

STATE OF MINNESOTA
COUNTY OF WASHINGTON

DISTRICT COURT
TENTH JUDICIAL DISTRICT
COURT FILE NO.

PROSECUTOR FILE NO.

State of Minnesota,

Plaintiff,

v.

JOHN C. HOFFMAN(DOB: UNKNOWN)
AKA Washington County District Court Judge
Washington County Attorney's Office
14949 62nd Street North
Stillwater, MN 55082,

Defendant.

<SELECT COMPLAINT TYPE>

Summons Warrant
 Order of Detention

Amended
 Tab Charge Previously Filed

The Complainant, being duly sworn, makes complaint to the above-named Court and states that there is probable cause to believe that the Defendant committed the following offense(s):

COUNT I

Charge: Misdemeanor (4 Counts)

Minnesota Statute: § 609.43 MISCONDUCT OF PUBLIC OFFICER OR EMPLOYEE
Maximum Sentence: up to 1 year imprisonment, or payment of fine of not more than \$3000, or both.

COUNT II

Charge: Felony (4 Counts)

Minnesota Statute: § 609.495 AIDING AN OFFENDER
Maximum Sentence: imprisonment for not more than three years or to payment of a fine of not more than \$5,000, or both if the crime committed or attempted by the other person is a felony.

COUNT III

Charge: N/A

Minnesota Statute: §
Maximum Sentence:

STATEMENT OF PROBABLE CAUSE

The Complainant states that the following facts establish probable cause:

COUNT I (4 Counts)

609.43 MISCONDUCT OF PUBLIC OFFICER OR EMPLOYEE

1. On or around March 30, 2011, Complainant mailed Washington County Chief Deputy Sheriff, Daniel Starry, a written criminal complaint against Washington County Sheriff William Hutton, requesting that Mr. Starry begin an official inquiry into the criminal acts of Mr. Hutton as alleged by Complainant;
2. In said complaint, Count I, OFFICER NOT FILING SECURITY, Complainant alleged that on or around January 3rd, 2007, Mr. Hutton was sworn in as Washington County Sheriff, and as the newly elected Sheriff, Mr. Hutton was required to give bond and oath as prescribed by law, on or before January 10th, 2007, but failed to meet this requirement;
3. In said complaint, Complainant alleged that Mr. Hutton violated Minnesota Statute 574.20, BONDS, BY WHOM APPROVED, "No officer, official, or employee required to give bond shall enter upon duties until the bond is duly approved and filed";
4. In said complaint, Complainant alleged that Mr. Hutton failed to record bond or cause to have said bond recorded with the county recorder, thereby violating Minnesota Statute 387.01, QUALIFICATIONS; BOND; OATH. "Before entering upon duties every sheriff shall give bond to the state... which bond, with oath of office, shall be recorded with the county recorder";
5. In said complaint, Complainant alleged that Mr. Hutton failed or neglected to make certain that the required bond was recorded with the county recorder, constituting a refusal to serve the elected office of Washington County Sheriff – Minnesota Statute 387.02, FAILURE TO QUALIFY. "If any person elected to the office of sheriff fails to give the bond and take the oath prescribed by law on or before January tenth next succeeding election, it shall be deemed a refusal to serve";
6. In said complaint, Complainant alleged that from approximately January 3rd, 2007, through December of 2008, Mr. Hutton performed the functions of Washington County Sheriff without legal or lawful authority, having not duly filed the required security – Minnesota Statute 609.435, OFFICER NOT FILING SECURITY. "Whoever intentionally performs the functions of a public officer without having executed and duly filed the required security is guilty of a misdemeanor";
7. In said complaint, regarding Count II, OFFICER NOT FILING SECURITY, Complainant alleged that on or around January 3rd, 2009, Mr. Hutton was reelected to a second term in office and was sworn in as the Washington County Sheriff, in the State of Minnesota, and as the reelected Sheriff, Defendant was required to give bond and oath as prescribed by law,

on or before January 10th, 2009, but failed to meet this requirement;

8. In said complaint, regarding Count II, Complainant alleged that on or around January 3rd, 2009, Mr. Hutton entered upon the Duties of Sheriff without giving bond as required – Minnesota Statute 574.20, BONDS, BY WHOM APPROVED. “No officer, official, or employee required to give bond shall enter upon duties until the bond is duly approved and filed”;

9. In said complaint, regarding Count II, Complainant alleged that Mr. Hutton failed to record bond or cause to have said bond recorded with the county recorder – Minnesota Statute 387.01, QUALIFICATIONS; BOND; OATH. “Before entering upon duties every sheriff shall give bond to the state... which bond, with oath of office, shall be recorded with the county recorder”;

10. In said complaint, regarding Count II, Complainant alleged that Mr. Hutton failed or neglected to make certain that the required bond was recorded with the county recorder, constituting a refusal to serve the elected office of Washington County Sheriff – Minnesota Statute 387.02, FAILURE TO QUALIFY. “If any person elected to the office of sheriff fails to give the bond and take the oath prescribed by law on or before January tenth next succeeding election, it shall be deemed a refusal to serve”;

11. In said complaint, regarding Count II, Complainant alleged that from approximately January 3rd, 2009, through January 6th, 2011, Mr. Hutton performed the functions of Washington County Sheriff without legal or lawful authority, having not duly filed the required security – Minnesota Statute 609.435, OFFICER NOT FILING SECURITY. “Whoever intentionally performs the functions of a public officer without having executed and duly filed the required security is guilty of a misdemeanor”;

12. In said complaint, regarding Count III, MISCONDUCT OF PUBLIC OFFICER OR EMPLOYEE, Complainant alleged that following each of the first two elections in favor of Mr. Hutton, and before taking office as Sheriff, he had a duty to review and fully understand the Minnesota Statutes that govern the Office and position of Sheriff and to be in compliance with those requirements before taking office;

13. In said complaint, regarding Count III, Complainant alleged that Mr. Hutton had a personal responsibility to record or to cause to be recorded the necessary bond as prescribed by law before assuming office, but failed, refused, or willfully neglected to do so;

14. In said complaint, regarding Count III, Complainant alleged that, failing to record bond, the Office of Sheriff was Officially Vacant, yet Mr. Hutton continued to act as Sheriff;

15. In said complaint, regarding Count III, Complainant alleged that on or around November 18th, 2009, Defendant, having a known mandatory, nondiscretionary, ministerial duty through the actions of his deputy, Bradley Marquardt, acted unlawfully without proper authority when he sold at public auction, real property located at 6880 St. Croix Trail South, Denmark Township, Minnesota 55033;

16. In said complaint, regarding Count III, Complainant alleged that as a result of said sale, Complainant (a junior/ mechanic lien holder) was injured in excess of \$238,000;

17. In said complaint, regarding Count III, Complainant alleged that the sale and the conveyance of the real property were unlawful, and were conducted without legal authority and are null and void;

18. In said complaint, regarding Count III, Complainant alleged that Mr. Hutton, through the actions of Deputy Marquardt, following said sale, signed a Sheriff's Certificate of Sale, certifying that the sale was in all respects openly, honestly, fairly and lawfully conducted. It was not lawfully conducted;

19. In said complaint, regarding Count III, Complainant alleged that Mr. Hutton, through the actions of Deputy Marquardt, then presented the Sheriff's Certificate of Sale, a false instrument, to be filed with the county recorder;

20. Along with said complaint, Complainant included the following attachments for reference in support of the facts and of his claims:

