

STATE OF MINNESOTA  
COUNTY OF MORRISON

DISTRICT COURT  
SEVENTH JUDICIAL DISTRICT

COURT FILE NO.: CR-12-1882

PROSECUTOR FILE NO.: 12/246

State of Minnesota,

Plaintiff,

v.

Byron David Smith DOB: 06/11/1948  
14319 Elm Street  
Little Falls, MN 56345

Defendant.

 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 1**Murder - 2nd Degree - With Intent-Not Premeditated**

In Violation Of: 609.19 subd. 1(1)

Penalty: 40 Years Imprisonment

On or about November 22, 2012, in the County of Morrison, State of Minnesota, the above-named Defendant, Bryon David Smith, did cause the death of a human being with intent to effect the death of that person or another, but without premeditation. (victim: Nicholas Alexander Brady Schaeffel).

Count 2**Murder - 2nd Degree - With Intent-Not Premeditated**

In Violation Of: 609.19 subd. 1(1)

Penalty: 40 Years Imprisonment

On or about November 22, 2012, in the County of Morrison, State of Minnesota, the above-named Defendant, Bryon David Smith, did cause the death of a human being with intent to effect the death of that person or another, but without premeditation. (victim: Haile Elaine Kifer)

## STATEMENT OF PROBABLE CAUSE

The Complainant states that the following facts establish probable cause:

On Friday, November 23, 2012, at approximately 1:00 p.m., a concerned citizen contacted the Morrison County Sheriff's Office. The concerned citizen stated that he believed his neighbor, Byron David Smith, had killed someone that was trying to break into Smith's residence. Smith's residence is located at 14319 Elm Street in Belle Prairie Township, Morrison County, Minnesota.

Deputy Scherping and Investigator Luberts of the Sheriff's Office drove to the Smith residence on Elm Street. Smith met the officers at the front door and invited them in. Inside the house Smith told the officers that on the previous day, November 22nd, at around noon, two people had broken into his residence. Smith showed the officers a broken bedroom window. Smith stated that he was in the basement of the residence at the time of the break-in. Smith stated that he had shot a male and female as they walked down into the basement of his residence. Smith stated that he dragged the bodies to an office workshop in his basement. Smith then showed the officers his office workshop, and the officers could see the bodies of a young male and female that appeared to have multiple gunshot wounds. Smith was placed under arrest and later transported to the Morrison County Sheriff's Office for an interview.

Investigator Luberts took a taped statement from Smith pursuant to Miranda. Smith stated that his residence was broken into on several prior occasions. Smith stated that on Thanksgiving Day he was sitting in his basement. Smith stated that he heard footsteps around his house. It sounded like someone was trying to get into his house. Smith heard a window breaking upstairs. Then he heard footsteps walking down the hallway. Smith then saw a person walking down the stairwell into the basement where he was sitting. Smith stated that he first saw the feet, then he saw the legs, then he saw the hips. At this point Smith stated he shot the person, and the person fell down the stairs. Smith stated that the gun he used was a Mini 14 rifle. Smith believed he shot twice. Smith stated that after the man fell down the stairs the man was looking up at him. Smith stated that he then shot the man in the face. Smith told Investigator Luberts, "I want him dead." Smith stated that he then put the man's body on a tarp and dragged the body into his basement workshop. Smith stated that he then sat back down in his chair.

Smith stated several minutes later he again heard footsteps on the main floor of his house. Smith stated that another person came down the stairs into the basement where he was sitting. Smith said he waited until he could see her hips and then he shot her. After shooting the person she tumbled down the steps. Smith stated that he tried to shoot her again with the Mini 14 but the gun jammed. Smith stated that, after the gun jammed, the woman laughed at him. Smith stated that it was not a very long laugh because she was already hurting. Smith acknowledged that this made him upset. Smith told Investigator Luberts, "If you're trying to shoot somebody and they laugh at you, you go again." Smith then pulled out his .22 caliber 9-shot revolver that he was wearing, and he shot the female several times in the chest. Smith acknowledged that he fired "more shots than I needed to." Smith stated that he then dragged the female's body into his office workshop and placed her body next to the man's. Smith stated that the female was still gasping for air. Smith stated at this point he placed the handgun under the woman's chin and shot her "under the chin up into the cranium." Smith described it as "a good clean finishing shot." Smith stated he wanted to end her suffering. Smith acknowledged that neither the male or female had a weapon, but maintained that he was fearful the entire time that they might have a weapon.

Smith acknowledged that he left the bodies in the basement of his residence overnight. Smith

stated that on Friday morning he then called a neighbor asking if the neighbor knew any lawyers. Smith acknowledges that he never attempted to call law enforcement, but says he asked his neighbor to do so, after the neighbor was unable to assist him in obtaining a lawyer.

The bodies of the deceased persons in Smith's basement have been identified as Nicholas Alexander Brady Schaeffel, date of birth 03-21-1995, and Haile Elaine Kifer, date of birth 10-17-1994.

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'S NAME:

COMPLAINANT'S SIGNATURE:

Thomas Ploof

*Thomas Ploof*

Subscribed and sworn to before the undersigned this 26<sup>th</sup> day of November, 2012

NAME/TITLE:

SIGNATURE:



*Tara Selinski*

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

Date: 11.26.12

PROSECUTING ATTORNEY'S SIGNATURE:

*Brian J. Middendorf*

Name: Brian J. Middendorf  
Morrison County Attorney  
213 SE 1st Ave  
Little Falls, MN 56345  
320-632-0190  
Attorney Registration Number: 280768

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 to 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 ABOVE-NAMED DEFENDANT, ARE HEREBY SUMMONED to appear on the \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_ at \_\_\_\_\_ before the above-named court at \_\_\_\_\_ to answer this complaint.

WARRANT

To the Sheriff of the aboved-named county; or other person authorized to execute this warrant: I hereby order, in the name of the State of Minnesota, that the above-named Defendant be apprehended and arrested without delay and brought promptly before the above-named 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 above-named Defendant is already in custody, I hereby order, subject to bail or conditions of release, that the above-named Defendant continue to be detained pending further proceedings.

Bail: \_\_\_\_\_

Conditions of Release:

This complaint, duly subscribed and sworn to, is issued by the undersigned Judicial Officer this 26 day of November, 2012.

JUDICIAL OFFICER:

NAME: Conrad T. Freeberg  
TITLE: Judge

SIGNATURE:

[Handwritten Signature]

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

COUNTY OF MORRISON  
STATE OF MINNESOTA

**State of Minnesota**  
Plaintiff

vs.

**Byron David Smith**  
Defendant

DISTRICT COURT  
Clerk's Signature or the Stamp:  
MORRISON COUNTY, MINNESOTA

NOV 26 2012

COURT ADMINISTRATOR  
RETURN OF SERVICE

I hereby Certify and Return that I have served a copy of this Order of Detention upon the Defendant(s) herein-named.

Signature of Authorized Service Agent: