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GALLATIN COUNTY CLERK
OF DISTRICT COURT
JENNIFER BRANDON

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MONTANA EIGHTEENTH JUDICIAL DISTRICT COURT, GALLATIN COUNTY

THE STATE OF MONTANA,

No. DC-13- 233C

Plaintiff,

v.

AFFIDAVIT OF PROBABLE CAUSE
AND MOTION FOR LEAVE TO FILE
INFORMATION

CODY CHRISTOPHER LITTLE,

Defendant.

* * * * *

COMES NOW Marty Lambert, Gallatin County Attorney, and being first duly sworn upon oath, deposes and says as follows:

1. Affiant is the Gallatin County Attorney, and by law one of the attorneys to prosecute criminal matters in the State of Montana.

2. Detectives Jonathan Barge, Robert Vanuka, Anthony Hutchings, and Ed Benz of the Bozeman Police Department, investigated a homicide and attempted homicide that occurred in Bozeman, Gallatin County, Montana. These investigators, along with other law enforcement officers, provided your affiant with the details set forth below.

3. On September 20, 2013, at approximately 4:00 a.m., Bozeman

Police Officers were dispatched to a reported shooting in the 100 block of N. Ferguson Avenue. Dispatch continued to relay information from callers, and the responding officers were told that one or two persons were injured, with one person unconscious, and one person barely breathing. The callers were unaware of who shot who or the location of the weapon. A resident on nearby Broadwater Court reporting hearing four shots fired.

4. Bozeman Police Officers Justin Chaffins, Lindsay Shepherd, Shawn Torsedahl, and Marek Ziegler were the first officers on the scene of the shooting. Torsedahl and Chaffins parked near 79 N. Ferguson Avenue. The officers saw many persons at the scene, and ordered all persons to the ground. Chaffins then saw a man, later identified as Rielley Ray, escorting Defendant toward the officers. Ray said the Defendant was the shooter. The officers approached and handcuffed Defendant.

5. Chaffins stood by Defendant as Defendant lay on the ground. Defendant saw officers talking with other people near the residence at 79 N. Ferguson, and said: "Hey, those people inside have nothing to do with it". Defendant then made the following spontaneous and unsolicited comments: "Sir, I was attacked. I understand that I do know I shot somebody but I was attacked." Later Defendant said "I know for a fact I didn't kill him. I shot him in the leg." Defendant then stated "I was afraid for my life sir". Defendant later stated "I didn't, I didn't mean to kill

somebody sir I was just afraid for my life. They were chasing me". When Chaffins and the other officers believed they had the scene under control, Defendant was helped to his feet, and the officers conducted a pat search. Chaffins found two live Remington .20 gauge shotgun rounds in Defendant's pockets.

6. After Defendant had been handcuffed, Officer Green asked Ray where the gun was located. Ray pointed toward the back of the residence at 79 N. Ferguson Avenue. Green saw a shotgun leaning against the wall, just to the south of the rear door to a residence. Green then saw two men lying in the alley between Ferguson and Kimball Avenues. Green first came to a man later identified as James Armstrong. A shirt had been employed as a tourniquet and was wrapped around Armstrong's left leg just below the knee. Green saw that the tourniquet "appeared to be stopping or at least slowing the severe bleeding". Armstrong told Green that Armstrong's calf was gone. Green turned his attention to the second victim, later identified as Larry Clayton. Green saw "an extremely large amount of blood" on the ground around Clayton's body. Green checked Armstrong for a pulse and found none. Green also saw several clothing items lying in the alley, and Green saw yellow shotgun casings on the ground near to Armstrong and Clayton.

7. Det. Jonathan Barge arrived at the shooting scene at approximately 4:50 a.m. Patrol officers had cordoned off the area

where the shooting occurred. Green advised Barge that there were two nearby residences where persons involved in the shooting had been earlier that morning: 123 N. Ferguson and 79 N. Ferguson, Unit A. Barge saw three expended Remington 20 gauge Nitro Mag shotgun shell casings. Barge also saw two plastic shotgun wads. Barge could not find the third wad from the expended shell casings. Officers later learned that the third wad was found and removed from Clayton's abdomen while Clayton was being treated at the Bozeman Deaconess Hospital. Barge could see a shotgun leaning against a spigot on a wall at 79 N. Ferguson Unit A. Barge and Tom Weightman collected the shotgun, which was a Mossberg .20 gauge pump action. The shotgun was unloaded. Barge later looked at the two live shotgun rounds recovered from Defendant's pockets. The rounds were identical to those expended rounds found on the ground near Clayton and Armstrong.

8. Detective Barge learned that Defendant lived in 79 North Ferguson Unit A. Barge applied for and received a warrant to search the interior of Unit A. The downstairs bedroom in Unit A appeared to belong to Defendant, as items bearing Defendant's name were in and about the room. Barge saw, on the bedroom floor near the door, an opened box of Remington .20 gauge shotgun ammunition.

9. Detective Vanuka interviewed Rielley Ray at approximately 6:25 a.m. on September 20, 2013. Ray said that,

after bar closing at 2:00 a.m. on September 20, he attended a party at 123 North Ferguson Avenue. Ray said that the apartment's residents eventually asked people to leave. Ray said that around that time he heard people yelling in the street next to the residence. Ray went outside. Ray went over to where James Armstrong was arguing with Defendant. Ray saw Armstrong stumble backwards. Armstrong exclaimed that "this guy just hit me". Ray saw that Armstrong's lip was bloodied.

10. Ray said that Defendant then ran south down the alley toward 79 N. Ferguson Avenue. Ray followed Defendant south, but eventually lost sight of him. Ray said that Defendant re-appeared in the southern most portion of the alley wearing a gray hooded sweatshirt. Ray said that he was about twenty feet from Defendant, and Defendant was now wielding a long gun. Defendant then fired a round into the ground and sparks went everywhere, leading Ray to conclude that Defendant had just fired a shotgun. Ray said Defendant then approached Clayton, leveled the shotgun at Clayton's abdomen, and fired. Ray said that, after Defendant shot Clayton, he ran towards a small group of people and fired the third shot, which hit Armstrong in the leg.

11. Ray said that Defendant then turned towards Ray, elevated the shotgun inches away from Ray's face, and pulled the trigger. Ray heard a click when the trigger was pulled. Ray

froze, and Defendant ran away from Ray. Ray pursued Defendant, who ran towards the back door of 79 N. Ferguson, Unit A. As he approached the door, Defendant cast the shotgun aside, and tried to close and bar the door. Ray pushed the door open, struggled with Defendant, and eventually subdued Defendant on the floor inside the door of Unit A. When Ray heard that the police had arrived, he took Defendant outside where the police arrested Defendant. When asked to describe his feelings at the moment Defendant pulled the trigger Ray said "four shells and I'm dead".

12. Defendant was transported to the Law and Justice Center where his hands were bagged to preserve gunshot residue. In the Law and Justice Center Defendant became aggressive, and began kicking the walls and yelling. The police then took Defendant to the Gallatin County Detention Center.

13. On September 20, at approximately 7:15 a.m., Detectives Vanuka and Hutchings interviewed Defendant. Defendant was advised of his *Miranda* rights and he agreed to waive his rights and speak with the detectives. Defendant said that a co-worker named Chad (later identified as Chad Vanderby) had come to Defendant's residence. Defendant said that Chad was intoxicated and wanted to party. Defendant went next door where he said that Vanderby was "throwing a bottle of whiskey back, having a good time. And then he started trying to fight, he wanted to fight

everybody". Defendant then claimed that Vanderby was being drug outside by other people and that some blonde haired dude kept trying to grab Vanderby. Defendant said he ran to his house and grabbed his shotgun. Defendant claimed that Vanderby was getting stomped and that he "blew a round off. I blew it off above them". Defendant then said that he tried to run away but the blonde dude held him back and started punching him. Defendant then said that they "ripped the shotgun out of my hands and threw it on, threw it on the ground and that, and Chad was sitting there getting stomped. Dude beat, punched me in the face like four or five times. And that's when the cops showed up". Defendant also told the detectives that the shotgun was always loaded, and that there were two rounds in the shotgun. Later during the interview Defendant admitted that he fired a second round into the air. Defendant told the detectives that he had not pointed the shotgun at anyone.

14. Larry Clayton was flown from Bozeman to Seattle for medical treatment. On September 21, 2013 Larry Clayton died from the gunshot wound he suffered on September 20, 2013. James Armstrong was taken to Billings for treatment of his gunshot wound. According to Gallatin County's Victim Services, as of October 10, 2013 Armstrong had returned home from the hospital, but Armstrong's lower leg was to be amputated at a future date.

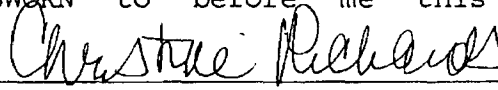
15. Based upon the foregoing facts, the undersigned requests

that this court find probable cause exists to file an Information charging the above-named defendant with the following offenses:
COUNT 1: Deliberate Homicide, a Felony, in violation of §45-5-102, MCA; Count 2: Attempted Deliberate Homicide, a Felony, in violation of §§45-4-103 and 45-5-102, MCA; and COUNT 3: Attempted Deliberate Homicide, a Felony, in violation of §§45-4-103 and 45-5-102, MCA.

DATED this 10 day of October, 2013.


Marty Lambert
Gallatin County Attorney

October SUBSCRIBED and SWORN to before me this 10 day of October, 2013.


NOTARY PUBLIC FOR THE STATE OF MONTANA
Residing at: Manhattan, Montana
My commission expires: 2-15-2016
Christine Richards

