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**MONTANA THIRTEENTH JUDICIAL DISTRICT COURT, YELLOWSTONE COUNTY**

STATE OF MONTANA,  <p align="right">Plaintiff,</p> <p align="center">vs.</p> KEVIN ROY WELTER,  <p align="right">Defendant.</p>	CAUSE NO. DC  JUDGE:  <b>MOTION FOR LEAVE TO FILE          INFORMATION WITH SUPPORTING          AFFIDAVIT</b>
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The undersigned Deputy County Attorney of Yellowstone County, Montana, being first duly sworn upon her oath, moves the Court for Leave to File an Information based upon an investigation conducted by law enforcement officers charging the above-named Defendant with the offense of:

**VEHICULAR HOMICIDE WHILE UNDER THE INFLUENCE (FELONY)**

committed at Yellowstone County, State of Montana, on or about July 19, 2022.

That law enforcement officers have made a full and careful investigation of all the facts and circumstances surrounding the commission of said offense, so far as they are known or ascertainable; that she believes it a proper case for filing of an Information and that for this reason, and none other, the foregoing motion is made.

The Court is informed that the Billings Police Department (BPD) investigation revealed the following:

On July 19, 2022, at approximately 8:45 pm, Officer Johnson with the BPD responded to multiple reports of an accident involving a vehicle and motorcycle with injuries at the intersection of Molt Rd and Masters Blvd. Upon officers arriving, Officer Johnson observed the motorcycle driver, later identified as

Aaron Lurz, lying in the middle of the intersection surrounded by several people attempting to render aid. The motorcycle Lurz had been driving was severely damaged and looked to be in several pieces.

As Officer Johnson ran up, he heard a person state that Lutz had just stopped breathing and that they were about to start CPR. Officer Johnson checked for a pulse but did not feel any. Officer Unruh took over chest compressions until medical arrived and took over the care of Lurz. Medical personnel subsequently declared Lurz deceased on the scene.

As this was occurring, Officer Johnson went to speak with the driver of the vehicle who had been pointed out by bystanders and was subsequently identified as Kevin Welter, the Defendant herein. Welter was on his knees about five or six feet away from where Lutz was lying and had a woman attempting to comfort him. Officer Johnson asked if he was the driver and Welter stated that he was. Officer Johnson requested that Welter stand up and go speak with him by his patrol vehicle. When Welter stood up, he staggered to the side, causing his feet to cross over in front of one another. The woman who had been comforting him, grabbed his back pants pocket to steady him. As she let go, Welter tried to take another couple steps but stumbled again, causing Officer Johnson to take him by the arm and assist him to where his patrol car was located approximately 10 yards away.

As he did so, Officer Johnson smelled the odor of an alcoholic beverage on Welter's breath and person. The officer also noted that the crotch and inside of Welter's right pant leg were wet as he appeared to have urinated in his pants. At the patrol car, Welter continued to be unsteady on his feet and staggered back and forth a couple times.

Officer Johnson asked Welter what had happened and Welter eventually stated that he had been northbound on Molt Rd, turning left onto Masters Blvd. Welter said the motorcycle was southbound on Molt Rd and had a "dim headlight" before trailing off and not finishing his sentence. Officer Johnson surmised from Welter's comments and his own observations that Welter had been in the process of making a left turn when he collided with Lurz on the motorcycle.

Officer Johnson asked Welter if he had anything to drink and Welter responded that he had one drink a while ago. Officer Johnson had noticed while speaking with Welter that he had bloodshot eyes and based on this and all his other observations, decided that a DUI investigation needed to be initiated. Due to the numerous vehicles and people on scene, Officer Johnson determined that it would be more appropriate and safer to conduct the DUI investigation at the DUI Center instead of on scene.

On the way to the DUI Center, Welter began crying and asked what he could do and how he could move on. Welter also stated several times that it was not his fault but that he also just "killed a guy." When they arrived at the jail, Officer Johnson noted that Welter's eyes were redder than they had been on scene due to the crying.

At the DUI Center, Welter attempted to perform the Field Sobriety Tests and scored a 6/6 on the HGN, 4/8 on the Walk and Turn, and 2/4 on the One-Legged Stand. After completing those tests, Officer Johnson read Welter the Implied Consent section pertaining to being involved in a fatal motor vehicle crash. After doing so, Officer Johnson asked Welter if he would provide a breath sample and Welter refused. Based

on this, Officer Johnson applied for a telephonic search warrant for Welter's blood which was granted by Judge Davies.

Prior to the blood draw, Officer Johnson served the warrant on Welter and informed him that a blood draw would be done. The officer noted that Welter appeared shocked by this and asked what could be done several times. When Officer Johnson asked him if he was talking about the blood draw, Welter replied in the affirmative. Officer Johnson then tried to explain what Implied Consent meant in the context of the blood draw when Welter interrupted him and asked him if he needed to get a lawyer.

Officer Johnson informed Welter that he would be doing the blood draw without a lawyer but if he wanted to talk to a lawyer before any questioning was done, he would not ask him any questions. As the officer again tried to explain that Welter's right to a lawyer under *Miranda* did not apply to Implied Consent, Welter kept interrupting causing Officer Johnson to inform Welter that the blood draw was happening. A nurse came in and drew Welter's blood before Welter was remanded on this charge.

During the time that Officer Johnson was conducting the DUI investigation, officers were still on the scene investigating crash. Officers determined that Welter turned left in front of Lurz, who had the right of way, and was driving southbound on Molt Rd. Lurz was thrown from the motorcycle and struck his head on the windshield of Welter's vehicle before landing by the side of the road.

BPD Officer Stroble, who was conducting a different investigation, was parked on the 4100 block of Stone when a male and female approached his patrol car. The male identified himself as Justin Puerner. Puerner stated that his friend had borrowed his motorcycle and he could not get him on the phone, and he was aware that there was a motorcycle wreck. Officer Stroble then discovered that he was parked in front of Lurz's home. Officer Stroble asked Puerner if he knew if anyone else was home and was informed that Lurz was a single dad and his 11- and 12-year-old children were in the home by themselves. Officer Stroble notified command of the situation and Sgt. Schwartz responded and took over the death notification and subsequent investigation.

The investigation continues.

I declare under penalty of perjury that the foregoing is true and correct.

DATED: July 20, 2022

/s/ Ingrid A. Rosenquist  
Deputy County Attorney