

State of Minnesota
County of Ramsey

District Court
2nd Judicial District

Prosecutor File No. 0620441043
Court File No. 62-CR-21-2740

State of Minnesota,

Plaintiff,

vs.

NICHOLAS JAMES FIRKUS DOB: 02/25/1983

5045 Red Oak Dr.
Mounds View, MN 55112

Defendant.

COMPLAINT

Warrant

The Complainant submits this complaint to the Court and states that there is probable cause to believe Defendant committed the following offense(s):

COUNT I

Charge: Murder - 2nd Degree - With Intent-Not Premeditated

Minnesota Statute: 609.19.1(1)

Maximum Sentence: 40 years

Offense Level: Felony

Offense Date (on or about): 04/25/2010

Control #(ICR#): 10084919

Charge Description: On or about April 25, 2010, in the County of Ramsey, Minnesota, Nicholas James Firkus did cause the death of Heidi Firkus with intent to effect the death of Heidi Firkus.

STATEMENT OF PROBABLE CAUSE

The 911 calls

On Sunday April 25, 2010 at 6:31:54 AM, 911 dispatch received two hang-up calls from cellphone number 651-494-4876, a cell phone registered to Heidi Firkus (DOB: 12/14/1984). At 6:32:12 AM, Heidi Firkus called 911 and spoke with the 911 operator. In this call, Heidi said that someone was trying to break into her house. This house was located at 17XX Minnehaha Avenue West, St. Paul, Ramsey County, State of Minnesota. Thirty-eight seconds into the call, as Heidi was giving dispatch her address, a noise similar to a gunshot was heard, Heidi stopped speaking, and the call went dead. Before the gunshot, there is no significant background noise on the call, nor does Heidi say anything that would suggest that an intruder had actually entered the home. 911 dispatch twice tried to call Heidi's phone back, but the calls went to voicemail.

At 6:33:47 AM, **NICHOLAS FIRKUS (DOB: 2/25/1983)** called 911 on Heidi's phone. He was highly emotional. He said that someone had broken into their home and that he and Heidi had been shot while trying to run out the back to the garage. Near the end of the almost-seven-minute call, police can be heard entering the house.

Police arrive

When police entered, they noted that the front door was open approximately one inch, and there was a smell of gunpowder in the air. Heidi Firkus was lying on her back in the kitchen with her feet towards the front door (later measured to be about 14.6 feet from the front door). There was blood on Heidi's hair and face, and she was unresponsive. NICHOLAS FIRKUS was next to her talking on the phone to the 911 operator. He was highly emotional, and he had an apparent gunshot wound to his upper left leg. There was a shotgun on the floor near the front door, and there was damage to the bottom part of the interior of the door from shotgun pellets. NICHOLAS FIRKUS was removed from the house and taken to an ambulance for medical care. Heidi was pronounced dead at the scene.

Initial statement

Before being transported to the hospital, NICHOLAS FIRKUS told police at the scene that one or possibly two people broke into his house. He said that he got his shotgun and that he and his wife were trying to run out the back door to the detached garage to escape. He said that as they were running to the garage, he turned around and the suspect was able to take the shotgun from him and shoot him and his wife. When asked whether the suspect was black or white, NICHOLAS FIRKUS said that he didn't know. He said that the suspect was wearing a hood.

The scene

The front door was equipped with both a deadbolt lock and a lower lock. There were tool marks in the door jamb by the lower lock but none by the deadbolt. There was a pair of jeans between the shotgun and the kitchen. There was a table just inside the door. This table contained several items, including a beer bottle, a water bottle, and a receipt. None of the items appeared disturbed.

NICHOLAS FIRKUS' gunshot wound

Medics transported NICHOLAS FIRKUS to the hospital, where he was treated for the gunshot wound. The

wound was a through-and-through gunshot wound to his upper left thigh, and there was no evidence of any significant bleeding or injury other than local soft tissue injury. Medical records noted that he was hysterical throughout the exam and crying loudly. He was treated and released after about three hours.

Interview at the hospital

While at the hospital, NICHOLAS FIRKUS was interviewed by police. He said that he got up to get a glass of water from the bathroom and that he heard someone fiddling at the front door. He said that he woke up Heidi and told her to call the police and that he grabbed his shotgun out of the closet. He said that they called the police from the closet. He said that they then decided to run to the garage. He said that when they got to the bottom of the stairs, the door opened, he got grabbed, and then Heidi was shot. He said that he recalled yelling at Heidi to give dispatch their address. He described the intruder as a guy in a hooded sweatshirt, pulled low, maybe wearing sunglasses, maybe black, and wearing gloves. He said that he never saw a tool in this person's hand. He said that he tried to push this person away, that he started to stumble, and that is when the gun went off and Heidi fell down.

Interview at the police station

NICHOLAS FIRKUS was interviewed again after he was released from the hospital. He reviewed events of the previous day. He said that the night before the shooting he and Heidi watched a movie and that they each had a glass of wine. He said that he went to bed around midnight and that he woke up ten or fifteen minutes after 6:00 AM and he heard the screen door open and fiddling with the doorknob. When asked whether he had set the deadbolt, he said that he and Heidi are "usually pretty religious" about locking the deadbolt but that he thought that he forgot to lock the deadbolt that night. He said that he grabbed his shotgun out of the upstairs closet. He said that he brought the shotgun up from the basement about a month earlier because the moisture in the basement was causing the gun to rust. He said the shotgun was unloaded and that he loaded the shotgun when he heard the noises with the door downstairs. He said that he woke Heidi up and told her to try to leave the house and head for the garage where their cars are parked. He said that this was a safety plan that he and Heidi had decided upon previously if they ever had trouble. He said that he is right handed and that he grabbed his jeans in his right hand and was carrying the shotgun in his left hand and that he was walking behind Heidi to try to move her along. He said that Heidi stopped next to the front door to grab her wallet, which was on the table next to the front door. He said that it was at this moment that the door opened and there was a black guy around 6'1" or 6'2" with a dark hooded sweatshirt with the hood drawn tight around his face. He said that he dropped his jeans, the guy grabbed the barrel of the shotgun, they wrestled, and that his finger slipped onto the trigger and it went off. He said that the gunshot hit Heidi and that she went straight down. He said that he and the suspect struggled over the shotgun and that the gun went off a second time, hitting him (NICHOLAS FIRKUS) in the leg. He said that he fell down and that the guy took off through the front door. He said that he went over to Heidi and rolled her over and that she was limp. NICHOLAS FIRKUS told police that they were being foreclosed on and that they were going to tell their parents and friends that day and were also planning to move later that day.

NICHOLAS FIRKUS also said that he and Heidi were behind on their bills, that their house had been foreclosed on, and that they had to be out of the house the next day. He said that they hadn't told any of their friends or family about the foreclosure or their need to be out of their house. He said that they had planned to pack up their house on Sunday and Monday morning, put some of their belongings in the garage to get later, and find someone to stay with. He also said that there had been fraud on their bank account. He said that Heidi went shopping at the Mall of America the day before, but that she was on a tight budget and that he gave her \$30 to \$40 in cash to spend.

The Autopsy

An autopsy revealed that Heidi Firkus received one shotgun wound to the back and that there was no exit wound. The shotgun pellets perforated her posterior/lateral vertebral column, left ribs, left lung, and anterior ribs. The wound tract went from back to front and from right to left. The medical examiner determined that the cause of death was a shotgun wound to the back and that the manner of death was homicide.

The foreclosure

NICHOLAS FIRKUS and Heidi Firkus purchased their home in August 2007 for \$215,000, using two mortgages. The monthly payment on the primary mortgage was about \$1,300, and the monthly payment on the second mortgage was about \$250. The last time they made any payment on either mortgage was September 22, 2008. On April 30, 2009, NICHOLAS FIRKUS was personally served with foreclosure documents, and on June 4, 2009, the house was sold at a Sheriff's auction. On January 29, 2010, a representative from the law firm handling the foreclosure contacted NICHOLAS FIRKUS by telephone and offered him \$4,000 in cash if they vacated the house by February 18, 2010, or \$2,500 in cash if they vacate by March 20, 2010. NICHOLAS FIRKUS never accepted either offer.

Eviction proceedings were filed on February 12, 2010, and an eviction hearing was held on March 8, 2010. NICHOLAS FIRKUS attended this hearing alone, Heidi was not present. Police located the foreclosure documents inside NICHOLAS FIRKUS's vehicle. NICHOLAS FIRKUS signed an agreement to vacate the house by March 22, 2010. When the Firkuses had not vacated by that date, the law firm sent NICHOLAS FIRKUS a letter setting a lockout date of April 9, 2010. On April 6, 2010, NICHOLAS FIRKUS contacted the law firm and said that his grandmother was in hospice, that her death was imminent, and that he needed a couple extra weeks to vacate the house. The law firm agreed and rescheduled the lockout for noon on Monday, April 26, 2010. There is no evidence that either of NICHOLAS FIRKUS' grandmothers were in hospice or died in 2010; both of them lived through the entire calendar year of 2010.

Other financial troubles

In addition to the foreclosed home, the Firkuses' US Bank Account was overdrawn by \$434.93 and was closed by the bank on January 8, 2010, and the Firkuses owed US Bank \$1,736.31 at the time of Heidi's death. In addition, the Firkuses owed \$17,381.66 on an REI credit card. A review of credit card charges from 2008-2009 show that NICHOLAS FIRKUS made 2.4 times more charges to the credit cards than Heidi.

Investigators spoke with Heidi and NICHOLAS FIRKUS' insurance agent, who is also a longtime friend of Heidi's parents. The agent said that Heidi's car insurance policy was always promptly paid up to the date that she married NICHOLAS FIRKUS. The agent said that after her marriage, he communicated with NICHOLAS FIRKUS regarding all insurance matters, including renters, vehicle, and homeowners' insurance. The agent said that the insurance company cancelled the Firkuses' homeowner's insurance policy when the foreclosure occurred and that he sent NICHOLAS FIRKUS a cancellation notice. The agent said that he also spoke with NICHOLAS FIRKUS on the phone about the cancellation and that NICHOLAS FIRKUS told him that the foreclosure occurred because a teller at the bank was stealing his paychecks. The agent said that he didn't believe this story and that he explained to NICHOLAS FIRKUS that foreclosure involves a long process. The agent said that he didn't press NICHOLAS FIRKUS about this because he assumed that NICHOLAS FIRKUS was embarrassed. The agent said that he also received a cancellation notice for the insurance on Heidi and NICHOLAS FIRKUS' vehicles but that he merely sent a letter and never followed up with a conversation and assumed that they had switched insurance agents.

Trip to Hawaii

On February 12, 2010, the same day that eviction proceedings were filed against them, Heidi and NICHOLAS FIRKUS left for a five-day trip to Hawaii. They spent \$3,535.39 on the trip (one ticket, worth \$752.70, was paid for by NICHOLAS FIRKUS' father.)

Visit to the Calhoun Beach Club

On March 10, 2010, Heidi and NICHOLAS FIRKUS visited the Calhoun Beach Club and toured two apartments with monthly rent of \$1,454 and \$2,200. The agent from the club recalled talking to Heidi about her desire to sell her house and move into the city. By this time, the Firkuses' house had already been foreclosed on and sold at auction, so they had no house to sell.

Stories of fraud on their bank account

In emails from March and April 2010, Heidi repeatedly asked NICHOLAS FIRKUS to handle and respond to creditor phone calls that she was receiving. NICHOLAS FIRKUS would respond by assuring Heidi that he was taking care of it and telling her that he was in contact with US Bank regarding an audit involving some fraud with their account. NICHOLAS FIRKUS assured Heidi that their credit scores were good. There was no evidence that US Bank conducted any such audit or that there was any fraud related to the Firkuses' account.

