

# Henderson Police Department

223 Lead St. Henderson, NV 89015

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## Declaration of Arrest

DR# 1611618

FH# 16

Arrestee's Name: Bennett, Justin Tom

Date of Arrest: 07/02/2016

Time of Arrest: 1804

Charge	Degree	NRS/HMC
OPEN MURDER	Felony	200.010

THE UNDERSIGNED MAKE THE FOLLOWING DECLARATIONS SUBJECT TO THE PENALTY FOR PERJURY AND SAYS: That I, JOSEPH EBERT am a peace officer with the Henderson PD, Clark County, Nevada, being so employed since 03/20/2006. That I learned the following facts and circumstances which led me to believe that the above named subject committed (or was committing) the above offense/offenses at the location of [REDACTED] Henderson Nevada 89074, and that the offense occurred at approximately [REDACTED] hours on [REDACTED].

### Details of Probable Cause

On 07/01/2016 at 1054 hours I, Detective J. Ebert #1358, along with Henderson Police Officer's and Henderson Firefighter/Paramedics from station 95 were dispatched to [REDACTED], Henderson, Nevada, 89074 reference a 3 year old white female who was not conscious and not breathing.

Upon Officer's and Paramedics arrival at the residence they contacted the victim, Abygaile Bennett DOB [REDACTED], and her father Justin Bennett DOB [REDACTED], on the first floor of the residence in the living room. Abygaile was lying on her back on the floor and Justin was kneeling next to her while on the phone with Henderson Police Dispatch. Abygaile was observed to be wearing a purple colored shirt and a pull up diaper. She was not conscious and not breathing. Paramedics attempted to life saving efforts on Abygaile but were not successful. Paramedics transported Abygaile to Saint Rose Sienna Hospital.

Due to the fact Abygaile was transported to the hospital I responded directly there.

Upon my arrival at the hospital, Emergency Room (PEDS) Doctor Dave Smith, advised that his initial observations of Abygaile Bennett were the following:

Victims hair was wet, pulmonary edema was present, bruising around her eyes, bruising on top of left ear, bruising on lower back, bruising on chest area that is not consistent with CPR, possible trauma to victims anus but preferred a second opinion from the medical examiners officer reference trauma to anus.

Doctor Smith advised he is 100% certain that Abygaile is a victim of child abuse and believes the abuse is what caused her death along with possibly drowning.

I contacted Abygaile's grandmother, Sherry Morse DOB [REDACTED], who was at the hospital waiting on a status from the doctor about Abygaile. Sherry gave the following statements;

She lives at [REDACTED] Way with her husband Jason Morse DOB [REDACTED] and her son Justin Bennett. Sherry stated that Justin's three daughters, [REDACTED] DOB [REDACTED], (The Victim) Abygaile Bennett DOB [REDACTED], (Sister) [REDACTED] DOB [REDACTED], live at their residence with them. The children's mother, Korie Morimoto DOB [REDACTED], is currently deployed to Texas with the United States Airforce for duty training. Korie was deployed in March and has not seen her children since the date she was deployed. Justin and Korie have been married since July 4th 2015. Sherry explained that Korie gave birth to [REDACTED] before they were married and did not take her father's last name. Korie was already enlisted in the Airforce before July 4th 2015 under her maiden name of Morimoto which is why she kept her

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### Details of Probable Cause (Continued)

maiden name after marrying Justin. Prior to Justin moving in with his parents towards the end of February. Korie and Justin lived in an apartment located at [REDACTED], Las Vegas, Nevada, 89122. Sherry and her husband Jason allowed Justin to move back into their residence while Korie was deployed to Texas.

Sherry stated she woke up this morning about 0606 hours and got dressed for work. She left her residence at approximately 0620 hours. No one else was awake in the house except her. She specifically remembered her husband Jason had a pillow over his head and was snoring when she left. She arrived at work, [REDACTED] located at [REDACTED], Henderson, Nevada. Sherry stated it was around 10 something in the morning and she received phone call from Justin and he was upset on the phone. He told Sherry that Abygaile won't wake up, she had a blanket around her neck and she won't wake up. She told him 911 now now now now. She immediately left work and was behind the fire truck headed to her house. When they arrived she found Abygaile was on the floor, her little eyes were open and Justin was doing chest compressions. She remembered Abygaile was clothed in a shirt and a pull up. She told the paramedic who was standing by her to pick up her "granddaughter and get the hell out of here."

Sherry stated that Abygaile did not have any medical conditions but that she did bruise easily and was possibly anemic. The only medication she is aware of that Abygaile takes over the counter clear children's Tylenol/Advil.

Sherry stated Justin was the only person home with Abygaile, [REDACTED] and [REDACTED]. She knew her husband was at work and called him on his cell phone to tell him to come home after Justin called her.

Detective Pena and I contacted Abygaile's Grandfather, Jason Morse DOB [REDACTED], who was also at the hospital with Sherry. Jason advised that he got up approximately 0645 hours this morning and no one else was awake. Sherry, his wife was already gone for work. Jason works for Climatec as a senior systems specialist. He was at work and just leaving for lunch with a co-worker when he received a phone call from Sherry. Sherry calls around 1055 hours and told him "Abygaile was found unconscious, unresponsive, head to the house." He immediately drove home grabbed Sherry along with [REDACTED] and [REDACTED] and drove straight to the hospital.

Jason advised he and his wife have their own room, Justin has his own room and all three of the girls share a bedroom. Jason advised Justin is the primary disciplinarian to all three children. Justin disciplines all three children like a "drill instructor" He has never seen them grab a "switch, or a wooden spoon or belt" to use for discipline. He said he has never seen him use physical discipline towards the girls. Jason advised he has noticed that Abygaile bruises really easy and he has been concerned about that. Sherry bruises really easy also and is anemic. He recommended that as soon as Justin's wife was on Government insurance they needed to take Abygaile to see a doctor about her bruising. Abygaile bruises more than her sister's and the only physical discipline he witnessed Justin do is grabbing the children and getting into their face so he can get their attention so they will focus. He believed that Justin's drill sergeant tactic was a little over the top but never any physical discipline.

The only physical discipline he has ever had to do to any of the children was to [REDACTED] because she painted the bathroom with perfume and shampoo. Jason advised he swatted her on the butt. Jason stated he has not seen any bruises on any of the children's bodies caused from when Justin would grab them by the upper arms or shoulder area to get their attention.

Jason stated that a couple of weeks ago Abygaile and [REDACTED] were playing in the back yard with the hose and they head butted each other, "[REDACTED] fell on her bum and Abygaile fell on her face." Abygaile instantly had a knot on her head and two black eyes. It looked like Abygaile had been "hit by a truck" [REDACTED] had a bump on her head and a little shiner.

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### Details of Probable Cause (Continued)

I asked Jason again if anyone has ever used a belt to discipline any of the children. Jason denied the fact that any of the children were ever disciplined with a belt but that all he has to do is say to the girls that is "I am wearing a belt today" and they will listen. Jason stated that Justin has only been back in their house since the end of March beginning of April. Jason stated he could only speak about discipline since he moved back home and would not know if there was spanking going on with a belt prior to that. Jason stated that the only thing the kids ever mentioned to them is that they had to stay in bed as time out discipline. They never mentioned any type of physical abuse.

Detective Pena asked Jason if he was aware of any recreational use of illegal drugs. Jason stated that it has been "months" since Justin used any type of drugs.

Detective Pena told Jason that due to the circumstances involving the death of Abygaile CPS was notified was responding and would probably ask a lot of the same questions. Jason immediately stated if CPS is going to be involved then we must already be aware of the fact there was a prior child abuse case investigated by Child Protective Services. Jason described Justin and Korie's relationship as being on again off again. He said they were married way to young and had children way to young that they weren't mature enough to do any of that. He did not know what person called in the complaint to CPS but believed that they were both accusing each other of disciplining the children too hard. (The prior CPS Case [REDACTED] and Report # [REDACTED])

Detective Pena asked Jason if there were any questions or anything that he thought was important that we should know about. Jason stated no he would really like to know what happened. He wanted to hear Justin's part of it and wanted to talk to him. Jason stated that the discipline levels for all three of the children was the same "a little too much like a drill sergeant." Again Jason stated he has never witnessed the children be spanked and stated the children have never talked about being spanked.

A records check through CPS revealed the report indicated that Justin was forcing mustard in his daughter's mouth and using his hand to cover their mouth so they would be forced to swallow the mustard as punishment for lying. Justin was also suspected of forcing the girls to take cold showers as a form of Discipline. According to the CPS report Justin stated that was the way he was disciplined as a child and did not see anything wrong with that.

