

RECEIVED<sup>2</sup>  
APR 18 2017  
Justice Court

1 MAC BLOOM  
2 Deputy County Attorney  
3 KIRSTEN H. PABST  
4 Missoula County Attorney  
5 Missoula County Courthouse  
6 Missoula, Montana 59802  
7 (406) 258-4737  
8 ATTORNEYS FOR PLAINTIFF

9 IN THE JUSTICE COURT OF THE STATE OF MONTANA  
10 IN AND FOR THE COUNTY OF MISSOULA  
11 BEFORE, Landee N. Holloway, JUSTICE OF THE PEACE

12 STATE OF MONTANA,  
13  
14 Plaintiff,  
15  
16 -VS-  
17 HOWARD WILLIE HINER, JR,  
18  
19 Defendant,

20 Department No. 2  
21 Cause No. CA-2017-413

22 **COMPLAINT**

23 MAC BLOOM, Deputy County Attorney, deposes and says that on or about the 16<sup>th</sup>  
24 day of April, 2017, in Missoula County, the Defendant committed the offenses of COUNT I:  
25 DRIVING UNDER THE INFLUENCE OF ALCOHOL OR DRUGS - 4TH OFFENSE, a  
26 Felony, in violation of Montana law, namely: Mont. Code Ann. 61-8-401(1)(a)[4th+],  
27 punishable by not less than 13 months or more than 2 years DOC, followed by up to 5  
28 years DOC/MSP, and \$5,000-\$10,000 fine. If defendant has a prior conviction with a  
treatment placement, then not less than 13 months or more than 5 years and \$5,000-  
\$10,000 fine; COUNT II: ASSAULT WITH BODILY FLUID, a Misdemeanor, in violation of  
Montana law, namely: Mont. Code Ann. 45-5-214, punishable by 1 year MCDF or MSP  
and/or \$1,000 fine; COUNT III: THEFT - 1ST OFFENSE, a Misdemeanor, in violation of  
Montana law, namely: Mont. Code Ann. 45-6-301(1)[1st], punishable by 6 months MCDF

1 and/or \$1,500 fine; COUNT IV: DRIVING WHILE LICENSE SUSPENDED OR REVOKED,  
2 a Misdemeanor, in violation of Montana law, namely: Mont. Code Ann. 61-5-212(1)(i),  
3 punishable by not less than 2 days or more than 6 months MCDF and a \$500 fine;  
4  
5 COUNT V: FAILURE TO CARRY PROOF OF LIABILITY INSURANCE - 2ND OFFENSE,  
6 a Misdemeanor, in violation of Montana law, namely: Mont. Code Ann. 61-6-302(2)[2nd],  
7 punishable by 10 days MCJ and/or \$350 fine; COUNT VI: UNLAWFUL POSSESSION OF  
8 OPEN ALCOHOLIC BEVERAGE CONTAINER, a Misdemeanor, in violation of Montana  
9 law, namely: Mont. Code Ann. 61-8-460, punishable by \$100 fine.  
10

11 The facts constituting the offense are:

12 COUNT I: On or about the 16<sup>th</sup> day of April, 2017, the above-named Defendant  
13 committed the offense of driving or being in actual physical control of a vehicle, a Chevy  
14 S10, upon a way of this state open to the public, Mullan Road, while under the influence  
15 of alcohol and/or drugs, a fourth or subsequent offense.  
16

17 COUNT II: On or about the 16<sup>th</sup> day of April, 2017, the above-named Defendant  
18 purposely caused one of the Defendant's bodily fluids, saliva, to make physical contact  
19 with Andrew Novak, a law enforcement officer, during or after an arrest for a criminal  
20 offense, DUI.  
21

22 COUNT III: On or about the 16<sup>th</sup> day of April, 2017, the above-named Defendant  
23 purposely or knowingly obtained or exerted unauthorized control over a Chevy S10  
24 owned by Kenneth Wabaunsee with the purpose of depriving the owner of the property.  
25

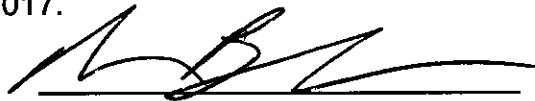
26 The value of the property does not exceed \$1,500.00.  
27  
28

1           COUNT IV: On or about the 16<sup>th</sup> day of April, 2017, the above-named Defendant  
2 drove a motor vehicle on Mullan Road at a time when his privilege to do so was  
3 suspended or revoked.  
4

5           COUNT V: On or about the 16<sup>th</sup> day of April, 2017, the above-named Defendant  
6 failed to carry proof of liability insurance while operating a motor vehicle, a Chevy S10,  
7 on a way of the state open to the public, Mullan Road, a second offense.  
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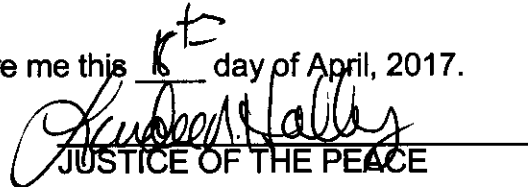
9           COUNT VI: On or about the 16<sup>th</sup> day of April, 2017, the above-named Defendant  
10 knowingly possessed an open alcoholic beverage container, vodka and/or wine, within  
11 the passenger area of a motor vehicle, a Chevy S10, on a highway, Mullan Road.  
12

13           DATED this 18th day of April, 2017.



14           MAC BLOOM  
15           Deputy County Attorney

16           Subscribed and sworn to before me this 18<sup>th</sup> day of April, 2017.



18           JUSTICE OF THE PEACE

19           COMPLAINT 17-971  
20

21           ANDREW NOVAK, Montana Highway Patrol  
22           DOUG HARTSELL, Missoula County Sheriff's Office  
23           ANDREW BEATTY, Missoula County Sheriff's Office  
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28

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 10 IN THE JUSTICE COURT OF THE STATE OF MONTANA  
 11 IN AND FOR THE COUNTY OF MISSOULA  
 12 BEFORE, LaDuce N. Holloway, JUSTICE OF THE PEACE

13 STATE OF MONTANA,  
 14  
 15 Plaintiff,  
 16  
 17 -vs-  
 18  
 19 HOWARD WILLIE HINER, JR.,  
 20  
 21 Defendant,

22 Department No. 2  
 23 Cause No. CR-2017-413  
 24 AFFIDAVIT OF PROBABLE CAUSE

25 STATE OF MONTANA )  
 26 : ss  
 27 County of Missoula )

28 MAC BLOOM, Deputy County Attorney, Montana, being first duly sworn upon oath,  
 deposes and says:

I have read the official law enforcement reports regarding the investigation of  
 HOWARD WILLIE HINER, JR for allegedly committing the offense(s) set forth in the  
 complaint and based upon the information contained in the reports, if true, believe  
 probable cause exists to justify charging the above-named defendant as specified in the  
 accompanying complaint.

On or about the 16<sup>th</sup> day of April, 2017, at approximately 11:21 p.m., Trooper  
 Novak, Montana Highway Patrol, responded to a 911 call regarding a possibly drunk driver

1 on Mullan Road. The complainant, Molly Locati, stated that a male driving a gray pickup  
2 truck with a topper showed up at her residence, claimed to be lost, and then refused to  
3 leave for a period of time. The male appeared to be intoxicated and almost hit her mailbox  
4 when he eventually left her property. She reported that the male drove east on Mullan  
5 Road.  
6

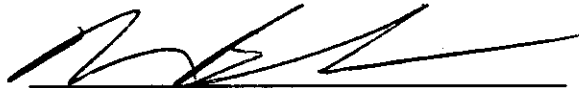
7 Trooper Novak responded to the area and located a gray pickup truck with a  
8 topper. The truck was a Chevy S10. It had apparently skidded off the roadway onto the  
9 shoulder, but its left rear corner remained in the roadway. As Trooper Novak  
10 approached the scene, a male, later identified as Howard Hiner (Defendant), exited the  
11 S10 and began walking towards Trooper Novak. Defendant could not walk in a straight  
12 line and raised his hands over his head. Trooper Novak asked him what he was doing,  
13 and Defendant explained that he was trying to drive his daughter home. Defendant's  
14 eyes were watery and bloodshot and his breath smelled of alcohol. Defendant's speech  
15 was slurred, and his balance was unsteady.  
16

17 Trooper Novak approached the S10 and observed a female passed out in the  
18 passenger seat. He also noticed a bottle of wine on the passenger-side floorboard and  
19 an open bottle of vodka on the driver-side floorboard. Believing Defendant to be  
20 possibly impaired, Trooper Novak asked him to perform the standardized field sobriety  
21 tests. Defendant refused to follow instructions and the testing was terminated.  
22 Defendant, however, provided a breath sample of .117 on the PBT.  
23

24 Trooper Novak ran a query on Defendant through Dispatch and learned that  
25 Defendant's driver's license is suspended and Defendant has eight prior DUI  
26 convictions. He also learned that the S10 had been recently reported stolen by  
27  
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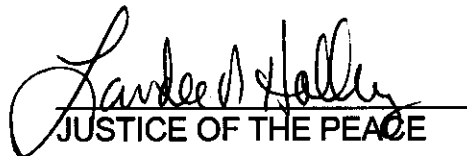
1 Kenneth Wabaunsee. Defendant claimed that he has owned the S10 for six years and  
2 bought it from "Jose" for \$334.00. Defendant was, however, displaying fictitious license  
3 plates on the vehicle.  
4

5 Trooper Novak placed Defendant under arrest and transported him to the  
6 hospital for a blood test. After completing a blood draw, Trooper Novak transported  
7 Defendant to jail. On the way, Defendant began spitting at Trooper Novak. Trooper  
8 Novak felt saliva hit his face and hand four separate times during the drive. In addition  
9 to the above-mentioned violations, Trooper Novak cited Defendant with failing to carry  
10 proof of liability insurance, a second offense.  
11

12 

13 MAC BLOOM  
14 Deputy County Attorney

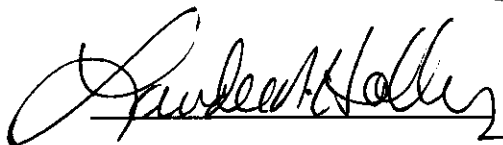
15 SUBSCRIBED AND SWORN TO before me this 18<sup>th</sup> day of April, 2017.  
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17   
18 JUSTICE OF THE PEACE  
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ORDER

Upon reading the foregoing Affidavit, the Court finds that there is probable cause to believe the above-named Defendant committed the crimes charged.

DATED this 18<sup>th</sup> day of April, 2017 at 11:50 a.m. p.m.



JUSTICE OF THE PEACE

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