The evidence shows that Heidi didn't know about the foreclosure or lockout

Investigators have reviewed the text messages and emails sent to and from Heidi and NICHOLAS FIRKUS' cell phones and email accounts. There is not a single message that references foreclosure or eviction proceedings or gives any indication that they would need to move out of their house imminently. On the contrary, on March 11, 2010, Heidi sent an email to a friend saying, "Wish we weren't tied down to our house so we could move somewhere fun." The law firm handling the foreclosure and eviction has no documentation signed by Heidi, and their representatives never had any contact with Heidi, all their contacts were with NICHOLAS FIRKUS. Investigators have spoken with Heidi's family, friends, and co-workers, and not one person said that Heidi ever said anything about foreclosure, eviction, or needing a place to stay or store their belongings.

Photographs and a video taken inside the Firkus home after Heidi's death show that, despite having to be out of the house the next day, absolutely no packing had been done. Also, Heidi was scheduled to work on Monday, April 26; she did not request the day off. On Thursday, April 22, 2010, Heidi exchanged text messages with a friend making plans to get a pedicure in the afternoon on Sunday, April 25. In this exchange, Heidi was given the option of doing the pedicure on Sunday or the following Wednesday, and Heidi chose Sunday. Heidi also suggested that they all go to church together that Sunday morning.

In April 2010, Heidi emailed NICHOLAS FIRKUS multiple times regarding scheduling a meeting with J.S., who was the realtor who helped them buy their house and also a friend from church. NICHOLAS FIRKUS responded by saying that he had been in contact with J.S. On April 23, 2010, Heidi sent NICHOLAS FIRKUS an email asking whether he had heard from J.S. NICHOLAS FIRKUS responded, "[J.S.] said that he's ready to meet when we are, I told him Monday should be good." Police interviewed J.S., who said that he had not spoken to NICHOLAS FIRKUS in over a year and that there was no meeting scheduled for "Monday."

Investigators confirmed that Heidi went shopping at the Mall of America with a friend on Saturday, April 24,

2010. Receipts show that she spent \$218.46. The friend told investigators that Heidi did not appear upset or nervous about finances and was looking for a dress for a friend's wedding in the fall.

Forensics

Investigators tested swabs from the gun for DNA but found no unidentified DNA profiles. DNA swabs from the entry door contained insufficient genetic information. Given where Heidi was shot, the trajectory of that shot, if extended back to just inside the front door, would require the shotgun to be near the table inside the door. If the incident happened as NICHOLAS FIRKUS described, the intruder would have been between the shotgun and the table. This would have put the intruder very near and probably in contact with the table. Despite this, nothing on the table was knocked over or apparently disturbed. Furthermore, no struggle is heard in Heidi's 911 call, nor does Heidi say anything that suggests that an intruder had successfully gained entry into the house. Yet, one can hear police arrive in the background of NICHOLAS FIRKUS' 911 call.

Email from April 23, 2010

On Friday, April 23, 2010, Heidi forwarded NICHOLAS FIRKUS an email from a friend regarding plans for Heidi and NICHOLAS FIRKUS to get together with a group of friends that night at Osaka's restaurant. NICHOLAS FIRKUS responded, "Oh, I'm ok with that as long as I can have you to myself tomorrow night."

NOTICE: Pursuant to Minnesota Statute 609.49, subd. 1 (a) A person charged with or convicted of a felony and released from custody, with or without bail or recognizance, who intentionally fails to appear when required after having been notified that a failure to appear for a court appearance is a criminal offense, or after having been released on an order or condition that the release personally appear when required with respect to the charge or conviction, is guilty of a crime for failure to appear and may be sentenced to not more than one-half of the maximum term of imprisonment or fine, or both, provided for the underlying crime for which the person failed to appear, but this maximum sentence shall, in no case, be less than a term of imprisonment of one year and one day or a fine of \$1,500, or both.

