

## Fax Transmission/Cover Letter

To: Kate

Of: mission

Fax: 406-523-5294

Phone: \_\_\_\_\_

From: Carolyn Lisle, Clerk

Of: Lincoln County Justice Court

Phone: 406-283-2412 Fax: 406-293-5948

Date: 2/23/15

Number of Pages, Including Cover: 5

Message:

Re: Tholen

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Carolyn Lisle, Clerk

Lincoln County Justice Court

**LINCOLN COUNTY SHERIFF'S OFFICE**  
**AFFIDAVIT OF PROBABLE CAUSE FOR ARREST**

ORIGINAL

Case Number: 215CR0001243

**Affidavit of Probable Cause / Order Form, Criminal Action**

**In the Justice Court of Lincoln County, State of Montana,**

**Before Judge Sheffield**

THE STATE OF MONTANA

PLAINTIFF

VS

DUANE RICHARD THOLEN

DEFENDANT

}

} AFFIDAVIT OF PROBABLE CAUSE

}

AND

}

} ORDER TO HOLD OR RELEASE

}

}

STATE OF MONTANA

COUNTY OF LINCOLN: ss

THE UNDERSIGNED, BEING A DULY SWORN LAW ENFORCEMENT  
OFFICER STATES AS FOLLOWS:

I DEPUTY JOHN R. DAVIS ARRESTED DUANE RICHARD THOLEN, THE ABOVE DEFENDANT,  
FOR THE OFFENSE(S) OF:

ASSAULT WITH A WEAPON  
IN VIOLATION OF 45-5-213. M.C.A.

ASSAULT WITH A WEAPON  
IN VIOLATION OF 45-5-213 M.C.A.

AT 1756 HOURS ON THE 20TH DAY OF FEBRUARY, 2015, AT LIBBY, MONTANA, ON A  
WARRANTLESS ARREST.

THAT I DEPUTY JOHN DAVIS, BELIEVE THAT THERE IS PROBABLE CAUSE TO HOLD SAID  
DEFENDANT FOR THE ABOVE STATED OFFENSE(S) BASED ON THE FOLLOWING FACTS:

On the above time and date I was on patrol in a marked vehicle and wearing an approved  
uniform. Dispatch advised of a possible disturbance that had taken place at 284 Terrace  
View road. The disturbance was between a school bus driver and an unknown male. The  
reporting person was Kristan Martin an employee of Harlow's Bus Service.

I spoke to the school bus driver, Janet Kurle, about the incident. Kurle stated that she was waved down by a male while on her bus route on Terrace View rd. Kurle stated that the male was waving his hands back and forth on the side of the road. Kurle stopped the bus and opened the door. Kurle stated that the male stepped one foot up onto the bus and had a knife in his hand. Kurle stated that the male was angry because she was driving too fast. Kurle stated that the male was screaming at her while waving the knife around. Kurle stated that the knife in the males hand was approximately 12" away from her face. Kurle stated that she was very scared and had 5 children still on the bus. Kurle stated that the male stepped out of the bus and she shut the door of the bus on his hand and drove away. Kurle stated that she did not know who the male was. Kurle stated that her adult aid, Jane Smook, was on the bus and witnessed the incident.

I spoke to Smook about the incident. Smook's account of the events was very similar to Kurle's. Smook stated that the male was very angry and screaming at her. Smook stated that the children on the bus were "freaked out". Smook stated that the male was threatening them with the knife. Smook and Kurle both gave me a detailed physical description of the male and the knife. Smook and Kurle also gave a detailed description of the residence on Terrace View where the male apparently resides.

Deputy Boyde White and I responded to 284 Terrace View road. A male matching the description came to the door. The male was later identified as Duane Richard Tholen. I asked the Tholen if he knew why I was here? Tholen stated that he had complained about the bus driver. Tholen admitted to waving down the bus and confronting the bus driver about her speeding by his residence. Tholen denied stepping into the bus. Tholen stated that the bus driver was rude to him.

Tholen admitted to having a knife while working on his truck in the driveway. Tholen initially denied taking the knife on the bus. Tholen later stated that he could not remember if he took the knife on the bus or not. At my request Tholen retrieved the knife in question. The knife Tholen handed me matched the physical description given by both witnesses.

Smook's statements and account of the incident indicated a reasonable apprehension of bodily harm.

Kurle statements and accounts of the incident indicated a reasonable apprehension of bodily harm.

Tholen was charged with two counts of Assault with a weapon.

I arrested Tholen for the above charges and transported him to the LCSO Detention Center for booking.

DATED THIS 20th DAY OF FEBRUARY, 2015 AT THE HOUR OF 2257 PM.



AFFIANT

SUBSCRIBED AND SWORN TO BEFORE ME THIS \_\_\_\_\_ DAY OF \_\_\_\_\_  
20\_\_\_\_.

\_\_\_\_\_  
JUDGE (OR SEAL)

\_\_\_\_\_  
NOTARY PUBLIC FOR THE STATE OF  
MONTANA RESIDING AT \_\_\_\_\_  
MONTANA.  
MY COMMISSION EXPIRES \_\_\_\_\_

THIS AFFIDAVIT WAS RECEIVED BY JUDGE \_\_\_\_\_ ON \_\_\_\_\_  
DAY OF \_\_\_\_\_, 20\_\_\_\_. AT THE HOUR OF \_\_\_\_\_ AM/PM.  
(BY TELEPHONE / FAX)

INITIALED BY \_\_\_\_\_ TITLE \_\_\_\_\_

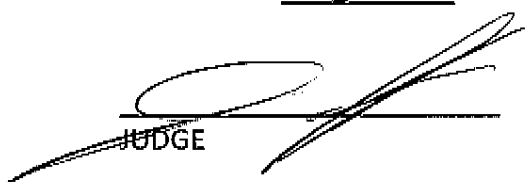
ORDER

THE UNDERSIGNED HAVING REVIEWED THE FOREGOING AFFIDAVIT OF PROBABLE  
CAUSE FOR A WARRANTLESS ARREST.

X IT IS HEREBY ORDERED THAT PROBABLE CAUSE IS FOUND TO  
HOLD THE ABOVE NAMED DEFENDANT ON THE CHARGE(S) LISTED ABOVE.

\_\_\_\_\_ IT IS HEREBY ORDERED THAT PROBABLE CAUSE IS NOT  
FOUND TO HOLD THE ABOVE NAMED DEFENDANT ON THE CHARGE(S) LISTED ABOVE.  
FURTHER, THE DEFENDANT IS ORDERED TO BE RELEASED.

DATED THIS 22 DAY OF FEB, 2015

  
\_\_\_\_\_  
JUDGE

IN JUSTICE COURT OF LINCOLN COUNTY, MONTANA  
BEFORE THE HONORABLE JAY C. SHEFFIELD, JUDGE

ORIGINAL

1 STATE OF MONTANA )

2 PLAINTIFF, )

ORDER TO DETAIN

3 VS. )

Case #: TK-2015-000239

4 DUANE R THOLEN, )

5 DEFENDANT )

6 THE STATE OF MONTANA, TO THE SHERIFF OF LINCOLN COUNTY:

7 You are hereby commanded to detain the above named defendant until they are legally discharged.

8 The Defendant is to be held in your custody until BAIL in the amount of \$ 100,000  
9 has been posted or until you receive an order to release from this Court. The Defendant is being  
held on the following charge(s) of:

10 Assault With Weapon (2 Counts)

11 DETENTION OFFICER:

12 If the Defendant Bonds out or is released from your custody, please confirm that they have signed  
13 and dated the Conditions of Release Form.

14 Signed: Monday, February 23, 2015

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17 JAY C. SHEFFIELDJustice of the Peace  
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