

State of Minnesota
County of Blue Earth

District Court
5th Judicial District

Prosecutor File No.
Court File No.

BEC-15-1507
07-CR-15-4586

State of Minnesota,

Plaintiff,

vs.

KELLY MARKESE IRVING DOB: 09/11/1978

111 Center Street
Mankato, MN 56001

Defendant.

COMPLAINT

Summons

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: Wrongfully Obtaining Assistance-Theft- By False Stmts,Concealment, Impersonation

Minnesota Statute: 256.98.1(1), with reference to: 609.52.3(2)

Maximum Sentence: 10 years and/or \$20,000

Offense Level: Felony

Offense Date (on or about): 12/01/2014 to 10/17/2015

Control #(ICR#): 15014391

Charge Description: Kelly Markese Irving

On or between December 1, 2014 and October 17, 2015, in the County of Blue Earth, said Defendant, Kelly Markese Irving did obtain or attempted to obtain, or aid or abet any person to obtain by means of a willfully false statement or representation, by intentional concealment of any material fact, or by impersonation or other fraudulent device, assistance or the continued receipt of assistance to which the person is not entitled or assistance greater than that to which the person is entitled; and the value of the assistance exceeds \$5,000.00.

COUNT II

Charge: Wrongfully Obtaining Assistance-Theft- By False Stmts,Concealment, Impersonation

Minnesota Statute: 256.98.1(1), with reference to: 609.52.3(3)(a)

Maximum Sentence: 5 years and/or \$10,000

Offense Level: Felony

Offense Date (on or about): 12/01/2014 to 10/17/2015

Control #(ICR#): 15014391

Charge Description: Kelly Markese Irving

On or between December 1, 2014 and October 17, 2015, in the County of Blue Earth, said Defendant, Kelly Markese Irving did obtain or attempt to obtain, or aids or abets any person to obtain by means of a willfully false statement or representation, by intentional concealment of any material fact, or by impersonation or other fraudulent device, assistance or the continued receipt of assistance, to which the person is not entitled or assistance greater than that to which the person is entitled; and the value of the assistance exceeds \$1,000.00.

COUNT III

Charge: Wrongfully Obtaining Assistance-Theft- By False Stmt,Concealment, Impersonation

Minnesota Statute: 256.98.1(1), with reference to: 609.52.3(3)(d)(iv)

Maximum Sentence: 5 years and/or \$10,000

Offense Level: Felony

Offense Date (on or about): 12/01/2014 to 10/17/2015

Control #(ICR#): 15014391

Charge Description: Kelly Markese Irving

On or between December 1, 2014 and October 17, 2015, in the County of Blue Earth, said Defendant, Kelly Markese Irving did, obtain or attempt to obtain, or aids or abets any person to obtain by means of a willfully false statement or representation, by intentional concealment of any material fact, or by impersonation or other fraudulent device, assistance or the continued receipt of assistance, to include child care assistance or vouchers produced according to sections 145.891 to 145.897 and MinnesotaCare services according to sections 256.9365, 256.94, and 256L.01 to 256L.15, to which the person is not entitled or assistance greater than that to which the person is entitled; and the property consists of public funds belonging to the state or to any political subdivision or agency thereof.

COUNT IV

Charge: Public Assistance/Food Stamp/Food Support - Declaration Requirement

Minnesota Statute: 256.984.2, with reference to: 609.48.4

Maximum Sentence: 5 years and/or \$10,000

Offense Level: Felony

Offense Date (on or about): 12/01/2014 to 10/17/2015

Control #(ICR#): 15014391

Charge Description: Kelly Markese Irving

On or between December 1, 2014 and October 17, 2015, in the County of Blue Earth, said Defendant, Kelly Markese Irving did, in an application for public assistance under chapter 256 or chapters 256B, 256D, 256J, and 256L; child care programs under chapter 119B; and food stamps or food support under chapter 393; willfully and falsely make the following declaration which was in writing or reduced to writing as prescribed by the state agency: 'I declare under the penalties of perjury that this application has been examined by me and to the best of my knowledge is a true and correct statement of every material point. I understand that a person convicted of perjury may be sentenced to imprisonment of not more than five years or to payment of a fine of not more than \$10,000, or both.'

STATEMENT OF PROBABLE CAUSE

On September 22, 2015, a financial worker with Blue Earth County issued a fraud prevention investigation referral in reference to Kelly Markese Irving, DOB 9-11-1978. The referral advised that the financial worker recently did a review for Irving and her family and noted the only reported income for the household was \$659.70 per month for Social Security income for M. and some child support for two children (approximately \$330.00 per month total). The referral further advised that Irving's rent is \$1,200.00 per month plus utilities. When asked how Irving pays her rent and expenses with this income, Irving stated they are behind but trying to pay what they can. The referral further noted that the family had been living at this residence since December 2014 with income less than their shelter costs. The referral requested a determination be made as to whether the household has any additional income or members.

