

State of Minnesota  
County of Blue Earth

District Court  
5th Judicial District

Prosecutor File No.  
Court File No.

BEC-16-1444  
07-CR-16-3602

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**State of Minnesota,**

Plaintiff,

vs.

**JOSE ROBERTO MARES GONZALEZ DOB: 10/12/1988**

115 Laurinda Ln  
Mankato, MN 56001

Defendant.

**COMPLAINT**

Order of Detention

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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 - Refuse to Submit to Chemical Test**

Minnesota Statute: 169A.20.2, with reference to: 169A.25.2

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

Offense Level: Gross Misdemeanor

Offense Date (on or about): 09/10/2016

Control #(ICR#): 16201817

Charge Description: Jose Roberto Mares Gonzalez Also Known As Jose Roberto Gonzalez-Mares, Jose Roberto Mares Gonzalez, Jose Roberto Mares-Gonzalez, Jose Roberto Mares And Jose Roberto Gonzalez

On or about September 10, 2016, in the County of Blue Earth, said Defendant, Jose Roberto Mares Gonzalez 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; and the Defendant refused to submit to a chemical test of the person's blood, breath or urine upon the request of a peace officer who had probable cause to believe the person to be tested was under the influence.

**COUNT II**

**Charge: Traffic - DWI - Refuse to Submit to Chemical Test**

Minnesota Statute: 169A.20.2, with reference to: 169A.26.2

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

Offense Level: Gross Misdemeanor

Offense Date (on or about): 09/10/2016

Control #(ICR#): 16201817

Charge Description: Jose Roberto Mares Gonzalez Also Known As Jose Roberto Gonzalez-Mares, Jose Roberto Mares Gonzalez, Jose Roberto Mares-Gonzalez, Jose Roberto Mares And Jose Roberto Gonzalez

On or about September 10, 2016, in the County of Blue Earth, said Defendant, Jose Roberto Mares Gonzalez did, drive, operate, or was in physical control of any motor vehicle and the Defendant refused to submit to a chemical test of the person's blood, breath or urine upon the request of a peace officer who had probable cause to believe the person to be tested was under the influence.

**COUNT III**

**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): 09/10/2016

Control #(ICR#): 16201817

Charge Description: Jose Roberto Mares Gonzalez Also Known As Jose Roberto Gonzalez-Mares, Jose Roberto Mares Gonzalez, Jose Roberto Mares-Gonzalez, Jose Roberto Mares And Jose Roberto Gonzalez

On or about September 10, 2016, in the County of Blue Earth, said Defendant, Jose Roberto Mares Gonzalez 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.

## STATEMENT OF PROBABLE CAUSE

On September 10, 2016, at approximately 9:17 p.m., Trooper Ryan Marthaler with the Minnesota State Patrol was traveling east on County Road 90 in Blue Earth County when he observed two westbound vehicles approaching him. The rear vehicle was following the lead vehicle very close.

As the vehicles went past, Trooper Marthaler observed the second vehicle to be within a car length traveling at a speed of approximately 59 to 60 miles per hour in a 55-mile-per-hour zone. Trooper Marthaler observed the rear vehicle to be reddish in color and was a passenger-type vehicle. Trooper Marthaler turned his patrol vehicle around and caught up to the vehicles and observed that the rear vehicle was still following too closely.

At this point, Trooper Marthaler initiated a traffic stop. As he was stopping the vehicle, Trooper Marthaler observed that this vehicle was also involved in a driving complaint earlier in the night in which the vehicle was accused of tailgating and passed another vehicle on the shoulder, almost hitting them. Earlier in the night, state patrol was unable to locate the vehicle regarding that complaint.

The vehicle pulled over on Hemlock Road north of County Road 90; and as Trooper Marthaler approached the vehicle, he came into contact with the driver and advised him of the reason for the stop. As Trooper Marthaler was talking with the driver, he observed in plain view a one-hit marijuana pipe and beer bottles on the passenger floor area.

The driver handed Trooper Marthaler a driver's license with the name Jose Roberto Mares Gonzalez. While talking with Gonzalez, Trooper Marthaler noted a strong odor of an alcoholic beverage emitting from the vehicle. Trooper Marthaler observed Gonzalez' eyes to be watery, and his speech was fair. Gonzalez admitted to drinking.

Trooper Marthaler requested Gonzalez to step out of the vehicle and to the rear. Trooper Marthaler advised Gonzalez of the earlier driving complaint, and Gonzalez stated he did not remember any of that type of conduct. Trooper Marthaler offered Gonzalez field sobriety testing.

The first test administered was the horizontal gaze nystagmus test. Trooper Marthaler noticed Gonzalez was wearing eyeglasses, and Trooper Marthaler observed a lack of smooth pursuit in both eyes, distinctive nystagmus at maximum deviation in both eyes, and the onset of nystagmus prior to 45 degrees in both eyes.

Next, Trooper Marthaler administered the one-legged stand test. After explaining and demonstrating the test, Trooper Marthaler requested Gonzalez to begin and observed that Gonzalez put his foot down, hopped, and was unable to complete the test.

The next test offered was the walk-and-turn test. After explaining and demonstrating this test, Trooper Marthaler requested Gonzalez to begin and observed that Gonzalez stepped off the line, had an incorrect number of steps, and did not touch heel-to-toe on each step.

Last, Gonzalez provided a preliminary breath test which showed a .159 breath sample. Gonzalez was then placed under arrest for DWI. At Gonzalez' request, his vehicle was left roadside on Hemlock Road.

Trooper Marthaler asked Gonzalez if he needed anything from the vehicle, and Gonzalez stated no. Trooper Marthaler went and searched Gonzalez' vehicle and took the marijuana pipe into custody from the center console. Trooper Marthaler also took an open bottle of Bud Light, which was half full from the passenger

floor area and a Palm Breeze sparkling alcohol spritzer from the center console. Trooper Marthaler also observed five empty Bud Light beer bottles in the rear and two empty beer bottles in the front. The vehicle was secured roadside.

Gonzalez was brought to the Blue Earth County Jail and read the Minnesota Implied Consent Advisory. Gonzalez stated on the way to the jail that he wanted to go to jail and sit in jail and not be on probation. Gonzalez stated he wanted a vacation because he works five days a week and that he was going to advise his family members not to bail him out because he wanted to sit in jail.

Trooper Marthaler started the Implied Consent Advisory at 9:59 p.m. Gonzalez would not answer questions after being read the questions multiple times and continued to state he just wanted to go to jail. When asked if Gonzalez understood the form, Gonzalez stated, "No. I don't understand. I'm drunk. I need a lawyer." Trooper Marthaler asked Gonzalez if he wished to consult with an attorney, and Gonzalez stated that he did. Gonzalez dialed the phone numerous times, opened the phone book, and appeared to be looking for a number for an attorney. At 10:42 p.m., Gonzalez indicated he was done trying to contact an attorney and would provide a breath sample.

Trooper Marthaler administered the Datamaster DMT to Gonzalez and first obtained an invalid breath sample. The first breath sample given was sufficient. The second breath sample was not. Gonzalez blew around the tube and then sucked back in at the end, which produced an invalid result. Trooper Marthaler administered a second Datamaster test to Gonzalez; and again, the second sample provided was invalid as again, Gonzalez was blowing around the tube and sucked back at the end. At this point, Trooper Marthaler advised Gonzalez he was being charged with test refusal.

Gonzalez has a prior qualified driving while impaired conviction dated 6-24-2012.

## 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**

Jeremy Geiger  
Captain  
2171 Bassett Drive  
Mankato, MN 56001-6888  
Badge: 438

Electronically Signed:  
09/12/2016 11:21 AM  
Blue Earth County, Minnesota

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

**Prosecuting Attorney**

Stefanie Menning  
401 Carver Road  
PO Box 3129  
Mankato, MN 56002  
(507) 304-4600

Electronically Signed:  
09/12/2016 11:15 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: September 12, 2016.

**Judicial Officer**

Kurt D Johnson  
District Court Judge

Electronically Signed: 09/12/2016 11:40 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.

**JOSE ROBERTO MARES GONZALEZ**

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: