COMMONWEALTH OF MASSACHUSETTS

SUFFOLK, ss.

SUPREME JUDICIAL COURT
NO. _____

(Newton District Court Dkt. No. 0912SW03)

IN RE MATTER OF SEARCH WARRANT EXECUTED ON MARCH 30, 2009 AT THE RESIDENCE OF MOVANT RICCARDO CALIXTE

RICCARDO CALIXTE'S EXPEDITED APPLICATION FOR LEAVE TO APPEAL THE DENIAL OF HIS MOTION FOR EMERGENCY RELIEF TO QUASH THE WARRANT AND FOR RETURN OF PROPERTY

I. INTRODUCTION AND BASIS FOR JURISDICTION

On March 30, 2009, Boston College Police seized and have since retained and continue to search computer science student Riccardo Calixte's computers, cell phone, and other property. Officers originally sought the warrant authorizing the search in connection with the investigation of emails sent to Boston College students asserting that a fellow student (Mr. Calixte's former roommate) was gay, but the district court correctly (in response to Mr. Calixte's post-search motion to quash) ruled that sending such emails could not constitute the crimes alleged in the search warrant affidavit. However, based on other ancillary, vague, conclusory, and stale accusations, the district court improperly denied the motion, allowing the search to continue. Because the application does not establish probable cause that a crime has been committed, the district court should have ordered law enforcement to stop searching Mr. Calixte's computers and to return his property forthwith.

Accordingly, and pursuant to Mass. R. Crim. P. 15(a)(2), Mr. Calixte respectfully seeks leave to appeal the district court's denial of his motion to quash the unconstitutional search warrant for lack of probable cause, lack of nexus, and overbreadth. *See, e.g. Matter of Lavigne*, 418 Mass. 831, 834 (1994) ("[L]eave to appeal from the allowance or denial of such a request for a search should be sought as in the case of a denial or grant of a motion to suppress evidence.").

Mr. Calixte is suffering irreparable harm to his constitutional rights as a result of the district court's failure to grant relief and stop the ongoing illegal retention and search of his information and property. Without his computer or data, Mr. Calixte can complete his computer science coursework only with great difficulty. Without a cell phone, it is hard for him to stay in touch with friends and family. Without his belongings, he cannot lead a normal college-student life.

Because of the significant and ongoing violations of Mr. Calixte's constitutional rights, Mr. Calixte respectfully asks that this Court grant leave to appeal the district court's order denying Mr. Calixte's motion to quash the search warrant. Mr. Calixte further requests that a single justice hear the appeal (as per Mass. R. Crim. P. 15(a)(2)) and, because of the ongoing constitutional injury, that the appeal be heard on an expedited basis with an abbreviated briefing schedule.

II. STATEMENT OF FACTS

Any and all facts underlying a finding of probable cause for issuance of a search warrant must be drawn from the "four corners" of the affidavit submitted in support of the warrant. *See Commonwealth v. Chongarlides*, 52 Mass. App. Ct. 366, 370 (2001). The allegations contained in the search warrant affidavit submitted by Boston College Police Department Detective Kevin M. Christopher (attached as Exhibit A to the Declaration of Adam Kessel ("Kessel Decl.")) are as follows:

On January 27, 2009, a Boston College police officer filed a report regarding two roommates who were having "domestic issues." The complaining student was identified by name, and the other student was identified as applicant Riccardo F. Calixte, a computer science student at Boston College ("BC") working part-time in BC's information technology department.

The complaining student (now Mr. Calixte's ex-roommate) made multiple cursory and conclusory allegations regarding Mr Calixte.

- The complaining student alleged that he saw Mr. Calixte "hack into the B.C. grading system that is used by professors to change grades for students." The affidavit gives no information about when or where the incident took place, on what computer, which student's grades were altered, how or why this activity took place, nor any indication officers conducted any investigation of the claim. No corroborating information was submitted. For example, the affidavit presents no evidence from any Boston College information technology representative that any such "hacking" incident ever took place on its network; no statement from any university representative that any professor's grades were ever changed; no mention of log files or an audit trail from computers used for grading that would demonstrate any unauthorized access.

- According to the complaining student, Mr. Calixte supposedly "'fixed' computers so that they cannot be scanned by any system for detection of illegal downloads and illegal internet use," although the complaining student did not say that he had observed any such activity in this regard. (Nor does the affidavit make any attempt to explain how such "fixing" could itself be illegal.)

