

Watson

CF-2012-3738

INFORMATION

IN THE DISTRICT COURT IN AND FOR OKLAHOMA COUNTY, STATE OF OKLAHOMA

THE STATE OF OKLAHOMA,)
Plaintiff,)
v.)
KIMBERLY DAWN NELSON,)
Defendant.)

FILED IN THE DISTRICT COURT
OKLAHOMA COUNTY, OKLA.
JUN 15 2012
PATRICIA PRESLEY, COURT CLERK
by _____ DEPUTY

IN THE NAME AND BY THE AUTHORITY OF THE STATE OF OKLAHOMA, COMES NOW E. SCOTT PRUITT THE DULY ELECTED, QUALIFIED AND ACTING ATTORNEY GENERAL IN AND FOR THE STATE OF OKLAHOMA, AND ON HIS OFFICIAL OATH INFORMS THE DISTRICT COURT THAT

COUNT 1: ON OR ABOUT THE 17TH DAY OF MARCH 2011, A.D. THE CRIME OF WORKERS' COMPENSATION FRAUD WAS FELONIOUSLY COMMITTED IN OKLAHOMA COUNTY, OKLAHOMA, BY KIMBERLY DAWN NELSON, WHO WILLFULLY, WRONGFULLY AND FELONIOUSLY PRESENTED TO A TREATING PHYSICIAN DR. STEPHEN WILSON, M.D., IN SUPPORT OF A CLAIM FOR PAYMENT OR OTHER BENEFITS PURSUANT TO A CONTRACT OF INSURANCE DURING THE PENDENCY OF HER WORKERS' COMPENSATION CLAIM IN WHICH SHE DENIES ANY PREVIOUS INJURY TO HER NECK AND CLAIMS TO BE UNEMPLOYED DUE TO THE SEVERITY OF SYMPTOMS CAUSED BY HER WORK RELATED INJURY, KNOWING THAT THE STATEMENTS CONTAIN FALSE, FRAUDULENT, INCOMPLETE, AND/OR MISLEADING INFORMATION CONCERNING ANY FACT OR THING MATERIAL TO THE PURPOSE FOR THE STATEMENT WITH THE INTENT TO DEFRAUD AND/OR DECEIVE ANOTHER, CONTRARY TO THE PROVISIONS OF SECTION 1663 (C)(1) OF TITLE 21 OF THE OKLAHOMA STATUTES, AND AGAINST THE PEACE AND DIGNITY OF THE STATE OF OKLAHOMA.

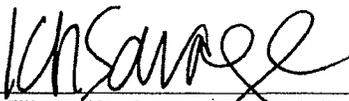
COUNT 2: ON OR ABOUT THE 19TH DAY OF APRIL 2011, A.D. THE CRIME OF WORKERS' COMPENSATION FRAUD WAS FELONIOUSLY COMMITTED IN OKLAHOMA COUNTY, OKLAHOMA, BY KIMBERLY DAWN NELSON, WHO WILLFULLY, WRONGFULLY AND FELONIOUSLY PRESENTED TO A TREATING PHYSICIAN DR. ANDREW JOHN, M.D., IN SUPPORT OF A CLAIM FOR PAYMENT OR OTHER BENEFITS PURSUANT TO A CONTRACT OF INSURANCE DURING THE PENDENCY OF HER WORKERS' COMPENSATION CLAIM IN WHICH SHE STATES THAT SHE HAS NOT WORKED SINCE SEPTEMBER 2010,, KNOWING THAT THE STATEMENT CONTAINS FALSE, FRAUDULENT, INCOMPLETE, AND/OR MISLEADING INFORMATION CONCERNING ANY FACT OR THING MATERIAL TO THE PURPOSE FOR THE STATEMENT WITH THE INTENT TO DEFRAUD AND/OR DECEIVE ANOTHER, CONTRARY TO THE PROVISIONS OF SECTION 1663 (C)(1) OF TITLE 21 OF THE OKLAHOMA STATUTES, AND AGAINST THE PEACE AND DIGNITY OF THE STATE OF OKLAHOMA.

COUNT 3: ON OR ABOUT THE 10TH DAY OF MAY 2011, A.D. THE CRIME OF WORKERS' COMPENSATION FRAUD WAS FELONIOUSLY COMMITTED IN OKLAHOMA COUNTY, OKLAHOMA, BY KIMBERLY DAWN NELSON, WHO WILLFULLY, WRONGFULLY AND FELONIOUSLY PRESENTED DURING A WORKERS' COMPENSATION COURT TRIAL PROCEEDING TO AN ATTORNEY REPRESENTING HER EMPLOYER, PIONEER TELEPHONE, IN SUPPORT OF A CLAIM FOR PAYMENT OR OTHER BENEFITS PURSUANT TO A CONTRACT OF INSURANCE DURING THE PENDENCY OF HER WORKERS' COMPENSATION CLAIM MISREPRESENTING THAT SHE WAS UNABLE TO RETURN TO WORK AND WAS CURRENTLY UNEMPLOYED, KNOWING THAT THE STATEMENTS CONTAIN FALSE, FRAUDULENT, INCOMPLETE, AND/OR MISLEADING INFORMATION CONCERNING ANY FACT OR THING MATERIAL TO THE PURPOSE FOR THE STATEMENT WITH THE INTENT TO DEFRAUD AND/OR DECEIVE ANOTHER, CONTRARY TO THE PROVISIONS OF SECTION 1663 (C)(1) OF TITLE 21 OF THE OKLAHOMA STATUTES, AND AGAINST THE PEACE AND DIGNITY OF THE STATE OF OKLAHOMA.

E. SCOTT PRUITT

ATTORNEY GENERAL OF OKLAHOMA

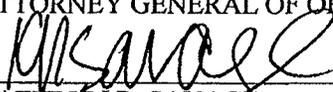
By:


KATHRYN R. SAVAGE, OBA #18990
Assistant Attorney General
313 N.E. 21st Street
Oklahoma City, OK 73105
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[405] 522-4537 Facsimile

I HAVE EXAMINED THE FACTS IN THIS CASE AND RECOMMEND THAT A WARRANT DO ISSUE, (22 O.S. 231).

E. SCOTT PRUITT
ATTORNEY GENERAL OF OKLAHOMA

By:


KATHRYN R. SAVAGE
ASSISTANT ATTORNEY GENERAL

21 O.S. §1663 - IMPRISONMENT NOT EXCEEDING 7 YEARS AND/OR A FINE OF UP TO \$10,000.00.

NAME OF WITNESSES:

David Discoll, Investigator
Office of Attorney General
313 N.E. 21st Street
Oklahoma City, OK 73105

Sandi Musil, Manager
Earnheart Oil Incorporated
323 East Main Street
Marshall, Oklahoma 73056

Stephanie Jameson, Human Resources
American Hometown Publishing
113 East Blackwell
Blackwell, Oklahoma 74631

Mark Huddleston
5608 Cimarron Manor
Guthrie, Oklahoma 73044

Mary Jo Schoeling
Human Resource Manager
220 E. Miles
Kingfisher, Oklahoma 73750

David Post
Director of Human Resources
108 East Robberts Ave.
P.O. Box 539
Kingfisher, Oklahoma 73750

Brian Smith
Chief Operating Office & CFO
American Hometown Publishing, Inc.
110 Third Avenue North
Franklin, Tennessee 37064

Brett Krablin, M.D.
Krablin Medical Center
1001 Hospital Circle
Kingfisher, Oklahoma 73750

Andrew John, M.D.

4323 N.W. 63rd Street, Suite 105
Oklahoma City, Oklahoma 73116

Stephen Wilson, M.D.
1801 North Broadway Avenue
Oklahoma City, Oklahoma 73103

Rob Matson, M.D.
Kingfisher Regional Hospital
500 S. 9th Street
Kingfisher, Oklahoma 73750

Barry L. Pollard, M.D.
102 South Van Buren
Enid, Oklahoma 73703

Kim Glover, CSR, RPR, RMR
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Cynthia Kay Jones, RMR
Official Court Reporter
Workers' Compensation Court
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**IN THE DISTRICT COURT OF OKLAHOMA COUNTY
STATE OF OKLAHOMA**

STATE OF OKLAHOMA,)
)
Plaintiff,)
)
vs.)
)
Kimberly Dawn Nelson,)
AKA: Kimberly Dawn Ransom,)
DOB: 12/02/1969 SSN: [REDACTED])
Kimberly Dawn Blair)
)
Defendant.)

AFFIDAVIT OF PROBABLE CAUSE

The undersigned, being first duly sworn and upon oath, does depose and state as follows:

I, David Driscoll, am employed as Investigator, Workers' Compensation and Insurance Fraud Unit, Oklahoma Attorney General's Office. I was assigned to investigate an alleged case of workers' compensation fraud involving Kimberly Dawn Nelson, Date of Birth: December 2, 1969, [REDACTED] [REDACTED]. In the course of my investigation, I reviewed documents and records regarding her workers' compensation case.

The records reflect that Kimberly Nelson filed a Form 3, Employee's First Notice of Accidental Injury and Claim for Compensation, with the Workers' Compensation Court on August 15, 2009. The Form 3 shows Nelson's employer as Pioneer Telephone, 202 East Roberts, Kingfisher, Kingfisher County, Oklahoma, who is insured by Great American Insurance Company. The Form 3 shows injury to her cervical spine with radicular pain into both extremities as a result of slipping on ice on or about January 26, 2009, while employed by Pioneer Telephone.

I reviewed the records from the Krablin Medical Clinic. Dr. Brett Krablin initially examined Nelson on November 24, 2008, for a pinched nerve in neck with right arm tingling and aching. Nelson testified before the Oklahoma Workers' Compensation Court, under oath that this visit originated after she was bucked off a horse. She was treated with a steroid epidural injection. On December 1, 2008, Nelson returned to his office complaining of back pain, spasms, numbness and aches with tingling in both hands. An MRI was prescribed during the office consultation. The records indicated that Nelson did not complete an MRI evaluation until February 2009.

I reviewed emergency room records of Kingfisher Regional Hospital, from November 26, 2008. Nelson self-admitted to the hospital for what she described as pain in right shoulder down to fingertips, numbness from elbow down to fingertips. According to the nurse's progress notes, Dr.

Rob Matson instructed that the case was not an emergency and referred Nelson to follow-up with her primary physician, Dr. Krablin.

January 28, 2009, after a slip and fall at work Nelson again visited Dr. Krablin. During this visit, she complained of pain between shoulders and arm numbness. She continued to see Dr. Krablin for this complaint until he referred her to Dr. Donald McGinnis on April 6, 2009.

I reviewed the transcript of a deposition taken on November 5, 2009, in Oklahoma City, Oklahoma County, Oklahoma in which Nelson was deposed under oath in her workers' compensation case in Oklahoma City, Oklahoma County. On three separate occasions during the deposition she testified that she has not had any prior neck or shoulder injuries.

I reviewed the medical records provided by Stephen Wilson, M.D. located at the Broadway Clinic, 1801 North Broadway Avenue, Oklahoma City, Oklahoma 73103. Dr. Wilson saw Nelson on March 17, 2011, with a referral to complete a Permanent Partial Disability (PPD) evaluation. Prior to the evaluation, Nelson completed the Broadway Clinic Patient Information sheet. Nelson responded to the written question: Are you currently off work due to this injury? If yes, since when? She circled "yes" and wrote: "Nov 2010 I tried to work but entering info I can't do it." On the form, Nelson only reports knee surgery in 2006, she does not disclose any other non-work related injuries. Dr. Wilson wrote in his PPD report, "Ms. Nelson denies any previous work or non-work related injuries to her neck. She has had a tubal ligation, C-section, a cholecystectomy and knee surgery performed." Dr. Wilson also wrote, "Ms. Nelson is a married mother of four children. She is currently unemployed due to the severity of symptoms caused by this work related injury." Dr. Wilson provided a 37% total cervical impairment rating of Ms. Nelson based off the history provided by Nelson, review of medical records, and his examination.

I reviewed medical records provided by Andrew John, M.D., 4323 NW 63rd Street, Suite 105, Oklahoma City, Oklahoma. Dr. John examined Nelson on April 19, 2011, for an evaluation of injuries to the neck, arising out of an accident which occurred on January 26, 2009. During the evaluation, Nelson denied any prior neck problems. Dr. John provided a 10% permanent partial impairment to the whole person. He further explains that an 8% permanent partial impairment to the whole person from injury to the cervical spine from work related accident of January 26, 2009. He attributed the other 2% permanent partial impairment to the whole person from injury to the cervical spine due to pre-existing history of neck injury and right arm tingling prior to her accident.

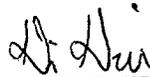
I reviewed the Oklahoma Workers' Compensation transcript of the trial proceeding held on May 10, 2011, in Oklahoma City, Oklahoma County, Oklahoma at the Workers' Compensation Court, in which Nelson gave testimony under oath. After being sworn, Nelson denied having any prior neck injuries or tingling and numbness down her neck and right arm prior to her workers' compensation claim. Nelson also denies on several occasions that she is currently employed.

I have reviewed payroll and time card records from Earnheart Oil, Incorporated, located at 323 East Main Street, Marshall, Oklahoma, 73056. Nelson worked for Earnheart from February 16, 2011, until September 28, 2011. During this employment Nelson received eighteen (18) payroll checks. According to Sandi Musil, Earnheart Oil Manager, Nelson was hired as a store clerk with

duties that included: cashier, stocking shelves, mopping and sweeping. According to the stamped timecard Nelson worked four (4) hours on May 10, 2011, after the court proceeding was held at the Oklahoma Workers' Compensation Court. During this proceeding Nelson denies current employment.

I reviewed payroll records from American Hometown Publishing, located at 113 East Blackwell, Blackwell, Oklahoma, 7463 1. Nelson began employment on March 30, 2010, until her termination on October 7, 2010. While employed at American Hometown Publishing, Nelson received a total of fourteen (14) payroll checks. During her employment her job duties as a full-time sales representative included: calling well-established, new and potential advertisers in and around Logan County, Oklahoma to sell retail, classified and special section advertising. Her duties also included writing and filing tickets, scheduling ads with billing and graphics departments, proofing the ads prior to publication and delivering the printed edition to the advertiser after publication.

Based on the above information, I believe that probable cause exists to show that Kimberly Nelson committed the crime of Workers' Compensation Fraud, in violation of 21 O.S. §1663 (C)(1). Therefore, I request that a warrant issue for her arrest.



David Driscoll, Affiant

COUNTY OF OKLAHOMA)

)

ss.

STATE OF OKLAHOMA)

This affidavit was subscribed and sworn to before me this 17th day of June, 2012, by David Driscoll.

(SEAL)

Angela McAllister
Notary Public

My commission Expires: _____



FINDING OF PROBABLE CAUSE

On the _____, day of _____, 2012, the above captioned case came before me, the undersigned Judge of the District Court of Oklahoma County, Oklahoma, upon the Affidavit of Probable Cause of David Driscoll, Investigator with the Office of Attorney General, requesting that a Warrant of Arrest issue for the within named Defendant, Kimberly Nelson, that she might be arrested and held to answer for the offense Workers' Compensation Fraud. Based upon said Affidavit, I am satisfied and do hereby find that the offense of Workers' Compensation Fraud has been committed, that there is probable cause to believe the within named Defendant has committed said offense and that a Warrant of Arrest should issue.

Dated this _____ day of _____, 2012.

Judge of the District Court