SIGNATURES AND APPROVALS

Complainant requests that Defendant, subject to bail or conditions of release, be:
(1) arrested or that other lawful steps be taken to obtain Defendant's appearance in court; or
(2) detained, if already in custody, pending further proceedings; and that said Defendant otherwise be dealt with according to law.

Complainant declares under penalty of perjury that everything stated in this document is true and correct. Minn. Stat. § 358.116; Minn. R. Crim. P. 2.01, subds. 1, 2.

Complainant

Nichole Sipes
Sergeant
367 Grove St
St Paul, MN 55101
Badge: 153

Electronically Signed:
05/17/2021 01:08 PM
Ramsey County, Minnesota

Being authorized to prosecute the offenses charged, I approve this complaint.

Prosecuting Attorney

Elizabeth Lamin
345 Wabasha Street N
Suite 120
St Paul, MN 55102
(651) 266-3222

Electronically Signed:
05/17/2021 01:04 PM

FINDING OF PROBABLE CAUSE

From the above sworn facts, and any supporting affidavits or supplemental sworn testimony, I, the Issuing Officer, have determined that probable cause exists to support, subject to bail or conditions of release where applicable, Defendant's arrest or other lawful steps be taken to obtain Defendant's appearance in court, or Defendant's detention, if already in custody, pending further proceedings. Defendant is therefore charged with the above-stated offense(s).

☐ SUMMONS

THEREFORE YOU, THE DEFENDANT, ARE SUMMONED to appear as directed in the Notice of Hearing before the above-named court to answer this complaint.

IF YOU FAIL TO APPEAR in response to this SUMMONS, a WARRANT FOR YOUR ARREST shall be issued.

☒ WARRANT

To the Sheriff of the above-named county; or other person authorized to execute this warrant: I order, in the name of the State of Minnesota, that the Defendant be apprehended and arrested without delay and brought promptly before the court (if in session), and if not, before a Judge or Judicial Officer of such court without unnecessary delay, and in any event not later than 36 hours after the arrest or as soon as such Judge or Judicial Officer is available to be dealt with according to law.

☐ *Execute in MN Only*

☒ *Execute Nationwide*

☐ *Execute in Border States*

☐ ORDER OF DETENTION

Since the Defendant is already in custody, I order, subject to bail or conditions of release, that the Defendant continue to be detained pending further proceedings.

Bail: \$3,000,000.00

Conditions of Release:

This complaint, duly subscribed and sworn to or signed under penalty of perjury, is issued by the undersigned Judicial Officer as of the following date: May 17, 2021.

Judicial Officer

David C Brown
Judge of District Court

Electronically Signed: 05/17/2021 03:19 PM

Sworn testimony has been given before the Judicial Officer by the following witnesses:

COUNTY OF RAMSEY
STATE OF MINNESOTA

State of Minnesota

Plaintiff

vs.

Nicholas James Firkus

Defendant

LAW ENFORCEMENT OFFICER RETURN OF SERVICE
I hereby Certify and Return that I have served a copy of this Warrant upon the Defendant herein named.

Signature of Authorized Service Agent:

DEFENDANT FACT SHEET

Name: Nicholas James Firkus
DOB: 02/25/1983
Address: 5045 Red Oak Dr.
Mounds View, MN 55112

Alias Names/DOB:

SID:

Height:

Weight: 0lbs.

Eye Color:

Hair Color:

Gender:

Race:

Fingerprints Required per Statute: Yes

Fingerprint match to Criminal History Record: No

Driver's License #:

Alcohol Concentration:

STATUTE AND OFFENSE GRID

Cnt Nbr	Statute Type	Offense Date(s)	Statute Nbrs and Descriptions	Offense Level	MOC	GOC	Controlling Agencies	Case Numbers
1	Charge	4/25/2010	609.19.1(1) Murder - 2nd Degree - With Intent-Not Premeditated	Felony	H2811	N	MN0620900	10084919