On October 8, 2015, Blue Earth County Fraud Investigator Ginger Peterson began to actively investigate said referral. Investigator Peterson conducted a review of Irving's case file and made note of several pieces of information, including an entry indicating that the family moved to their current address, located on Center Street in the city of Mankato, on December 1, 2014. Investigator Peterson noted several other entries detailing what information Irving had provided to financial workers regarding her application for public assistance benefits, including SNAP assistance. On July 2, 2015, Irving reported the Center Street address and the household composition to include herself and five sons in a Minnesota Health Care program renewal document and noted the same information on a combined application form. Investigator Peterson found that Irving also reported the Center Street address and her five children as members of her household composition on a combined application form that she completed on August 31, 2015. Investigator Peterson also noted an entry from a financial worker in September 2015, noting that Irving still reported expenses of \$1,200.00 per month for housing plus phone. The note indicated that Irving was asked how she pays that much rent and she stated she was behind. SNAP benefits still issued to Irving based on information she had provided to Blue Earth County.

Investigator Peterson also checked local law enforcement records and noted that there had been several contacts at the Center Street address, two of which Investigator Peterson specifically referenced. Investigator Peterson noted a September 4, 2015 contact where the Mankato Department of Public Safety completed a notice to Irving at the Center Street address, advising that the property needs a rental license and completed a Notice and Order of Rental Without License form to the property owners, Heartland Home Properties. The notice is dated September 5, 2015 and advised that unless a rental license is obtained for the residence within 30 days, the tenant must vacate the premises. Investigator Peterson also noted a contact with the Mankato Department of Public Safety on September 14, 2015 in which DI, an adult male, reported that his address as of September 14, 2015 was Irving's Center Street address in Mankato. Investigator Peterson made contact with Officer Ellis, who was able to confirm that DI is in fact living at the Center Street address and that DI is Irving's brother.

On October 14, 2015, Investigator Peterson made contact with DD in an effort to ascertain if Irving and her family had moved from the residence by the deadline that had been given on the Rental Without a License notice. DD advised Investigator Peterson that Irving and her family have not yet vacated the property and that Irving is behind in rent as she has not paid for the month of September. DD also advised that Irving had been working for DD's sister, MD, doing cleaning jobs. DD knew that Irving had been working for DD's sister the whole time that Irving has lived at the Center Street address.

On October 14, 2015, Investigator Peterson made contact with MD and introduced herself. MD provided Investigator Peterson the following information. MD is the property manager at Stadium Heights Apartments and the owner of a cleaning service. MD's security guard had told MD that Irving was interested in a job. Irving met with MD in July 2013 and was hired to do cleaning jobs as a subcontractor

with a wage of \$12.00 per hour. MD provides her employees with a 1099 form each year for their earnings. MD said that Irving's employment is on an as-needed basis, depending upon when cleaning jobs are available. MD also provided Investigator Peterson information related to the wages she had paid Irving pursuant to this employment, which included several thousand dollars in wages for the year 2015.

Based on Investigator Peterson's investigation, she believes Irving is knowledgeable of the reporting requirements for the programs Irving is on. During the time that Irving has been on public assistance, Irving has turned in county forms and applications as well as having been involved in public assistance interviews with financial workers. Investigator Peterson knows that as a matter of standard practice, the financial workers advise all recipients of their reporting responsibilities, along with supplying the recipients with applications that clearly state the reporting responsibilities, penalty warnings, and perjury/general declarations in order to ensure that all information being reported by the recipients is true and correct the day the applications are turned into the county. Irving acknowledged these advisements by providing her signature within her applications on numerous occasions and then turning in the applications advising that all was true and correct on every material point. Therefore, Investigator Peterson believes that Irving is aware of her responsibilities which include that Irving must report changes that may affect her benefits to the agency within ten days after the change has occurred. These changes include changes in employment, the start or stop of a job or business, change in hours, earnings, or expense, and that Irving is not to give false information or hide information to get or to continue to get benefits. Investigator Peterson also noted that the information Irving received pursuant to applying for and being involved in the public assistance programs included penalty warnings that described the consequences for committing fraud.

With this in mind, Investigator Peterson believes that Irving knew that she needed to report her income and household composition changes in order to remain compliant with her reporting requirements. Based on the information obtained in this investigation and training that she has received, it is Investigator Peterson's belief that Irving willfully, knowingly, and/or intentionally failed to properly report and/or misrepresented Irving's correct household composition as well as her income in order to receive public assistance benefits. A review of the information includes evidence to indicate that Irving failed to report she was earning wages from cleaning jobs with MD's cleaning service and she failed to report that DI became a member of her household composition on September 14, 2015. By failing to provide this required information, Investigator Peterson, in working with Blue Earth County Human Services, learned that Irving fraudulently received public assistance from Blue Earth County Human Services in the amount of \$6,482.00, which she was not eligible for.

A review of the combined application documents Irving signed while receiving public assistance shows that Irving made the following declaration by signing said documents: 'I declare under the penalties of perjury that this application has been examined by me and to the best of my knowledge is a true and correct statement of every material point. I understand that a person convicted of perjury may be sentenced to imprisonment of not more than five years or to payment of a fine of not more than \$10,000, or both.'

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 Murry
Captain
401 Carver Rd
Mankato, MN 56002-0228
Badge: 2708

Electronically Signed:
11/10/2015 08:58 AM
Blue Earth County, MN

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

Prosecuting Attorney

Ryan S. Hansch
401 Carver Road
PO Box 3129
Mankato, MN 56002
(507) 304-4600

Electronically Signed:
11/09/2015 02:33 PM

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 **December 10, 2015 at 2:00 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: November 10, 2015.

Judicial Officer Bradley C Walker
District Court Judge

Electronically Signed: 11/10/2015 09:20 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.

KELLY MARKESE IRVING

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: