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Justice Court
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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

4
5 STATE OF MONTANA
6 Plaintiff,
7 -vs-
8 PATRICK WAYNE AUSTIN
9 Defendant.

Cause No. CR-2014-12641-C2

COMPLAINT

10 JASON MARKS, Assistant Chief Criminal County Attorney, deposes and says that
11 on or about the 12th day of October, 2014, in Missoula County, the Defendant committed
12 the offenses of COUNT I: CRIMINAL PRODUCTION/MANUFACTURE OF
13 DANGEROUS DRUGS, a Felony, in violation of Montana law, namely: Mont. Code Ann.
14 45-9-110, punishable by 10 years MSP and/or \$50,000 fine; COUNT II: CRIMINAL
15 POSSESSION OF DANGEROUS DRUGS WITH INTENT TO DISTRIBUTE - ANY DRUG
16 OTHER THAN AN OPIATE, a Felony, in violation of Montana law, namely: Mont. Code
17 Ann. 45-9-103(3), punishable by 20 years MSP and/or \$50,000 fine; COUNT III:
18 CRIMINAL POSSESSION OF DANGEROUS DRUGS WITH INTENT TO DISTRIBUTE -
19 ANY DRUG OTHER THAN AN OPIATE, a Felony, in violation of Montana law, namely:
20 Mont. Code Ann. 45-9-103(3), punishable by 20 years MSP and/or \$50,000 fine; COUNT
21 IV: CRIMINAL ENDANGERMENT, a Felony, in violation of Montana law, namely: Mont.
22 Code Ann. 45-5-207, punishable by 10 years MSP and/or \$50,000 fine; COUNT V:
23 CRIMINAL CHILD ENDANGERMENT, a Felony, in violation of Montana law, namely:
24 Mont. Code Ann. 45-5-628(1)(d), punishable by 10 years MSP and/or \$50,000 fine.

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27
28 The facts constituting the offense are:

1 COUNT I: On or about the 12th day of October, 2014, the above-named
2 Defendant knowingly or purposely produced, manufactured, prepared, cultivated,
3 compounded, or processed a dangerous drug, as defined in 50-32-101, to wit: hash oil.
4

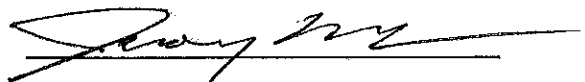
5 COUNT II: On or about the 12th day of October, 2014, the above-named
6 Defendant knowingly possessed a dangerous drug, as defined in 50-32-101, marijuana,
7 with intent to distribute.

8 COUNT III: On or about the 12th day of October, 2014, the above-named
9 Defendant knowingly possessed a dangerous drug, as defined in 50-32-101, psilocybin
10 mushrooms, with intent to distribute.
11

12 COUNT IV: On or about the 12th day of October, 2014, the above-named
13 Defendant knowingly engaged in conduct that created a substantial risk of death or
14 serious bodily injury to Virginia Ervin to wit: conducting a butane hash oil extraction in
15 an apartment while Virginia Ervin was in the apartment.
16

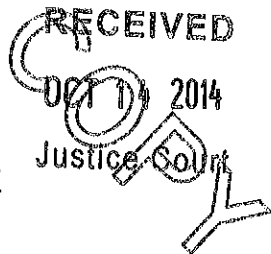
17 COUNT V: On or about the 12th day of October, 2014, the above-named
18 Defendant committed the offense of criminal child endangerment by purposely,
19 knowingly, or negligently causing substantial risk of death or serious bodily injury to a
20 child under 14 years of age by manufacturing or distributing dangerous drugs in a place
21 where a child is present.
22

23 DATED this 14th day of October, 2014.

24 
25 JASON MARKS
26 Assistant Chief Criminal County Attorney

27 Subscribed and sworn to before me this ____ day of October, 2014.

28 _____
JUSTICE OF THE PEACE



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

4
5 STATE OF MONTANA,
6 Plaintiff,

Cause No. *CR-2014-12641-c2*

7 -vs-
8 PATRICK WAYNE AUSTIN,
9 Defendant.

AFFIDAVIT OF PROBABLE CAUSE

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

11
12 JASON MARKS, Assistant Chief Criminal County Attorney, Montana, being first
13 duly sworn upon oath, deposes and says:

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

20 On or about the 12th day of October, 2014, Missoula City Police and fire
21 department personnel responded to a report of an explosion at an apartment at 1010
22 Yreka Ct. in Missoula. Upon arrival officers noted that the windows in the apartment
23 had been shattered and pieces of glass had been blown approximately 50 feet toward
24 the sidewalk. Buds of marijuana were scattered outside the apartment. In plain view
25 inside the apartment was a case of butane canisters.
26

27 Fire personnel found and unplugged a hotplate on the stove which had a Pyrex
28 baking dish on it and turned off the pilot light to the water heater which was located in a


1 closet off of the kitchen. The three occupants of the apartment, Patrick Austin, Virginia
2 Ervin, and Ervin's 19 month old child, were all transported to the hospital for treatment
3 of burns.
4

5 A search warrant was executed on the apartment by Missoula City Police
6 detectives. Inside detectives found paraphernalia consistent with the production of hash
7 oil from marijuana using butane, 1.67 pounds of marijuana, 8.3 grams of has oil,
8 approximately half a pound of psilocybin mushrooms, over \$2200 in cash, a rifle, a
9 purple respirator, and two boxes of butane containers. A check of Austin's Facebook
10 page revealed numerous posts relating to his involvement in the manufacture and
11 distribution of drugs.
12

13 Austin as interviewed at the hospital. He denied that he was involved in the
14 production of hash oil. He claimed that he used to perform butane hash oil extraction
15 but had stopped doing so after setting a shed on fire while doing the extraction. He was
16 able to describe the process in great detail and his description was consistent with
17 paraphernalia found in the apartment. Austin claimed that a gas leak must have
18 caused the explosion. He said that the cases of butane in the apartment were because
19 he buys in bulk to refill his lighter.
20
21

22 Ervin was interviewed next. She admitted that Austin has been using butane to
23 extract hash oil from marijuana at the time of the explosion. She said normally he has
24 her leave the apartment with her child while he is doing it. She was aware of a prior
25 incident when he had been injured while performing an extraction. This time when he
26 indicated he was going to be doing an extraction she just took her 19 month old child
27 into another room to watch TV. She said that she had been working all day and "just
28

1 wanted to chill." She said about 15-30 minutes after Austin Started the extraction
2 process she heard a loud "whoosh sound" and looked up to see the kitchen on fire. She
3 then realized that both her and her child's hair were on fire. She believed the explosion
4 had been caused by excess butane
5

6
7 
8 JASON MARKS
Assistant Chief Criminal County Attorney

9 SUBSCRIBED AND SWORN TO before me this ____ day of October, 2014.
10

11
12 _____
JUSTICE OF THE PEACE
13

14
15 ORDER
16

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

19 DATED this ____ day of _____, 2014 at ____ a.m./p.m.
20

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22 _____
JUSTICE OF THE PEACE
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IN THE DISTRICT COURT OF THE ELEVENTH JUDICIAL DISTRICT OF
THE STATE OF MONTANA, IN AND FOR THE COUNTY OF FLATHEAD

STATE OF MONTANA,

Plaintiff,

VS.

PATRICK WAYNE AUSTIN,

Defendant.

Cause No. DC-13-084D

BENCH WARRANT

 ORIGINAL

* * * * *

THE STATE OF MONTANA TO ANY SHERIFF, CONSTABLE, MARSHAL OR POLICEMAN
OF SAID STATE OR THE COUNTY OF FLATHEAD

The Defendant is charged in this Court with the offense of
BURGLARY, a Felony. A Status Hearing was set for November 21, 2013
at which the Defendant failed to appear.

Now, Therefore, IT IS HEREBY ORDERED:

1. That any peace officer in the State of Montana shall arrest
PATRICK WAYNE AUSTIN (SSN: 531-17-9108, DOB: 11/11/1989-LKA: 189
Browns Gulch, Kalispell MT 59901) and bring him forthwith before this
Court to be dealt with according to law.

2. That bail shall be set in the amount of \$20,000.00

DATED this 2ND day of ~~December~~, 2013. Plus Appearance


District Court Judge

BENCH WARRANT

SHERIFF'S RETURN OF SERVICE

I HEREBY CERTIFY THAT I received this Warrant on the 12th day of October, 2014 and personally served the same by arresting the Defendant and bringing him into this Court on the 12th day of October, 2014.

MSLA COUNTY JAIL

CHUCK CURRY, Sheriff

By: [Signature] Deputy

FEES:	Service Warrant	\$	_____
	Mileage	\$	_____
	TOTAL	\$	_____