

State of Minnesota  
County of Blue Earth

District Court  
5th Judicial District

Prosecutor File No.  
Court File No.

BEC-16-1131  
07-CR-16-2782

---

**State of Minnesota,**

Plaintiff,

vs.

**NYABANG GATHAK DIANG DOB: 12/22/1992**

707 6th Ave SE  
Austin, MN 55912

Defendant.

---

**COMPLAINT**

Order of Detention

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: Obstruct Legal Process-Interfere w/Peace Officer**

Minnesota Statute: 609.50.1(2), with reference to: 609.50.2(2)

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

Offense Level: Gross Misdemeanor

Offense Date (on or about): 07/09/2016

Control #(ICR#): 16020180

Charge Description: Nyabang Gathak Diang

On or about July 9, 2016, in the County of Blue Earth, said Defendant, Nyabang Gathak Diang did, intentionally, obstruct, resist, or interfere with a peace officer while the officer was engaged in the performance of official duties and the act was accompanied by force or violence or the threat thereof.

**COUNT II**

**Charge: Obstruct Legal Process-Interfere w/Peace Officer**

Minnesota Statute: 609.50.1(2), with reference to: 609.50.2(3)

Maximum Sentence: 90 days and/or \$1,000

Offense Level: Misdemeanor

Offense Date (on or about): 07/09/2016

Control #(ICR#): 16020180

Charge Description: Nyabang Gathak Diang

On or about July 9, 2016, in the County of Blue Earth, said Defendant, Nyabang Gathak Diang did, intentionally, obstruct, resist, or interfere with a peace officer while the officer is engaged in the performance of official duties.

### COUNT III

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

Minnesota Statute: 169A.20.1(1), with reference to: 169A.27.2

Maximum Sentence: 90 days and/or \$1,000

Offense Level: Misdemeanor

Offense Date (on or about): 07/09/2016

Control #(ICR#): 16020180

Charge Description: Nyabang Gathak Diang

On or about July 9, 2016, in the County of Blue Earth, said Defendant, Nyabang Gathak Diang did, drive, operate, or was in physical control of any motor vehicle when he/she was under the influence of alcohol.

### COUNT IV

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

Minnesota Statute: 169A.20.1(5), with reference to: 169A.27.2

Maximum Sentence: 90 days and/or \$1,000

Offense Level: Misdemeanor

Offense Date (on or about): 07/09/2016

Control #(ICR#): 16020180

Charge Description: Nyabang Gathak Diang

On or about July 9, 2016, in the County of Blue Earth, said Defendant, Nyabang Gathak Diang 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.

## STATEMENT OF PROBABLE CAUSE

Mankato Department of Public Safety Police Officer Will Hullopeter states that on July 9, 2016, at approximately 2:17 a.m., he was dispatched to the Kwik Trip on Monks Avenue in reference to an intoxicated driver. The dispatcher provided information that a female was unable to keep herself up, was fumbling around, and fell into the seat of the vehicle. The dispatcher stated that the vehicle left the parking lot and provided a vehicle description and direction of travel.

When Officer Hullopeter arrived, he located the vehicle parked in a parking stall at a complex nearby. He noted that the vehicle was parked over the line in the stall and the vehicle was running and the lights were on. He walked up to the driver's side of the car, and the driver, subsequently identified as Nyabang Gathak Diang, opened the driver's door. Officer Hullopeter told Diang that he received a driving complaint involving her car, and she responded that she did not drive there. She stated that she left her friend's apartment and then went into the car to eat food. Officer Hullopeter observed ketchup spilled on her leg and the car seat. She stated she was going back to her friend's apartment when she was finished eating.

Officer Hullopeter asked Diang if she was at Kwik Trip, and she said, 'I was not at Kwik Trip, she drove me.' Diang was referring to a friend, later identified as Witness 1. Diang stated that she did not drive but her friend did. When asked if she knew there were cameras at Kwik Trip, Diang responded, 'Why? What happened?' After speaking with her further, Officer Hullopeter noted that Diang became agitated and started raising her voice. He noted that her eyes were very red and watery and he smelled a mild odor of an alcoholic beverage coming from her. She mumbled her speech at times and spoke very rapidly. He could not understand what she was saying at times.

Officer Hullopeter asked Diang if she had her identification with her, and she responded, 'Can you go look at the cameras?' He again asked for I.D. and she again asked him to go look at the cameras. He asked for her I.D. several times, and she did not give it to him. He told Diang to step out of the car, and she would not step out but stated she was going back to her friend's apartment. He again told her to step out of the car, and she stated that she was going back to her house. Diang did get out of the car and said excuse me, as if she was going to walk away. Officer Hullopeter told her to turn around and she stated that no, she would give him her I.D. He took a hold of her arm and then she sat back in the car, leaning away from Officer Hullopeter. He gave her numerous commands to get out of the car, but she did not comply.

Officer Hullopeter pulled Diang's arm, and she came out of the car. He escorted her to the rear of the squad car so she was facing the squad car. He gave her commands to stop resisting and placed her arms behind her back. He had one of her hands behind her back, and he took a hold of the other arm. Diang pulled away from Officer Hullopeter, and she turned towards him and tried to pull her other arm free. Officer Hullopeter was able to trip Diang, and she fell on the ground. Officer Hullopeter gained control of one of her arms and placed it behind her back. Diang was facing the ground, and Officer Hullopeter had his knee on her back to keep her on the ground. Officer Hullopeter was giving her loud verbal commands to stop resisting, and she continued to try to pull away from him.

Officer Hullopeter tried to place handcuffs on Diang's wrist, but she continued to struggle. He lost control of the handcuff and her arm, and Diang rolled on the ground and was facing Officer Hullopeter and she kicked towards him. Officer Hullopeter stood up and backed away, and Diang got up and faced him. He pointed his taser at her and gave her two commands to get on the ground. She did not comply, so he tased her. Diang fell backwards to the ground, and Officer Hullopeter rolled her over to face the ground. Another officer arrived, and she was placed in handcuffs.

A female, identified as Witness 1, came out of the apartment and stated that Diang was visiting her and

had been drinking. Witness 1 stated she did not drive Diang anywhere and that Diang left her house about 30 minutes prior.

Officer Hullopete attempted to have Diang perform field-sobriety tests and she would not comply. Officer Hullopete read her the Implied Consent Advisory and asked her seven different times if she would like to speak with an attorney. She did not answer the question but yelled and tried to ask questions instead. Diang stated that her cellphone was dead, so she was transported to the jail and placed in an interview room to allow to use a phone. While transporting her to the jail, she was yelling and banging on the squad car cage. Diang eventually made three different phone calls and agreed to provide a breath sample. The sample resulted in a reading of 0.12.

## 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**

Adam Gray  
Sergeant  
710 S Front St  
Mankato, MN 56001-3803  
Badge: 3117

Electronically Signed:  
07/11/2016 10:59 AM  
Blue Earth County, MN

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

**Prosecuting Attorney**

Patrick R. McDermott  
Assistant Blue Earth County  
Attorney  
401 Carver Road  
PO Box 3129  
Mankato, MN 56002  
(507) 304-4600

Electronically Signed:  
07/11/2016 09:30 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: July 11, 2016.

**Judicial Officer** Krista J Jass  
Judge of District Court

Electronically Signed: 07/11/2016 11:14 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.

**NYABANG GATHAK DIANG**

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: