

March 18, 2021

**NOTICE OF CONDITIONAL ACCEPTANCE
AND
NOTICE OF COUNTER CLAIM**

DIRECTED TO SHERRIFF FREITAG IN HIS OFFICIAL CAPACICTY

To **Sherriff Freitag**:

I will accept your offer of voluntarily submitting myself to arrest expressly conditioned upon satisfactory proof that the warrant of arrest for my non-appearance for a bail hearing on March 10, 2021 was upon issuance of a summons made in accordance with the Minnesota Rules of Criminal Procedure Rule 3.01 and Rule 3.02, Subd.3 and further conditioned upon certification that the court has established findings of fact upon the record to conclude its jurisdiction as a matter of law against the following challenges made on the record:

The Record

Case No. 24-CR-21-137

1. A written challenge to jurisdiction of the court was filed into the record on February 3, 2021 for case no. 24-CR-21-137.
2. An Objection and Exception to void order was filed on February 8, 2021 establishing that the court refused to conclude its jurisdiction upon finding of facts from the record over repeated objections to proceeding further without said findings.

3. The record reflects that I did not understand the charges in any hearing for arraignment in case no. 24-CR-21-137 and could not enter a knowing, intelligent, and voluntary plea to the charges without understanding the nature and the cause.
4. An unopposed Motion to Dismiss for want of jurisdiction was filed on February 16, 2021.
5. A Demand for a Bill of Particulars as to the nature and cause of the accusations was filed into the record on March 1, 2021 in case no. 24-CR-21-137.
6. The Bill of Particulars has not been answered by Kelly Dawn Martinez in case no. 24-CR-21-137.
7. There are no findings of fact from the record to conclude *in personam* and subject matter jurisdiction of the court in case no. 24-CR-21-137 against the written challenges made thereto.
8. The court has yet to arraign me in case no. 24-CR-21-137 having my acknowledged understanding of the nature and cause of the accusations.

Case No. 24-CR-21-188

9. A written challenge to jurisdiction of the court was filed into the record on February 8, 2021 for case no. 24-CR-21-188.
10. An Objection and Exception to void order was filed on February 8, 2021 establishing that the court refused to conclude its jurisdiction upon finding of facts from the record over repeated objections to proceeding further without said findings.
11. The record reflects that I did not understand the charges in any hearing for arraignment in case no. 24-CR-21-188 and could not enter a knowing, intelligent, and voluntary plea to the charges without understanding the nature and the cause.
12. An unopposed Motion to Dismiss for want of jurisdiction was filed on February 16, 2021.
13. A Demand for a Bill of Particulars as to the nature and cause of the accusations was filed into the record on March 1, 2021 in case no. 24-CR-21-188.
14. The Bill of Particulars has not been answered by Kelly Dawn Martinez in case no. 24-CR-21-188.

15. There are no findings of fact from the record to conclude *in personam* and subject matter jurisdiction of the court in case no. 24-CR-21-188 against the written challenges made thereto.
16. The court has yet to arraign me in case no. 24-CR-21-188 having my acknowledged understanding of nature and cause of the accusations.
17. Kelly Dawn Martinez applied for a warrant of arrest in respect of both case 24-CR-21-137 and 24-CR-21-188 on February 9, 2021.
18. Judge Beutel denied the application for warrant of arrest by order dated February 16, 2021.
19. Judge Beutel stated in said order "Summons Defendant into court on this allegation. Set this up for a Zoom hearing, I do not want to issue a warrant at this time."
20. No summons issued by a judge of the district court.
21. No summons issued by a court administrator under order of the district court.
22. Kelly Dawn Martinez knew or had a duty to know that she was responsible for facilitating the issuance of a summons in accordance with the rules of criminal procedure.
23. Judge Beutel had the duty to know whether a summons had issued to command my appearance for a bail hearing on March 10, 2021 prior to executing a warrant for my arrest for non-appearance.
24. Judge Beutel issued the warrant of arrest without findings of fact from the record to conclude the jurisdiction of the court as a matter of law.
25. Judge Beutel issued the warrant of arrest without exercising due diligence to establish that a summons had issued to compel my appearance for a bail hearing on March 10, 2021.
26. Kelly Dawn Martinez allowed the arrest warrant to issue knowing that she had not performed as instructed by the court to facilitate the issuance of the summons and knowing that no summons is docketed on the court records.
27. An Objection and Exception to Void Warrant of Arrest and Motion for Recusal of Judge Beutel was filed into each of cases 24-CR-21-137/188 on March 11, 2021.

Counter Claim

I, Melissa Lynn Hanson, ("Claimant" herein) **HEREBY NOTICE** my Public Servant, Kurt Freitag, in his full capacity as a man acting in agency for the People living in Freeborn – a territorial and political subdivision of the state of Minnesota – duly elected to serve in the Office of the Sheriff – the highest law enforcement officer of the state within the territorial boundaries of Freeborn – that any act performed under guise of the Office of Sheriff in the restraint of my liberty will be a denial of my due process rights and I will hold you and any deputy under your charge to account for redress of the wrongdoing in your personal capacities, jointly and severally, according to the following schedule:

Notice to Each Person in the Office of the Sheriff

1. \$50,000 FOR EVERY HOUR IN RESTRAINT OF MY LIBERTY UNTIL THE TIME THAT IT IS RESTORED.
2. \$250,000 IN THE CONSPIRACY TO DEPRIVE ME OF MY RIGHTS UNDER COLOR OF LAW.
3. \$250,000 FOR BREACH OF DUTY TO OATH OF OFFICE.
4. \$250,000 FOR HAVING THE KNOWLEDGE OF THE WRONGS AND THE POWER TO PREVENT ITS COMMISSION.
5. \$2,000,000 for any collection of any biometric information including but not limited to finger prints, nose swab, blood test, urine test, any form of DNA sampling, any form of virus or bacterial sampling from my person.

Ignorantia facti excusat, ignorantia juris non excusat. Ignorance of facts excuses, ignorance of law does not excuse. 1 Co. 177; 4 Bouv. Inst. n 3828.

VERIFICATION

I declare under penalty of perjury under the laws of Minnesota that I have read the foregoing document and to the best of my knowledge and belief the factual statements and declarations made therein are true and correct and made in good faith and will testify to the same in open court upon any dispute of fact established by sworn testimony of any person having personal knowledge of the facts if called to do so; excepting as to those matters therein stated upon information and belief and as to those matters, I verily believe the same to be true.

Executed on this 18th day of March, 2021:


Melissa Lynn Hanson, *sui juris*

Rule 3. Warrant or Summons upon Complaint

Rule 3.01 Issuance

If the facts in the complaint and any supporting documents or supplemental sworn testimony establish probable cause to believe an offense has been committed and the defendant committed it, a summons or warrant must issue. A summons rather than a warrant must issue unless a substantial likelihood exists that the defendant will fail to respond to a summons, the defendant's location is not reasonably discoverable, or the defendant's arrest is necessary to prevent imminent harm to anyone. A warrant for the defendant's arrest must be issued to any person authorized by law to execute it.

The warrant or summons must be issued by a judge of the district court. If the offense is punishable by fine only, a court administrator may issue the summons when authorized by court order.

A summons must issue in lieu of a warrant if the offense is punishable by fine only in misdemeanor cases.

A judge must issue a summons whenever requested to do so by the prosecutor.

If a defendant fails to appear in response to a summons, a warrant must issue.

Rule 3.02 Contents of Warrant or Summons

Subd. 1. Warrant. The warrant must be signed by a judge and must contain the name of the defendant, or, if unknown, any name or description by which the defendant can be identified with reasonable certainty. It must describe the offense charged in the complaint. The warrant and complaint may be combined in one form. For all offenses, the amount of bail must be set, and other conditions of release may be set, by a judge and stated on the warrant.

Subd. 2. Directions of Warrant. The warrant must direct that the defendant be brought promptly before the court that issued the warrant if the court is in session.

If the court specified is not in session, the warrant must direct that the defendant be brought before the court without unnecessary delay, and not later than 36 hours after the arrest, exclusive of the day of arrest, or as soon as a judge is available.

Subd. 3. Summons. The summons must summon the defendant to appear at a stated time and place to answer the complaint before the court issuing it, and must be accompanied by a copy of the complaint.

Rule 3.03 Execution or Service of Warrant or Summons; Certification

Subd. 1. By Whom. The warrant must be executed by an officer authorized by law. The summons may be served by any officer authorized to serve a warrant, and if served by mail or electronic means, it may also be served by the court administrator.

Subd. 2. Territorial Limits. The warrant may be executed or the summons may be served at any place within the state, except where prohibited by law.

Subd. 3. Manner. A warrant is executed by the defendant's arrest. If the offense charged is a misdemeanor, the defendant must not be arrested on Sunday or, on any other day of the week, between the hours of 10:00 p.m. and 8:00 a.m. except, when exigent circumstances exist, by direction of the judge, stated on the warrant. A misdemeanor warrant may also be executed at any time if the person is found on a public highway or street. The officer need not have the warrant in possession when the arrest occurs, but must inform the defendant of the warrant's existence and of the charge.

The summons must be served on an individual defendant by delivering a copy to the defendant personally, or by leaving it at the defendant's usual place of abode with a person of suitable age and discretion residing there, or by mailing it to the defendant's last known address, or by serving it electronically as authorized by Rule 14 of the General Rules of Practice for the District Courts. A summons directed to a corporate defendant must be issued and served in the manner prescribed by law for service of summons on corporations in civil actions, or by mail addressed to the corporation at its principal place of business, or to an agent designated by the corporation to receive service of process.

Subd. 4. Certification; Unexecuted Warrant or Summons. The officer executing the warrant must certify the execution to the court before which the defendant is brought.

On or before the date set for appearance, the officer to whom a summons was delivered for service must certify its service to the court before which the defendant was summoned to appear.

At the prosecutor's request, an unexecuted warrant or an unserved summons may be delivered by a judge to any authorized officer or person for execution or service.

Rule 3.04 Defective Warrant, Summons or Complaint

Subd. 1. Amendment. A person arrested under a warrant or appearing in response to a summons must not be discharged from custody or dismissed because of any defect in form in the warrant or summons if the warrant or summons is amended to remedy the defect.

Subd. 2. Issuance of New Complaint, Warrant or Summons. Pretrial proceedings may be continued to permit a new complaint to be filed and a new warrant or summons issued if the prosecutor promptly moves for a continuance on the ground that:

(a) the initial complaint does not properly name or describe the defendant or the offense charged; or

(b) the evidence presented establishes probable cause to believe that the defendant has committed a different offense from that charged in the complaint, and the prosecutor intends to charge the defendant with that offense.

If the proceedings are continued, the new complaint must be filed and process promptly issued. In misdemeanor cases, if the defendant during the continuance is unable to post bail that might be required under Rule 6.02, subd. 1, then the defendant must be released subject to such non-monetary conditions as the court deems necessary under that Rule.

Subd. 3. Procedure upon Issuance of New Complaint. Upon the issuance of the new complaint, the court must inform the defendant of the charges; the defendant's rights, including the right to have counsel appointed if eligible; and the opportunity to enter a plea as permitted by Rules 5.06, 5.07, and 5.08. The court must also review conditions of release under Rule 6.02, subd. 2. Pretrial proceedings, including any prior waiver of rights, must be reopened to the extent required by the new complaint.

(Amended effective November 1, 2014; amended effective July 1, 2015.)

Comment - Rule 3

Rule 3.01 does not define probable cause for the purpose of obtaining a warrant of arrest or to prescribe the evidence that may be considered on that issue. These issues are determined by federal Fourth Amendment constitutional law. See e.g., State ex rel. Duhn v. Tahash, 275 Minn. 377, 147 N.W.2d 382 (1966); State v. Burch, 284 Minn. 300, 170 N.W.2d 543 (1969).

See Rule 4.02, subd. 5(3) for restrictions on the issuance of a warrant for an offense for which the prosecution has obtained a valid complaint after the time in which the court had ordered the complaint to be prepared.

Issuance of a warrant instead of a summons should not be grounds for objection to the arrest, to the jurisdiction of the court, or to any subsequent proceedings. In overcoming the presumption for issuing a summons rather than a warrant, the prosecutor may, among other factors, cite to the nature and circumstances of the particular case, the past history of response to legal process and the defendant's criminal record. The remedy of a defendant who has been arrested by warrant is to request the imposition of conditions of release under Rule 6.02, subd. 1 upon the initial court appearance.

Minnesota law requires that the defendant be taken before the court "without unreasonable delay." See, e.g., Stromberg v. Hansen, 177 Minn. 307, 225 N.W. 148 (1929). See also Minnesota Statutes, section 629.401. Rule 3.02, subd. 2 imposes more definite time limitations while permitting a degree of flexibility. The first limitation (Rule 3.02, subd. 2) is that the defendant must be brought directly before the court if it is in session. The second limitation (Rule 3.02, subd. 2) is that if the court is not in session, the defendant must be taken before the nearest available judge of the issuing court without unnecessary delay, but not more than 36 hours after the arrest or as soon after the 36-hour period as a judge of the issuing court is available.

In computing the 36-hour time limit in Rule 3.02, subd. 2, the day of arrest is not counted. The 36 hours begin to run at midnight following the arrest. Also, Rule 34.01 expressly does not apply to Rule 3.02, subd. 2. Saturdays are to be counted in computing the 36-hour time limit under this rule. See also Rule 4.02, subd. 5.

The provisions of Rule 3.03, subd. 2 that a warrant may be executed or a summons served at any place within the State is in accord with existing law governing service of criminal process. The phrase "except where prohibited by law" was added to exclude those places, such as federal reservations, where state service of process may be prohibited by law.

For service of summons on corporations, Rule 3.03, subd. 3 adopts the method prescribed by law for service of process in civil actions. See Minn. R. Civ. P. 4.03(c).