The CPS report indicated at the conclusion of the investigation that there was no Present danger or Impending danger to their children but that the case qualified for Maltreatment and they recommended parenting classes for both parents.

While I was completing the interviews at the hospital with Sherry and Jason Detective Nichols #1242 responded to [REDACTED] reference a deceased 3 year old. I received the following details from Detective Nichols reference the interview with Justin.

Upon arriving at the residence, Detective Pena was already on scene with Justin inside the residence. Detective Pena began the initial interview with Justin inside of the living room area of his home. After obtaining basic identification and living arrangements, Justin was reminded that he was not compelled to speak with investigators. Justin stated he understood and advised that he gave "his full consent" to speak with Detective Nichols and Detective Pena, adding that he had nothing to hide.

At the start of the interview, Justin confirmed information to include his cell phone number as being [REDACTED] 95. He also confirmed that he currently resided with his parents: Sherry and Jason Morse along with his 3 daughters: [REDACTED], Abygaile Bennett, and [REDACTED].

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### Details of Probable Cause (Continued)

Justin advised that he did not work and was a 'stay at home dad'. He elaborated that both of his parents worked Monday through Friday. With his father working from 7am to approximately 6pm; his mother working from 7am to 3pm (except on Friday's - she works until 12pm).

When asked of the timeline leading to today's events, Justin stated that all 3 of his children went to bed on 6/30/16 at approximately 9pm. He explained that his children share 1 bedroom, but each having their own bed; with Abygaile sleeping on the left-side bed of the room.

He stated that he and his children woke up on 7/1/16 at approximately 8am. He stated that was a normal time for them waking up. Justin stated that he then had all 3 of his children use the restroom. Following which, all four of them went back to the children's bedroom where they were playing with toys. Justin stated that at approximately 10am or so, he told his kids that it was time for a nap. He stated that he laid each of them down, telling them to go to sleep. Justin went downstairs to begin making them breakfast. Justin would later describe this nap schedule as being fairly regular, but that they would only nap for approximately 45 minutes. He also added that while they are napping, it is normal for him to check on them ever so often.

Justin stated after going downstairs he began cleaning up; he estimated it was around 10:25am. He then estimated it was at approximately 10:35am that he went back upstairs to check on the children. It was then that he found Abygaile with a blanket wrapped around her neck and not breathing. Justin initially described the blanket as being a Scooby-Doo blanket. Justin would also later describe the blanket as being wrapped around her neck two times with no visible face showing. He also stated she was lying on her back.

Justin advised that he then began screaming Abygaile's name with no response. He then took her to the bathroom where he splashed water on her face (still with no response from her). Following which he brought her downstairs where he began to perform CPR. Justin stated he then called his mom first, following which he called 911.

During follow up questions on where the kids were within their beds, Justin expressed certainty that his children were in the same beds when he returned to check on them. He also stated he knew something was wrong with Abygaile because she never covered her face when she slept. He then hypothesized that may have been flailing her arms and that somehow caused the blanket to cover her face. But Justin again reiterated that the blanket was wrapped around her neck when he located her.

Justin expanded that when he brought her lifeless body into the bathroom, he had gone to the bathtub to splash water on her face. His explanation of choosing the bathtub versus the sink fixture was because he did not want her "twitching" against anything, should she be revived from the water he was splashing on her face. Justin also demonstrated that when he removed her from the bed, he placed her body in his right arm, with the back of her head on his open right palm. He also added that he purposely brought her downstairs in anticipation of medical personnel having easier and quicker access to his daughter.

Regarding the placed phone call to his mother, Justin described the call as being very brief in which he relayed that Abygaile was not breathing. He stated his mom instructed him to call 911 which he immediately did after hanging up. Justin advised the placed phone calls were from his cell phone which was later confirmed concluding a forensic examination by Detective Trotter. Prior to Detective Trotter's forensic exam, Justin permitted Detective Nichols to look at his call logs on his cell phone.

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### Details of Probable Cause (Continued)

On 7/1/16 an outgoing call to Justin's mother was made at 10:53am; with the call duration being 12 seconds. At 10:53am a call to 911 was placed; with the call duration being 6 minutes and 33 seconds.

While looking at outgoing calls, Detective Nichols also noted Justin called his mother at 8:48am (call duration of 59 seconds). When asked of that outgoing call, Justin explained that he had forgotten they spoke while providing Detective Nichols his timeline of the morning events. He now remembered calling his mother to ask if he and the kids could eat peaches. He elaborated that he made the call while in the kids' room and he subsequently brought up a peach that he shared with his kids.

Regarding any recent sickness or illnesses, he described Abygaile as likely being anemic because of how easy she would bruise. He then mentioned a recent trip to the movies in which his daughter received a bruise from a seat she had been sitting in, while inside the theatre. Justin also stated that he noted Abygaile was bruising on her chest while he performed CPR.

Justin also stated that all 3 kids had cold like symptoms during the last week in which he gave them over the counter medication. He also noted that Abygaile had taken anti-diarrhea medication the previous night (6/30). He also noted Abygaile having a fever during the last week which was brought down with medication. According to Justin, mid-2015 was the last time Abygaile saw a doctor.

Detective Pena asked Justin about his usage of any alcohol, drugs, and or medication. He stated he last drank alcohol weeks prior. Justin stated he last smoked Marijuana in early 2015. He also elaborated that he takes Ibuprofen every day for migraines in addition to 'Tramadol' (50mg) for hip pain. He stated he last took Tramadol earlier in the morning (7/1) at approximately 7am. This disclosure was of surprise as it deviated from the original timeline provided in which he stated he and his kids awoke at 8am.

Detective Pena also inquired about any history of domestic violence and mental health issues. Although Justin denied any domestic violence between him and his wife, he stated she had called the police on him prior. During which, CPS had been contacted and a case worker was assigned. When inquiring as to why CPS would've been called, Justin explained that it was only because police had contacted them. Regarding mental health, Justin stated he and his wife had no history of mental health or PTSD (both have military service).

Detective Pena then asked Justin about how he disciplined his children. Justin described his measure of discipline depended on how his children misbehaved; his exact quote was "punishment fits the crime." He then went on to explain his discipline options to include: placing them in a corner, swatting them on their butts - adding that he does spank his kids, not allowing them to watch TV, and not allowing them to cuddle with their grandmother. He never spanked any of his children on their bare butts.

When asked if he had ever left bruises on Abygaile following a spanking, he stated only once. But described the bruise as being minimal and largely in part because of her anemia. He estimated that occurred when she was 2 years old. He stated he had never left a mark on any of his other children following any discipline. Justin confirmed that although he and his family believed Abygaile to be anemic, she had never been officially diagnosed by a doctor.

During follow up questions, Detective Nichols asked when the last time his kids had a bath to which he stated the previous evening (6/30) prior to his kids going to bed.

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Regarding when he brought his unresponsive daughter to the bath to splash water on her, he stated he had only splashed water on her face, never submerging her head or face. Justin confirmed that when he first discovered Abygaile with the blanket around her neck, the other 2 girls were still asleep in their beds.

Justin admitted that it could be stressful at times dealing with his 3 children. He stated when they caused him stress, he would verbalize to them that he was getting upset and told them it was time to settle down. Justin also stated that he learned more how to deal with his kids after taking the CPS mandated courses (that originated from the CPS complaint/contact).

Concluding the interview, Justin later told Detective Nichols approximately a half hour later, that he recalled wiping blood from Abygaile's nose and lip after he discovered her in bed. He stated he observed the blood after removing the blanket from around her neck. As he proceeded to the bathroom, he used a kid's sock to wipe away the blood which he subsequently threw to the floor somewhere upstairs.

#### Initial Timeline Provided by Justin

7am - Justin takes 50mg of Tramadol (pain medication)

8am - Justin and kids wake up \*Contradicted later when he mentions taking medication prior this event

8am-10am - Justin plays with all 3 kids in their bedroom

8:48am - Justin calls his mother (call duration: 59 seconds)

10am - Justin puts all 3 of his kids to sleep

10am - Justin goes downstairs to make breakfast

10:25am - Justin cleans up downstairs

10:35am - Justin proceeds back upstairs where he finds a blanket around Abygaile's neck

10:53am - Justin calls his mother's work (call duration: 12 seconds) \*Time confirmed by cell phone log which did NOT match up to Justin's provided timeline

10:53am - Justin calls 911 (call duration: 6 min and 33 seconds) \*Time confirmed by cell phone log which did NOT match up to Justin's provided timeline

The investigation revealed that the only people in the residence during the incident that could have been responsible to cause the death of Abygaile was her father Justin, her 4 year old sibling [REDACTED] and 2 year old sibling [REDACTED]. Due to the nature of the investigation a search warrant for the residence was authored by Detective R. Adams #1198 and signed by the Honorable Justice Court Judge S. George.

The search warrant was subsequently served at the residence and items of evidentiary value were recovered from inside to include electronic devices such as phones and computers, bedding and a pink children's sock.

Crime Scene Analysts collected photographs and items that include evidence regarding biological DNA.

At the completion of the search warrant I, Detective J. Ebert #1358, contacted Justin and asked him if he would be willing to come to the police station so we could sit down with him reference another recorded interview. I explained to Justin that I had spoken with many different people about the death of his daughter and I just had some additional follow up questions that I needed clarified. Justin stated he would have his stepfather Jason Morse drive him and follow us to the police station.

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### Details of Probable Cause (Continued)

At approximately 1905 hours I along with Detective Nichols completed a second interview with Justin. During the second recorded interview of Justin his explanation of what forms of discipline he uses changed and his statements about what happened during the incident involving Abygaile changed.

Justin admitted to using a wooden spoon to spank his children's bare butts. He stated his mother will spank his children with the wooden spoon. He would make his children sit on a wall (wall sits). He used his left hand to smack his children in the face. He specifically stated he smacked [REDACTED] on her right side of her face because she was throwing a tantrum. He stated he smack Abygaile a little bit before [REDACTED] on the right side of her cheek. He did notice bruising on his daughters but claimed it was not from him smacking them. After asking Justin about the bruising again he did admit that some of the bruising was from him smacking them. Justin admitted to covering their mouths with his hand using a lot of force to make his daughters stop screaming and crying.

Justin stated that this morning Abygaile came into his room screaming and crying. He attempted to get Abygaile to tell him what was wrong. Abygaile's screaming and crying went on for approximately 10 minutes. Eventually Justin became upset grabbed Abygaile took her back into her bedroom and he placed his left hand over her mouth and his right hand on the back of her upper shoulder/bottom of her neck area. While using force he pressed against her mouth and back causing Abygaile to stop screaming.

During the interview with Justin he becomes upset he refers to her daughter as "my fucking daughter." Justin advised throughout the interview that he is CPR certified through the military. I asked Justin if he thought it was justified that he smacks his daughters on the side of the face he said no. I asked Justin if he thought it was justified that he holds his hands over his daughter's mouth to stop them from crying he said no. I asked him what a good father would do and he stated he did not know what a good father would do because he is not a good father.

At the conclusion of the interview Justin walked out of the interview room and left the police station.

On 07/02/2016 at 0700 hours I along with Detective R. Adams responded to the Clark County Coroner's Office for the medical examination of 3 year old Abygaile Bennett. The medical examination took place approximately 1000 hours. At the conclusion of the medical examination the Medical Examiner gave the following statements.

The cause of the victims death was Blunt Chest Trauma do to an Assault with Chronic Physical Abuse and the manner of death was ruled a Homicide.

The Medical Examiner stated the victim suffered from a ruptured heart, a contusion to her left lower lung and evidence of an old rib fracture. he also advised that photographs should be taken of the suspects hands, fists, knuckles and a search of the residence should be conducted to see if any objects could be identified that could have been the cause of any of the victims injuries. More information will be documented in the Medical Examiner report.

That based on the ruling by the Medical Examiner at the Clark County coroner's office and the admission by Justin of multiple accounts of physical abuse. Contact was made with Justin at his residence and at approximately 1804 hours Justin was arrested for Open Murder a Felony Violation of NRS 200.010.

Justin was transported to the main station where Detective Nichols and I attempted to interview Justin after reading him his rights per Miranda. Justin would not speak with us but when asked if he wished to speak with detective Nichols he only shook his side to side which meant no. The attempt to interview Justin was stopped.

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### Details of Probable Cause (Continued)

A search warrant was obtained for the photographs and measurements of Justin's hands, fists and knuckles and Justin's residence which was served at the time Justin was taken into custody. (See supplemental report for further)

Copies: None

Attachments: 4

Wherefore, Declarant prays that a finding be made by a magistrate that probable cause exists to hold said person for preliminary hearing (if charges are a felony or gross misdemeanor) or for trial (if charges are a misdemeanor).

JOSEPH EBERT

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Declarant's Name