

State of Minnesota
County of Blue Earth

District Court
5th Judicial District

Prosecutor File No.
Court File No.

BEC-16-0976
07-CR-16-1981

State of Minnesota,

Plaintiff,

vs.

MARK ANTHONY HARMDIERKS DOB: 07/20/1980

201 S. Houk St.
Good Thunder, MN 56037

Defendant.

COMPLAINT

Summons

Amended

Tab Charge/Citation Previously Filed

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: Traffic - DWI - Operate Motor Vehicle Under Influence of Alcohol

Minnesota Statute: 169A.20.1(1), with reference to: 169A.26.2

Maximum Sentence: 1 year and/or \$3,000

Offense Level: Gross Misdemeanor

Offense Date (on or about): 05/07/2016

Control #(ICR#): 16200901

Charge Description: Mark Anthony Harmdierks

On or about May 7, 2016, in the County of Blue Earth, said Defendant, Mark Anthony Harmdierks did, drive, operate, or was in physical control of any motor vehicle when he/she was under the influence of alcohol, and one aggravating factor was present when the violation was committed.

COUNT II

Charge: Traffic - DWI - Operate Motor Vehicle - Alcohol Concentration 0.08 Within 2 Hours

Minnesota Statute: 169A.20.1(5), with reference to: 169A.26.2

Maximum Sentence: 1 year and/or \$3,000

Offense Level: Gross Misdemeanor

Offense Date (on or about): 05/07/2016

Control #(ICR#): 16200901

Charge Description: Mark Anthony Harmdierks

On or about May 7, 2016, in the County of Blue Earth, said Defendant, Mark Anthony Harmdierks did, drive, operate, or was in physical control of any motor vehicle, when his/her alcohol concentration at the time, or as measured within two hours of the time, of driving, operating or being in physical control of the

motor vehicle was 0.08 or more, and one aggravating factor was present when the violation was committed.

COUNT III

Charge: Traffic - Speeding - Exceed Speed Limit Posted in Local Jurisdiction Speed Zones

Minnesota Statute: 169.14.5

Maximum Sentence: Not More Than \$300

Offense Level: Petty Misdemeanor

Offense Date (on or about): 05/07/2016

Control #(ICR#): 16200901

Charge Description: Mark Anthony Harmdierks

On or about May 7, 2016, in the County of Blue Earth, said Defendant, Mark Anthony Harmdierks did operate a motor vehicle in excess of the posted speed limit; to wit: 86 mph in a 50 mph speed zone.

STATEMENT OF PROBABLE CAUSE

On May 7, 2016, at approximately 8:00 p.m., Trooper Cornish of the Minnesota State Patrol was stopped at the top of the on-ramp from frontage road/South Riverfront Drive onto southbound Highway 169 near the CHS plant in the City of Mankato, County of Blue Earth, State of Minnesota. While stopped, Trooper Cornish heard a very loud exhaust of what he believed to be a motorcycle coming south on Highway 169 from behind the trooper. The bike sounded as if it were accelerating rapidly. Trooper Cornish prepared his front radar as the motorcycle came in to view and could clearly see the motorcycle was at an extremely high rate of speed as it pulled away from Trooper Cornish's location. The front radar unit reported a speed of 86 miles per hour in a 50-mile-per-hour zone. The tones of the speed reading of 86 miles per hour were consistent with Trooper Cornish's visual estimation of the motorcycle's speed. Two additional motorcycles came in to view at very high rates of speed, similar to the first. Due to the traffic in the area, the three motorcycles were catching and passing traffic as they cut through using both lanes.

After catching up to the two lead motorcycles, Trooper Cornish clocked the two motorcycles traveling at speeds in the upper 70's and up to 80 miles per hour, which again matched the visual estimates of Trooper Cornish, as displayed by the tones reported by the radar. Trooper Cornish watched one motorcycle approach a truck in the right lane, accelerate around it, and change lanes without any lit signal or hand signals. That same motorcycle cut back in front of the truck, and Trooper Cornish's radar reported the passing bike speed to be 81 miles per hour as it passed around the truck. At this point, Trooper Cornish activated his emergency lights.

The motorcycle pulled off the road on the side of Highway 169 near Gag's Camper Sales. As Trooper Cornish approached the motorcycle, the driver stepped off of his bike and stood next to it. Trooper Cornish inquired as to where the driver was going, and the driver stated Madelia. Trooper Cornish stated to the driver that he was pulled over due to speed and for not using proper hand signals or bike signals when passing traffic. The Defendant produced a Minnesota driver's license and was identified as Mark Anthony Harmdierks, the Defendant herein. While speaking with the Defendant, Trooper Cornish noticed a strong odor of alcoholic beverage emitting from the Defendant. Trooper Cornish also noticed that the Defendant's eyes were glossy and slightly bloodshot and that the Defendant's eyelids opened and closed lethargically. While the Defendant explained to Trooper Cornish that he was out on a ride with the ABATE motorcycle group, the Defendant would avoid looking into the trooper's eyes and instead looked to the ground when speaking. The Defendant admitted to speeding. Trooper Cornish also noticed that the bike did not have signals and spoke to the Defendant about his lack of hand signals. The Defendant stated that he knew he was 'screwing up.' While speaking with Trooper Cornish in a slightly thick and deliberate manner, the Defendant admitted to drinking an alcoholic beverage approximately 20 minutes prior to the traffic stop.

The Defendant stated that he did not have any back, leg, or eye problems; therefore, Trooper Cornish asked the Defendant to perform standardized field-sobriety tests, to which the Defendant agreed. Trooper Cornish administered and the Defendant performed the horizontal gaze nystagmus and walk-and-turn tests. Based on the poor performance of the field-sobriety tests, Trooper Cornish asked the Defendant to perform a countdown test from 95 to 77. The Defendant also performed a preliminary breath test with a provided sample of a .16 blood-alcohol concentration. Based on the poor performance of field-sobriety tests, the preliminary breath test results, and the conversation with Trooper Cornish, the Defendant was placed in the rear of Trooper Cornish's squad vehicle for suspicion of DWI.

While waiting for a tow truck arrival, Trooper Cornish read the Defendant the Implied Consent Advisory. After reading through it one time, the Defendant requested that the trooper read through it again. Trooper Cornish read through the Implied Consent Advisory a second time, and the Defendant stated he understood the reading and indicated he would like to speak to an attorney. However, the Defendant then

changed his mind and stated he did not wish to contact an attorney. Trooper Cornish did, however, explain to the Defendant that it was the Defendant's right to speak to an attorney and that the Defendant did not need to feel as if he were complicating things by contacting an attorney. Trooper Cornish even went so far as to explain that he would provide phone books and a telephone to the Defendant and that it was well within the Defendant's rights to speak with an attorney. Trooper Cornish stated to the Defendant that he would mark the answer to call an attorney as 'yes' and asked the Defendant to tell Trooper Cornish if his mind had changed. The Defendant was transported to the Blue Earth County Justice Center.

At approximately 8:54 p.m., Trooper Cornish provided the Defendant with a cellphone and several books, including the Blue Pages. Defendant stated he no longer wished to use the phone to speak to an attorney. After again inquiring into whether the Defendant wished to contact an attorney and stated that it was the Defendant's right to do so, the Defendant confirmed he did not wish to speak with an attorney. The Defendant also consented to a breath test. After a 15-minute observation period where the Defendant's mouth was checked before and after, Trooper Cornish administered and the Defendant performed a DMT. After supplying two adequate samples, the Defendant reported a value of .15 alcohol concentration at approximately 9:07 p.m.

The Defendant was issued a copy of the test, an Order of Revocation, temporary driver's license, and a license plate impoundment form. The Defendant was convicted of a Misdemeanor DWI in 2010 (Case File No. 46-CR-10-1299). The Defendant was booked and later released.

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

Dan Anderson
State Trooper
2171 Bassett Drive
Mankato, MN 56001-6888
Badge: 31

Electronically Signed:
06/27/2016 10:17 AM
Blue Earth County, Minnesota

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

Prosecuting Attorney

Nicholas Boulieris
Assistant County Attorney
401 Carver Road
PO Box 3129
Mankato, MN 56002
(507) 304-4600

Electronically Signed:
06/27/2016 09:22 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 401 Carver Rd, Mankato, MN 56002-0347 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: June 27, 2016.

Judicial Officer

Kurt D Johnson
District Court Judge

Electronically Signed: 06/27/2016 11:22 AM

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

**COUNTY OF BLUE EARTH
STATE OF MINNESOTA**

State of Minnesota

Plaintiff

vs.

MARK ANTHONY HARMDIERKS

Defendant

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

Signature of Authorized Service Agent: