

State of Minnesota
County of Olmsted

District Court
3rd Judicial District

Prosecutor File No. 20CR01341
Court File No. 55-CR-20-4600

State of Minnesota,
Plaintiff,

COMPLAINT
Order of Detention

vs.

ANDREW MAYLON GUSTAFSON DOB: 05/15/1990

1413 2nd St SE
Rochester, MN 55904

Defendant.

The Complainant submits this complaint to the Court and states that there is probable cause to believe Defendant committed the following offense(s):

COUNT I

Charge: Aggravated Robbery-1st Degree

Minnesota Statute: 609.245.1, with reference to: 609.245.1, 609.05.1

Maximum Sentence: 20 years or \$35,000 fine or both (MSG SL 8)

Offense Level: Felony

Offense Date (on or about): 07/18/2020

Control #(ICR#): 20031447

Charge Description: On or about July 18, 2020, within the County of Olmsted, Andrew Maylon Gustafson, Thomas James Horton Jr. and Heather Jolene Behnken, did intentionally aid, advise, hire, counsel, conspire or otherwise procure each other to commit a crime and each aiding the other did wrongfully and having knowledge of not being entitled thereto, did wrongfully, unlawfully and feloniously take personal property from the person or in the presence of another, to-wit: Witness A and used or threatened the imminent use of force against any person to overcome the person's resistance or powers of resistance to, or to compel acquiescence in, the taking or carrying away of the property and Andrew Maylon Gustafson, Thomas James Horton Jr. and Heather Jolene Behnken was armed with a dangerous weapon or any article used or fashioned in a manner to lead the victim to reasonably believe it to be a dangerous weapon, or inflicted bodily harm upon another.

STATEMENT OF PROBABLE CAUSE

The Complainant states that the following facts establish probable cause:

Your complainant is a licensed peace officer employed by the Rochester Police Department. In that capacity your Complainant has reviewed the police reports relating to Andrew Maylon Gustafson, the above-named defendant, and the allegations contained therein. Based upon that information, your complainant believes the following to be true and correct.

On July 18, 2020 at 1912 hours Officer Hoklin responded to a robbery that had occurred between the hours of 1300 and 1400 that same day at a residence in Southeast Rochester, Olmsted County, Minnesota. It was reported that two males and a female had entered the residence of the complainant and robbed another individual in the residence at gunpoint. The items stolen included an unknown amount of cash, a wallet, and a half ounce of methamphetamine. The suspects were reported to have fled in two vehicles.

Upon arrival at the location of the incident, Officer Hoklin spoke with the complainant, who stated that a friend of his, Witness A, was at his residence hanging out earlier that day. Another friend, hereinafter Victim, came over to pick up a motorcycle jacket from Witness A. Another individual, Witness B (female) was also at the residence. Between 1300 and 1400 hours he heard knocking at the front door. Witness A opened the door and two males and a female pushed their way into the residence. One of the male suspects brandished a gray colored semi-automatic handgun. The male with the handgun had brown hair, was approximately 5'7" to 5'9" and weighed 180 to 200 pounds and was known to victim as Andrew. The other male suspect had a shaved head, was approximately 6'5" and weighed 220 to 250 pounds and was unknown to everyone present. The female suspect was known to victim and Witness B as Heather xxxxxxx. The female suspect was approximately 5'8", 150 lbs., about 40 to 45 years old. The suspects were in the residence for about 10 to 15 minutes. The suspects targeted victim and robbed him of an unknown amount of cash, his wallet, and approximately 1/2 an ounce of methamphetamine. After the suspects had robbed victim, they fled in two vehicles. Shortly after the robbery victim and witness A left the residence.

Officer Hoklin obtained a phone number for witness A, and made contact with him, but he was not interested in talking to the officer. Officer Hoklin attempted to contact victim by phone by the number was disconnected. Officer Hoklin also contacted witness B, but she did not provide useful information and refused to identify herself beyond her first name.

Complainant told Inv. Weber that victim and witness A were hanging out at his house and he had a leather jacket that belonged to victim, and victim was picking it up. They were just hanging out inside his house and he was in a back room. His front door was locked, and witness A went to the door, unlocked, and opened it. Two males and a female came in the door. The female did all the talking. She told victim that she was tired of him selling his meth too cheap and that he was undercutting her prices and hurting her business. She told victim that she was going to take all his valuables. At that point complainant heard a clicking sound and he looked over at the male (known as Andrew) and saw he was pulling back the slide on a semi-automatic pistol. Complainant told the female that whatever was going on had nothing to do with him and he asked if he could go in the other room. The female said that was fine and he went into the other room. The taller male did not say anything, and neither did the shorter male. He does not know if Gustafson actually pointed the gun at anybody. When the female told victim to give her everything of value, that was when the male (with the gun) pulled out the gun. Sometime later complainant looked out his bedroom window and the three suspects had left.

There was a decent looking black car, maybe a 1990's BMW or Volvo, that left eastbound. There was another beat up tan or copper colored car that left at the same time. After everyone left, witness A looked at

complainant's cell phone to make sure he didn't call the police. After everyone left, he saw that victim's leather jacket was cut-up and thrown on the ground outside. Victim had urinated in his pants during the robbery and he borrowed a new pair of pants from complainant. Heath took his soiled pants and his cut-up leather jacket and left. He was afraid to call the police, so he did not report the robbery until the police talked to him.

Investigator Weber showed photo-lineups to complainant. Complainant identified HEATHER BEHNKEN, DOB 10/18/76 as the female involved in the robbery. Complainant identified ANDREW GUSTAFSON, DOB 5/15/90 as the male who had the gun during the robbery.

Investigator Weber obtained an email address for the victim and sent him an email requesting information about the robbery. Inv. Weber received an email response from the victim on August 3, 2020. The victim indicated that he was in fact robbed by three individuals, and identified those individuals as Heather Behnken, Andrew Gustafson, and Roy Horton, Jr. Victim further provided the following information: the three suspects came bursting into complainant's house with a pistol that he believed was a .45, and two other knives and demanded his cash and drugs. Horton rushed him with knife in hand and Andrew Gustafson racked the pistol. Heather Behnken then came and took his billfold which contained \$170 in cash. Behnken was not satisfied and insisted that he had to have more as well as drugs stashed somewhere, and she patted him down and began to cut the clothes that he was wearing with a knife. After not finding anything she went outside and removed his tattoo kit which contained a tattoo machine and inks valued at about \$400 to \$500, a brand-new Samsung tablet worth \$200, a \$120 bottle of Polo cologne and a used Samsung Galaxy S7 phone worth \$100. The other two then ran out the door and they disappeared. He was fearful for his life.

Inv. Weber made contact with Gustafson in the jail. Gustafson stated that he knew Heather Behnken, Tom Horton, and Witness A, and he knew of victim. Gustafson denied committing a robbery and stated he has never possessed a real firearm. During much of the interview Gustafson pulled his arms and head inside his shirt. Gustafson was crying during the interview. Eventually, Gustafson decided he wanted to return to his cell without making any incriminating statements, but that he might talk to Inv. Weber later.

On August 6, 2020 Inv. Weber spoke with Heather Behnken over the phone. Behnken stated that in the past she dated victim. Behnken stated that victim was abusive and had assaulted her many times in the past. She claimed the victim often sends unsolicited pictures of his penis to people, and recently he had sent a photo of his penis to her 17-year-old daughter. Behnken also claimed that victim had sent a video of himself masturbating to her 21-year-old son. She -was angry with victim for sending the photo and video to her kids. She got some texts from witness A saying that victim was over at complainant's house and he had "shit" on him. Witness A knew that she was mad at victim at that time, and he probably expected her to steal his stuff or beat him up. She was with Andrew Gustafson at that time and told him that she wanted to go confront victim. Gustafson said that they should go do it, and they went to complainant's house in Gustafson's car. Along the way they decided to call THOMAS JAMES HORTON, JR, DOB 7/2/87 and have him come along, since Horton is bigger. When they came over, she had a pocket-knife out. Horton was holding a pocket-knife. Gustafson had a BB gun or a pellet gun stuffed in his waistband. She was standing in front of Gustafson and Horton. She grabbed victim by the neck and stood him up. She cut victim's pants with her pocket-knife. She wanted to cut his penis off. She wasn't really strangling victim, she was just holding his neck with her hand for control. She was holding the knife in her other hand. She did hear a clicking sound behind her. When asked if it sound liked someone racking the slide of a pistol, she stated yes. She did not see what Gustafson or Horton were doing at the time because they were standing behind her. She told victim she was going to take everything he had. Complainant had been on the couch and he asked if he could leave. She told complainant he could go, and he went into the bedroom with witness A. While she was yelling at victim she got very emotional and she walked outside. Horton and Gustafson were in the house for several minutes after she went outside, and she does not know what happened inside the

house. She did not take anything from victim. She left with Gustafson and they met up again with Horton. Horton was driving a separate vehicle, a grey Ford Taurus. She saw Gustafson give Horton fifty bucks later. She does not know if the money was from victim, but it was probably for helping them out. Later, witness A said that he hoped she got some closure. She and witness A are dating now. She deleted the photos and video from victim. The cops told her earlier that victim pissed his pants, and she thought that was pretty funny. Victim always tries to be a tough guy.

PLEASE TAKE NOTICE: YOU MUST APPEAR FOR EVERY COURT HEARING REGARDING THIS CASE. FAILURE TO APPEAR FOR COURT IS A CRIMINAL OFFENSE AND MAY RESULT IN ADDITIONAL CRIMINAL CHARGES BEING IMPOSED AND PUNISHED AS PROVIDED IN MINNESOTA STATUTES SECTION 609.49.

SIGNATURES AND APPROVALS

Complainant requests that Defendant, subject to bail or conditions of release, be:
(1) arrested or that other lawful steps be taken to obtain Defendant's appearance in court; or
(2) detained, if already in custody, pending further proceedings; and that said Defendant otherwise be dealt with according to law.

Complainant declares under penalty of perjury that everything stated in this document is true and correct. Minn. Stat. § 358.116; Minn. R. Crim. P. 2.01, subds. 1, 2.

Complainant

Richard Brian Dahly
Officer
101 4th Street SE
Rochester, MN 55904-3761
Badge: 2424

Electronically Signed:
08/07/2020 09:15 AM
Olmsted County, Minnesota

Being authorized to prosecute the offenses charged, I approve this complaint.

Prosecuting Attorney

Joseph K Rosholt
151 4th Street SE
Government Center - 3rd Floor
Rochester, MN 55904
(507) 328-7600

Electronically Signed:
08/07/2020 09:13 AM

FINDING OF PROBABLE CAUSE

From the above sworn facts, and any supporting affidavits or supplemental sworn testimony, I, the Issuing Officer, have determined that probable cause exists to support, subject to bail or conditions of release where applicable, Defendant's arrest or other lawful steps be taken to obtain Defendant's appearance in court, or Defendant's detention, if already in custody, pending further proceedings. Defendant is therefore charged with the above-stated offense(s).

SUMMONS

THEREFORE YOU, THE DEFENDANT, ARE SUMMONED to appear on _____, _____ at _____ AM/PM before the above-named court at 151 Fourth Street SE, Rochester, MN 55904 to answer this complaint.

IF YOU FAIL TO APPEAR in response to this SUMMONS, a WARRANT FOR YOUR ARREST shall be issued.

WARRANT

To the Sheriff of the above-named county; or other person authorized to execute this warrant: I order, in the name of the State of Minnesota, that the Defendant be apprehended and arrested without delay and brought promptly before the court (if in session), and if not, before a Judge or Judicial Officer of such court without unnecessary delay, and in any event not later than 36 hours after the arrest or as soon as such Judge or Judicial Officer is available to be dealt with according to law.

Execute in MN Only

Execute Nationwide

Execute in Border States

ORDER OF DETENTION

Since the Defendant is already in custody, I order, subject to bail or conditions of release, that the Defendant continue to be detained pending further proceedings.

Bail: \$
Conditions of Release:

This complaint, duly subscribed and sworn to or signed under penalty of perjury, is issued by the undersigned Judicial Officer as of the following date: August 7, 2020.

Judicial Officer

Lisa R Hayne

Electronically Signed: 08/07/2020 09:30 AM

Sworn testimony has been given before the Judicial Officer by the following witnesses:

**COUNTY OF OLMSTED
STATE OF MINNESOTA**

State of Minnesota

Plaintiff

vs.

Andrew Maylon Gustafson

Defendant

*LAW ENFORCEMENT OFFICER RETURN OF SERVICE
I hereby Certify and Return that I have served a copy of this Order of
Detention upon the Defendant herein named.*

Signature of Authorized Service Agent:

DEFENDANT FACT SHEET

Name: Andrew Maylon Gustafson
DOB: 05/15/1990
Address: 1413 2nd St SE
Rochester, MN 55904

Alias Names/DOB:

SID: MN10DM0335

Height:

Weight:

Eye Color:

Hair Color:

Gender: MALE

Race:

Fingerprints Required per Statute: Yes

Fingerprint match to Criminal History Record: Yes

Driver's License #:

Alcohol Concentration:

STATUTE AND OFFENSE GRID

Cnt Nbr	Statute Type	Offense Date(s)	Statute Nbrs and Descriptions	Offense Level	MOC	GOC	Controlling Agencies	Case Numbers
1	Charge	7/18/2020	609.245.1 Aggravated Robbery-1st Degree	Felony	R3155	N	MN0550100	20031447
	Modifier	7/18/2020	609.05.1 Liability for Crimes of Another-Intentional	No-Level	R3155	N	MN0550100	20031447
	Penalty	7/18/2020	609.245.1 Aggravated Robbery-1st Degree	Felony	R3155	N	MN0550100	20031447