

MEGAN E. HANSEN  
Deputy County Attorney  
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ATTORNEYS FOR PLAINTIFF

IN THE JUSTICE COURT OF RECORD OF MISSOULA COUNTY,  
STATE OF MONTANA

<p>STATE OF MONTANA, Plaintiff,  -vs- NOAH WEBSTER DIEM, Defendant.</p>	<p>Dept. Cause No. MANS No. 3201C2100415 <b>AFFIDAVIT OF PROBABLE CAUSE</b></p>
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STATE OF MONTANA            )  
  : ss  
County of Missoula         )

MEGAN E. HANSEN, Deputy County Attorney, Montana, being first duly sworn upon oath, deposes and says:

I have read the law enforcement reports regarding the investigation of Noah Webster Diem for allegedly committing the offense of:

COUNT I: BURGLARY, a felony, in violation of § 45-6-204(1), MCA.

I believe that the facts as set forth in the law enforcement reports, if true, constitute sufficient probable cause to justify the filing of the charges. Those facts are as follows:

On or about the 14th day of March, 2021, Missoula Police Department Officer Diaz responded with Sergeant Erbacher and Officer Mulligan to a report of several interior alarm activations at 310 West Spruce Street, in Missoula County. Officers noted that 310 W. Spruce Street is conjoined with 316 West Spruce Street, housing a physical therapy office and a law office. On arrival, Officers proceeded to check all exterior doors and windows of the businesses when they observed the main entry door to 316 West Spruce Street had been forced open. Sgt. Erbacher noted that the door frame was badly broken and the wooden door was standing open with only a glass sun door closed on the outside. Officers heard smashing and clunking sounds coming from inside the building and requested backup respond to their location.

Officer Diaz made his way to the back side of the building to cover exit points while waiting for back up to arrive. Sgt. Erbacher reported that he had a visual on a single male inside the building. Shortly thereafter, Officer Diaz also observed a male enter the basement level office near the north side exit door of the building. Office Diaz heard crashing and breaking noises and observed the shadow of the male moving inside the room through the closed window blinds.

As Officers were preparing to enter, Officer Diaz observed the male leave the basement level office and proceed elsewhere in the building.

As Officer Diaz waited for the Officers who had arrived as backup to enter the building, he heard a window breaking on the west side of the building and responded to that area to join Sergeant Crocker. Officer Diaz observed the male without a shirt on, later identified as Defendant Noah Diem, shouting at them from the window. He also observed that Diem had thrown a computer monitor through the window. As Sgt. Crocker issued commands to Diem, he continued destroying the window and blinds, yelling "Fuck you!". Diem ignored all commands from Sgt. Crocker and retreated back into the building.

While Sgt. Crocker was communicating with Diem, Sgt. Erbacher, Officer Burton, Officer Clark, Officer Hollis, and Officer Proper, entered the building and moved toward the room where Diem has been throwing items out the window. As Officers approached the room, Diem exited, looked at them, and took steps towards the main interior of the building. Sgt. Erbacher determined that there was no time to give a verbal announcement prior to firing his taser, which struck Diem. This determination was made due to the fact that Diem only had to cross a small hallway to get into the main part of the building, where he would have had access to the entirety of the building and any number of things that could be used as weapons. Diem was subdued, placed in handcuffs, and removed from

the building while officers searched the rest of the building, finding no other individuals.

Once outside, Diem was positively identified by his North Dakota State Driver's License. Sgt. Erbacher advised Diem of his rights under Miranda and Diem declined to speak with him. While interacting with Diem, Sgt. Erbacher noted that based on his training and experience, Diem appeared to be under the influence of a stimulant. Sgt. Erbacher reentered the building to assess the damage and observed the following: several computer monitors were broken and thrown, holes in the walls, chairs thrown, pictures on the walls had been smashed, ceiling tiles ripped down, exam tables tipped over, and blood on the walls and doors, which likely came from cuts that were observed on Diem's hands during his arrest.

Officer Diaz documented the extent of the damage to the physical therapy officer in 316 W. Spruce and the law offices located at 310 W. Spruce and estimated the value of the damage to be between \$2,500 and \$3,500.

DATED this 15th day of March, 2021.

/s/ Megan E. Hansen  
MEGAN E. HANSEN  
Deputy County Attorney

SUBSCRIBED AND SWORN TO before me, a Justice of the Peace, in and for the State of Montana, County of Missoula.

Electronically Signed By:  
Hon. Judge Alex Beal  
Mon, Mar 15 2021 12:37:45 PM