

1 IN THE JUSTICE COURT OF THE STATE OF MONTANA, RECEIVED
2 IN AND FOR THE COUNTY OF MISSOULA
3 BEFORE Karen A. Orzech JUSTICE OF THE PEACE DEC 12 2012

Justice Court

4 Cause No. *CR-2012-10371-C2*

5
6 STATE OF MONTANA
7 Plaintiff,
8 -vs- E
9 TIMOTHY IVON FELDE
Defendant.

COMPLAINT

10
11 PATRICIA C. BOWER, Deputy Missoula County Attorney, deposes
12 and says that on or about the 11th day of December, 2012, the Defendant
13 committed the offense(s) of COUNT I: DRIVING A MOTOR VEHICLE
14 WHILE UNDER THE INFLUENCE OF ALCOHOL OR DRUGS - 4TH
15 OFFENSE, a Felony, in violation of Montana law, namely: Mont. Code Ann.
16 61-8-401(1)(a)[4th+], punishable by 13 months MSP & not more than 5 years
17 MSP suspended and \$1,000-\$10,000 fine; COUNT II: OPERATING A
18 VEHICLE WHICH HAS NOT BEEN PROPERLY REGISTERED, a
19 Misdemeanor, in violation of Montana law, namely: Mont. Code Ann. 61-3-
20 301(1)[2], punishable by \$500 fine; COUNT III: TURNING WHEN UNSAFE
21 TO DO SO, a Misdemeanor, in violation of Montana law, namely: Mont. Code
22 Ann. 61-8-336(1)[2], punishable by \$10 to \$100 fine; and
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COMPLAINT 12-2907; Missoula City Police Dept MATTIX

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3 COUNT IV: FAILURE TO CARRY PROOF OF LIABILITY INSURANCE –

4 3rd+ OFFENSE, a Misdemeanor, in violation of Montana law, namely: Mont.

5 Code Ann. 61-6-302(2)[3rd], punishable by 10 days MCJ and/or a \$250-\$500
6 fine.
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8 The facts constituting the offense are as follows:

9
10 COUNT I: On or about the 11th day of December, 2012, the above
11 named Defendant committed the offense of driving or being in actual physical
12 control of a motor vehicle, a Chevrolet Blazer (MT plate:4C8056E), upon a
13 way of this state open to the public, Russell Street, Missoula County, while
14 under the influence of alcohol and/or drugs, a fourth or subsequent lifetime
15 offense.
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18 COUNT II: On or about the 11th day of December, 2012, the above-
19 named Defendant operated a motor vehicle, a Chevrolet Blazer (MT
20 plate:4C8056E), upon a way of this state open to the public, Russell Street,
21 Missoula County, with a registration that expired.
22

23
24 COUNT III: On or about the 11th day of December, 2012, the above
25 named Defendant was driving a motor vehicle and turned when it was unsafe
26 to do so.
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1 COUNT IV: On or about the 11th day of December, 2012, the above-
2 named Defendant failed to carry proof of liability insurance in a motor vehicle,
3 a Chevrolet Blazer (MT plate:4C8056E), which had been operated on a way
4 of the state open to the public, Russell Street, Missoula County, and
5 production of which was demanded by a peace officer.
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10 DATED this 12th day of December, 2012.

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12 PATRICIA C. BOWER
13 Deputy Missoula County Attorney

14 Subscribed and sworn to before me this 12th day of December, 2012.

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16 JUSTICE OF THE PEACE
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1 IN THE JUSTICE COURT OF THE STATE OF MONTANA,
2 IN AND FOR THE COUNTY OF MISSOULA
3 BEFORE Karen A. Orzech, JUSTICE OF THE PEACE

RECEIVED
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4 Cause No. CR-2012-10371-C2

5 STATE OF MONTANA,
6 Plaintiff,

7 -vs-

AFFIDAVIT OF PROBABLE
CAUSE

9 TIMOTHY IVON FELDE,
10 Defendant.

11 STATE OF MONTANA)
12 : ss
13 County of Missoula)

14 PATRICIA C. BOWER, Deputy County Attorney of Missoula County,
15 Montana, being first duly sworn upon oath, deposes and says:

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17 I have read the official law enforcement reports regarding the
18 investigation of TIMOTHY IVON FELDE for allegedly committing the
19 offense(s) set forth in the complaint and based upon the information
20 contained in the reports, if true, believe probable cause exists to justify
21 charging the above-named defendant as specified in the accompanying
22 complaint.
23
24

25 This incident occurred within Missoula County. Officers from the
26 Missoula City Police Department conducted the investigation. Officer
27 Mattix's report is contained verbatim, in pertinent part, as follows:
28

1 *****Mattix C350*****

2 On December 11, 2012, I responded to the 200 blk. of N. Russell for an
3 injury accident. Dispatch said a vehicle was t-boned.

4 When I arrived on scene I noticed a black truck was sitting on Russell
5 with damage to the front end. There was a Chevrolet Blazer (MT plate:
6 4C8056E) with driver side damage to it, sitting in the wrong lane of travel
7 on Wyoming St. An EMT came up to me and said the male driver, later
8 identified as Timothy Felde, was slow to react to them. Timothy was
9 adamant about smoking a cigarette even though the EMT's told him no.
10 The EMT felt the driver may be impaired.

11 I made sure the other occupants in the other vehicle were okay. The
12 other driver told me he was driving south on Russell. He saw Timothy stop
13 at the stop sign and pull out in front of him, causing him to hit him. Timothy
14 was in the back of the ambulance. I grabbed the most current registration
15 receipt from Timothy's glove box and could not find any proof of insurance.
16 I ran a driving status on Timothy. Dispatch told me Timothy had two prior
17 DUI's and a valid driver. I was standing outside the ambulance listening to
18 him talk to the EMT's. Timothy's speech was slow and slurred. I could smell
19 the odor of an alcoholic beverage coming from the back of the ambulance.
20 Timothy was refusing any medical attention, but said his ribs hurt. Timothy
21 was transported to St. Pat's via the ambulance. I went to St. Pat's to
22 conduct a DUI investigation.

23 While in the hospital room, I asked Timothy to tell me what caused the
24 accident. The following is a summary of what he told me. Timothy was
25 waiting to make a left hand turn from Montana to go northbound on Russell.
26 Timothy had a big gap to pull out and make his turn. He started to make his
27 turn and was hit out of nowhere. Timothy said the vehicle that hit him came
28 out of nowhere. He thought the truck pulled out of Red's Towing. Timothy
thought he was on Montana St., but actually he was on Wyoming St.

I started recording my conversation with Timothy on my digital camera
5282 and logged that into evidence. As Timothy was talking, I could smell
the odor of an alcoholic beverage coming from his person, his speech was

1 slurred, and his eyes were bloodshot and glassy. When asked how much
2 alcohol he had, Timothy initially denied consuming any alcohol. When I told
3 him I could smell it coming from his persons, Timothy said he had one drink
4 around 0900 hrs. Based on the driving behavior, odor of alcohol from his
5 persons, his eyes, and admitting to drinking, I had Timothy perform the
6 perform the Standard Field Sobriety Test (SFSTS).

7 **HGN**

8 I had Timothy removed his eye glasses. I read Timothy the Horizontal
9 Gaze Nystagmus instructions and I could smell an odor of an alcoholic
10 beverage coming from Timothy persons. Timothy showed 6 out of 6
11 indicators of impairment on HGN. Timothy displayed lack of smooth pursuit
12 in both eyes. He displayed distinct and sustained nystagmus at maximum
13 deviation in both eyes. Timothy displayed distinct and sustained nystagmus
14 onset at less than 45 degrees in both eyes.

14 **Walk and Turn**

15 I did not have Timothy perform the walk and turn because we were at
16 the hospital.

17 **One leg stand**

18 I did not have Timothy perform the one leg stand because we were at
19 the hospital.

20 I read Timothy the Preliminary Alcohol Screening Test (PAST) advisory
21 and he provided a breath sample greater than .08 BAC on PBT#751.

22 I read Timothy Implied Consent and requested a blood sample. Timothy
23 said he did not want to provide a blood sample. Timothy also refused a
24 breath test, but I was also not certain how long Timothy was going to be in
25 the hospital for.