Oath of Office, William M. Hutton

Sheriff's Certificate of Sale

2009 Employee Dishonesty and Faithful Performance of Duty Declarations Bond (unrecorded);

2010 Employee Dishonesty and Faithful Performance of Duty Declarations Bond (unrecorded);

2011 Employee Dishonesty and Faithful Performance of Duty Declarations Bond (recorded January 07, 2011);

21. With full knowledge of all the information presented above, and now both a defendant related to the above matter, Washington County Attorney, Peter Orput, and Washington County Assistant County Attorney, Richard Hodsdon, acting in their official capacity as Washington County Attorneys, had a known mandatory, nondiscretionary, ministerial duty to file the complaint against Mr. Hutton with the grand jury but intentionally refused to act, and instead chose to willfully violate, Minnesota Statute 628.61 (3) MATTERS INQUIRED INTO, "the Grand Jury shall inquire into the willful and corrupt misconduct in office of all public officers in the county";

22. Defendant's in the above matter (Orput and Hodsdon) also refused to present a sworn criminal complaint against Mr. Starry to the grand jury;

23. Complainant realleges paragraphs 1 - 22 above and alleges all statements that follow;

24. Complainant then sent sworn criminal complaints on May 18th, 2011, against Mr. Orput, Mr. Hodsdon, Mr. Starry, and Mr. Hutton to Defendant, Mr. Hoffman, demanding that he cause the complaints to be presented to the grand jury;

25. Defendant then responded to Complainant in a letter stating that he was prohibited from

practicing law as a district court judge, and that only an elected county attorney of the State has the discretionary power to convene and investigate a criminal case before the grand jury;

26. Complainant at no time sought for Defendant to "convene or investigate a criminal case before the grand jury", rather, Complainant stated that as a magistrate judge and a district court judge that his court held original jurisdiction over all all cases of crimes committed or triable within Washington County;

27. Defendant also denied that he had a "duty" to present the complaints to the grand jury, citing that neither Statute nor the Constitution of the State of Minnesota allows for such a conclusion, while at the same time having knowledge and reasonable belief that criminal acts were committed in Washington County;

28. Nowhere in State Statute is an individual, or in his official capacity as a district court judge prohibited from presenting criminal complaints to the grand jury;

29. Defendant, as a public employee and as an elected official, had a known mandatory, nondiscretionary, ministerial duty to cause all 4 criminal complaints to be presented to the grand jury, in accordance with Minnesota Statute 628.61 (3) MATTERS INQUIRED INTO, "the Grand Jury shall inquire into the willful and corrupt misconduct in office of all public officers in the county", but Defendant failed to act;

30. Defendant perjured his Oath of Office to uphold the Laws and Constitution of Minnesota, and the United States Constitution, by refusing to perform a required duty, and while providing aid and comfort to those whom against probable cause exists of crimes having been committed, knowledge of which comes straight out of Minnesota State Statute and is supported by hard facts as found in the criminal complaints;

31. Defendant closes in his response to Complainant stating that he is "not taking any action" with respect to the above matter;

COUNT II (4 Counts)

609.495 AIDING AN OFFENDER;

32. Complainant re-alleges paragraphs 1–31 above, and all statements that follows below;

33. Defendant, having a personal, professional, and political interest in helping, Peter Orput, Richard Hodsdon, Daniel Starry, and William Hutton, avoid arrest, trial, conviction, or punishment for the criminal acts outlined in the criminal complaints sent to Defendant, aided these individuals through words and acts to avoid prosecution;

34. Defendant devised a plan through words and acts to thwart and stifle Complainants actions by willfully chosing to not act on the criminal complaints, knowing in advance that his nonfeasance would help protect Mr. Orput, Mr. Hodsdon, Mr Starry, and Mr. Hutton, while

shielding his employer, Washington County, along with the Washington County Attorney's Office and the Washington County Sheriff's Department from embarrassment, ridicule, and severe criminal and civil liability;

35. Defendants own actions stated herein to aid and assist Mr. Orput, Mr. Hodsdon, Mr. Starry, and Mr. Hutton, avoid public scrutiny and punishment are extreme and outrageous and have passed the boundaries of integrity and professionalism to the extent that his actions are utterly intolerable to the judicial and law enforcement communities, as well as the residents of Washington County;