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AUG 26 2015

Justice Court

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

STATE OF MONTANA
Plaintiff,

-vs-
ROBERT ALLEN ERVIN
Defendant,

Dept No. 2
Cause No. CR-2015-811

COMPLAINT

BRIAN LOWNEY, Deputy County Attorney, deposes and says that on or about the 25th day of August, 2015, in Missoula County, the Defendant committed the offenses of

COUNT I: AGGRAVATED BURGLARY, a Felony, in violation of Montana law, namely: Mont. Code Ann. 45-6-204(2), punishable by 40 years MSP and/or \$50,000 fine; COUNT II: ROBBERY, a Felony, in violation of Montana law, namely: Mont. Code Ann. 45-5-401, punishable by not less than 2 or more than 40 years MSP and/or \$50,000 fine; COUNT III: ASSAULT ON A MINOR, a Felony, in violation of Montana law, namely: Mont. Code Ann. 45-5-212, punishable by 10 years MSP and/or \$50,000 fine; COUNT IV: PARTNER OR FAMILY MEMBER ASSAULT - 1ST OFFENSE, a Misdemeanor, in violation of Montana law, namely: Mont. Code Ann. 45-5-206[1st], punishable by not less than 24 hours or more than one year MCDF and/or a fine not less than \$100 or more than \$1000; COUNT V: PARTNER OR FAMILY MEMBER ASSAULT - 2ND OFFENSE, a Misdemeanor, in violation of Montana law, namely: Mont. Code Ann. 45-5-206[2nd], punishable by not less than 72 hours or more than one year MCDF and a fine not less than \$300 or more than \$1000; COUNT VI: PARTNER OR FAMILY MEMBER ASSAULT - 3RD OR SUBSEQUENT OFFENSE, a Felony, in violation of Montana law, namely: Mont. Code

1 Ann. 45-5-206[3rd+], punishable by not less than 30 days or more than 5 years MSP
2 and/or a fine not less than \$500 or more than \$50,000.

3 The facts constituting the offense are:

4
5 COUNT I: On or about the 25th day of August, 2015, the above-named
6 Defendant knowingly entered or remained unlawfully in an occupied structure with the
7 purpose to commit an offense therein and in effecting entry or in the course of
8 committing the offense or in immediate flight thereafter, the Defendant purposely,
9 knowingly, or negligently inflicted or attempted to inflict bodily injury upon V.E, A.E.
10 and/or M.E.
11

12 COUNT II: On or about the 25th day of August, 2015, the above-named
13 Defendant while in the course of committing a theft, committed the offense of robbery by
14 inflicting bodily injury upon another person, threatening to inflict bodily injury upon
15 another person, and/or purposely or knowingly putting another person in fear of
16 immediate bodily injury.
17

18 COUNT III: On or about the 25th day of August, 2015, the above-named
19 Defendant purposely or knowingly caused bodily injury to M.E., negligently caused
20 bodily injury to M.E. with a weapon, and/or purposely or knowingly caused reasonable
21 apprehension of bodily injury in M.E., and at the time of the offense, M.E. was under 36
22 months of age and the Defendant was 18 years of age or older.
23

24 COUNT IV: On or about the 25th day of August, 2015, the above-named
25 Defendant purposely or knowingly caused bodily injury to V.E., a partner, and/or
26 purposely or knowingly caused reasonable apprehension of bodily injury in V.E., a
27 partner.
28

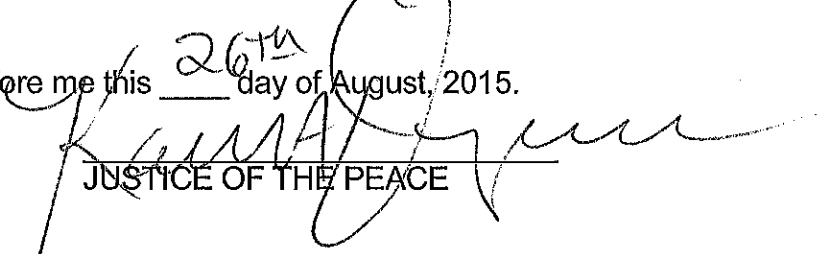
1 COUNT V: On or about the 25th day of August, 2015, the above-named
2 Defendant purposely or knowingly caused bodily injury to A.E. a family member, and/or
3 negligently caused bodily injury to A.E., a family member, by the use of a weapon,
4 and/or purposely or knowingly caused reasonable apprehension of bodily injury in A.E.,
5 a family member.
6

7 COUNT VI: On or about the 25th day of August, 2015, the above-named
8 Defendant purposely or knowingly caused bodily injury to M.E., a family member, and/or
9 negligently caused bodily injury to M.E., a family member, with a weapon, and/or
10 purposely or knowingly caused reasonable apprehension of bodily injury in M.E., a
11 family member.
12

13 DATED this 26th day of August, 2015.

14 
15
16 BRIAN LOWNEY
Deputy County Attorney

17
18 Subscribed and sworn to before me this 26th day of August, 2015.

19 
20 JUSTICE OF THE PEACE

21 COMPLAINT 15-1914

22 STACY LEAR, Missoula City Police Dept
23 BRIAN VREELAND, Missoula City Police Dept
24 MIKE KAMERER, Missoula City Police Dept
25 NATHAN MATTIX, Missoula City Police Dept
26 JENNA VOLINKATY, Missoula City Police Dept
27
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2 IN AND FOR THE COUNTY OF MISSOULA
3 BEFORE Karen A. Orzech, JUSTICE OF THE PEACE

4 STATE OF MONTANA,
5 Plaintiff,

Cause No. CR-2015-811

6 -vs-

AFFIDAVIT OF PROBABLE CAUSE

7 ROBERT ALLEN ERVIN,
8 Defendant.

9 STATE OF MONTANA)
10 : ss
11 County of Missoula)

12 BRIAN LOWNEY, Deputy County Attorney, Montana, being first duly sworn upon
13 oath, deposes and says:

14 I have read the official law enforcement reports regarding the investigation of
15 ROBERT ALLEN ERVIN for allegedly committing the offense(s) set forth in the complaint
16 and based upon the information contained in the reports, if true, believe probable cause
17 exists to justify charging the above-named defendant as specified in the accompanying
18 complaint.
19

20 On or about August 25, 2015, at 1:37am, Missoula Police Department Officers
21 responded to a report of a burglary on the 100 block of Turner Court, Missoula County,
22 MT. Upon arrival, officers noticed the victims, V.E, A.E. and M.E., outside the residence
23 coughing and crying in obvious distress. Officers noticed that the air near the residence
24 was thick with the smell of mace or CS gas. Officer began to feel the effects of the gas
25 as they approached the residence and noticed it was emanating from the residence. All
26 the victims were transported to the hospital, including M.E., a two year-old female.
27
28

1 Officers contacted V.E. at the hospital, where she was being treated for exposure
2 to the aerosol spray. V.E. was having difficulty speaking while at the hospital, but
3 indicated to officers that she is the mother of M.E., and the sister-in-law of A.E. V.E.
4 indicated that she, M.E. and A.E. live in the residence together. V.E. said that at about
5 1:30am, she was sleeping in her bedroom with M.E. when she heard a loud banging
6 noise at the front door. V.E. then heard the front door being kicked in and saw a male in
7 dark clothing coming into her bedroom. V.E. indicated the male had a mask, like a
8 handkerchief, covering his face. In an effort to protect her daughter, V.E. attempted to
9 engage to male, and pulled down his mask in the process. At that point, V.E.
10 recognized the male as the Defendant, who is V.E.'s husband, M.E.'s father, and A.E.'s
11 brother.
12

13
14 In response, the Defendant grabbed V.E. by the shoulders, threw her onto her
15 bed and began yelling "give me your fucking money" at V.E. While V.E. was still on her
16 bed and the Defendant was yelling at her, V.E. observed the Defendant pull out
17 something that was dark in color and aim it towards her and M.E., who was in V.E.'s
18 bed next to her. V.E. said she immediately felt the effects of "mace" and began crying
19 and coughing. V.E. said she heard M.E. screaming in pain from the effects of the
20 "mace". V.E. indicated she believed the Defendant saw M.E. next to her, and still
21 sprayed them with "mace". V.E. said that the Defendant then retreated, but that she
22 believed he dropped the can of "mace" on his way out of the house. V.E. also indicated
23 that there was another male with the Defendant who she did not recognize that
24 remained in the living room during the incident.
25
26
27
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1 V.E. indicated that the Defendant does not live in the home and that he moved
2 out on July 31, 2015.

3 Officers spoke with A.E., the Defendant's sister, who indicated she observed the
4 same events that V.E. reported. A.E. indicated she heard the door of the residence
5 being kicked in and exited her bedroom to see what was happening. A.E. went to V.E.'s
6 bedroom and saw her brother, the Defendant, grabbing V.E. and throwing her onto the
7 bed. A.E. also indicated she observed a second male that she did not know in the living
8 room of the residence. A.E. said that she then heard V.E. and M.E. screaming, at which
9 point A.E. indicated she began to feel the effects of the "mace".
10
11

12 Officers searched the residence and found an empty can of bear spray in a small
13 trash can in V.E.'s bedroom. Officers also noticed damage to the front door of the
14 residence.
15

16 At 1:37pm, officers located the Defendant sleeping in the grass outside a
17 residence on Catlin. Officers arrested the Defendant, who complained that he had
18 "mace" in his eyes. The Defendant later admitted that he had gone to V.E.'s home
19 earlier, and that he knew that V.E. kept an envelope full of cash in her bedroom.
20

21 
22 BRIAN LOWNEY
23 Deputy County Attorney

24 SUBSCRIBED AND SWORN TO before me this 26th day of August, 2015.

25 
26 JUSTICE OF THE PEACE
27
28

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 26th day of August, 2015 at 2:05 a.m./p.m.


JUSTICE OF THE PEACE