

William M. Windsor
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Defendant, Pro Se

**MONTANA FOURTH JUDICIAL DISTRICT COURT
MISSOULA COUNTY**

State of Montana,	§	Dept. No. 3
Plaintiff,	§	Cause No. DC-14-509
v.	§	MOTION FOR HEARING AND
William Michael Windsor,	§	MOTION TO DISMISS FOR
Defendant.	§	LACK OF PROBABLE CAUSE

COMES NOW William M. Windsor, Defendant, who files this “Motion for Hearing and Motion to Dismiss for Lack of Probable Cause,” and shows the Court as follows:

INTRODUCTION

1. William M. Windsor was incarcerated and did not have access to law library information to be able to file this motion prior to the Omnibus Hearing. He filed a Motion to Amend the Omnibus Memorandum to allow lack of probable cause to be raised in a pre-trial motion, and this Court granted that motion. Good cause was established pursuant to MCA 46-13-101(1). In addition, William M. Windsor presents evidence that the Affidavit and Information in this matter contain deliberate falsehoods and reckless disregard for the truth. The Fourth Amendment, as incorporated in the Fourteenth Amendment, requires that a hearing be held at the Defendant's request. William M. Windsor so requests.

2. William M. Windsor requests a probable cause hearing. The purpose will be to determine whether the facts available establish a reasonable belief that William M. Windsor has committed violations.

3. William M. Windsor requests that this Court dismiss the charges against him due to the deliberate falsehoods and reckless disregard for the truth in the Affidavit and Information as well as a lack of sufficient evidence to establish probable cause.

FACTUAL BACKGROUND

4. A Temporary Order of Protection (“TOP”) was issued against William M. Windsor on August 23, 2013. The TOP states twice that it was to expire on September 16, 2013.

The TOP was never amended. The TOP did expire. There was never a hearing to make it permanent, and William M. Windsor was never served with any other order of protection, as required by MCA 40-15-204 (7). [A true and correct copy of the Temporary Order of Protection (“TOP”) is attached as Exhibit A.]

5. William M. Windsor was in Dallas Texas from August 31, 2013 until December 29, 2014. [DC-14-509 Docket #7 - Verified Motion to Quash Bench Warrant, Paragraph 130.]

6. William M. Windsor has been simultaneously charged with five protective order violations. (See DC-14-509 Docket # 1, 2, 3, 4, and 5.)

7. The first paragraph of the Affidavit and Motion for Leave to File Information alleges that all five offenses were committed in Missoula County. [A true and correct copy of the Affidavit and Motion for Leave to file Information is attached as Exhibit B.] This is the only affidavit.

8. The first paragraph of the Information alleges that all five offenses were committed in Missoula County on or about the 30th day of December 2013. [A true and correct copy of the Information is attached as Exhibit C.]

9. With regard to the first count, the Information alleges: “On or about the 4th day of May, 2014, the above-named Defendant (William M. Windsor) committed the offense of violation of an order of protection when, with knowledge of the order, purposely or knowingly violated a provision of an order provided for in 40-4-121 or an order of protection under Title 40, chapter 15, to wit: “Defendant posted an article on his website, www.lawlessamerica.com, authored by himself, which mentioned Sean Boushie three times.”

10. With regard to the second count, the Information alleges: “On or about the 4th day of July, 2014, the above-named Defendant committed the offense of violation of an order of protection when, with knowledge of the order, purposely or knowingly violated a provision of an order provided for in 40-4-121 or an order of protection under Title 40, chapter 15, to wit: “Defendant posted an article on his website, www.lawlessamerica.com, authored by himself, which mentioned Sean Boushie once.”

11. With regard to the third count, the Information alleges: “On or about the 2nd day of October, 2014, the above-named Defendant committed the offense of violation of an order of protection when, with knowledge of the order, purposely or knowingly violated a provision of an order provided for in 40-4-121 or an order of protection under Title 40, chapter 15, to wit:

“Defendant has not released control of the website www.seanboushie.com to Sean Boushie, a third or subsequent offense.”

12. With regard to the fourth count, the Information alleges: “On or about the 30th day of December, 2013, in Missoula County, the above-named Defendant committed the offense of violation of an order of protection when, with knowledge of the order, purposely or knowingly violated a provision of an order provided for in 40-4-121 or an order of protection under Title 40, chapter 15, to wit: “Defendant posted Sean Boushie’s name on Twitter, a third or subsequent offense.” Elsewhere, this is stated to be the posting of a video with the title: “Bill Windsor is banned from the University of Montana and Sean Boushie. Corruption at its finest.”

13. With regard to the fifth count, the Information alleges: “On or about the 6th day of February, 2014, the above-named Defendant committed the offense of violation of an order of protection when, with knowledge of the order, purposely or knowingly violated a provision of an order provided for in 40-4-121 or an order of protection under Title 40, chapter 15, to wit: “Defendant emailed Claudia Denker-Eccles, Associate Counsel for the University of Montana, a third or subsequent offense.”

14. The Affidavit and Motion for Leave to File Information says “The Motion is based upon the following facts which have been obtained from reports of law enforcement and discussions with victims which, if true, I believe constitute sufficient probable cause to justify the filing of the charges.”

15. The Affidavit was not made based upon personal knowledge. None of the alleged facts were supported by affidavit from anyone with personal knowledge.

A. THE FACTS PRESENTED ARE INSUFFICIENT TO SUPPORT THE CHARGES AND MUST BE DISMISSED.

16. A defendant who believes that the complaint against him is not supported by probable cause has a right to file a motion to dismiss to challenge that determination.

17. The complaint must allege sufficient facts within the four corners, when viewed in a common sense manner, to establish probable cause to believe that the defendant committed the offense alleged. Here, the complaint is deficient as to all five counts.

18. A judge or magistrate is required to evaluate only the facts asserted within the four corners of a search warrant application. (*Sundberg*, 235 Mont. at 119, 765 P.2d at 739.) If inaccurate or misleading information is included in that application, it must be excised from the

application regardless of whether that information was included mistakenly, negligently or intentionally. A search based upon a warrant application which contains material misstatements and inaccurate information may skew the magistrate's determination of probable cause. Importantly, such a search is no more reasonable nor less an invasion of privacy merely because the misstatements and inaccuracies were made mistakenly, unintentionally or negligently. Divining the intent of the search warrant applicant is irrelevant; misstatements and inaccuracies, whether intentional or unintentional, may produce the same constitutionally impermissible result--a search based upon something other than probable cause. (*State v. Worrall*, 293 Mont. 439, 976 P.2d 968, 1999 MT 55 (Mont. 03/18/1999).)

19. If the criminal complaint fails to establish probable cause, the court does not obtain personal jurisdiction, and the charge must be dismissed.

20. **Element #1 -- An order of protection must exist.** An order of protection did not exist, and the Affidavit and Information failed to show that an order of protection did exist. Counts 1 to 5 fail as this required element was not met. There was no order of protection attached. No case was identified. The TOP had expired.

21. **Element #2 – The Defendant must have knowledge of the order.** An order of protection must be served on the accused. The only order of protection served on William M. Windsor was a Temporary Order of Protection dated August 23, 2013. It states twice that it expired September 16, 2013. The TOP was unintelligible. William M. Windsor was never served with another order as is required by MCA 40-15-204 (7). The Affidavit says William M. Windsor had knowledge of an order, but there is no evidence to back that up. There is no testimony, and there are no documents in the State's evidence production. Counts 1 to 5 fail as this required element was not met.

22. **Element #3 – The order of protection must be pursuant to MCA Title 40 Chapter 15.** Montana law states very clearly (MCA 45-5-220) that stalking does not apply to Constitutionally-protected activity. Freedom of speech and freedom of the press are the most fundamental of the Constitutionally-protected activities. (First Amendment to the United States Constitution.) The five counts are all cases of freedom of speech, and the TOP was not pursuant to MCA Title 40 Chapter 15. MCA Title 40 Chapter 15 states that temporary orders of protection are valid for only 20 days and that a hearing must be held if a temporary order is to be made permanent. (MCA 40-15-202.) There was never a hearing, and the TOP was never

amended to change the expiration date of September 16, 2013. MCA 40-15-204 (6) provides that “An order of protection must include a section that indicates whether there are any other civil or criminal actions pending involving the parties, a brief description of the action, and the court in which the action is filed.” This was not done. MCA 40-15-204 (7) provides “An amendment to a temporary order of protection or to an order of protection is effective only after it has been served in writing on the opposing party.” William M. Windsor was never served with an amendment. MCA 40-15-204 also provides “This order may be amended only by further order of this court or another court that assumes jurisdiction over this matter.” The Missoula Municipal Court never amended the order, and no other court assumed jurisdiction over the matter. MCA 40-15-102 provides that only a person who files a petition or a family member is eligible for an order of protection. Therefore, “U of M staff” was not eligible for an order of protection. Counts 1 to 5 fail as this required element was not met.

23. **Element #4 – The order of protection must be valid.** The TOP was invalid because William M. Windsor had never been convicted of a crime as Judge James A. Haynes ordered in August 2013 was a requirement before a TOP could be issued to anyone; the TOP was based on fraud upon the court; the TOP purported to prohibit Constitutionally-protected acts; the TOP was an ex parte temporary order and thus invalid by statute in Texas; the TOP was effective only in Montana (MCA 40-15-301 (6)); and the TOP was a void order because it was unconstitutional and was not pursuant to Montana law. No order of protection was registered. (MCA 40-15-303.) Counts 1 to 5 fail as this required element was not met. [A true and correct copy of the order of Judge James A. Haynes dated August 9, 2013 in Ravalli County case #SB-13-24/2 is attached as Exhibit D.]

24. **Element #5 – The violation must be committed in Montana or must be recognized as a crime in another state pursuant to the Uniform Interstate Enforcement of Domestic-Violence Protection Orders Act.** The statement that all five counts were committed in Montana on December 30, 2013 is a deliberate falsehood. This was done to claim that William M. Windsor was a fugitive from justice, which made it much easier to extradite him. Both Montana and Texas have enacted the Uniform Interstate Enforcement of Domestic-Violence Protection Orders Act. The Uniform Interstate Enforcement of Domestic-Violence Protection Orders Act provides that an ex parte temporary order of protection is invalid in Texas where William M. Windsor was when these alleged Montana crimes were committed. (See

MCA 40-15-403 and Title 4 Subtitle B Chapter 88 Section 88.03 of the Texas Family Code. Counts 1 to 5 fail as this required element was not met.

25. **Element #6 – The accused must have purposely or knowingly violated a provision of an order provided for in MCA Title 40 Chapter 15.** The Affidavit claims this, but the State’s witnesses and evidence provide no factual support for such an outlandish claim. William M. Windsor did nothing knowingly and purposely. He has no criminal record. He did not intend to commit any crimes, and he did not commit any crimes. Counts 1 to 5 fail as this required element was not met.

B. NO SUPPORTING AFFIDAVIT ESTABLISHED PROBABLE CAUSE.

26. The Information did not contain allegations specific enough to meet the probable cause requirement of MCA 46-11-201(2). The Information was not sworn or based upon personal knowledge.

27. There was no supporting affidavit to the Information. Therefore, this failed to establish probable cause. (*State v. Smith*, 2004 MT 191, 322 Mont. 206, 95 P.3d 137.) The only affidavit was with the Motion for Leave to File Information, and it is wholly inadequate. It was not sworn, was not made under penalty of perjury, and did not even say it was true and correct. According to MontanaLawHelp.org, the Affidavit had to swear or affirm that it was true. (MontanaLawHelp.org is a project of Montana Legal Services Association. The project is funded by the National Legal Services Corporation and the Montana Justice Foundation. Other partners to the project include the Montana Credit Unions for Community Development, State of Montana Law Library, the State Bar of Montana, and the Montana Supreme Court.)

28. The prosecution failed to recite facts indicating that it is probable that the defendant committed the offenses. (See *State v. Ramstead*, 243 Mont. 162, 793 P.2d 802 (Mont. 05/25/1990).)

