

State of Minnesota
County of Rice

District Court
3rd Judicial District

Prosecutor File No. 0660039635
Court File No. 66-CR-17-35

State of Minnesota,
Plaintiff,

COMPLAINT
Order of Detention

vs.

DUSTAN CHARLES SCHMITT DOB: 12/01/1987

112 1st St. S.
Nerstrand, MN 55053

Defendant.

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: 152.025.2(1) - Drugs - 5th Degree - Sale - Marijuana mixture except small amount of marijuana with no remuneration

Minnesota Statute: 152.025.1(1)

Maximum Sentence: 5 years and/or \$10,000 fine

Offense Level: Felony

Offense Date (on or about): 01/04/2017

Control #(ICR#): 16002092

Charge Description: On or about January 4, 2017, in Rice County, Minnesota, the defendant Dustan Charles Schmitt, did on one or more occasions within a 90-day period unlawfully sell one or more mixtures containing marijuana which was more than a small amount of marijuana.

COUNT II

Charge: 609.378.1(a) - Endanger Child-Permit Present Sale/Poss Cont Subs-G

Minnesota Statute: 609.378.1(b)(2)

Maximum Sentence: 1 year or \$3,000 fine or both

Offense Level: Gross Misdemeanor

Offense Date (on or about): 01/04/2017

Control #(ICR#): 16002092

Charge Description: On or about January 4, 2017, in Rice County, Minnesota, Dustan Charles Schmitt did knowingly cause or permit a child to be present where any person is selling, manufacturing, or possessing a controlled substance.

STATEMENT OF PROBABLE CAUSE

The Complainant states that the following facts establish probable cause:

Your Complainant and/or Signing Officer designated below, being duly sworn, has reviewed police reports relating to the above-named Defendant and the allegations contained herein, and/or has spoken with peace officers having knowledge of the incident, and based upon that information, believes the following to be true and correct.

On or about January 4, 2017 at approximately 9:44am, agents from the Cannon River Drug and Violent Offender Task Force (hereinafter DTF) executed a knock and announce search warrant on 112 1st Street South in Nerstrand. Upon knocking, Dustan Charles Schmitt DOB: 12/01/1987 (hereinafter the Defendant) answered the door. Upon entry into the residence, Agents smelled a strong odor of fresh marijuana. During the search, two of the defendant's children were present in the residence. The children each had initials J.C.S. and each with DOB of 03/12/2012.

As agents were searching the residence, the defendant told agents there was a handgun next to his bed. The handgun was located in the south bedroom. Inside the bedroom was a mattress on the floor. Between the mattress and the wall, Agents located a Taurus 9mm handgun loaded with several 9mm bullets. Also in the bedroom, Agents were shown a key on the floor next to the bed. The key opened a safe that was behind a mirror which was leaning against the wall. Inside that safe was another handgun. The defendant also pointed at a bedsheet that was covering something on the floor. He pulled the sheet off the item and underneath were two glass mason jars containing a felony amount of marijuana.

Both the handguns and the marijuana were easily accessible to the young children at the residence. During the Defendant's post Miranda interview, he admitted the children sometimes live in the room where the items were found.

After locating the guns and the mason jars with marijuana, agents continued the search. Numerous items of evidence were found in the south bedroom. As previously stated, two mason jars containing marijuana were located on the bedroom floor near the closet. The marijuana in the jars field tested positive and had a weight of 84.12 grams without packaging. A Smith and Wesson handgun with loaded magazine was found in the bedroom safe behind the mirror leaning against the wall. Two large heat sealed bags of marijuana were located in the closet. The marijuana in the bags field tested positive and weighed 2.2 pounds. A silver plastic bag was found which contained a clear plastic bag full of marijuana. This field tested positive and had a weight of 235 grams. An open box of new plastic sandwich baggies was located on the floor next to the mattress. A plastic baggie containing marijuana was located in a glass jar on the floor near the mattress which field tested positive and weighed 10.10 grams. A digital AWS scale was located on top of a round end table. A Dymo Scale was located in the bedroom closet. A foodsaver heat sealer was located on the bedroom TV stand. Cash in the amount of \$415 was found in the Defendant's wallet. Cash

in the amount of \$1660 was located on top of the bedroom dresser. Various items of paraphernalia were also found.

Items of evidence were also found in other areas of the residence. In the Kitchen, Agents found a white pound scale in the upper kitchen cupboard, and a roll of partially used heat seal plastic in the lower kitchen cupboard. In the laundry room, underneath the washing machine, Agents found \$8100 in cash wrapped in a blue knotted plastic shopping bag.

Agents also searched the Defendant's phone. Agents observed numerous text message conversations between the Defendant and others regarding the sale and purchase of suspected controlled substances. The defendant had several messages to people in November and December 2016 referencing how much he can sell a pound or an ounce for. The Defendant would abbreviate his messages when discussing a price. An example would be him writing 19 which based on Agents' work experience means he's selling a pound for \$1900. The Defendant also texted people about making a profit. Based on the text messages, it is apparent to Agents that the Defendant is selling ounces and pounds of suspected marijuana on a consistent basis. Agents photographed numerous text messages located on the phone.

The defendant made additional admissions during his post Miranda Interview. He said the only people that live at the residence is himself and three to four kids. He said that he sells small amounts of marijuana to support his habit to smoke. He admitted he doesn't work. He also admitted that he usually picks up a couple pounds of marijuana at a time at the cost of around \$2,000 per pound. He said there was a couple more pounds of marijuana near where the mason jars were, and that around \$5,000 was in the bathroom. He did claim the money was not drug money. He also confirmed his phone number.

Agents found approximately 2.92 pounds of marijuana. Agents also located \$10,175 in cash.

PLEASE TAKE NOTICE: Pursuant to Minn. Stat. 609.49., intentional failure to appear for duly scheduled court appearances may result in additional criminal charges, and in addition to any arrest warrant that may otherwise be issued by the Court.

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

Troy Dunn
Sheriff
118 NW 3rd Street
Faribault, MN 55021
Badge: 1101

Electronically Signed:
01/06/2017 08:41 AM
Rice County, Minnesota

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

Prosecuting Attorney

Brian M Mortenson
218 NW 3rd Street
Faribault, MN 55021
(507) 332-6103

Electronically Signed:
01/06/2017 08:15 AM

FINDING OF PROBABLE CAUSE

From the above sworn facts, and any supporting affidavits or supplemental sworn testimony, I, the Issuing Officer, have determined that probable cause exists to support, subject to bail or conditions of release where applicable, Defendant's arrest or other lawful steps be taken to obtain Defendant's appearance in court, or Defendant's detention, if already in custody, pending further proceedings. Defendant is therefore charged with the above-stated offense(s).

SUMMONS

THEREFORE YOU, THE DEFENDANT, ARE SUMMONED to appear on _____, _____ at _____ AM/PM before the above-named court at 218 NW 3rd Street, Faribault, MN 55021 to answer this complaint.

IF YOU FAIL TO APPEAR in response to this SUMMONS, a WARRANT FOR YOUR ARREST shall be issued.

WARRANT

To the Sheriff of the above-named county; or other person authorized to execute this warrant: I order, in the name of the State of Minnesota, that the Defendant be apprehended and arrested without delay and brought promptly before the court (if in session), and if not, before a Judge or Judicial Officer of such court without unnecessary delay, and in any event not later than 36 hours after the arrest or as soon as such Judge or Judicial Officer is available to be dealt with according to law.

Execute in MN Only

Execute Nationwide

Execute in Border States

ORDER OF DETENTION

Since the Defendant is already in custody, I order, subject to bail or conditions of release, that the Defendant continue to be detained pending further proceedings.

Bail: \$
Conditions of Release:

This complaint, duly subscribed and sworn to or signed under penalty of perjury, is issued by the undersigned Judicial Officer as of the following date: January 6, 2017.

Judicial Officer

Thomas M Neuville
Judge of District Court

Electronically Signed: 01/06/2017 10:37 AM

Sworn testimony has been given before the Judicial Officer by the following witnesses:

**COUNTY OF RICE
STATE OF MINNESOTA**

State of Minnesota

Plaintiff

vs.

Dustan Charles Schmitt

Defendant

LAW ENFORCEMENT OFFICER RETURN OF SERVICE
I hereby Certify and Return that I have served a copy of this Order of Detention upon the Defendant herein named.

Signature of Authorized Service Agent:

DEFENDANT FACT SHEET

Name: Dustan Charles Schmitt
DOB: 12/01/1987
Address: 112 1st St. S.
Nerstrand, MN 55053

Alias Names/DOB:
SID:
Height:
Weight: 151lbs.
Eye Color:
Hair Color:
Gender:
Race:
Fingerprints Required per Statute: Yes
Fingerprint match to Criminal History Record: No
Handgun Permit: No
Driver's License #: F216050748909 (MN)
Alcohol Concentration:

STATUTE AND OFFENSE GRID

Cnt Nbr	Statute Type	Offense Date(s)	Statute Nbrs and Descriptions	Offense Level	MOC	GOC	Controlling Agencies	Case Numbers
1	Charge	1/4/2017	152.025.1(1) Drugs - 5th Degree - Sale - Marijuana mixture except small amount of marijuana with no remuneration	Felony	DH248		MN0660000	16002092
2	Charge	1/4/2017	609.378.1(b)(2) Endanger Child-Permit Present Sale/Poss Cont Subs-G	Gross Misdemeanor	I2109		MN0660000	16002092