

Eric N. Kitzmiller, Deputy County Attorney
Gallatin County, Montana
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GALLATIN COUNTY CLERK
OF DISTRICT COURT
JENNIFER BRANDON

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BY JC

MONTANA EIGHTEENTH JUDICIAL DISTRICT COURT, GALLATIN COUNTY

* * * * *

STATE OF MONTANA,

Plaintiff,
vs.

ROBERT MOCK,

Defendant.

) Case No.: DC- 11-42B
)
) AFFIDAVIT OF PROBABLE CAUSE AND
) MOTION FOR LEAVE TO FILE
) INFORMATION
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COMES NOW the State of Montana by Eric N. Kitzmiller, Deputy Gallatin County Attorney, and being first duly sworn upon oath, deposes and says as follows:

1. That your affiant is a Deputy Gallatin County Attorney, and by law one of the attorneys to prosecute criminal matters in the State of Montana.

2. Based upon a report of investigation compiled by Detective Kristine Larsen of the Gallatin County Sheriff's Office, your affiant is aware of the following.

3. On December 13, 2010, at approximately 2:10 p.m., Detective Larsen responded to a report of a house fire at 216 Fir Street in Three Forks, Gallatin County, Montana. Detective Larsen learned from Wendell Ewan (Three Forks Fire Department

Officer) that fire department personnel responded to the fire at approximately 12:50 p.m. When they arrived, they observed flames coming from the west side of the residence. They also saw flames coming from the pipe of a gas meter by the house.

4. Once the fire was extinguished, it was determined there was damage to the west wall of the residence and smoke damage throughout the residence.

5. Detective Larsen learned that Elizabeth Mock had been living at the 216 Fir Street residence and she was experiencing domestic problems with her estranged husband, Robert Mock, the defendant.

6. A temporary order of protection was issued on December 6, 2010, that indicated Robert Mock's residence was 2630 Madison Road, Three Forks, Montana. The order prohibited Robert Mock from having contact with Elizabeth Mock and required him to stay 300 feet away from her residence at 216 Fir Street, Three Forks, Montana. The order of protection was served on Robert Mock on December 6, 2010, by Deputy Jon Nelson of the Gallatin County Sheriff's Office and provided him notice of a court hearing to be held on December 14, 2010. Robert Mock failed to appear for the court hearing and a permanent order of protection was issued by the court. The permanent order also prohibited Robert Mock from having contact with Elizabeth Mock and required him to stay

300 feet away from her residence at 216 Fir Street, Three Forks, Montana.

7. Detective Larsen also discovered that Three Forks Police Officer Aaron Baczuk responded to a burglar alarm at the 216 Fir Street residence at approximately 1:08 a.m. on December 13, 2010. Officer Baczuk located a broken window on the west side of Elizabeth Mock's residence. Officer Baczuk located truck tire tracks in the snow in an alley adjacent to Elizabeth Mock's residence. He also observed footprints in the area that went along a west fence and to a patio door of the residence. Officer Baczuk noted it appeared from the footprints that a person had spent some time at the back sliding glass door of the residence.

8. Officer Baczuk spoke with Elizabeth Mock at approximately 10:00 a.m. on December 13, 2010. She indicated she believed Robert Mock was responsible for breaking the window. She believed he chose to break that window because it was in the room where she slept and he wanted to scare or hurt her. Elizabeth Mock indicated she left the residence she previously occupied with Robert Mock at 2630 Madison Road, Gallatin County, Montana, a few weeks earlier because she was afraid for her safety while around Robert Mock. Elizabeth Mock indicated she was going to move from the 216 Fir Street residence because she

believed the person who broke the window was Robert Mock and she was afraid to remain at the residence.

9. Officer Baczuk learned Robert Mock was staying at the 2630 Madison Road residence. Officer Baczuk went to the residence along with uniformed Three Forks Police Officer Cary Bradbury in a police vehicle. While they were traveling to the Madison Road residence, they were notified about the fire at 216 Fir Street. At about that same time, Officer Baczuk observed Robert Mock driving a vehicle from that area and towards the Madison Road residence where Robert Mock was believed to be staying. No one else was observed in the vehicle. Officer Baczuk initiated a traffic stop of the vehicle. However, the vehicle did not stop despite Officer Bradbury's activation of his patrol car's emergency lights and siren. Officer Baczuk noted the vehicle was a white 1990's model Chevrolet pick-up truck. Officer Baczuk noted the truck accelerated and due to road conditions law enforcement officers were unable to get the truck stopped before it arrived at 2630 Madison Road. Officer Bradbury noted the driver of the truck was wearing a dark baseball type cap and what appeared to be a plaid shirt or jacket. Law enforcement officers observed a person who they believed to be Robert Mock outside the truck and moving around the residence and other out buildings near the residence. Law

enforcement officers attempted to make contact with anyone at the residence but were unsuccessful.

10. Montana motor vehicle registration records indicate that a white 1995 Chevrolet pick-up truck is registered to Elizabeth Mock and Robert Mock.

11. Detective Larsen learned from Three Forks Police Chief Troy Burdick that he spoke with Jason Noise on December 13, 2010 at approximately 2:42 p.m. Noise lives near the 216 Fir Street residence that was on fire. Noise indicated he observed a white Chevrolet or GMC 1990's model truck driving around the 216 Fir Street residence. Noise indicated the driver of the truck was a guy wearing blue jeans, a plaid jacket and ball cap. Noise noted the guy was looking around the residence on the side where the fire was burning before it started. Noise noted when he would look over at the guy, the guy would get into his truck and leave. Then the guy would come back to the residence and then leave again. He noted this happened numerous times, but he could not tell what the guy was doing.

12. Deputy Larsen examined the residence where the fire occurred and the area around the residence. She noted several points of origin for the fire located along the back of the residence. She also noted the main site appeared to be at the base of the gas meter at the west side of the residence. She

also noted the odor of an accelerant she believed was gasoline along the foundation of the residence.

13. On December 15, 2010, Detective Larsen conducted a search of the area at 2630 Madison Road pursuant to a search warrant. Detective Larsen located two gasoline containers in a shed close to where Robert Mock parked the white Chevrolet truck he was driving on December 13, 2010. She also located a Bic lighter and box of matches in the cab of the truck. Detective Larsen also examined the tires of the truck and noted the tires matched the tire tracks observed by Officer Baczuck at the 216 Fir Street residence during the early morning of December 13, 2010.

14. On December 16, 2010, Lonnie Larson, a private investigator for Travelers Insurance Company, examined the residence at 216 Fir Street. He noted the residence was a site built single story wood frame structure. His examination of the west wall of the structure revealed evidence consistent with the fire starting near the gas meter. He also noted that the burn pattern was consistent with the use of ignitable liquid, and he detected the odor of gasoline in the area. Based on his investigation, he concluded the fire was a set fire.

15. Based on the foregoing facts, the undersigned moves the Court to find that probable cause exists to file an Information charging the defendant with the crime(s) of: Count 1, Arson, a Felony, in violation of § 45-6-103, MCA; Count 2, Stalking, a Felony, in violation of § 45-5-220, MCA; and Count 3, Fleeing From or Eluding a Peace Officer, a Misdemeanor, in violation of § 61-8-316, MCA.

Dated this 17th day of February, 2011.

Eric N. Kitzmiller
Eric N. Kitzmiller
Deputy County Attorney
Gallatin County, Montana

SUBSCRIBED and SWORN to before me this 17th day of February, 2011.

Helen F. Baldwin
NOTARY PUBLIC FOR THE STATE OF MONTANA
Residing at: Bozeman, Montana
My commission expires:
Christine Richards Helen F. Baldwin