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COMMONWEALTH OF MASSACHUSETTS

HAMPDEN, SS.

SUPERIOR COURT

HAMPDEN COUNTY
SUPERIOR COURT

FILED

SEP 29 1993

William J. Martin Jr.
CLERK/MAGISTRATE

In the matter of

RICHARD R. LAVIGNE

On September 2, 1993, Trooper Thomas Daly of the Massachusetts State Police presented to this court an application for a warrant to search the blood of Richard R. Lavigne. The application requested authorization to cause a sample of Father Lavigne's blood to be drawn by trained medical personnel at a medical facility, using reasonable force only if necessary; permission to transport Father Lavigne to a convenient place for that purpose; and authorization to enter the home of Father Lavigne for that purpose. The application was accompanied by an affidavit of Trooper Daly, the contents of which may be summarized as follows.

On Saturday, April 15, 1972 at 8:25 AM, the dead body of Daniel Croteau was discovered in the Chicopee River in the area under the Governor Robinson Bridge. Daniel was 14 years old, having been born on November 12, 1958, and was a student in the 7th grade in Our Lady of the Sacred Heart School in Springfield. His body was found floating face down in the river about five feet from the south bank.

An autopsy performed on April 16th revealed that the cause of death had been blunt trauma to the head which had resulted in fractures of the skull. Investigation also revealed that death had occurred between the hour of 4:30 PM on April 14, 1972 when the victim was last seen alive, and the hour of 8:25 AM on April 15, 1972 when the body was found. The autopsy report also indicated that the stomach of the victim contained many chewed portions of candy gum; that his blood had an ethyl alcohol content of .18%; and that his blood type was Group "O."

A police report filed by Lieutenant Edmund Radwanski of the Chicopee Police Department on April 15, 1972 indicated that there were two cement piers, each 9 feet wide and 33 feet long, supporting that section of the Governor Robinson Bridge between the north side of East Main Street (Rte. 141) and the river bank. An area of blood-stained sand, about 6"x 12" in size, was found about 16 feet from the south side of the most northerly pier. Near to that stain there were marks in the sand which seemed to indicate that a struggle had taken place in that area, and there were marks and blood stains close to a set of tire tracks from a motor vehicle which had been driven into the area, had backed around, and had been driven off at a high rate of speed. There were marks in the sand which indicated that some heavy object had been dragged 83 feet from this blood-stained area to the edge of the river. The marks ended in a large pool of blood on the river bank directly south of the position of the body in the river. From this pool of blood there were bloodstains spattered on the rocks and soil for a

distance of 15 feet in a westerly direction.

In the course of the 1972 investigation of Daniel's murder, Father Richard R. Lavigne was one of numerous persons who were interviewed by the police. Father Lavigne was a Roman Catholic priest who at that time was stationed at St. Mary's parish on Page Boulevard in Springfield. He was a close friend of the Croteau family, including Daniel's father and mother and his four brothers, Carl, Gregory, Joseph and Michael. The friendship had developed during the period from May 6, 1967 to June 29, 1968 while Father Lavigne was assigned to St. Catherine of Siena Parish at 1001 Parker Street in Springfield where the Croteau family were parishioners and where all five of the Croteau brothers had served as altar boys. Lavigne developed a close relationship with the Croteau boys that continued after he was transferred to St. Mary's Parish. He would often visit the Croteau home and would take the Croteau boys on camping trips and other outings. At the time of Daniel's murder he was a trusted family friend and confidant.

On April 16, 1972, Lieutenant Radwanski observed Father Lavigne alone at the scene of the crime. On that same day, the Chicopee police received a report from a Mrs. Mary Bobek of 675 Granby Road in Chicopee in which she stated that Daniel Croteau had come to the door of her home on Friday, April 7, 1972, at about 10:30 PM. He had told her he was lost and looking for Father Lavigne. She allowed him to use her telephone and he placed a call. She overheard him ask, "Is Father Lavigne still there?" After a short conversation he hung up the phone and said that he

would wait outside. Within about five minutes a car drove up, picked Daniel up and drove off. Mrs. Bobek described the car as a Ford Mustang and positively identified the boy as Daniel Croteau from a photograph shown to her. She also identified a jacket which had been owned by Daniel as the jacket he was wearing when he arrived at her house. The police had information on file which indicated that Father Lavigne was at that time the owner of a maroon colored Ford Mustang.

On the following day, April 17, 1972, Lieutenant Radwanski interviewed Father Lavigne. In the course of that interview Lavigne asked him, "If a stone was used and thrown in the river, would the blood still be on it?" He also asked, "In such a popular hang-out with so many cars and foot prints, how can the prints you have be of any help?" He also admitted that he had received a phone call from Daniel on April 7th from a home on Granby Road. He said that Daniel had said he was lost and that he had picked him up, called his parents, and that Daniel had spent the night at Lavigne's parents' home in Chicopee. This admission was in contradiction of a statement made by Father Lavigne at an earlier interview when he had stated that whenever he took Daniel anywhere it was with his brothers or a gang of kids.

The evidence of the close relationship that had existed between Father Lavigne and Daniel, his presence at the scene of the crime on the day after the body was discovered, the unusual questions he had asked of the investigators in the course of his interview, and his admission that he had been alone with Daniel on

the night of April 7th focused police suspicion on Father Lavigne. It appears, in fact, that he was the prime suspect (if not the only suspect) at the time.

Father Lavigne was again asked about the April 7 incident in a subsequent interview on May 11, 1972. In that interview he stated that he believed he had called Daniel before Daniel went to a scout meeting, and that Daniel had asked about going to Vermont. He said that Daniel had indicated he wanted to go to Father Lavigne's house and that he had told him not to come to his house. He said that after he picked Daniel up on Granby Road and brought him to his parents' home, he had told Daniel to call his parents and allowed him to watch television in the finished basement of the house. The following morning he woke Daniel up, gave him breakfast and drove him home. He said he dropped Daniel off at the corner of his street and did not see Daniel's parents. He said that Daniel did not appear to be ill. He denied that he had ever given Daniel any alcohol, but stated that he had a well stocked bar in the basement and that Daniel might have taken some himself. He also stated that the next time he saw Daniel was at the funeral home on April 15th, and that he had not spoken to him since April 8th.

On August 7, 1972, the Chicopee Police took the following statement from Bernice Croteau, Daniel's mother:

On April 7, on Friday at around supper time, my son Danny dressed up, in fact dressed up better than he usually does. He wore his knit shirt, tie, herringbone jacket with a fur collar. He said he was going some place with Father Lavigne. He had been trying to contact the Father on the phone. I don't know if he had contacted Father Lavigne, but he left.

That was the last we had heard of him that evening until we received a call from Father Lavigne, it was around 11:30 or around midnight, and the Father asked me if Danny could stay over for the night. The following morning at around 8:00 A.M. or 9:00 A.M. Danny walked into the house. He didn't say too much, he just laid around for a while and complained about his stomach. Toward evening he told me that he had vomited several times during the day. At about 6:30 P.M. he went out for the evening, he said that he was getting on the bus and going to the YMCA. At no time did Danny tell me how he got to Chicopee and returned home. I thought that Father Lavigne had brought him back home.

On Monday, April 17, 1972, a telephone call had been made to the Croteau home. Carl Croteau, Jr., who was then nineteen years old, had answered the phone. After a long pause, a male voice that Carl recognized as very familiar said, "We're very sorry what happened to Danny. He saw something behind the circle¹ he shouldn't have seen. It was an accident." Carl realized that he was talking to someone who knew something about his brother's death and asked, "Who is this?" several times. The party on the other end of the line then hung up the telephone.

¹ Trooper Daly did considerable research (which he details in his affidavit) to determine the significance of the mention of the word "circle" by the caller. He determined that it refers to a wooded area directly behind the Sixteen Acres Library at 1187 Parker Street in Springfield where the city had created a small reading or sitting area by placing a circle of benches around a large oak tree. It had become the gathering place for a group of youths who had become known as "the circle gang" and sufficiently notorious to have been the subject of a book written by James A. Coleman of American International College. It was located less than one half mile from the Croteau home and less than one half mile from St. Catherine of Siena Church. Trooper Daly was able to establish that Father Lavigne had been familiar with the members of "the circle gang," and that although Daniel Croteau had been known and liked by the members of the group he was not a member of the "gang."

Carl and Daniel's father, Carl Croteau, Sr., was in the room when Carl, Jr. received the call. He immediately called the police and reported the incident. At the time when the call came, Daniel had not yet been buried and was still being waked. The entire family was in a highly emotional state. Carl, Jr. reports that he was particularly bothered because he recognized the voice but could not immediately associate it with a face. He attributes his inability to do so to the activity and commotion that was going on in the Croteau household at the time.

Sometime later, in the course of the police investigation, a captain of the Chicopee police and Lt. James Fitzgibbon of the Massachusetts State Police were at the Croteau home and informed the family that Father Lavigne was a suspect in the case. They asked Carl if the voice on the phone could have been that of Father Lavigne.

Carl reports that at that moment he realized that Father Lavigne had in fact been the caller. He states that he was shocked and did not want to believe it. Father Lavigne had been his friend, counselor and confidant and had said the Mass and final prayers at Daniel's funeral. He, as well as his brothers, had been an altar boy at St. Catherine of Sienna while Father Lavigne was there, and he had associated with him in many outside activities such as camping, overnight trips to the mountains and fishing trips. He states that during the time when Father Lavigne was at St. Catherine's and St. Mary's he had been very close to him and had spoken to him on the telephone at least once each week. He is

today completely confident that the voice on the other end of the line was that of Father Lavigne.²

Although Father Lavigne was considered a suspect as a result of the 1972 investigation, no charges were ever made against him and he was never arrested. The investigation eventually became inactive for lack of evidence. It remained dormant until October of 1991 when Father Lavigne was charged with rape of a child and indecent assault and battery upon a child in Franklin County. He was at that time assigned to St. Joseph's Parish in Shelburne Falls. He had been transferred from St. Mary's Parish in Springfield to St. Francis's Parish in North Adams on July 6, 1976, and from St. Francis's Parish to St. Joseph's Parish on November 30, 1977.

The 1991 charges against Father Lavigne triggered an investigation of his activities by the Crime Prevention and Control Unit of the State Police attached to the office of the District Attorney for the Northwestern District. As a result of that investigation, a total of 18 persons came forward to claim that they had at one time been sexually molested by Father Lavigne. They included parishioners of three of the parishes to which Father Lavigne had been assigned - St. Catherine of Siena and St. Mary's in Springfield and St. Joseph's in Shelburne Falls. Five of the complainants made charges that fell within the statute of limitations. As

² The circumstances of the voice identification were of course highly suggestive - so much so perhaps as to make the identification inadmissible at trial. It may nevertheless be considered, I think, where the issue is the existence of probable cause to conduct further investigation.