

BRITTANY L. WILLIAMS
Deputy County Attorney
KIRSTEN H. PABST
Missoula County Attorney
Missoula County Courthouse
Missoula, Montana 59802
(406) 258-4737
ATTORNEYS FOR PLAINTIFF

IN THE JUSTICE COURT OF RECORD OF MISSOULA COUNTY,
STATE OF MONTANA

STATE OF MONTANA, Plaintiff, -vs- MARCUS ANTHONY-KAVALEIR MCLEMORE, Defendant.	Dept. Cause No. AFFIDAVIT OF PROBABLE CAUSE
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STATE OF MONTANA)
 : ss
County of Missoula)

BRITTANY L. WILLIAMS, Deputy County Attorney, Montana, being
first duly sworn upon oath, deposes and says:

I have read the law enforcement reports regarding the investigation of
Marcus Anthony-Kavaleir Mclemore for allegedly committing the offense of:

COUNT I: ASSAULT WITH WEAPON, a felony, in violation of § 45-5-
213, MCA.

I believe that the facts as set forth in the law enforcement reports, if true, constitute sufficient probable cause to justify the filing of the charges.

Those facts are as follows:

On or about the 20th day of July, 2020, Missoula City Police Officers responded to Caras Park for a report of a male that had been stabbed. Upon arrival, officers were informed by individuals in the park of the victim's location and that the person who had stabbed the victim was fleeing the scene in a van, which was observed by officers. Individuals in the park also stated there were two other males involved, one of which was wearing a red shirt, both individuals had fled the scene.

Officer Champa was the first to arrive and observed the described van as attempting to leave Caras Park. Officer Champa conducted a high risk stop and found three individuals in the van. The driver was identified as Joseph Hilbert. The passenger exited the van next and immediately began making statements about rapists, this individual was identified as Marcus Mclemore, the above-named Defendant. The Defendant was also observed to have an empty knife sheath on his belt. As the Defendant was being placed in a patrol car, he stated something to the effect of: "I may have gotten violent, but he didn't want to get violent, but he was a rapist." The third occupant was identified as Tyra Yazzie. At some point during the stop,

Officer Champa looked eastbound and observed two males walking towards the scene. Officer Champa recognized one of the males as Braden Jones; Officer Champa noted Jones was wearing a red shirt and matched the other descriptors he received of one of the males involved. Jones quickly noticed Officer Champa staring at him and covered his red shirt with a vest he had. The two males continued to walk on the bike path.

During this same time, Officer Geher was speaking with the victim, J.B. who was actively bleeding and had lost a lot of blood. Officer Geher observed an injury to J.B.'s left arm. Officer McKinstry spoke with J.B. who stated he was walking on the path and was jumped, hit in the face and then stabbed. J.B. stated he had been walking by himself when he was approached by several people who asked him if he was J.B. After answering in the affirmative, one of the males called J.B. a chomo and then punched him in the face, causing his nose to break. J.B. then stated he tried to stand up and the male attempted to stab him in the stomach, however, J.B. used his arm to deflect the stab from his stomach, which caused the deep laceration to his lower arm. J.B. was unable to say how many people had attacked him, what they were wearing or what they looked like.

J.B. went on to say that he was trying to get away. J.B. reiterated that his step mother, Jessica Hurts had accused J.B. of molesting his half-sister,

A.B. and that Hurts had put a hit out on him. J.B. stated Hurts would not stop until he was dead and stated he had been attacked several times by men at Hurts' direction. Thereafter, J.B. was taken to the hospital and underwent emergency surgery.

During this time, Officers also began interviewing witnesses from the park. Officer Geissel spoke with Scott Yobst, who stated he observed an unknown subject yelling "rape" and when he looked over, he observed several people fighting one male and it appeared they were attempting to kill him. Yobst was extremely emotional when describing the incident and was unable to elaborate much more.

Officer Geissel also spoke with Chase Arbuthnot, Arbuthnot stated he heard some aggressive yelling and an individual yelling "get out of here or we will kill you." Arbuthnot stated he saw J.B. run north under the bridge to get away from the males. However, when the males got to the stairs where J.B. was, he saw the Defendant retrieve a knife from his belt, he watched the Defendant swing the knife at J.B., but miss. Arbuthnot then observed the Defendant swing again and strike J.B. in the forearm. Arbuthnot said he went over and stood between J.B. and the males and ordered the other males to leave, which they did. Arbuthnot identified the Defendant as the individual who had stabbed J.B. and stated he was 100% positive it was the Defendant.

Officer Geher also spoke with another witness, Susan Gumm. Gumm stated she has witnessed the group of males fighting and said she stopped because she observed three men “wailing” on one guy, J.B. Gumm also provided photos she had taken with her cellphone that depicted the male who had done the stabbing. The male in the pictures did not have a shirt on and appears to be wearing green colored pants and holding a knife. The Defendant was wearing similar pants to those depicted and did not have a shirt on when he was detained.

The Defendant, Hilbert and Yazzie were detained and taken to the MPD office for questioning. Hilbert was read his *Miranda* rights and agreed to give a statement. Hilbert stated he and his girlfriend, Yazzi, met the Defendant in the last 10 days in North Dakota. Hilbert said the Defendant talked about getting in some stuff (knife wise) in New Orleans and having to leave that area. Hilbert said the group had drank a few drinks and floated the river that day. Hilbert described the Defendant as “not doing well” saying he had more to drink than Hilbert and Yazzi and was yelling at a female.

Hilbert said he saw a fight break out and described a male 6’3”, 190-210 lbs with blue eyes, blonde hair and a big jaw, wearing a red shirt, was beating up another person. Hilbert said there were three other people with the male in the red shirt. Hilbert said the males in the group were saying it

was ok to beat up the guy because he “raped” his girlfriend’s daughter.

Hilbert saw the fight move towards the Defendant, but denied seeing anyone get stabbed. Hilbert did say that he observed the Defendant had an empty knife sheath and described the Defendant’s knife as an Ozark Trial knife.

Hilbert identified the knife retrieved at the scene by patrol as the Defendant’s knife.

Detective McCarthy also spoke with Yazzi, who confirmed the group had been floating the river and all had been drinking. Yazzi denied seeing the altercation and stated she was in the van. Yazzi did state the Defendant appeared “really paranoid” when he came back to the van. Yazzi stated she knew nothing had happened until they were pulled over.

Detective McCarthy also interviewed the Defendant, after being advised of his *Miranda* rights, the Defendant agreed to give a statement. Prior to being advised of his rights, the Defendant stated he attacked a rapist, which he reiterated several times. The Defendant stated he had just arrived in Missoula that day and his two friends were not involved in the stabbing. The Defendant initially stated he did not use the knife “violently.” The Defendant stated he was told by others that they had a child rapist that they could not control. The Defendant stated J.B. was bleeding from the nose and he looked at him and knew the victim was a rapist. The Defendant stated he

did not give two fucks if J.B. lived or died. It did not appear the Defendant knew J.B. prior to this altercation. The Defendant admitted to hitting J.B. two times and then stated he pulled his knife from his sheath and tossed it away, stating he did not impale anyone with the knife and said he wanted to be sure no one thought he had used the knife-including the cops.

The Defendant stated the rapist was pointed out to him and the Defendant stated a younger person told him J.B. was being violent. The Defendant stated he knocked J.B. down and hit him a few more times. The Defendant stated he would kill a rapist and admitted to being very violent in the situation. When confronted with being close enough to use the knife on J.B. while he was hitting him, the Defendant responded and said if the cops found a knife with his prints and blood on it "I guess I did it." The Defendant then stated he did not remember stabbing anyone and stated he dropped the knife about the time the police showed up.

The Defendant stated he felt he need to protect the individuals in the park and again stated he would have murdered the rapist, but he did not. The Defendant also stated the crowd watching the altercation would want to convict him and admitted to being super drunk. The Defendant stated numerous by-standers had yelled that the Defendant stabbed J.B., but the Defendant maintained that he did not. Detective Frankie then explained that

the victim had been stabbed, at which time the Defendant stated his knife was serrated and the only knife wound would be a deep serrated wound.

The Defendant then changed his story to say he was protecting himself and the knife would have stabbed J.B. deep. The Defendant then stated he told J.B. "Hey man, I will stab you." He then admitted to making a slice, but not making contact. He later stated his intention was to slice J.B. Detectives then asked him more about his self defense statement, to which the Defendant stated he had stopped a rapist from escaping, saying he tripped the male and brought the knife out. The Defendant concluded his statement by saying he had dropped the knife because he did not want to be in possession of it when the police arrived.

Officers found a knife matching the description given by Hilbert and identified by his as belonging to the Defendant.

DATED this 22nd day of July, 2020.

/s/ Brittany L. Williams
BRITTANY L. WILLIAMS
Deputy County Attorney

SUBSCRIBED AND SWORN TO before me, a Justice of the Peace, in and for the State of Montana, County of Missoula.

Electronically Signed By:
Hon. Judge Alex Beal
Wed, Jul 22 2020 12:49:39 PM