

COMMONWEALTH OF MASSACHUSETTS

MIDDLESEX, ss.

TRIAL COURT
DISTRICT COURT DEPARTMENT
NEWTON DIVISION
NO. 0912SW03

IN RE MATTER OF SEARCH WARRANT EXECUTED ON MARCH 30, 2009 AT
THE RESIDENCE OF MOVANT RICCARDO CALIXTE

**AFFIDAVIT OF ATTORNEY ADAM J. KESSEL
IN SUPPORT OF MOTION FOR EMERGENCY RELIEF TO
QUASH THE WARRANT AND FOR RETURN OF PROPERTY**

I, Adam J. Kessel, counsel for the movant Riccardo Calixte, state the following is true to the best of my knowledge, information, and belief:

1. I am an attorney at Fish & Richardson P.C. We represent Riccardo Calixte in the above-captioned matter.
2. I have read the search warrant application and the property receipt relating to this case. An accurate copy of the search warrant application as I received it from the clerk's office, including an affidavit signed by Detective Kevin Christopher, is attached as Exhibit A.
3. The search warrant that issued based on that affidavit is attached as Exhibit B.
4. On March 30, 2009, a search warrant was issued for Mr. Calixte's dormitory room in Gabelli Hall at Boston College. Boston College Police officers executed the warrant and took Mr. Calixte's laptop, cell phone, portable music device, as well as several portable storage devices. The Police Officers also apprehended Mr. Calixte at the O'Neill library and seized all digital equipment on his person at the time. The Property Receipt detailing the items taken is attached as Exhibit C.
5. Officers also took a post-it note on which Mr. Calixte had been taking notes about the officers' activities during the search, and all the computers and storage media in his room.
6. On information and belief, Mr. Calixte has not been charged with any crime.
7. The seizure has been extremely disruptive to Mr. Calixte.
8. At the time of this search, Mr. Calixte was employed in the IT department of the College. He has been suspended from work.

9. As Mr. Calixte is a computer science major (and philosophy minor), his laptop is his primary means for completing his assigned coursework. The extended deprivation of his property has thus resulted in tremendous hardship to Mr. Calixte as he attempts to finish his courses this semester.


10. On April 9, 2009, I spoke with Boston College Police Detective Lieutenant Gene Neault. Detective Neault said that the Department is waiting for the state forensics lab to complete their analysis of Mr. Calixte's computers. Also, the College asked the forensics analysts to "put a rush on it" earlier this week.

11. The state forensic analysis is an ongoing deprivation of Mr. Calixte's constitutional rights. As the analysts rush to search through Mr. Calixte's private property without probable cause or a valid warrant, my client is suffering irreparable harm as a result of this seizure and ongoing search.

Signed under the pains and penalties of perjury this 10th day of April, 2009.

Dated:

4/10/09


Adam J. Kessel