

IN THE FIRST JUDICIAL DISTRICT  
DISTRICT COURT OF LEAVENWORTH COUNTY, KANSAS

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CLERK OF DIST COURT  
2015 AUG 24 PM 12:13

LEAVENWORTH CO. KS  
*JN* *J*

In Re: Request for Affidavit or Sworn  
Testimony...on or after July 01, 2014

Case No. 2015 CR 456

**ORDER ON REQUEST FOR DISCLOSURE  
OF AN AFFIDAVIT OR SWORN TESTIMONY**

Pursuant to K.S.A. 22-2302 and 22-2502

On this 21<sup>st</sup> day of August, 2015, the Court considers the Request for the Affidavit or Sworn Testimony in Support of a Warrant or Summons filed herein.

The Court finds jurisdiction and venue are proper. Notice to parties and those required to receive notice has been given if required by law.

The Court,  having reviewed the proposed redactions, and/or  having reviewed the motion to seal the affidavits or sworn testimony, and/or  having received no proposed redactions or motion to seal from the prosecutor, defendant, or defendant's counsel finds as follows:

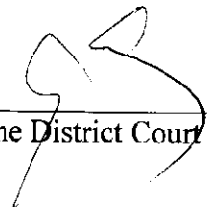
CHOOSE **ONE** OF THE FOLLOWING:

1.  The affidavit(s) or sworn testimony shall be released with the redactions proposed by the prosecutor.
2.  The affidavit(s) or sworn testimony shall be released with the redactions proposed by the defendant or defendant's counsel.
3.  The affidavit(s) or sworn testimony shall be released with the redactions ordered by the court.

4.  The affidavit(s) or sworn testimony shall be sealed and not released.
5.  The affidavit(s) or sworn testimony shall be released without redaction.

**IT IS THEREFORE ORDERED** that the affidavits or sworn testimony be released or sealed as indicated above. The documents have been redacted and are attached.

**IT IS SO ORDERED** this 21<sup>st</sup> day of August 2015.

  
\_\_\_\_\_  
Judge of the District Court

IN THE DISTRICT COURT OF LEAVENWORTH COUNTY, KANSAS

CONFIDENTIAL

Court Case No. \_\_\_\_\_

Agency Case No. 15-2882

PROBABLE CAUSE SUPPORTING AFFIDAVIT

I. Lt. Josh Patzwald, Leavenworth County Sheriff allege and state:  
*Officer Name Agency*

1. The following offense(s) has/have been committed  
K.S.A. 21-5504 (b) (3) (B) Statute Description: Aggravated Criminal Sodomy

2. The following person is alleged to have committed said Offense(s)

Name: Mark Edwin Wisner

Address: Horton KS 66439

SEX:  Male  Female DL OR STATE ID NO: KS

SSN: \_\_\_\_\_ DOB: 1951 HAIR COLOR: Whi EYE COLOR: Blu

ALIAS NAMES USED: N/A

ALIAS SSN USED: N/A ALIAS DOB USED: N/A

3. This affidavit is based on the following facts:

The Leavenworth County Sheriff's Office is working in conjunction with the Department of Veterans Affairs Office of Inspector General to investigate claims regarding Physician's Assistant Mark Wisner utilizing his position as a medical practitioner to commit sexual battery type crimes against multiple patients.

On 05/22/2014, VA OIG Agent Kerry Baker had occasion to interview Wisner.

On 01/23/2015, Agent Baker and I conducted a second interview with Mark Wisner.

On 05/22/2015, VA OIG Agent Kerry Baker interviewed a past patient of Wisner's, K.C.J. K.C.J. provided information, and requested a criminal complaint be filed on his behalf. Agent Baker has provided the Leavenworth County Sheriff's Office with a Statement of Probable Cause document reference this interview, which I have attached.

Based upon information provided to Agent Baker by K.C.J. and information obtained from Wisner during two separate interviews, probable cause exists to support the following statements of fact:

1) Mark Wisner engaged in sodomy with K.C.J.

2) This act of sodomy was committed without the consent of \_\_\_\_\_ at a time when \_\_\_\_\_ was physically powerless to resist.

3) This act occurred on or about the 1<sup>st</sup> day of May, 2014, within Leavenworth County KS.

I declare under penalty of perjury that the foregoing is true and correct. Executed on: 06/03/2015

A handwritten signature in black ink, appearing to be "J. P. ... #410", written over a horizontal line.

Signature of Declarant

**CONFIDENTIAL**

**STATEMENT OF PROBABLE CAUSE**

Date: 05/26/2015

Case Report Number: 2014-3151-IC-77

I, Kerry F. Baker, Special Agent, Department of Veterans Affairs, Office of Inspector General, knowing that false statements on this form are punishable by law, state that the facts contained herein are true.

I have probable cause to believe that on or about May 1, 2014, at 4101 S. 4<sup>th</sup> Street, Leavenworth, Kansas 66048, Mark Edwin WISNER (white male; DOB: [REDACTED] /1951; SS#: xxx-xx- [REDACTED]) committed one or more criminal offense(s).

The facts supporting this belief are as follows:

On 5/15/14, the Department of Veterans Affairs Medical Center (VAMC) Leavenworth, Kansas Police Department contacted VA Office of Inspector General (OIG) Criminal Investigative Division (CID) in Kansas City regarding a possible sexual assault involving Physician's Assistant Mark WISNER.

A patient examined by WISNER on 5/15/14 reported that WISNER's exam of his genitalia exceeded what he believed to be necessary. A witness accompanying the patient to the exam room confirmed the allegations.

[REDACTED]

[REDACTED]

On 5/22/14, Special Agent Ray Vasil and I interviewed VAMC Leavenworth, Kansas, Physician Assistant Mark WISNER at his residence located at [REDACTED] Horton, Kansas. Upon greeting WISNER we presented our current, respective VA OIG credentials. I thoroughly explained that we are criminal investigators investigating criminal allegations. I provided WISNER with a copy of an advisement of his rights as a federal employee as set forth in the Garrity Warning noting that the matter under investigation is "sexual assault / patient abuse." WISNER read and signed the warning. After WISNER indicated his willingness to speak with us about this matter I carefully explained that he could not be forced to speak with us but that if he chose to do so he must be truthful as providing false statements to federal agents can be charged as a federal offense. I further advised WISNER that he could terminate the interview at any time and request legal representation if he so desired. WISNER acknowledged that he

understood everything I had just explained to him and voluntarily provided the following information:

WISNER has been a Physician Assistant (PA) at VAMC Leavenworth since September 2008. In this capacity he is required to administer physical exams for compensation and pension claims and also conducts physicals for new VAMC Leavenworth patients.

As I had recently learned of multiple patient complaints against WISNER, I expressed my concern to WISNER about his exam practices, WISNER responded by explaining that he treats all patients equally regardless of their sexuality. If a patient admitted to being homosexual, WISNER would then ask lifestyle questions. He would offer three condoms to his single patients. He added that he refused to turn in gay soldiers while he was active-duty in the military. He would strongly advise those soldiers to restrict their homosexual behavior to off-post locations.

When asked about alleged inappropriate comments during exams, WISNER admitted that some of his comments could have been misconstrued. He admitted that he may have spoken about tattoos on penises and that he may have made comments about veterans being "studs." WISNER insisted that any such comment would have been made an attempt at humor to put patients at ease. WISNER then added, "I probably did say it." He further stated that "these guys never said no."

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WISNER then confessed that if a veteran patient stated he was gay or if WISNER believed that to be the case, he would in fact "experiment" (fondle the patient's genitals) as long as the patient did not indicate an objection. He thought, based on actions and the nature of their conversation, that these veterans were open to such experimentation. WISNER then admitted that he did touch their genitals more than necessary for the exam in an attempt to satisfy his curiosity. WISNER then opined that it is time for him to discontinue his practice as he has been "letting his guard down" and needs to resolve his personal issues.

WISNER terminated our interview by adding, "If I have to go to prison, I'll deal with that." He was given the opportunity to provide a hand-written, Sworn Statement which he declined. WISNER had nothing further to add to his statement at this time.

On 5/22/15, SA Tim Murgage and I responded to the law office of Attorney [REDACTED] to interview veteran [REDACTED] who began to receive care at VAMC Leavenworth in approximately 2011 with PA Mark E. WISNER serving as his primary care provider.

[REDACTED] had been previously diagnosed, outside VA, with (prostatitis) approximately 20 years ago. He had been receiving treatment outside of VA for the prostatitis but was between outside primary care providers when he saw WISNER for this condition.

On 5/1/14, [REDACTED] went to WISNER regarding complications with his prostatitis. This exam included a genital exam. [REDACTED] noted that WISNER seemed to "linger considerably" during the genital exam and used both of his hands (one on his testicles, one on his penis) at which time WISNER told [REDACTED] "You're a handsome man" making [REDACTED] feel uncomfortable. As [REDACTED] presented with complaints of prostatitis for this particular exam, he believed this must necessitate the extended exam. [REDACTED] noted that even so, this was an unusual exam based on his past multiple exams for prostatitis symptoms.

After the genital exam, WISNER conducted a prostate exam which [REDACTED] called "HIGHLY unusual." [REDACTED] started to bend over the exam table but WISNER explained that this particular position wouldn't work very well so he proceeded to explain in detail precisely how he wanted [REDACTED] positioned. WISNER instructed [REDACTED] to remove his underwear. He explained that he wanted Jones' elbows close together on the exam table with his chin resting on the palms of his hands effectively causing [REDACTED] own hands to become "blinders." WISNER also thoroughly explained exactly how high he wanted [REDACTED] buttocks and instructed [REDACTED] to "bow" his back.

Once in position, [REDACTED] felt what he believed to be WISNER'S finger(s) go in the bottom edge of his rectum and press down. [REDACTED] next felt something else go over the top of the finger and much deeper (than any prostate exam he'd ever had previously) into his anus and push upward and inward. The object remained inside [REDACTED] for approximately

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20-30 seconds. [REDACTED] felt such pain and a great weight (estimated "70, 80, 100 pounds" preventing [REDACTED] from getting up) against him that he collapsed forward onto the exam table. [REDACTED] immediately believed something was wrong but attempted to steady back up onto the exam table thinking that the exam was over.

[REDACTED] then felt a second, much deeper penetration, again for about 20-30 seconds, that he felt up into his stomach. [REDACTED] felt pain and pressure (again an estimated 70-100 pounds) from WISNER'S body against his backside, but couldn't determine WISNER'S body position due to his own body position. The pressure again pushed [REDACTED] forward onto the exam table. Although [REDACTED] did not see the object, he believes that the object was either WISNER'S penis or a dildo. When [REDACTED] steadied himself after the second penetration he felt something leaking out of his anus and noted some type of unknown discharge from his own penis. [REDACTED] asked WISNER, "WHAT THE FUCK WAS THAT?" By this time, WISNER was standing at the sink with his back to [REDACTED] WISNER never answered and instead only looked over his shoulder at [REDACTED] and smiled.

[REDACTED] noted WISNER appeared to be leaning his body against the sink and washing "intently" for a long time but did not appear to be washing his hands. [REDACTED] attempted to move where he could see what WISNER was washing. WISNER then shifted his body to block [REDACTED] view and adjusted his lab coat to further obscure [REDACTED] view. [REDACTED] believed that WISNER may have been washing his genitals in the sink.

After the exam, WISNER escorted [REDACTED] out of the exam room then hurried [REDACTED] away from the waiting area.

[REDACTED] did not observe any subsequent bleeding from his rectum but had severe abdominal pain unlike anything he'd ever experienced from any previous exam. [REDACTED] entertained having a doctor's exam but refrained largely due to embarrassment. He also explained that, rather than have a normal digital rectal exam that consisted of pressure in and down on the prostate, whatever object penetrated his anus did so in an upward motion and felt it went up into his abdominal area.

[REDACTED] stated that there was no chaperone present for these exams with WISNER and noted that he never requested a chaperone. [REDACTED] recalled that WISNER locked the door for the exams. [REDACTED] did not believe WISNER wore gloves for the genital exams but thought that WISNER did wear exam gloves for the prostate exam. [REDACTED] recalled multiple inappropriate comments from WISNER and recalled specifically WISNER telling him, "You're well built. You have strong hips" just before WISNER started the genital exam.

It should be noted that this investigation is ongoing and that additional veterans have been identified and have provided statements alleging sexual misconduct by WISNER.

Printed Name: Kerry F. Baker

Signature: Kerry F. Baker

The Court finds probable cause and directs the issuance of a warrant this \_\_\_\_\_

day of \_\_\_\_\_

\_\_\_\_\_  
Judge

Circuit Court of Leavenworth County, State of Kansas.