- The complaining student stated that Mr. Calixte "jail breaks"[1] cell phones "so that the phones can be used on networks other than they are meant for." Such a phone modification is not illegal. See 37 CFR Part 201 (November 27, 2006) (Order of Librarian of Congress granting exemption through October 27, 2009 under Digital Millennium Copyright Act authorizing handset modification for use on a different network.) Furthermore, the complaining student did not contend that he had personally witnessed such activity, or that he had personal knowledge as to whether or not the phones he is referring to were stolen. Nor does he state when or where such "jailbreaking" occurred.

- According to the complaining student, Mr. Calixte had purportedly downloaded software, movies, and music for free, allegedly "against the licensing agreement." The affidavit provides no basis for this accusation.

- The complaining student accused Mr. Calixte of somehow causing his computer to "crash," though according to the affidavit, several experts looked at the machine and none of them could resolve the problem.

[1] "Jailbreak" is commonly used to mean modifying a phone to install applications or other software, not for changing carriers. "Unlock" is the common term for modifying a phone to change carriers. The mistake suggests that the student is merely reporting something he heard rather than saw or understood.

- The complaining student also said that Mr. Calixte "has personally implicated himself in illegal activity to [the complaining student] on previous occasions." No details are found in the affidavit.

- The complaining student said that Mr. Calixte had a "reputation as a computer 'hacker,'", used nicknames to log on to the Boston College network, and used two separate operating systems, including the "regular" Boston College operating system and one with a black screen and white font, accessed by prompt commands. None of this activity is illegal or suspicious.

(*See* Kessel Decl. Ex. A at 4-5.)

The police declined to seek a search warrant at the time these allegations were made in late January. The roommate issues were "addressed by Residential Life staff,"; no other formal action was taken. (*See* Kessel Decl. Ex. A at 4.)

In early March, the complaining student was the subject of an anonymous mass email to the Boston College community in which he was reported to be gay and coming out of the closet. A profile from a gay-oriented website ("adam4adam.com") including a photograph of the student was attached to the emails. The emails were sent from Google's gmail service and from Yahoo! mail to a Boston College email list (or "list server"). The student reportedly suffered stress due to these emails, so a non-police school administrator asked Boston College Director of Security David Escalante to try to determine the source of the emails. Mr. Escalante advised Detective Christopher that he had traced the emails back to Calixte.[2]

On March 30, 2009, under the theory that the activities described above constituted crimes under M.G.L. ch. 266 §§ 33A and 120F, Detective Christopher applied for the search warrant at issue in this Application. The warrant issued, authorizing the search of applicant

2 For purposes of this Application it is immaterial whether this is indeed what Mr. Escalante said, how Mr. Escalante reached this conclusion, or if there was reason to believe he was correct. Sending such emails, as the district court determined, is not a criminal offense. Therefore, at this time Mr. Calixte does not challenge the veracity of Mr. Escalante's conclusion or the investigative activities underlying it, but does not waive his right to challenge the technical deficiencies and errors in Mr. Escalante's conclusions and submit evidence showing that he did not send the emails if he is ever charged with an offense.

Riccardo Calixte's dormitory room at Gabelli Hall in Boston College and the seizure of, *inter alia,* "all objects capable of storing digital data in any form." (Kessel Decl. Ex. B.) Christopher and other Boston College officers executed the search warrant and seized, among other things, Mr. Calixte's cell phone, his iPod, his camera, computers, disks, and a "post-it" note on which Calixte was in the process of taking notes about the officers' actions during the search. (Kessel Decl. Ex. C.) On April 10, 2009, Mr. Calixte filed a Motion for Emergency Relief to Quash the Warrant and for Return of Property.

III. PROCEDURAL HISTORY

On April 21, 2009, First Justice Dyanne J. Klein of the Newton District Court heard the motion. Justice Klein issued a written order on April 22, 2009, denying Mr. Calixte's motion. The district court agreed with Mr. Calixte that no probable cause existed to conclude that a crime had been committed on the basis of the allegation that Mr. Calixte "sent an email over the Boston College network 'outing' [Mr. Calixte's former roommate]." Order at 2. According to the court, "that activity would not in itself appear to constitute a violation of either M.G.L. ch. 266 §§ 33A or 120F." *Id.*

However, the court held that the assertion by Mr. Calixte's disgruntled former roommate that he had observed "Mr. Calixte … gaining unauthorized access to the Boston College computer system to change grades for students" established probable cause of a violation of M.G.L. ch. 266 § 120F. *Id.* The court further held that the roommate's "reporting of Calixte's illegal downloads and illegal internet use (with his own as well as other students' computers and cell phones) could result in criminal charges in violation of M.G.L. ch. 266 § 33A." *Id.* The motion was therefore denied.

IV. ARGUMENT

A. Allowing this Appeal Facilitates the Administration of Justice by Providing a Vehicle for the Immediate Correction of an Ongoing, Irreparable, and Improper Deprivation of Mr. Calixte's Constitutional Rights.

Every day that Mr. Calixte's property is in the hands of officers, he suffers irreparable harm to his property interests, privacy, and constitutional rights. *See Wright & Miller*, 11 Federal Practice & Procedure § 2948 ("When an alleged deprivation of a constitutional right is involved, most courts hold that no further showing of irreparable injury is necessary."). He has been suspended from his employment, his computer on which he normally completes his computer science assignments remains in police possession, and his cell phone has been taken away. His private communications and papers are in the hands of officers who, without just cause, continue to search for evidence of unspecified offenses.

Appellate review greatly facilitates the administration of justice, as it is the only rapid vehicle for expeditiously correcting an ongoing unconstitutional deprivation of property and privacy, and by restoring to Mr. Calixte the means by which he may complete his coursework, communicate with the outside world, and perhaps once again earn a living.

B. The Ex-Roommate's Unsubstantiated Assertions of Grade Hacking and Illegal Downloads Do Not Establish Probable Cause.

A search warrant may issue only on a showing of probable cause. *Commonwealth v. Byfield*, 413 Mass. 426, 428 (1992). An affidavit supporting a search warrant must contain sufficient information for an issuing magistrate to determine that the items sought are related to the criminal activity under investigation, and that the items reasonably may be expected to be located in the place to be searched at the time the warrant issues. *Commonwealth v. Rodriguez*, 49 Mass. App. Ct. 664, 667 (2000). An inference drawn from the affidavit, "if not forbidden by some rule of law, need only be reasonable and possible; it need not be necessary or inescapable."

Commonwealth v. Beckett, 373 Mass. 329, 341 (1977). On the other hand, "[s]trong reason to suspect is not adequate." *Commonwealth v. Upton*, 394 Mass. 363, 375 (1985). It is axiomatic that the affidavit supporting a search warrant must establish probable cause that a crime has been committed. *Commonwealth v. Wade*, 64 Mass. App. Ct. 648, 651 (2005) (magistrate must have a substantial basis to conclude that a crime had been committed). This constitutional standard has not remotely been met here.

The district court improperly found probable cause to support the issuance of the search warrant to search Mr. Calixte's apartment based solely on the unsupported allegations that Mr. Calixte (1) "gain[ed] unauthorized access to the Boston College computer system to change grades for students" and thereby violated M.G.L. ch. 266 § 120F, and (2) possessed "illegal downloads" and engaged in unnamed "illegal internet use" and thereby violated M.G.L. ch. 266 § 33A.

These findings were improper and must therefore be overturned.

1. A Magistrate Cannot Reasonably Infer from the Warrant Application that Mr. Calixte Defrauded a Commercial Computer Service.

The district court erroneously held that the complaining student's assertions in January of 2009 that Mr. Calixte possessed "illegal downloads" and engaged in unnamed "illegal internet use" established probable cause that he defrauded a commercial computer service in violation of M.G.L. ch. 266 § 33A. None of the acts alleged, alone or in concert, could violate section 33A.

To establish a violation of section 33A, the government must show that, through fraud or misrepresentation, someone obtains a "computer service" from a "commercial" provider who offers that service on a "subscription or other basis for monetary consideration." M.G.L. ch. 266 § 33A. The sole statement in affidavit on the topic of "illegal downloads" is threadbare. The affiant states only that on January 28, 2009, the complaining student "also advised me that Mr.

Calixte has a cache of approximately 200+ illegally downloaded movies as well as music from the internet." This assertion does not identify or imply a "commercial provider," a "computer service," or a "fraud or misrepresentation" which are all required in order for a violation of section 33A to have occurred. Nor are there any other assertions of unspecified "illegal internet use" from which a magistrate could infer that a subscription-based or other pay-to-use computer service was defrauded. Order at p. 2.

2. The Warrant Application Lacks Specific Facts from Which a Magistrate Could Infer that Mr. Calixte Changed Grades.

Furthermore, there is no factual basis for finding probable cause that Mr. Calixte changed grades. The affidavit reports only the mere accusation the ex-roommate made in late January that he "has observed Mr. Calixte hack into the B.C. grading system that is used by professors to change grades for students." This statement gives no "what, where, when, why or how." The affidavit does not identify the date when the grade changing allegedly occurred, what computer was used to perform the feat, who was supposedly present or what student was the beneficiary of this act. These are things the complaining student surely would have known if he had actually seen such a "hack" take place.

Moreover, in the two months between the time of this baseless assertion and the issuance of the warrant, officers did no follow up whatsoever. They did not, for example, ask for the computer records or an audit trail from the Boston College computer system used for grading to see if someone had in fact gained unauthorized access. They did not ask professors to review their records to see if they noticed any disparity between grades they gave and grades in the computer system. Nor did they identify or interview any students who allegedly had their grades changed. These are investigative steps that an officer surely would have and should have conducted if he credited the reporting witness and was serious about investigating this claim.

3. The Search Warrant Affidavit Fails to Establish Mr. Calixte's Ex-Roommate's Reliability or Basis of Knowledge.

A magistrate does not have probable cause to conclude on the basis of the information in the application that the complaining student actually saw Mr. Calixte change someone's grades. For a warrant to issue based on information that comes from an informant, the affidavit must establish both the informant's basis of knowledge and his reliability. *Commonwealth v. Upton*, 394 Mass. 363, 374-75 (1985). Here, the complaining student says he was a witness to grade changing, but the utter lack of detail demonstrates that the student has no basis for the claim and is not reliable. The student's naked allegation does not establish probable cause, especially when coupled with the fact that he plainly had personal animus against Mr. Calixte.

a. Basis of Knowledge

In cases assessing an informant's basis of knowledge, courts look to the level of detail to determine whether to credit the statements. Lack of quality detail that can be corroborated by law enforcement investigation suggests that the informant actually was not a percipient witness to illegal activity and thus has no basis of knowledge for his claims.

Here, the lack of detail alone in the application precludes a finding of probable cause. In *Commonwealth v. Alvarez*, 422 Mass. 198, 207 (1996), for example, the promptness of the information, the specificity of the observations, and the particularity of the detail as to location permitted the inference that the informant saw the drugs at the precise place stated or saw them being carried into the apartment. In *Commonwealth v. Atchue*, 393 Mass. 343, 348 (1984), the informant claimed first-hand knowledge and gave specific descriptions of weapons he said were kept in a particular storage locker. In contrast, in *Commonwealth v. Kaufman*, 381 Mass. 301, 302-03 (1980), one informant reported that the defendant was dealing large quantities of

marijuana and cocaine in the Amherst area. The other informant said that the defendant was selling marijuana and cocaine, and used a particular alias. The informants' accounts were barren of elements that could lend themselves to impressive corroboration. Rather, the statements "lacked detail, either as to its content or the process by which the content was obtained, that could raise it above the level of a casual rumor or a mere reflection of the reputation of the supposed actor." *Id., citing Spinelli v. United States*, 393 U.S. 410 (1969); *Commonwealth v. Stevens*, 362 Mass. 24, 28-29 (1972). *See Commonwealth v. Bottari*, 395 Mass. 777 (1985); *see also Commonwealth v. Brown*, 31 Mass. App. Ct. 574 (1991). The aspersions here are not the specific, particularized reports based on first-hand knowledge that established probable cause in cases such as *Alvarez* or *Atchue* but instead a conclusory assertion of illegal activity like those found inadequate in *Kaufman*. Indeed, the insufficient detail provided by the informants in *Kaufman* was ***more*** specific than the ex-roommate's allegations here.

The affidavit in this case is very similar to the one found to be deficient in the (unpublished) case of *Commonwealth v. Littig*, 20 Mass. L. Rptr. 124 (Mass. Super. 2005). In that case, the court held that statements that an informant "knows the source of the cocaine is the defendant" and that she "has met the defendant personally and knows he sells cocaine" did not suffice to provide probable cause. "These statements provide nothing to indicate how [the informant] knows, in what context she has met him, what she has observed him doing, or what she has heard him say." *Id*. at *4.

In sum, the ex-roommate provided so little information about the alleged grade hacking that it is unreasonable to conclude that he in fact witnessed such an event.

b. Reliability

The lack of information not only suggests that the ex-roommate has no basis for his claims, but also that he is not credible, truthful or reliable. An unreliable witness cannot provide probable cause for a search warrant. *Commonwealth v. Crawford*, 417 Mass. 40, 43 (1994), citing *Commonwealth v. Upton*, 394 Mass. 363, 375 (1985).

First, the affidavit sets forth facts demonstrating that the informant has an axe to grind. The informant and Mr. Calixte used to be friends and roommates, but "were having domestic issues." (Order at p. 2; Affidavit at p. 4.) The informant "suspects that Mr. Calixte is responsible" for his computer problems even though "the computer has been looked at by several experts and none of them can resolve the problem." (Affidavit at p. 5.) The student said whatever he could to make Mr. Calixte look bad, even if it was an innocent activity like being a "master of the trade" of computer science or using two operating systems. Far from a disinterested eyewitness, the evidence presented about the informant in Detective Christopher's affidavit indicate that the witness cast multiple vague, unsupported, confusing, and conclusory aspersions on Mr. Calixte's character because wanted the officer to investigate Mr. Calixte to further his own interests.

No other information in the warrant application overcomes these indications of the student's serious unreliability.

For example, an investigating officer's naked assertion that an informant was previously involved in a prior investigation and is "reliable" (Order at p. 1, Affidavit at p. 4) is insufficient as a matter of law. *See, e.g., Commonwealth v. Rojas*, 403 Mass. 483, 486 (1988) (drug case); *Commonwealth v. Santana*, 411 Mass. 661, 663-665 (1992) (recital that informant had previously provided information that led to two drug-related arrests, without more, did not

satisfy the veracity test); *Commonwealth v. Mejia*, 411 Mass. 108 (1991) (assertion that confidential informant provided information leading to arrest of three named persons insufficient). Although past information provided by a confidential informant can support a finding of reliability in some circumstances, *see e.g. Commonwealth* v. *Perez-Baez*, 410 Mass. 43 (1991), the past information and the manner in which the information was verified must be sufficiently detailed so that the Court can "make a meaningful determination of the informant's veracity," *Commonwealth v. Rojas*, 403 Mass. 483, 486 (1988).

Further, the investigating officer must describe the circumstances of his prior experience with the informant. He must identify the information given, why it was reliable, the nature of that investigation, whether it led to an arrest, and any other facts from which a magistrate could conclude that the information was reliable. *Id.* ("The magistrate must be furnished with more detail regarding the circumstances of the prior arrest in order to make a meaningful determination of the informant's veracity.") The "naked assertions" in *Rojas*, *Santana*, and *Mejia* at least identified the type of offense and that the information led to an arrest. The statement here falls far short even of the allegations rejected as insufficient in those cases.

Identifying the informant does not establish reliability. Identification is just one factor to be weighed among many, and cannot overcome an utter lack of factual detail and police corroboration. In *Commonwealth v. Rosenthal*, 52 Mass. App. Ct. 707 (2001), a confidential informant told police that a person named "Rosenthal" attempted to sell him cocaine. The police went to the location indicated by the tipster and subsequently pat-searched Rosenthal and found cocaine. The court held that the informant's information was not adequate to establish reasonable suspicion for a pat search. The informant had not previously provided police with reliable information, his statement was devoid of factual detail that might have imbued it with

inherent indications of veracity, and police verified no predictive details that were not easily obtainable by an uninformed bystander. *Id*. at 710 n. 7. (citations omitted.) The Commonwealth unsuccessfully argued that because the officer knew the identity of the informant, the requirement for establishing reliability was relaxed. The Court rejected this notion, indicating that the fact that the tipster is named is but one factor to weigh in assessing the reliability of a tip. *Id*. *citing Commonwealth v. Grinkley*, 44 Mass. App. Ct. 62, 69 (1997) ("It does not follow . . . that if the name of the person providing the information is disclosed, then he is by virtue of that fact alone properly characterized as a citizen-informer, entitled to the presumption of reliability. . . . [That] is one factor which may be weighed in determining reliability"). Further, the fact that the tipster was allegedly an eyewitness to the attempted sale did not save the search. As with the tipster in *Rosenthal*, the student here said he saw an offense but provided no factual detail and there was no police verification of predictive facts offered by the informant. The fact that the student was named does not overcome the lack of probable cause.

Finally, the information referenced by the district court in its Order does not corroborate the ex-roommate's claims because it is merely innocent information the student would know simply by having been Mr. Calixte's roommate, not by virtue of having truly been a witness to any illegal activity (description of the primary computer; presence of other laptops that Mr. Calixte, an IT help desk employee, was fixing; use of two operating systems.)

