

**IN THE JUSTICE COURT, COUNTY OF GALLATIN,
IN AND FOR THE STATE OF MONTANA**

THE STATE OF MONTANA

Plaintiff
v.

No.

AFFIDAVIT OF PROBABLE CAUSE

Nathaniel John Budd

Defendant

STATE OF MONTANA)
 :SS
County of Gallatin)

COMES NOW Detective Robert Vanuka, and being first duly sworn upon oath, deposes and says:

1. I am a Detective in the Investigative Division of the Bozeman Police Department, Gallatin County, Montana.
2. On December 1, 2012, I arrested the above-named Defendant and charged the Defendant with the crime of:

Attempted Deliberate Homicide (F) (2 counts) 45-5-102 M.C.A.

3. The crime occurred on December 1, 2012.
4. The place of the crime was 2817 W. Main Street, Bozeman, Montana.
5. The facts relied upon to make the arrest and charge is as follows:

On December 1, 2012 at approximately 0132 hours, Bozeman Police Officers responded to a shooting that had occurred in the mall parking lot in front of Taco Bell located at 2817 W. Main St., Bozeman. The caller, W.M., described how the suspect, a "younger male driver", in a silver Honda Civic, went eastbound on W. Main Street from the Taco Bell location after the shooting.

Officers Bachich, Rouse, Martin, Sgt. Klumb and numerous other officers responded to Taco Bell. The officers found a blue Honda CRV, occupied by W.M. and K.R., parked in the driveway to the restaurant. A female in the front passenger seat, K.R., had sustained two gunshot wounds. K.R. had been shot once through the right leg, with a second gunshot wound to her upper left back area while seated in the front passenger seat. Although W.M. was in the driver's seat of the vehicle when the shooting occurred, he was not injured.

At the time of the call at Taco Bell, Officers Sinness and Chaffins were conducting a DUI investigation in the 2000 block of W. Main Street. Officer Sinness saw a silver Honda Civic travel eastbound on Main St. and turn northbound onto N. 19th Avenue. Officer Sinness noted the Honda was travelling at a high rate of speed and had a loud after-market exhaust system.

Approximately 20 seconds after the Honda passed by Officers Sinness and Chaffins, dispatch relayed the shooting suspect vehicle description over the radio. Officer Sinness noted that the description matched the Honda that he had just seen and advised other officers that the suspect vehicle was travelling northbound on N. 19th Avenue.

Officers Lusby, Gaukler and Shepherd responded to the area of N. 19th Avenue. Officer Lusby saw the suspect silver Honda Civic travelling northbound on N. 19th Ave. near Rawhide Ridge. Officers Lusby, Gaukler and Shepherd conducted a high-risk traffic stop with the suspect vehicle on the eastbound on ramp to Interstate 90. A lone male occupant was removed from the vehicle and taken into custody. The male (hereinafter referred to as the defendant) was identified as Nathaniel John Budd, 22 YOA, by his Montana driver's license. The defendant was taken to the Law & Justice Center.

Inside the defendant's vehicle, officers observed in plain view, a pump-action shotgun, a pistol magazine pouch, two single stack pistol magazines, and the bottom of the grip of a dark colored 1911-style handgun partially visible under a bag in the vehicle. The vehicle was impounded and secured.

Officer Richardson then went to Bozeman Deaconess Hospital where he met with K.R. and W.M. Both described the suspect vehicle as an older model Honda Civic with black rims. K.R. also said the vehicle was a four door model. Officer Richardson noted their descriptions were consistent with the defendant's vehicle. K.R. described the shooter as a white male with lighter hair. W.M. described him as a white male with darker hair.

K.R. underwent a surgical procedure at Bozeman Deaconess Hospital where medical staff removed a .45 caliber bullet from K.R.'s back.

Detective McNeil obtained nearly identical statements from both W.M. and K.R. including similar descriptions of the suspect and suspect vehicle.

K.R. described the driver of the Honda as being white, in his early/mid twenties, with sandy blonde hair that was "short" (not shoulder length) in length. She believed the driver had been wearing black. K.R. described the vehicle as a silver Honda passenger car with black wheel rims without hubcaps, and windows that were not tinted.

W.M. described the driver of the Honda as being a white male, around 27 years of age, with brown hair that was shorter in length. W.M. stated the vehicle was a silver Honda civic with black rims without hubcaps.

According to their statements, W.M. was driving his Honda CRV and K.R. was seated in the

front passenger seat. The two were waiting in the parking lot of the Gallatin Valley Mall, east of the Taco Bell entrance, waiting for traffic ahead so they could pull into the drive through. At this time, both W.M. and K.R. observed that a passenger vehicle was behind their CRV, honking its horn and revving its engine. W.M. and K.R. gestured out the window for the vehicle to pass them. At one point, K.R. left the CRV and swore at the driver of the other vehicle who was later determined to be the defendant, telling him to "go around". K.R. then re-entered their CRV.

Approximately 1 to 2 minutes later, W.M. pulled their CRV forward into the Taco Bell drive through. At this time, the defendant pulled forward into the oncoming traffic lane alongside W.M. and K.R. and the defendant rolled down his driver's side window. K.R. rolled down her window and another verbal altercation ensued. K.R. then rolled up her window. The defendant then shot K.R. while she was seated in the front passenger seat of their CRV.

Numerous people had been in the drive-thru and parking lot of Taco Bell at the time of the shooting. The witnesses were identified and subsequently interviewed by officers.

Investigation of the crime scene included the victims' blue Honda CRV which was parked partially in the drive-thru driveway for the restaurant. Three bullet holes were noted on the passenger side of the vehicle. One round had entered the middle of the front passenger door and exited near the door handle on the interior, continuing into the vehicle. A second round had struck the frame between the front and rear passenger doors and did not appear to have entered the passenger compartment. A third round had entered the rear passenger door at a forward angle, exiting the door and entering the back of the passenger seat. The bullet had exited the front of the passenger seat and continued into the passenger compartment of the vehicle. Three spent .45-caliber casings were found near the CRV's passenger side.

Det. Toresdahl and I conducted an interview with the defendant at the Law & Justice Center. Det. Toresdahl advised the defendant of his rights per *Miranda* and he verbally waived his rights and agreed to speak with us without an attorney present.

The defendant confirmed he had been at Taco Bell earlier in the night. The defendant said he got into an altercation with a female passenger in another vehicle. During the interview, the defendant stated he purchased food and was sitting in his vehicle eating when a truck pulled up next to him and a female began to get out of the passenger side of the vehicle. Later, the defendant could not accurately recall whether the female left the vehicle or not. At one point during the interview, the defendant said the female was acting crazy and screaming. The defendant said he believed she began to open the passenger door. The defendant said he thought the female had a silver object in her hand, which he thought might have been a knife or blade of some type. The defendant said he saw the male driver leaning over and looking toward him, which he said made him fearful of a weapon. The defendant said he did not actually see any weapons in the other vehicle. During the interview, the defendant gave inconsistent statements regarding the female passenger's actions prior to when the defendant shot at W.M. and K.R.

The defendant said he grabbed his 1911-A1 45-caliber pistol from the driver's door pocket, chambered a round and fired 2-3 shots at W.M. and K.R. The defendant estimated their vehicles were 5-10 feet apart when he fired the shots.

When asked what his intent was when he fired, the defendant explained he was afraid because of their behavior and wanted to stop the threat. The defendant said that both the male and female were threats and the defendant was firing at both of them. At the time of the shooting, both K.R. and W.M. were seated in the CRV with their doors closed waiting to move forward in the drive through line.

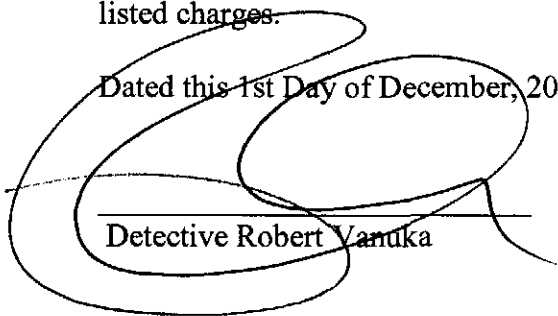
Following the shooting, the defendant said he fled eastbound on Main Street, intending to go back to his residence in Livingston. As he drove, the defendant said he put the handgun on the rear floorboard of his vehicle, although he was not sure if it was behind the driver's seat or the passenger's seat.

Detective McNeil conducted interviews with both W.M. and K.R. Both denied ever brandishing any type of weapon during the encounter. K.R. denied carrying or holding anything in her hands during the incident. W.M. said that he had a pocket knife, and gave the knife to Detective McNeil. The knife was a folding pocket knife, approximately 4 inches in length folded, approximately 8 inches unfolded. The knife had a matte black metal handle and matte black blade. Detective McNeil conducted a pat search of W.M. and found no other weapons.

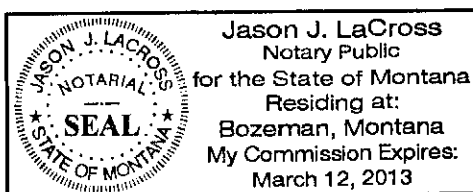
I am aware that a person commits the offense of Attempted Deliberate Homicide when, with the purpose to purposely or knowingly cause the death of another human being, the person does any act toward the commission of the offense, pursuant to Montana Code Annotated 45-5-102 and 45-4-103.

The defendant was held at the Gallatin County Detention Center without bond on the above-listed charges.

Dated this 1st Day of December, 2012.


Detective Robert Vanuka

SUBSCRIBED AND SWORN THIS 1 DAY OF DECEMBER, 20 12.



Jason J. LaCross
(Printed Name of Notary Public)


NOTARY PUBLIC FOR MONTANA

Residing at Bozeman, MT.

My Commission expires 3/12/13

ORDER

Upon reading the foregoing Affidavit:

_____ IT IS HEREBY ORDERED THAT probable cause **is found** to charge the above-named defendant with the following charge(s):

_____ IT IS HEREBY ORDERED THAT probable cause **is not found** to charge the above-named defendant with the following charge(s):

DATED this ____ day of _____, 20__ at _____ a.m./p.m.

JUSTICE OF THE PEACE