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OF DISTRICT COURT

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MONTANA SIXTH JUDICIAL DISTRICT COURT, PARK COUNTY

THE STATE OF MONTANA,)
)
Plaintiff,)
vs.)
)
DANIEL BENJAMIN WEINZETL,)
)
Defendant.)

Cause No. DC 13-88

**AFFIDAVIT IN SUPPORT OF MOTION AND
MOTION FOR ORDER GRANTING LEAVE TO FILE INFORMATION**

Brett D. Linneweber, Park County Attorney, and as attorney for the State of Montana, states that based upon the investigative information provided to him, that he believes that there is probable cause that an offense has been committed and therefore, moves the court for leave to file an information charging the defendant, DANIEL BENJAMIN WEINZETL, with the offenses of COUNT I: AGGRAVATED ASSAULT, a felony, in violation of Section 45-5-202(1), MCA, 2011, punishable by imprisonment for not more than twenty (20) years, or by a fine not to exceed \$50,000.00, or both said fine and imprisonment; COUNT II: ASSAULT WITH A WEAPON, a felony, in violation of Section 45-5-213(1)(b), MCA, 2011, punishable by imprisonment in the state prison for a term of not more than twenty (20) years, or by a fine of not more than fifty thousand dollars (\$50,000.00), or by both said fine; and COUNT III:

CRIMINAL ENDANGERMENT, a felony, in violation of Section 45-5-207, MCA, 2011, punishable by imprisonment in the state prison for a term of not more than ten (10) years, or by a fine of not more than fifty thousand dollars (\$50,000.00), or by both said fine.

COUNTS I-III

I.

On Saturday September 7, 2013, at approximately 1430 hours, dispatch received a for a 911 call. A female caller was hysterical, stating that someone had pointed a gun at her family. However, before follow up information was given, the line was disconnected. Multiple law enforcement responded to the general location of Billman Lane and Canyon View Drive where the call originated from. In the meantime, dispatch was unable to make contact with the caller as it continued to go to voice mail. The only relevant information obtained was the fact that the female caller's first name was Kim.

II.

While traveling north bound on Canyon View, a vehicle pulled in beside one of the responding officers (Officer Emanuel) and told him that they were the ones that had called. Due to the excited state of his K9 partner, Officer Emanuel asked the driver to pull to the side of the road where he could speak to them and could hear them.

III.

The driver was identified as Brock Roy and his wife was identified as Kim Roy. Officer Emanuel notified dispatch the caller was located. Kim was visibly shaken and upset. According to Brock, an unknown male had pointed a gun at them and their children and had then taken off. Officer Emanuel asked what kind of vehicle the offender was driving and received two answers.

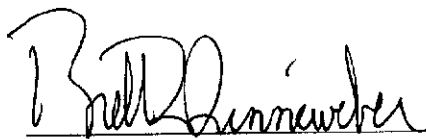
According to Brock, one vehicle was a white Lexus passenger car with Minnesota plates and the second vehicle was a white 1966 Ford Bronco with Montana plates. Officer Emanuel relayed this information to the other officers while waiting for Deputy Call to arrive.

IV.

Officer Emanuel spoke briefly with Brock who reported the following: He had sold the Bronco to a male from Minnesota. The male came today to complete the transaction and take possession of the vehicle. At some point during the transaction, the male confronted Brock about the way the vehicle drove. Brock advised the male that the sale was final which subsequently resulted in a verbal altercation. The altercation rose to a point where a friend of the male retrieved a black handgun and pointed the gun at the entire family, including the children. Fearful for the safety of his family, Brock accelerated away from the situation in his vehicle, leaving the two males behind.

V.

In the meantime, multiple law enforcement in throughout the county region were on the look-out for the vehicles. Because the vehicles were believed to be traveling east on Interstate 90, coordination also include Sweetgrass County law enforcement. Deputy Swanson and Trooper Hensley observed the vehicles and on request stopped the vehicles and placed them under arrest. The offender with the gun was identified as Daniel Benjamin Weinzetl of Minnesota.



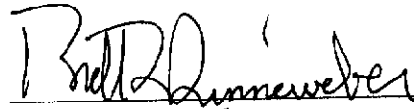
Brett D. Linneweber
Park County Attorney

VERIFICATION

STATE OF MONTANA)
 :
County of Park) ss

Brett D. Linneweber, Park County Attorney, being first duly sworn, deposes and says:

- 1) That he is the attorney for the State of Montana; and
- 2) That he has read the foregoing petition, knows the contents thereof, and that the matters stated in the pleadings are true to the best knowledge, information and belief of the affiant.


 Brett D. Linneweber
 Park County Attorney

SUBSCRIBED AND SWORN TO before me this 20th day of September, 2013.

JUNE LITTLE

 Clerk of District Court

(S E A L)

By Sherry Bates
 Deputy Clerk

ORDER GRANTING LEAVE TO FILE INFORMATION

Brett D. Linneweber, Park County Attorney in and for the State of Montana, having this day appeared in open court and having filed a written affidavit in this court asking leave to file an information charging the defendant, DANIEL BENJAMIN WEIZETL, with committing the

offenses of COUNT I: AGGRAVATED ASSAULT, a felony; COUNT II: ASSAULT WITH A WEAPON, a felony; and COUNT III: CRIMINAL ENDANGERMENT, a felony; and it satisfactorily appearing to the court that there exists sufficient cause therefor;

NOW THEREFORE, LEAVE IS HEREBY GRANTED to file the Information as set forth in the written affidavit.

DATED this 20th day of September, 2013.



HON. BRENDA GILBERT
District Judge