26 Timothy was being treated at St. Pat's for his medical condition from the
27 accident and scheduled to have X-rays done. I had Officer Volinkaty come
28 to the hospital while I went and applied for a telephonic search warrant. I

1 had the front desk run a driver's and criminal history on Timothy. Timothy
2 had three prior DUI's(one in Nevada 02/92 and two in MT 10/87 & 09/91).

3 Using the State issued Telephonic Search Warrant Application, I applied
4 for a search warrant with Judge Deschamps. Judge Deschamps gave me
5 permission to execute the search warrant. The Application for the Search
6 Warrant was recorded on the audio recorder located in the Lt.'s Office.

7 I went back to St. Pat's to have them conduct the blood draw. After
8 informing Timothy about the signed search warrant, he said he does not
9 have good circulation and the VA has a hard time getting blood from him.
10 Initially St. Pat's Ed Tech Evan Baldwin attempted to draw blood from
11 Timothy's left arm. Evan was unable to get the necessary amount of blood.
12 Ed Tech Jessie Beyer came in and at approximately 2043 hrs. she got one
13 vial of blood from Timothy's left arm. Due to the poor circulation they were
14 having a hard time getting the blood. St. Pat's RN RJ Nielsen came in to
15 assist with the blood draw. RJ tried drawing blood from Timothy's right arm.
16 At approximately 2101, RJ Nielsen was only able to obtain approximately 3
17 CC's of blood in the other vial. RJ tried moving the need around to draw
18 more blood, but due to Timothy's poor circulation he was unable to get any
19 more. I watched Jessie and RJ seal and initial the vials they placed the
20 blood in. I watched Jessie seal and seize the vials and place them into the
21 blood kit. I sealed the blood kit and it has been logged into evidence...

22 Timothy was left at the hospital to receive more medial treatment. The
23 staff said they would call when he was being discharged.


24 Dispatch called and said Timothy was going to discharged from the
25 hospital in approximately 20 minutes. When I arrived at St. Pat's, RJ told
26 me Timothy walked out of the north east doors after using the bathroom.
27 RJ said there was nothing medically wrong with Timothy and cleared for
28 detention.

I drove around the area looking for Timothy. I called Timothy's home
phone and he answered the phone. Timothy denied it was him and said he
did not know where Timothy was. Timothy then hung up the phone. I drove
to Timothy's address at 1131 Howell. As I turned onto Hawthorn I saw a

1 dark truck leaving the driveway of Timothy's address. I used my spot light
2 to see who was all inside the truck. I could see Timothy in the passenger
3 seat of his fathers truck. I turned my top lights on and initiated a traffic stop
4 on the vehicle.

5 I went to the passenger side of the truck and placed Timothy under
6 arrest. Timothy was transported to the detention center and he was
7 remanded...

8
9 [Based on a review of Defendant's driving record, Defendant was
10 convicted of DUI on the following dates: 9-17-1991; 10-20-1987 and 11-13-
11 1991. Defendant was convicted for failing to carry proof of insurance on
12 the following dates: 8-21-2009; 6-11-1993; and 9-17-1991.]
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16 PATRICIA C. BOWER
17 Deputy Missoula County Attorney

18 SUBSCRIBED AND SWORN TO before me this 12th day of December, 2012.
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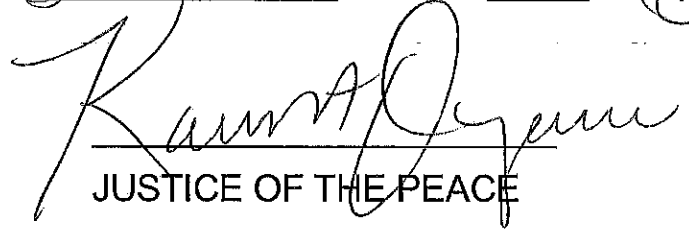
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21 JUSTICE OF THE PEACE
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ORDER

Upon reading the foregoing Affidavit, the Court finds that there is probable cause to believe the above-named Defendant committed the crimes charged.

DATED this 12th day of December, 2012 at 1:15 a.m./p.m.


JUSTICE OF THE PEACE