

IN THE IOWA DISTRICT COURT FOR LEE COUNTY (SOUTH)

IN RE SEARCH WARRANT FILE NO.)	SWSW000569 and SWSW000570
SWSW000569 and SWSW000570)	
)	
IN RE: CONFIDENTIAL RECORDS OF)	MOTION FOR ORDER DIRECTING
MIDWEST ACADEMY, LLC)	CLERK OF COURT TO PROVIDE
)	DEFENSE COUNSEL WITH COPIES OF
)	SEARCH WARRANT DOCUMENTS

Come now Benjamin G. Trane and Midwest Academy, LLC, by their undersigned counsel, and move this court for an order directing the clerk of court to provide to counsel copies of search warrant documents filed in these causes, including the Search Warrant, the Search Warrant Application, the Affidavit in support of the Search Warrant, and the Return or Returns. In support of this motion, counsel states:

1. Counsel has filed an appearance as attorney of record for Benjamin G. Trane and for Midwest Academy, LLC., in both of the above cases.
2. On January 27, 2016, in connection with SWSW000569, this court issued a search warrant in this cause, a copy of which was filed with the clerk of court and date stamped 9:38 a.m. on January 27, 2016.
3. Prior to the issuance of the search warrant by the court, an application for search warrant was filed in this cause, which application requested that the court issue a warrant for the residence of Benjamin G. Trane, and for the business properties of Midwest Academy.
4. On or about January 28, 2016, law enforcement authorities, acting under authority of the said warrant, conducted a search of the residence of Benjamin G. Trane, and of two business properties of Midwest Academy.
5. On or about February 1, 2016, in connection with SWSW000570, this court issued a search warrant in this cause, a copy of which was filed with the clerk of court and date stamped 2:19 p.m. on February 1, 2016.

6. Prior to the issuance of the search warrant by the court, an application for search warrant was filed in this cause, which application requested that the court issue a warrant for the residence of Benjamin G. Trane, and for the business properties of Midwest Academy.
7. On or about February 1, 2016, law enforcement authorities, acting under authority of the second warrant, conducted an additional search of the residence of Benjamin G. Trane, and/or of two business properties of Midwest Academy.
8. In both files, the Search Warrants, the Search Warrant Applications, and the Affidavits in support, were efiled on EDMS, however, they were coded with a security code that makes them inaccessible to Defense counsel.
9. On or about February 9, 2016, in both SWSW000569 and SWSW000570, the Lee County Attorney, Michael Short, filed a Request to Seal Search Warrants. In the state's application, the County Attorney stated that the search warrants were issued in connection with allegations of "sexual abuse by Ben Trane, the owner and administrator of Midwest Academy."
10. Pursuant to the two search warrants issued in these cases, searches were carried out by law enforcement official from various agencies. Among the many things seized by law enforcement in the searches was a DNA sample from Benjamin G. Trane. In his request to seal, the County Attorney stated that charges are under review at the state and federal level, including "possible charges of Sexual Abuse, Child Pornography, Child Endangerment, Fraudulent Practices, and Ongoing Criminal Conduct."
11. On February 10, 2016, the court issued an order granting, in part, the application or request to seal. The order included the following exception

for attorneys of parties, to-wit: “the Clerk may provide copies of the search warrant documents to the prosecutor and the defense attorneys involved in the criminal prosecution of any person resulting from or concerned with the execution of the warrant.” See page 2 of the February 10, 2016, order of District Associate Judge, Gary R. Noneman.

12. On February 22, 2016, counsel contacted the Lee County Clerk of Court to obtain copies of the search warrant documents, citing the above language from Judge Noneman’s order. The Clerk indicated that, without an order from the Court directing that the Clerk provide the requested copies, no copies would be provided.
13. Iowa Code Section 808.8 requires that all search warrants be executed within ten days from the date of issuance, and that failure to do so shall void the warrant. Section 808.8 further requires that the officer file his return, together with a complete inventory of the property taken. Section 808.13 provides a statutory basis for maintaining the confidentiality of the search warrant application, affidavit, and related documents, BUT ONLY “UNTIL SUCH TIME AS A PEACE OFFICER HAS EXECUTED THE WARRANT AND HAS MADE RETURN THEREON.” Given that the warrants were executed on or about January 28th and February 1st, and that more than ten days have passes since that time, there is no legal basis for withholding from the those persons and legal entities whose property was searched, the search warrant documentation requested.

Wherefore, counsel prays that the court enter an order directing that the Clerk of Court provide to counsel a copy of the Search Warrant, the Search Warrant Application, the Search Warrant Affidavit or Affidavits, and any return filed in this cause.

George B. Jones

GEORGE B. JONES—AT0003969

ATTORNEY FOR MIDWEST ACADEMY, LLC, AND BENJAMIN G. TRANE

LAMONI OFFICE:

P.O. Box 36, 117 S. LINDEN STREET

LAMONI, IA 50140

TEL: 641.784.6970 FAX: 641.784.6969

LAMONILAWYER@GMAIL.COM

SERVICE BY E-FILING PURSUANT TO SUPREME COURT RULE 16 ON THIS 22ND DAY OF FEBRUARY 2016.