29. The allegations in the Affidavit do not indicate a probability that William M. Windsor committed the alleged crimes.

30. Judge Karen Townsend did not examine the complainant or anyone else. MCA **46-6-201** requires that “if it appears from the contents of the complaint and **the examination of the complainant and from the examination of other witnesses or affidavits**, if any, that there is probable cause to believe that the person against whom the complaint was made has

committed an offense, a warrant shall be issued by the court for the arrest of the person complained against. *Art. II, Section 11 of the Montana Constitution* requires probable cause supported by oath or affirmation reduced to writing. A sufficient complaint and examination of the complainant under oath by the magistrate generally fulfill this requirement. (*State ex rel. Wicks v. District Court* (1972), 159 Mont. 434, 498 P.2d 1202.) In this matter, there was no affidavit from the complainant, and there was no examination of the complainant under oath or otherwise.

C. JUDGE KAREN TOWNSEND WAS NOT A NEUTRAL AND DETACHED JUDGE, AND THIS VIOLATED WILLIAM M. WINDSOR'S RIGHTS TO DUE PROCESS.

31. Judge Karen Townsend was not a neutral and detached judge. It violated William M. Windsor's rights to due process to have Judge Karen Townsend handle this matter. Detective Chris Shermer stated at his witness interview that he had spoken to Judge Karen Townsend in 2013 to advise her that William M. Windsor was being considered for criminal charges. Judge Karen Townsend was one of the judges in the TOP matter, and she was acting for her mentor, Judge John W. Larson, the judge most involved in corruption in this matter. (See *State v. Fogarty*, 610 P.2d 140, 187 Mont. 393 (Mont. 04/24/1980).)

D. THE AFFIDAVIT SUPPORTING THE MOTION FOR LEAVE TO FILE THE INFORMATION CONTAINS DELIBERATE FALSEHOODS AND RECKLESS DISREGARD FOR THE TRUTH.

32. Most of the facts in the Affidavit in support of the Motion to File the Information must be excised and, after these facts are deleted, the Affidavit will clearly fail to establish probable cause. In *State v. Sykes*, the Montana Supreme Court adopted the test set forth by the United States Supreme Court in *Franks v. Delaware* (1978), 438 U.S. 154, 98 S.Ct. 2674, 2684, 57 L.Ed.2d 667, 682, for challenging the validity of an affidavit on the basis of deliberate falsehood or reckless disregard for the truth. The Fourth Amendment, as incorporated in the Fourteenth Amendment, requires that a hearing be held at the Defendant's request. (*Franks v. Delaware* 438 U.S. 155-156; 438 U.S. 164-172.) (*State v Sykes*, 194 P.2d 691, 194 Mont. 14 (Mont. 05/12/1983).)

33. This Court has also vacated warrants based upon such erroneous information. *State v. Nanoff* (1972), 160 Mont. 344, 502 P.2d 1138. "We cannot uphold warrants which are not based on probable cause, and probable cause cannot be established by the use of incorrect

information.” (See also *State v. Baldwin*, 789 P.2d 1215, 242 Mont. 176 (Mont. 03/02/1990); *State v. Wilson* (1992), 254 Mont. 317, 837 P.2d 1346; *Valley*, 830 P.2d 1255.)

34. "First, a defendant must make a substantial preliminary showing that his rights have been violated. Here, defendant must make a substantial preliminary showing that an illegal entry occurred in fact, that matters alleged in the affidavit were false, or that no probable cause for arrest existed. Should a defendant make such a substantial preliminary showing, it then mandates an examination of the affidavit to determine if sufficient information remains after excising the challenged material to support a finding of probable cause. If so, no hearing is required. If the remaining content is insufficient, defendant is entitled to an evidentiary hearing. Finally, at the evidentiary hearing defendant must establish by a preponderance of the evidence that the affidavit was based upon an illegal entry, false information or insufficient probable cause. Then, that evidence will be suppressed. Defendant is not entitled to disclosure of the informant's identity until he has made a substantial preliminary showing that the entry was in fact illegal or the information was false." (*State v. Sykes*, 194 P.2d 691, 194 Mont. 14 (Mont. 05/12/1983).)

35. To make a substantial preliminary showing of an intentional falsehood under *Franks*, a defendant must provide more than mere conclusory statements. Rather, under *Franks*, a defendant is required to make an offer of proof containing affidavits, sworn statements or other reliable witness statements which tend to prove that false statements in the application were deliberately made. *Franks*, 438 U.S. at 171, 98 S.Ct. at 2684, 57 L.Ed.2d. at 682. We adopted the Franks approach in *State v. Sykes* (1983), 194 Mont. 14, 663 P.2d 691 (overruled in part on other grounds by *State v. Long* (1985), 216 Mont. 65, 67, 700 P.2d 153, 155), and affirmed its use in *State v. Mosley* (1993), 260 Mont. 109, 116, 860 P.2d 69, 73. (*State v. Minez*, 321 Mont. 148, 89 P.3d 966, 2004 MT 115 (Mont. 05/04/2004).)

36. In *State v. Worrall*, 1999 MT 55, 293 Mont. 439, 976 P.2d 968, (Mont. 03/18/1999) ¶ 34, the Montana Supreme Court modified our use of the Franks procedure only to the extent that a defendant no longer needed to show that the person providing the false information in the application for a search warrant did so knowingly, intentionally, or with a reckless disregard for the truth before those statements could be excised. Rather, a defendant challenging the veracity of information contained in a search warrant application need only make

a substantial preliminary showing that the application or affidavit in support of the search warrant included false information. *Worrall*, ¶ 32.

37. To mandate an evidentiary hearing, the challenger's attack must be more than conclusory, and must be supported by more than a mere desire to cross-examine. The allegation of deliberate falsehood or of reckless disregard must point out specifically with supporting reasons the portion of the warrant affidavit that is claimed to be false. It also must be accompanied by an offer of proof, including affidavits or sworn or otherwise reliable statements of witnesses, or a satisfactory explanation of their absence. (*Franks v. Delaware* 438 U. S. 171.) If these requirements as to allegations and offer of proof are met, and if, when material that is the subject of the alleged falsity or reckless disregard is set to one side, there remains sufficient content in the warrant affidavit to support a finding of probable cause, no hearing is required, but if the remaining content is insufficient, the defendant is entitled under the Fourth and Fourteenth Amendments to a hearing. (*Franks v. Delaware* 438 U. S. 171-172.)

38. Subsequent information cannot be used to determine whether there was adequate support for issuance of the search warrant. (*State v. Worrall*, 293 Mont. 439, 976 P.2d 968, 1999 MT 55 (Mont. 03/18/1999).)

39. The Affidavit, Information, and Warrant issued in this matter fails the totality of the circumstances test.

We have adopted the "totality of the circumstances" test set forth in *Illinois v. Gates* (1983), 462 U.S. 213, 103 S.Ct. 2317, 76 L.Ed.2d 527, to evaluate whether probable cause supported the issuance of a warrant. *State v. Reesman*, 2000 MT 243, ¶ 24, 301 Mont. 408, ¶ 24, 10 P.3d 83, ¶ 24. Under the totality of the circumstances test, the issuing judicial officer must make a practical, common sense determination, given all the evidence contained in the application for a search warrant, whether a fair probability exists that contraband or evidence of a crime will be found in a particular place. *Gates*, 462 U.S. at 238, 103 S.Ct. at 2332.

An application for a search warrant must state facts sufficient to show probable cause for the issuance of a warrant. A determination of probable cause does not require facts sufficient to make a showing of criminal activity, rather, the issuing judicial officer must only determine that there exists a probability of criminal activity. *State v. Rinehart* (1993), 262 Mont. 204, 210, 864 P.2d 1219, 1222. Probable cause must be determined solely from the information contained within the four corners of the search warrant application. *Rinehart*, 262 Mont. at 211, 864 P.2d at 1223. Our function as a reviewing court is to ensure ultimately that the issuing judicial officer had a "substantial basis" to determine that probable cause existed. *Reesman*, ¶ 19. (*State v. Barnaby*, 142 P.3d 809, 333 Mont. 220, 2006 MT 203 (Mont. 08/23/2006).)

40. Sufficient information must be presented to the magistrate to allow that official to determine probable cause; his action cannot be a mere ratification of the bare conclusions of others. In order to ensure that such an abdication of the magistrate's duty does not occur, courts must continue to conscientiously review the sufficiency of affidavits on which warrants are issued. (*State v. Wilson*, 837 P.2d 1346, 254 Mont. 317 (Mont. 09/28/1992).)

41. As shown in the paragraphs below, Judge Karen Townsend was presented with one false or incorrect statement after another, and there was no affidavit from any alleged victim.

42. The first paragraph of the Information alleges that all five offenses were committed in Missoula County on or about the 30th day of December 2013. This is a deliberate falsehood, and this must be excised. [A true and correct copy of the Information is attached as Exhibit C.] There is no evidence in the investigative file to this effect.

43. This sentence on Page 1 of the Affidavit is false and must be excised: “Tyler Dugger, Intern – County Attorney, and Jennifer Clark, Chief Deputy Prosecutor, of Missoula County, Montana, being first duly sworn, moved the Court for leave to file an Information charging the above-named Defendant with allegedly committing the offenses(s) in Missoula County....” This is a deliberate falsehood, and this must be excised. There were no facts whatsoever presented to indicate that any offenses were committed in Missoula County. There is no evidence and no witness testimony to claim that any offenses were committed in Missoula County. Tyler Dugger and Jennifer Clark were not witnesses to any facts in regard to these alleged violations, and claiming the offenses were committed in Missoula County is hearsay, not admissible as per MCA Rule 802. Nowhere else in the Affidavit or Information is there any statement about these alleged offenses being committed in Missoula County.

44. This sentence on Page 2 of the Affidavit is incorrect and must be excised: “On August 23, 2013, Sean Boushie met with Detective Chris Shermer, Missoula Police Department. This is false and hearsay. The evidence produced by the State shows that there was no such meeting. Therefore, all of the remaining content on Page 2 and Page 3 must be excised.

45. This sentence on Page 2 of the Affidavit is false and must be excised: “Boushie reported that at the hands of William Windsor he had been the victim of a substantial online harassment campaign.” This is false, hearsay, is unsupported by an affidavit or examination of

Sean Boushie, and was not communicated to Chris Shermer on August 23, 2013. This is also proven false by evidence in the investigative file.

46. This sentence on Page 2 of the Affidavit is incorrect and must be excised: “On August 21, 2013, Municipal Court Judge Warren granted Boushie a Temporary Order of Protection.” There was no order granted on August 21, 2013.

47. This sentence on Page 2 of the Affidavit is false and must be excised: “Judge Larson and the Montana Supreme Court both upheld the protective order.” There was no protective order, only an ex parte temporary order of protection. The Montana Supreme Court remanded the matter to the Missoula Municipal Court for a hearing, and no hearing was ever held. There was never an order served on William M. Windsor after August 23, 2013, so there was no valid protective order after the September 16, 2013 expiration.

48. This sentence on Page 2 of the Affidavit is false and deceptive must be excised: “However, per Judge Larson’s November 14, 2013, to the original Order of Protection remains in effect until modified by the Municipal Court.” This is an incomplete sentence that makes no sense. There was no Order of Protection, only an ex parte Temporary Order of Protection. Judge John W. Larson had no authority to order an expired ex parte temporary order of protection to remain in effect until modified by the Municipal Court.

49. This sentence on Page 2 of the Affidavit is false and must be excised: “The order protects Sean M. Boushie, Wynette L. Boushie, and the University of Montana and its staff.” Page 1 of the expired ex parte TOP shows only Sean Boushie and Wynette Boushie as protected persons.

50. This sentence on Pages 2 and 3 of the Affidavit is false and deceptive must be excised: “Windsor was barred from harassing, annoying, disturbing the peace of, calling, contacting, or otherwise communicating directly or indirectly, with Sean M. Boushie, Wynette Boushie, and the University of Montana Staff.” The University of Montana was not a “protected party,” and the TOP did not state “University of Montana.” This fails to address legal mail (40-15-115 through 40-15-121), MCA 40-15-403, and Texas Family Code 88.03.

51. This sentence on Page 3 of the Affidavit is false and must be excised: “Further, Respondent was ordered to release www.seanboushie.com to Sean M. Boushie.” The TOP clearly shows www.seanboushie.co, not www.seanboushie.com.

52. This sentence on Page 3 of the Affidavit is false and must be excised: “Windsor was barred from posting petitioners name online.” The TOP says no such thing. It says either “on liv,” “on liu,” or “on lit.” On June 10, 2014, the Montana Supreme Court ruled that the TOP provided that William M. Windsor could not post about Sean Boushie on www.SeanBoushie.com. He hasn’t. The State’s copy of a download of www.SeanBoushie.com in the State’s evidence shows that nothing was published on the website after August 23, 2013 when William M. Windsor was served with the TOP. [A true and correct copy of the Montana Supreme Court’s Opinion in DA-13-0785 is attached as Exhibit E.]

53. This sentence on Page 3 of the Affidavit is false and must be excised: “On May 4, 2014, Windsor posted on his website, www.lawlessamerica.com, an article, authored by himself, which lists Sean Boushie’s name three times.” This is hearsay. There is no evidence or testimony to prove that William M. Windsor authored this or posted anything. It was not a post. There is no evidence or testimony to show that www.lawlessamerica.com is William M. Windsor’s website. In Sean Boushie’s Petition for Temporary Order of Protection, he swore before a notary that William M. Windsor’s “wife was the legally registered owner.” There is no indication that this violated any order of protection.

54. This sentence on Page 3 of the Affidavit is false and must be excised: “On July 4, 2014, Windsor posted on his website, www.lawlessamerica.com, an article, authored by himself, which lists Sean Boushie’s name once.” This is hearsay. There is no evidence or testimony to prove that William M. Windsor authored this or posted anything. If the TOP was ever valid, it prohibited only a “post.” There was no post. A Tweet is not a “post.” A post is defined as “to publish a message in an online forum or newsgroup.” Twitter is neither an online forum nor a newsgroup. There is nothing in the TOP to prohibit William M. Windsor from publishing Sean Boushie’s name in a Tweet; all the TOP prohibits is this: “Respondent shall not post Petitioner’s name on liv.” Or “on lit.” William M. Windsor does not even know what “on liv” or “on lit” means. There is no evidence or testimony to show that www.lawlessamerica.com is William M. Windsor’s website. In Sean Boushie’s Petition for Temporary Order of Protection, he swore before a notary that William M. Windsor’s “wife was the legally registered owner.”

55. This sentence on Page 3 of the Affidavit is false and must be excised: “To date, control of the website www.seanboushie.com has not been released to Sean Boushie.” This is hearsay and deceptive. The TOP clearly shows www.seanboushie.co. There is no evidence that

anyone ever requested release, or that it would be legal to do so prior to notice and an opportunity to be heard. In his witness interview, Sean Boushie stated that he never requested release.

56. This sentence on Page 3 of the Affidavit is false and must be excised: “On December 30, 2013, Windsor posted a video on his twitter account. The title reads “Bill Windsor is banned from the University of Montana and Sean Boushie. Corruption at its finest.” This is hearsay. There is no evidence or testimony to prove that William M. Windsor posted a video on Twitter. Twitter does not allow videos to be posted. There is no evidence or testimony to show that William M. Windsor has a Twitter account or that it was used by him at any time. There is no evidence that William M. Windsor did anything on Twitter on December 30, 2013. There is no indication that a Tweet violated any order of protection.

57. This sentence on Page 3 of the Affidavit is false, hearsay, and must be excised: “On February 6, 2014, Claudia Denker-Eccles, Associate Counsel for the University of Montana, received an email from Bill Windsor [nobodies@att.net].” There is no evidence that William M. Windsor sent this email. Claudia Denker-Eccles stated at her witness interview that she received an email but had no proof as to who sent it. There is no indication that this violated any order of protection.

58. This sentence on Page 3 of the Affidavit is false and must be excised: “All five instances constitute individual violations of the Order of Protection.” There was no Order of Protection. The TOP had expired on September 16, 2013. None of the charges violated the TOP. No order of protection was attached to the Affidavit or Information.

59. William M. Windsor’s Constitutional rights under the First, Fourth, Fifth, and Fourteenth Amendments to the United States Constitution were violated by the charges and his incarceration.

60. The affidavit filed in support of the information was insufficient because the alleged victim’s allegations were not corroborated. The entire investigative file did not contain sufficient information to support a probability that William M. Windsor had committed the offenses charged.

61. The alleged victim is a pathological liar. Evidence of this is in the investigative file, but Detective Chris Shermer conducted no investigation whatsoever as to the dishonesty of Sean Boushie or the honesty of William M. Windsor.

62. The Information erroneously cites MCA 40-4-121 as a statute that William M. Windsor violated. This is false as William M. Windsor was never involved in any proceeding for dissolution of marriage or for legal separation involving Sean Boushie.

E. A REASONABLY INTELLIGENT AND PRUDENT PERSON WOULD NOT BELIEVE THAT WILLIAM M. WINDSOR HAS COMMITTED A CRIME.

63. Probable cause is a level of reasonable belief, based on facts that can be articulated, that is required to arrest and prosecute a person in criminal court. Before a person can be arrested and prosecuted, the police and prosecutor must possess enough facts that would lead a reasonable person to believe that the claim or charge is true.

64. Judge Karen Townsend was obligated to consider apparent facts discovered through logical inquiry that would lead a reasonably intelligent and prudent person to believe that William M. Windsor had committed a crime, thereby warranting his prosecution.

65. Judge Karen Townsend failed for the many reasons expressed in paragraphs 41 to 63 above.

66. A true and correct copy of the sworn under penalty of perjury Affidavit of William M. Windsor dated August 28, 2015 is attached hereto as Exhibit F.

CONCLUSION

67. William M. Windsor's rights have been severely violated. He has spent 134 days in jail. He has been out on bond for three months while awaiting trial, and his life has been interrupted for a year. He has been falsely accused in a deliberate effort to commit wrongdoing to damage him. Jennifer Clark swore to Judge Karen Townsend that William M. Windsor knowingly and purposely committed five crimes, but it was a false sworn pleading by Jennifer Clark. The Affidavit and Information contain deliberate falsehoods and reckless disregard for the truth. The false, inaccurate, and misleading statements in the Affidavit and Information must be excised, regardless of whether that information was included mistakenly, negligently, or intentionally. Once they are excised, the charges will not meet the probable cause standard. This Court is obligated to conduct a hearing on this Motion. The Court will then be obligated to dismiss the charges.

WHEREFORE, William M. Windsor prays that charges be dismissed; that a hearing will be held on this motion; and for such other relief as the Court feels is appropriate.

This 28th day of August 2015,

A handwritten signature in black ink, appearing to read "William M. Windsor", written in a cursive style. The signature is positioned above a horizontal line.

William M. Windsor

VERIFICATION

Personally appeared before me, the undersigned Notary Public duly authorized to administer oaths, William M. Windsor, who after being duly sworn deposes and states that he is authorized to make this verification on behalf of himself and that the facts alleged in the foregoing are true and correct based upon his personal knowledge, except as to the matters herein stated to be alleged on information and belief, and that as to those matters he believes them to be true.

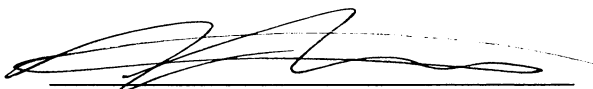
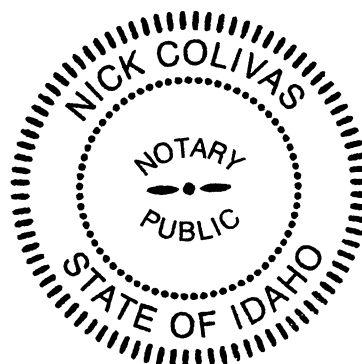
I declare under penalty of perjury that the foregoing is true and correct based upon my personal knowledge.

This 28th day of August 2015.



William M. Windsor

Sworn and subscribed before me this 28th day of August 2015.


Notary Public

CERTIFICATE OF CONFERENCE

I hereby certify that I contacted Jennifer Clark, and she opposes this Motion.

This 28th day of August 2015,

A handwritten signature in black ink, appearing to read "William M. Windsor", written over a horizontal line.

William M. Windsor

CERTIFICATE OF SERVICE

I hereby certify that I served the foregoing Motion by email to Jennifer Clark, Deputy County Attorney, at jsclark@co.missoula.mt.us and Christopher Daly.

This 30th day of August 2015,

A handwritten signature in black ink, appearing to read "William M. Windsor", written over a horizontal line.

William M. Windsor