

State of Minnesota
County of Blue Earth

District Court
5th Judicial District

Prosecutor File No.
Court File No.

BEC-16-1652
07-CR-16-4040

State of Minnesota,

Plaintiff,

vs.

JOSHUA WILLIAM DWYER DOB: 03/05/1989

11198 503rd Lane
Amboy, MN 56010

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: 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): 10/08/2016

Control #(ICR#): 16015216

Charge Description: Joshua William Dwyer Also Known As Joshua William Dweyr

On or about October 8, 2016, in the County of Blue Earth, said Defendant, Joshua William Dwyer 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): 10/08/2016

Control #(ICR#): 16015216

Charge Description: Joshua William Dwyer Also Known As Joshua William Dweyr

On or about October 8, 2016, in the County of Blue Earth, said Defendant, Joshua William Dwyer 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.

STATEMENT OF PROBABLE CAUSE

On October 8, 2016, at approximately 2:40 a.m., Deputy Othoudt observed a vehicle parked with its engine running on the side of County Road 137 near County Road 146 in Blue Earth County, Minnesota. Deputy Othoudt approached the vehicle and identified the operator as Joshua William Dwyer, the Defendant herein. The Defendant was sleeping in the driver's seat of the vehicle. After waking the Defendant, Deputy Othoudt asked the Defendant what he was doing. The Defendant said that he had been sleeping. Deputy Othoudt explained to the Defendant that it was difficult to see his vehicle because his lights were off. Deputy Othoudt observed the strong odor of an alcoholic beverage coming from the inside of the vehicle. The Defendant's eyes were watery and bloodshot. When asked how much he had to drink, the Defendant responded that he had consumed four to six mixed drinks. Deputy Othoudt administered the horizontal gaze nystagmus test and observed all six clues indicating impairment. Deputy Othoudt also administered the walk-and-turn test and noted that the Defendant took an incorrect number of steps and completed an improper turn. Deputy Othoudt asked the Defendant to submit to a portable breath test. The Defendant informed Deputy Othoudt that he believed that his alcohol level was over .08 alcohol concentration. The Defendant asked for water and if he could go for a run before taking the PBT. The Defendant refused to submit to the PBT test. The Defendant was placed under arrest and Deputy Othoudt read the Defendant the Implied Consent Advisory at 3:17 a.m. The Defendant was provided telephone privileges between 4:12 a.m. and 4:31 a.m. After being given an opportunity to consult with an attorney, the Defendant agreed to submit to a breath test. Deputy Othoudt read the Implied Consent Advisory multiple times. Deputy Othoudt notes in his report that he read paragraph 1 four times, paragraph 2 six times, paragraph 4 three times, and paragraph 5 one time. Deputy Othoudt asked the Defendant if he understood what he had explained to him three times. Deputy Othoudt administered the Datamaster breath test to the Defendant. The results of the Defendant's breath test was .13 alcohol concentration.

A computer check of the Defendant's driver's license record indicates that he has conviction for a previous DWI from an incident on March 28, 2010, in Rice County. See Rice County District Court file 66-CR-10-1172. The Defendant's prior criminal history includes two separate convictions for Open Bottle in 07-VB-10-836 and 66-VB-10-7132. The Defendant also has a conviction for Disorderly Conduct from an incident on June 4, 2012, in Blue Earth County. In that same file the Defendant was also charged with Assault and Disruptive Intoxication. See Blue Earth County District Court File No. 07-CR-12-1994.

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

Paul Barta
Captain
401 Carver Rd
Mankato, MN 56002-0228
Badge: 2721

Electronically Signed:
10/13/2016 10:30 AM
Blue Earth County, MN

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

Prosecuting Attorney

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

Electronically Signed:
10/11/2016 04:25 PM

