

CHAD G. PARKER
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COUNSEL FOR STATE

MONTANA ELEVENTH JUDICIAL DISTRICT COURT
FLATHEAD COUNTY

STATE OF MONTANA, Plaintiff. v. ANTHONY JOHN MCDONNELL, Defendant.	Cause No. _____ Judge: _____ STATE'S MOTION FOR LEAVE TO FILE INFORMATION AND AFFIDAVIT IN SUPPORT
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The State of Montana, by and through its counsel of record, Chad G. Parker, an Assistant Attorney General and a Special Deputy County Attorney for Flathead County, hereby moves the Court for leave to file an Information charging the Defendant, Anthony John McDonnell, with the following criminal offenses, committed in Flathead County:

COUNT I: CRIMINAL ENDANGERMENT, a felony, in violation of Mont. Code Ann. § 45-5-207 (2019); and

COUNT II: AGGGRAVATED DRIVING UNDER THE INFLUENCE, a misdemeanor, in violation of Mont. Code Ann. § 61-8-465(1)(a) (2019).

The State's motion for leave to file is based on the requisite probable cause contained in the following Affidavit:

AFFIDAVIT

STATE OF MONTANA)
 : ss.
County of Lewis and Clark)

Chad G. Parker, Assistant Attorney General and Special Deputy Flathead County Attorney, having first been sworn upon his oath, deposes and

to him by the Montana Highway Patrol and the Kalispell Police Department (KPD), that the following affidavit demonstrates probable cause to believe that the Defendant has committed the above-referenced offenses. The investigative information relied upon by the affiant to support probable cause is as follows:

On November 29, 2020, at approximately 10:47 p.m., the Flathead Emergency Communication Center (FECC) received several 911 calls in immediate succession. The reporting parties indicated there had been a two-vehicle unknown injury crash near the intersection of Farm to Market Road and Mountain Vista Way, in Kalispell, Flathead County, Montana, including Deputy Logan Shawback, who was involved in the crash.

Kalispell Police Department Officer Enser arrived on scene at approximately 10:54 p.m., and observed a dark gray Dodge Ram pickup and a gray Chrysler 300 sedan on the east side of Farm to Market Road in the ditch with significant damage to both vehicles. Shawback, who had been driving the Chrysler, which was owned by the Flathead County Sheriff's Office, met Enser, identifying himself as a deputy sheriff. He advised Enser the driver of the Ram needed medical attention. Sergeant Stahlberg of the Flathead County Sheriff's Office then arrived on scene, at approximately 10:56 p.m. Off-duty KPD Officer Brady Gray and Shawback's wife were already on scene when he arrived. Other officers arrived on scene soon thereafter.

Enser and Scheffler took control of the investigation and Officers Willey and Struble assumed traffic control. Within a very short time after the officers arrived on scene they learned the driver of the Ram was a retired KPD officer, Anthony John McDonnell. When Officer McRae learned of McDonnell's involvement, he advised Enser and Scheffler that he and Struble knew McDonnell. He told them he and Struble would remove themselves from the

investigation and that Enser and Scheffler were to investigate the crash as they would any other matter.

After Enser and Scheffler gathered evidence at the scene, the two of them drove to the hospital to speak with McDonnell and request a legal blood draw. Struble, Willey and McRae stayed on scene with Shawback and Gray while they waited for the tow truck. While Willey and Struble were talking to Gray, Willey asked Gray where they had been prior to the crash. Gray advised that she, Shawback, and McDonnell were at the brewery immediately prior to the crash where they had spent more than three hours together. Gray indicated McDonnell had been extremely intoxicated prior to leaving the brewery, describing him as being “trashed.” Upon initial contact with Enser, Shawback did not make any mention that he knew McDonnell, who had just struck him.

When Gray was later interviewed, on December 19, 2020, she indicated that on the night of the crash, she went to the Sunrift Brewery to meet a friend. McDonnell was already at the brewery sitting with that friend. Shawback was also there with his family, sitting at a different table. Gray stated McDonnell was already intoxicated when she arrived. As the night moved on, McDonnell had three or four more drinks and was eventually cut off from drinking by the bar tender because he was too intoxicated. Gray continued, stating McDonnell was extremely intoxicated by the time they were leaving the brewery. Gray stated she and Shawback walked to the parking lot together and did not pay attention to the vehicle McDonnell was getting in. Soon after they all left, Shawback called her and let her know he had just been in a crash. Gray then drove to the crash scene to check on Shawback. She stated Shawback had indicated he did not know who had hit him, but only realized it was McDonnell after Gray told him and when McDonnell was being removed from the vehicle.

Shawback advised Scheffler and Enser that he was off-duty, driving a county vehicle. Shawback then described the crash, indicating he was going home, getting ready to turn onto Mountain Vista Way, when he observed a vehicle behind him, approaching at a high rate of speed. Shawback indicated he sped up to make the turn and avoid being rear ended. Shawback continued, stating McDonnell's vehicle came up behind him fast and then crashed into him. The estimated speed of McDonnell's Ram was near the posted speed limit of 50 MPH.

Further investigation of the crash scene and the other evidence indicated that as McDonnell drove his Ram through the intersection, he impacted with the passenger side of the Chrysler Shawback was driving, near the taillight, prior to reaching Mountain Vista Way. The Ram pushed the Chrysler, causing it to turn counterclockwise, into a slide. The Ram remained in contact with the Chrysler, moving down the right side of the vehicle, causing substantial damage to the body of the vehicle. The Ram then overtook the Chrysler, climbed upward and rolled over the front passenger corner of the Chrysler, driving over the top of the vehicle. Shawback was inside the Chrysler as McDonnell drove over the top of the vehicle with his Ram pickup. After separating from the Chrysler, McDonnell struck a light pole with the passenger side of the pickup, knocking the light pole down, the truck then rolling over, crushing portions of the roof and windshield, deploying the airbags, and coming to a final rest on its wheels in the ditch. Just prior to coming to final rest, the Chrysler struck the downed light pole with the left side of its front bumper. In addition to the risk of serious bodily injury or death created by McDonnell to Shawback, video evidence from in-car law enforcement cameras recorded at the time of the crash investigation depicts residents of the neighborhood walking around and through the residential intersection who could

have been struck by McDonnell as he drove through the intersection, collided with Shawback, downed the light pole, and rolled his truck.

Due to the injuries McDonnell sustained in the crash, he was taken away from the scene without delay, rendering him unavailable to provide a statement at the scene. However, at the Kalispell Regional Medical Center officers read McDonnell the Implied Consent Advisory and he consented to a blood draw. Analysis of McDonnell's blood sample, performed by the Montana Department of Justice, Montana State Crime Lab Toxicology Division, indicated that McDonnell's blood alcohol concentration was 0.259 +/- 0.019 GM/100ml, more than three times the legal limit.

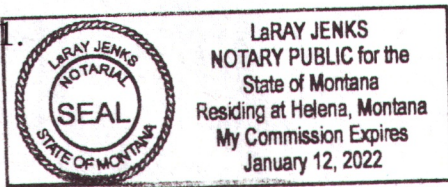
Further your affiant sayeth naught.

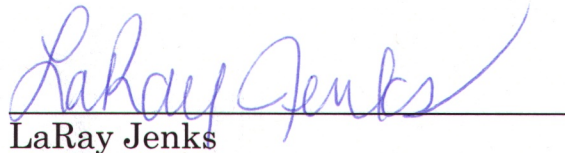
Respectfully submitted this 19th day of March, 2021.



CHAD G. PARKER
Assistant Attorney General
Special Deputy County Attorney
for Flathead County

SUBSCRIBED AND SWORN to before me this 19th day of March, 2021.

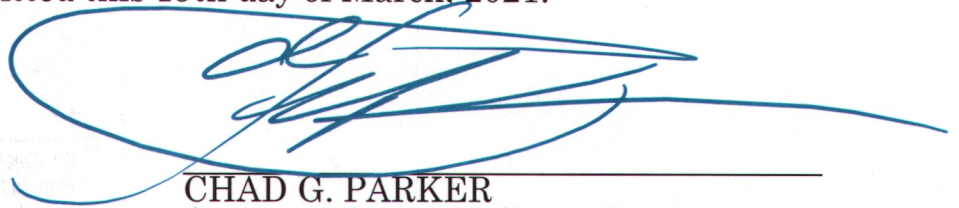



LaRay Jenks

WHEREFORE, the State prays the Court enter its Order providing leave to file an Information against Anthony John McDonnell for the charge of Criminal Endangerment, a felony, in violation of Mont. Code Ann. § 45-5-204 (2019), and Aggravated Driving Under the Influence, a misdemeanor, in violation of Mont. Code Ann. § 61-8-465(1)(a) (2019).

The State further prays that the Court issue a Summons requiring the appearance of the Defendant in Flathead County District Court to answer the charges contained in the Information filed concurrently with this motion, and for such other Orders and further relief as the Court deems just and appropriate under the circumstances.

Respectfully submitted this 19th day of March, 2021.



CHAD G. PARKER
Assistant Attorney General