

AFFIDAVIT OF DETECTIVE LESLIE SMITH

Dover County Sheriff's Department

1. My name is Leslie Smith. I am a 14-year veteran of the Dover County Sheriff's Department. I have been a Detective for the last seven years.
2. I am a 1998 graduate of Dover County Community College, with an Associate's Degree in Forensic Science. My first job after graduating was with the Town of Wilmington Police Department as a traffic cop. After one year on the job, I was promoted to the patrol unit. The patrol unit is usually the first to arrive at a crime scene. So, on many occasions, I was able to use my forensic knowledge obtained at DCCC to conduct the preliminary investigation of crime scenes.
3. Because the Wilmington Police Department is small and the opportunities for promotion are limited, I decided to apply for an opening in the county sheriff's department. I was appointed as a deputy sheriff in early 2002 and was assigned to the robbery/burglary investigation unit. I was promoted to detective in the major crimes unit in July 2009.
4. The training to become a detective, especially for robbery/burglary investigators, is both intensive and extensive. We learn about collecting evidence, such as hair samples, clothing fibers, fingerprints and shoe prints, just to name a few.
5. I love my job as a detective. Collecting evidence to solve a crime is thrilling to me. I watch all of the CSI-type shows on television. I usually solve the mysteries of "whodunit" before the show ends. I could be one of those characters on CSI Miami. Maybe Hollywood will call me one of these days to star in a police drama.
6. There was a rash of convenience store robberies in the Town of Wilmington in 2011. I was assigned as the lead investigator for these robberies. A particularly egregious robbery occurred on December 17, 2011 that, unlike the other robberies, involved an attempted murder of the store owner. The owner was shot, and while he survived the attack, his injuries were nevertheless life-threatening.

7. I employed various techniques in investigating the December 17 robbery, including the collection of evidence from the scene and contacting confidential informants. One of the informants, known as “X,” told me that a person he knew as “Robin” was involved in the December 17 robbery. Using only this information, I was able to identify three possible suspects. One of the suspects was Robin Berkman, the plaintiff in this civil action, who lives just several blocks from the Lucky Convenience Store that was robbed on December 17. The other two suspects were Robin Carmichael, a convicted felon who had been involved in previous armed robberies, and Robin Roberts, a convicted burglar, but not a person known to use a weapon.
8. Based on the information provided by the informant, I proceeded to contact Berkman to schedule an interview. Berkman seemed to expect my call and readily agreed to meet with me. It was my understanding that Berkman, who has always lived in the Town of Wilmington, resided in a small apartment with Berkman’s mother and Berkman’s half-sibling, Kelly Connolly. I met with Berkman in that apartment. Kelly Connolly was also present, but their mother was not. I explained to Berkman that I was conducting an investigation of the December 17 robbery and attempted murder at a convenience store located just a few blocks away from the apartment. Berkman appeared to be happy to talk to me.
9. Responding to a question from me, Berkman denied any involvement in the robbery. Berkman claimed to have been in Briarcliff running errands at the time of the December 17 robbery/attempted murder, although Berkman provided no proof of this. In any event, the Village of Briarcliff is just a few minutes from Wilmington. However, Berkman expressed interest in helping me solve the crime. If Berkman were to hear anything, Berkman said, Berkman would certainly contact me immediately. I gave Berkman one of my business cards. I then left Berkman’s apartment to continue the investigation.
10. Although Berkman had no felony record, Berkman was charged on several different occasions with possession of graffiti instruments when Berkman was sixteen years old. I believe the charges were resolved in Youth Court where Berkman admitted to the crimes and had to do several months of community service. I really hate these graffiti “artists.” They are

destroying our beautiful city. We should do whatever it takes to get their rear ends off the street.

11. I returned to the scene of the crime. It turns out that one of the buildings Berkman defaced is next door to Lucky Convenience Store. There is a very good view of the surveillance cameras from the wall Berkman had tagged. At that point, there was no need to continue to investigate other “Robins” and waste valuable police resources, because at that stage I knew Berkman was the perpetrator. All I needed was some evidence linking Berkman to the crime, which I knew would involve further lengthy investigation.
12. I decided it was best to keep Berkman close and talking, in the hopes that Berkman would say or do something self-incriminating. During our initial interview, Berkman purported to be fascinated by police TV shows. I took the opportunity to suggest that Berkman provide a DNA sample. I told Berkman this could rule Berkman out as a suspect, and once that happened, Berkman could help out with the investigation. Berkman agreed. Eventually I learned, much to my surprise, that Berkman’s sample DNA did not match any DNA recovered at the scene. But that stuff happens.
13. As part of my investigation, I provided statements to the local newspapers, The Wilmington Gazette and The Wilmington Post-Dispatch. Both newspapers published detailed information about the December 17 robbery/attempted murder, including reference to a weapon being used and some jewelry taken during the robbery. As far as I recall, no specific description of the weapon or the jewelry was reported in the papers. The clerk had described the weapon as a Glock handgun, but I don’t believe this information was ever provided to the press. I don’t have transcripts of my press conferences.
14. Berkman continued to contact me with information Berkman believed was pertinent. Most of the time, Berkman would contact me on my cell phone. On many occasions, Berkman would show up at DCSD to speak with me. In fact, it became a running gag around the department that I had a “Junior Detective” helping me solve the crime. On one occasion when Berkman met with me, Berkman provided me with information about the robbery that I don’t believe was publicly available. The information included the type of weapon and the specific pieces of jewelry taken from the store clerk. There’s no way Berkman could have known this from the

newspapers or DCSD. I don't think I said anything about the Glock or the jewelry to Berkman. Of course I can't be 100% sure. We were always talking.

15. The additional information about the type of gun and jewelry, coupled with Berkman's continued "efforts to help" with the investigation, convinced me even more strongly that Berkman was the perp. Clearly, Berkman's behavior evinced to me some form of consciousness of guilt. Anyway, the Chief of the Sheriff's Department was putting pressure on me to close this investigation. In the Chief's opinion, the investigation had gone on too long. I am not going to lose my job or my rank because of Berkman. Berkman is not worth it to me. Even though the weapon was never recovered, Berkman's DNA did not match any at the scene, and no other evidence directly connecting Berkman to the crime was ever found, I still believed that a little more investigating would yield results. I told Berkman that I was concerned I hadn't accumulated enough evidence to make an arrest. Suggesting that Berkman could further assist in the investigation, I asked Berkman to take a polygraph examination to definitively rule Berkman out as a suspect. Berkman agreed.
16. I arranged for the polygraph examination to be conducted by the New York State Police because the Town of Wilmington did not have the necessary equipment. I transported Berkman, along with Berkman's half-sibling, to the New York State Police barracks, which is located just south of the Town of Wilmington. I was able to hear and observe the examination from an adjoining room through a one-way mirror. In response to questions from the polygraph examiner, Berkman denied any involvement in the December 17 robbery/attempted murder. However, under repeated questioning by the polygraph examiner, Berkman made incriminating statements regarding details as to how the crime was committed, including how the perpetrator could have avoided detection by the store's security surveillance system. At the conclusion of the examination, Berkman became quite emotional and was sobbing uncontrollably. Berkman apologized for any trouble Berkman may have caused, including the injury sustained by the owner of the convenience store.
17. I then entered the examination room and tried to comfort Berkman by telling Berkman that "everything would be okay." Berkman again apologized for any trouble that Berkman may have caused and while still crying was heard saying repeatedly, "I'm sorry, I'm sorry." After

hearing what I considered to be a confession, I placed Berkman under arrest for the December 17 convenience store robbery. I know that Kelly Connolly is going around claiming that the polygraph examiner had called Berkman a liar and that is the reason why Berkman was crying, but I was there for most of the examination and never heard Berkman use the word “liar.” Although I did briefly leave the adjoining room a couple of times, once to get coffee and another time to talk to several state trooper friends of mine, I was not out of the room very long. Besides, these polygraph examiners are professionals and don’t use terms like that.

18. I was able to convince the prosecutors that Berkman was the perpetrator of the December 17 robbery/attempted murder. These overworked prosecutors don’t have time to do their own investigation. They take whatever the police give them. The District Attorney presented the case to a grand jury and Berkman was indicted. Following a trial by jury, Berkman was found guilty as charged. I believe Berkman’s conviction was unanimously affirmed. I heard from the prosecutors that Berkman’s application for leave to appeal to the Court of Appeals was denied.
19. I learned that Berkman, shortly after being sent to the Big House, got this bleeding heart liberal outfit AIA to look into Berkman’s case. Prisons are full of criminals who claim they are as pure and innocent as a newborn baby. Cut me a break! All I know is that I conducted a thorough investigation and made a good arrest. The evidence, in my opinion, was overwhelming.
20. Now you’ve got this quack Dr. Corbett questioning my investigative skills. I understand that at one time Dr. Corbett had been a decent police officer in New York City for ten years. Corbett then goes for a Ph.D. in psychology and gets all weird. Leave it to Corbett; nobody is ever guilty, just misunderstood. As I said before, this was darn good police work.
21. But this AIA group got this Robin Carmichael to confess to the December 17 robbery/attempted murder. Carmichael is a convicted felon serving a lengthy prison sentence for second degree murder. Carmichael has nothing to lose by confessing because Carmichael was probably never going to get out of prison anyway.

22. I did check out Carmichael at the time and concluded Carmichael had no involvement in the December 17 convenience store robbery. Prisoners talk and share information all the time. Who's to say Carmichael didn't get information about the December 17 robbery from other inmates! I considered Carmichael's possible involvement in the robbery, and my gut feeling was that Carmichael had nothing to do with the crime. Carmichael's modus operandi is to hit bigger targets such as community banks and large religious institutions, not "ma and pa" stores like the Lucky Convenience Store involved in the December 17 robbery/attempted murder. Anyway, the District Attorney and the court were too quick to exonerate Berkman. I will believe Carmichael was the perpetrator of the December 17 crimes when Carmichael is actually convicted of those offenses. I would not have arrested Berkman if Berkman were not indeed guilty.

Dated: September 21, 2016

I affirm the truth of this statement.

Leslie Smith

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