, the copy must be mailed or delivered to this party. This does not apply in criminal cases.

(Please See Reverse Side)

STATES MOTION EXHIBIT B 08 CVD 12310

WAKE COUNTY

In the General Court of Justice

District Superior Court Division

GARRY D. RENTZ AND DONNA A. RENTZ AND KRISTA C. LISTER

Additional File Numbers

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- produce and permit inspection and copying of the following items listed on Exhibit A, which is attached hereto and incorporated by reference herein, at the place, date and time indicated below.

1. Produce any and all evidence in the Nancy Cooper investigation, including but not limited to all notes of interviews, lists of suspects, list of witnesses, copies of witness statements, all exculpatory evidence and statements, physical evidence, personal property of Nancy Cooper, notes of any and all investigation officers (including those officers, and their notes, who testified at the ex parte emergency custody hearing in front of Judge Debra Sasser).
2. Produce any and all testimonial evidence used in any custodial proceeding relating to this file number.

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SANDLIN & DAVIDIAN, PA
5617 Departure Drive, Suite 109
Post Office Box 58569
Raleigh, North Carolina 27658-8569

Date
October 10, 2008

Signature
Deborah Sandlin

Telephone No.
(919) 850-9199

Deputy CSC Assistant CSC Clerk of Superior Court Superior Court Judge
 Magistrate Attorney/DA District Court Judge

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Service Fee Paid Due Date Served Signature of Authorized Server Title

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EXHIBIT C

08 CVD 12310

WAKE COUNTY

In the General Court of Justice

District Superior Court Division

GARRY D. RENTZ AND DONNA A. RENTZ AND KRISTA C. LISTER

Additional File Numbers

VERSUS

SUBPOENA DUCES TECUM

BRADLEY COOPER

G.S. 1A-1, Rule 45

Party Requesting Subpoena

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- produce and permit inspection and copying of the following items listed on Exhibit A, which is attached hereto and incorporated by reference herein, at the place, date and time indicated below.

1. Produce any and all original hard drives in your possession which were obtained for the purpose of investigating the death of Nancy Cooper including, but not limited to, the original laptop of Brad Cooper, or any Cooper family computers or any computers of Nancy Cooper; or, in the alternative, produce imaged copies of any and all original hard drives which were obtained for the purpose of investigating the death of Nancy Cooper including, but not limited to, imaged copies of Brad Cooper's laptop hard drive(s), or any Cooper family computers hard drive(s) or any computers hard drive(s) of Nancy Cooper.

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