

<b>DISTRICT COURT, EL PASO COUNTY COLORADO</b>		
<b>Court Address: 270 South Tejon Street, Colorado Springs, Colorado 80903</b>		DATE FILED: December 9, 2022
People of the State of Colorado v. <b>MALLERY, Courtney Wayne, B/M, 6'01, 165lbs, Black Hair, Brown Eyes SSN</b> <b>CO OLN#</b> , DOB: <b>05/06/81</b> , Defendant		▲ COURT USE ONLY ▲
El Paso County Sheriff's Office Case Number: 22-12559		Case/File Number: <b>22CR6333</b>
		Division: <b>Criminal</b> Ctrm:
<b>ATTACHMENT A</b>		

The following Affidavit is submitted to the Court to document the probable cause in support of a request for the issuance of an Arrest Warrant for **MALLERY, Courtney Wayne, B/M, 6'01, 165lbs, Black Hair, Brown Eyes SSN** CO OLN# : DOB: **05/06/81**.

This offense is fully documented in Offense Report **22-12559** detailing the offense(s) of: **CRS 18-3-602(1)(c) Stalking, a class 5 Felony, CRS 18-4-506.5 Tampering with a Utility Meter, a class 2 misdemeanor, CRS 18-4-401 Theft under \$50 a petty offense..**

The facts set forth within this affidavit are based upon information Your Affiant has gained from this investigation, Your Affiant's personal observations, Your Affiant's training and experience, and/or information related to Your Affiant by other law enforcement officers. Since this affidavit is being submitted for the limited purpose of securing an arrest warrant, Your Affiant has not included each and every fact known to him concerning this investigation, but has set forth only the facts that are necessary to establish probable cause to believe that evidence of a crime has occurred.

With the victim(s) identified as:

1. Teresa Clark

Your Affiant is Sergeant E.R. Gerhart, a duly sworn peace officer for and of the County of El Paso, State of Colorado. Your Affiant is the supervisor of the Rural Enforcement & Outreach Unit. The purpose of this unit is to identify, investigate, and attempt to resolve situations and offenses that occur in, or are unique to, the rural portions of El Paso County.

Ms. Clark has been in touch with me since March 11 of 2022 in reference to the Mallery family; Courtney, and Nicole. Teresa resides at 31255 Truckton Road, while the Mallery's reside at 5106 Lauppe Road. Both addresses rest entirely in El Paso County Colorado. Ms. Clark is disabled, having suffered a \_\_\_\_\_ which makes her prone to \_\_\_\_\_. She lives with her elderly mother, whom she cares for. Ms. Clark is in fear for her safety due to unusual and disturbing behavior from the residents to the north of her property, the Mallery's.

Ms. Clark has provided me with videos and pictures of activity that I feel is criminal in nature. One incident involved Teresa's truck having a window busted out. Teresa took a video of tire tracks from the scene going onto the Mallery property. Other pictures and video's deal with the placement of multiple cameras on the Mallery property, with one having a clear unobstructed view of Teresa's home and property. Teresa stated that the camera directly in front of her house has a clear view of her bedroom window. Other videos and pictures show the Mallery's accessing the easement between the two properties. The easement is called "Truckton Road" but in fact the county does not maintain the easement as a road. This easement is the sole source of egress for Ms. Clark and her family. Additionally, Ms. Clark gathers her mail from a box on the easement and has trash service via the easement as well. Some pictures/videos show the Mallery's stopping their vehicle(s) in the easement where Teresa has her gate for egress. Other videos show the Mallery's making statements, one incident shows Nicole stopping her vehicle in front of Teresa's property. She then exits her vehicle, places her hands in the air and says, "Hand's up don't shoot." Courtney is seen shortly after walking by the property with his hands in the air. Another video shows Nicole using some type of load speaker or public address system where she is speaking of things that Teresa should, pack, "for Heaven." The Mallery's had restraining orders against Ms. Clark (they have been dismissed) which makes this behavior highly unusual.

For clarification the main access to the Mallery property is via Lauppe Road. A gated entrance bearing the numbers 5106 can be seen. Some of the structures on the property are visible (from the roadway) at this gate. There is another gate further south of this gate of Lauppe Road as well. One gate is on the Truckton Road easement, near the Clark residence. There is possibly a “wire gate” further west of this location where the Truckton easement is fenced off with a north – south running fence for another property. The Mallery property consists of a “section” of land, being approximately 640 acres. The Clark property is 40 acres. The Mallery’s structures are not easily visible from the Truckton easement. The two residences are over one mile from each other. This location is rural, comprising mostly of undeveloped pastures and field, with few residences in the surrounding area. Ms. Clark’s property bears the name, “The crazy ewe ranch.”

Some of the videos show the following:

- The incidents mentioned above where Ms. Clark is being told what to pack for heaven, as well as the Mallery’s yelling “Hands up don’t shoot” on the easement directly in front of her home.
- One or both of the Mallery’s arriving to the easement shortly after Ms. Clark exits her house in the morning to do chores, on multiple occasions.
- One or both of the Mallery’s coming out to the road or easement (in vehicles) when Ms. Clark is leaving her property in her truck.
- One or both of the Mallery’s driving by her property within minutes after she has returned home.
- The Mallery’s continuing to come to the gate on the easement (away from any outbuildings) in lieu of using any of the other gates available to them.
- The Mallery’s coming to the School Bus stop, while not dropping off or picking up any children, and having no children enrolled in the Miami-Yoder School.
- In mid October 2022, the Mallery’s added two more surveillance camera directly across from the Clark property for an aggregate of three cameras with unobstructed views of Ms. Clark’s residence.
- On Thursday 10/27/22 at 0535 hours, Ms. Clark leaves her property for work. A few moments later Ms. Clark’s cameras capture Courtney Mallery driving by the Clark property. In all, Teresa captured the Malley’s driving by her property six times on this date. Again, this is a dead-end easement, with no other buildings/homes/businesses west of the Clark property to where the easement dead ends about ½ mile west of the Clark property.

On 10/13/22 Ms. Clark provided me with 19 pages of a "Stalking Log" that she maintains. The log covered from 4/27/21 through 10/1/22. Each page had space for 10 entries. The log was created to show that the Mallery's have no fear of her, and that they are actually going out of their way to put her in fear for her safety. Ms. Clark stated that each of the entries had video to support the entry.

I also find it highly unusual that the Mallery's feel the need to put themselves in such close proximity to Ms. Clark for no foreseeable reason. This is compounded by the fact that both Mallery's have obtained temporary protection orders against Ms. Clark. Having lived in a rural portion of El Paso County for 20 years and investigating criminal activity solely in the rural portions of eastern El Paso County for seven years I find this activity highly unusual and outright disturbing. Ms. Clark has told me repeatedly that she is in fear for her safety and the safety of her mother, causing severe emotional distress. She is tired of the constant surveillance of her, her mother and her home.

On August 11, 2022 Ms. Clark requested Nicole Mallery's attorney (Kelly Schulten) to have Nicole stop this behavior. She simply requested to be "left alone" or to settle this matter so she can live in peace from Nicole Mallery. This proved to be a fruitless request. I had also contacted Ms. Schulten to attempt to arrange an interview of Nicole Mallery. We were unable to arrange an interview.

According to CRS 18-3-601 (1)(f) "Stalking involves severe intrusions on the victim's personal privacy and autonomy, with an immediate and long-lasting impact on quality of life as well as risks to security and safety of the victim and persons close to the victim, even in the absence of express threats of physical harm."

According to CRS 18-3-602 (1)(c) "Repeatedly follows, approaches, contacts, places under surveillance, or makes any form of communication with another person, a member of that person's immediate family, or someone with whom that person has or has had a continuing relationship in a manner that would cause a reasonable person to suffer serious emotional distress and does cause that person, a member of that person's immediate family, or someone with whom that person has or has had a continuing relationship to suffer serious emotional distress. For purposes of this paragraph (c), a victim need not show that he or she received professional treatment or counseling to show that he or she suffered serious emotional distress."

Based on the concerns Ms. Clark has raised, the overwhelming amount of video evidence she has provided (over four gigabytes of digital media), as well as the criminal investigations EPSO has conducted this case was presented to the District Attorney's Office to see if the filing of criminal charges was appropriate. Other factors surrounding this investigation made it more appropriate to seek a filing decision in lieu of simply obtaining warrants. These include but are not limited to: The Mallery's have lodged over 15 internal affairs complaints against EPSO deputies, included four on myself over the last two years. All have been deemed "unfounded" or "exonerated." Nicole Mallery filed a small claims lawsuit against an EPSO sergeant, Nicole and Courtney Mallery's ethnicity (African-American.) On 11/18/22 I was advised by the DA's Office that the case would be filed and to obtain an arrest warrant for Nicole Mallery. This warrant was obtained on 11/22/22.

On 11/23/22 I did execute a search warrant on the Mallery property. There I did seize three surveillance cameras as well as three motion sensors that were directed at the Clark residence. Mr. Mallery did meet me when I was executing the warrant, and I explained that they were being seized as part of an ongoing stalking investigation.

On 11/23/22 (while executing a search warrant) I observed unusual wiring coming from one of the transformers on one of the power poles. I had contacted South East Power Company Association (SEPCO) and informed them of the potential power tampering. I was informed that no power upgrades matching my description had been ordered. I was requested to meet a SPECO employee in the area at 1130 hours so they could inspect the matter.

At 1130 hours I met with SEPCO employee Patrick Wyckoff. Mr. Wyckoff inspected the power modifications and stated that the power hook up on the transformer was not conducted by SEPCO. He disconnected the power supply from the transformer.

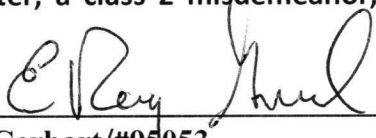
I had been provided photographs and video from Ms. Teresa Clark in reference to this illegal access of the power transformer. She indicated that the Mallery's had completed the connection on 7/13/22. The pictures and video clearly show Courtney and Nicole assisting another individual with the power connection.

Since that date and time Mr. Mallery continues to drive by the Clark residence. Of notice was on 11/30/22 after a court appearance involving the Mallery's. Courtney Malley drives by her residence (the Truckton Road easement) at a high rate of speed turns around at the dead end and drives back at a high rate of speed. The only feasible reason for this behavior is as an intimidation tactic against Ms. Clark.

On 12/5/22 I was contacted by the DA's Office and advised that charges would be filed against Courtney Mallery. As of 12/7/22 Ms. Clark continues to provide me (and other deputies) with video evidence of Courtney Mallery and/or his associates (residing at 5106 Lauppe Road) driving by the Clark residence for no practical or logical reason.

On 12/9/22 at 0724 hours Mr. Mallery is seen crossing his fence line by the Clark property and going into the easement. There he takes Ms Clark's Trash can and loads it onto his truck before driving away. The can is valued at \$25 dollars.

I would respectfully request that probable cause be found that **MALLERY, Courtney Wayne**, B/M, 6'01, 165lbs, Black Hair, Brown Eyes SSN \_\_\_\_\_ CO OLN# \_\_\_\_\_ DOB: **05/06/81**, did within the County of El Paso and State of Colorado, commit in violation of the Colorado Revised Statutes 1973 as amended, the offense(s) of **CRS 18-3-602(1)(c) Stalking, a class 5 Felony, CRS 18-4-506.5 Tampering with a Utility Meter, a class 2 misdemeanor, CRS 18-4-401 Theft under \$50 a petty offense..**

Applicant:   
Sergeant **E.R. Gerhart/#95053**  
Law Enforcement Agency: El Paso County Sheriff's Office

Sworn and subscribed before me this 9<sup>th</sup> day of December, 2022

Judge/Magistrate: 