Even statements of a well-meaning informant who provides no specifics of illegal activity cannot be the basis for a warrant. The absence of any specific information about illegal activity by Mr. Calixte means that the reader of the affidavit knows *absolutely nothing* about how the alleged crimes were supposedly committed and is left to engage in unbridled speculation about

what evidence might exist and where it might be located. The Fourth Amendment does not countenance a search under such circumstances.

4. There Is No Nexus Between the Allegedly Illegal Activity and the Places and Items Authorized for Search and Seizure by the Warrant.

An affidavit supporting a search warrant must "be adequate to establish a *timely nexus* between the defendant and the location to be searched and to permit a determination that the particular items of criminal activity sought can reasonably be expected to be found there." *Commonwealth v. Wade*, 64 Mass. App. Ct. 648 (2005) (emphasis added).

The affidavit fails to establish a timely nexus. Mr. Calixte's ex-roommate reported on January 27 and 28, 2009 (the days immediately after the "domestic issues" incident) that at some unknown point in the past he had seen Mr. Calixte change another student's grade. The affidavit gives no reason to believe that evidence of that activity would still exist at least two months (if not more) later on March 30th. The information is stale. *Commonwealth v. Cruz*, 430 Mass. 838, 843 (2000) ("Facts supporting probable cause must be closely related to the time of the issue of search warrant so as to justify a finding of probable cause at that time.")

Nor does the affidavit explain why officers had reason to believe that the evidence would be in Mr. Calixte's current dorm room[3] or on his computer, as opposed to some other machine, for example that of the unidentified student or students whose grades were allegedly changed. Commission of a crime in itself will not provide probable cause to search the suspect's home. Rather, the nexus between the items sought and the place to be searched "may be based on the type of crime, the nature of the missing items, the extent of the suspect's opportunity for

[3] A few days after the "domestic issues" incident in January, Mr. Calixte moved out of the room he had shared with the informant. The warrant application fails to so state, but this can be inferred from the assertions that the two had domestic issues resolved by Residential Life and by the fact that the complaining student's name was not on Mr. Calixte's door at the time officers obtained the warrant. (*See* Kessel Decl. Ex. A at 3-4, describing room 2007.)

concealment, and normal inferences as to where a criminal would be likely to hide evidence of the crime." *Commonwealth v. McDermott*, 448 Mass. 750, 768 (2007) (citations omitted). For example, in *Commonwealth v. Smith*, 57 Mass. App. Ct. 907 (2003), the court found no probable cause to search the residence of a defendant who on one occasion was seen returning to his residence after a drug sale to a confidential informant and on another occasion seen leaving his residence to make a sale to an undercover officer. *Id*. In finding that the affidavit failed to establish nexus, the *Smith* court emphasized the fact that the confidential informant had never claimed to be inside the defendant's residence and had never claimed that the defendant conducted drug transactions from his residence or kept drug related items there. The complaining student here provided even less information than the witness in *Smith.* As in that case, there is no nexus between Mr. Calixte's residence and any alleged grade changing offense.

Further, the police seized Mr. Calixte's iPod, cell phone, compact discs, various hardware adapters, a camera, correspondence with the ex-roommate, and a list of twenty-five student emails. (Kessel Decl. Ex. C.) These items cannot contain evidence of any alleged "grade hacking" or "illegal downloads." Their seizure indicates something else: that the seizure and ongoing search is a fishing expedition against Mr. Calixte and not a particularized search based on individualized suspicion of any specific wrongdoing as required by the Fourth Amendment's prohibition against general warrants.

V. CONCLUSION

For all the reasons discussed above, this Court should allow Mr. Calixte's emergency application for leave to appeal, and the single justice should hear this appeal on an expedited basis. Mr. Calixte further asks for an abbrieviated briefing schedule to bring this matter before the Court as quickly as possible in light of the important privacy and property issues at stake.

Riccardo Calixte
By His Attorneys:

Lawrence K. Kolodney (BBO # 556851)
Email: kolodney@fr.com
Adam J. Kessel (BBO # 661211)
Email: kessel@fr.com
Thomas A. Brown (BBO # 657715)
Email: tbrown@fr.com
FISH & RICHARDSON P.C.
225 Franklin Street
Boston, MA 02110-2804
(617) 542-5070 (Telephone)
(617) 542-8906 (Facsimile)

Of Counsel

Jennifer Stisa Granick, CA Bar No. 168423
Email: jennifer@eff.org
Matt Zimmerman, CA Bar No. 212423
Email: mattz@eff.org
ELECTRONIC FRONTIER FOUNDATION
454 Shotwell St.
San Francisco, CA 94110
(415) 436-9333

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