



OFFICE OF THE WASHINGTON COUNTY ATTORNEY

PETER J. ORPUT COUNTY ATTORNEY

Press Release

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FOR IMMEDIATE RELEASE
DATE: November 5, 2013

FORMER DEPUTY SHERIFF CONVICTED OF MISCONDUCT

County Attorney Pete Orput announced that a Washington County jury yesterday convicted Ricky Harry Gruber, 43, of Oakdale, of Misconduct by a Public Employee and Illegal Possession of Prescription Drugs. The case was prosecuted by Assistant County Attorney Tom Wedes.

Gruber, a former Washington County Sheriff's Deputy, was observed by hidden surveillance on February 6, 2013, removing the secure drug drum from the pharmaceutical drop-off box at the Washington County Sheriff's office. The drug take-back bin is a public service that allows citizens to drop off used or unwanted medications and drugs to the sheriff's office for proper environmental disposal.

After being observed taking the drug bin, Gruber was seen to bring it back 13 minutes later. He was arrested at that time. Gruber then admitted having stolen the key to the secure area, having made a copy for his own use. Gruber admitted that he took various prescription drugs from the drum and placed them in a red bag in his office in the sheriff's department.

Sentencing is set for January 10, 2014, at 10:00 a.m.

Orput stated, "The Washington County Sheriff's office is to be congratulated for its swift and sure response in investigating the crimes committed by one of their own deputies. Their professional response was responsible for our ability to bring him to justice. While it is disheartening when a law enforcement officer commits a crime, we can be reassured by the fact that they, too, will be brought to answer for their crime."

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State of Minnesota,
Plaintiff,

COMPLAINT
Summons

vs.

RICKY HARRY GRUBER DOB: 10/28/1969

6867 8th St Lane N
Oakdale, MN 55128

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: Drugs - 5th Degree - Possess Schedule 1,2,3,4 - Not Small Amount Marijuana

Minnesota Statute: 152.025.2(a)(1)

Maximum Sentence: 5 years and \$10,000 for a first controlled substance conviction

Offense Level: Felony

Offense Date (on or about): 02/12/2013

Control #(ICR#): 13002573

Charge Description: possess one or more mixtures containing a controlled substance classified in Schedule I, II, III, or IV, to wit: Phentermine Hydrochloride

COUNT II

Charge: Theft-Take/Use/Transfer Movable Prop-No Consent

Minnesota Statute: 609.52.2(a)(1)

Maximum Sentence: 5 years and \$10,000

Offense Level: Felony

Offense Date (on or about): 02/12/2013

Control #(ICR#): 13002573

Charge Description: intentionally and without claim of right take, use, transfer, conceal or retain possession of moveable property, to-wit: Legend drugs, belonging to another, to-wit: Washington County Sheriff's Office, without the consent of the owner and with intent to permanently deprive the owner of possession of the property, and the value of said property was more than \$1,000

COUNT III

Charge: Theft-Take/Use/Transfer Movable Prop-No Consent

Minnesota Statute: 609.52.2(a)(1)

Maximum Sentence: 5 years and \$10,000

Offense Level: Felony

Offense Date (on or about): 02/12/2013

Control #(ICR#): 13002573

Charge Description: intentionally and without claim of right, with intent to deprive the owner permanently of possession, and without consent of the owner or person in lawful possession, to-wit: Washington County Sheriff's Office, take, use, transfer, conceal or retain possession of a schedule III, IV or V controlled substance consisting of Phentermine Hydrochloride

COUNT IV

Charge: Misconduct of Public Officer or Employee

Minnesota Statute: 609.43

Maximum Sentence: 1 year and \$3,000

Offense Level: Gross Misdemeanor

Offense Date (on or about): 02/12/2013

Control #(ICR#): 13002573

Charge Description: in the capacity of being a public officer or employee, does an act knowing it is in excess of lawful authority or knowing it is forbidden by law to be done in that capacity, or under pretense or color of official authority intentionally and unlawfully injures another in the other's person, property or rights

COUNT V

Charge: Pharmacy - Legend Drugs- Unlawful Possess/Sell/Give Away/Barter/Exchange/Distribute

Minnesota Statute: 151.37.1

Maximum Sentence: 90 days and \$1,000

Offense Level: Misdemeanor

Offense Date (on or about): 02/12/2013

Control #(ICR#): 13002573

Charge Description: possess, sell, give away, barter, exchange or distribute a legend drug, to wit: Amoxicillin, Hydroxyzine, and Trazadone, Metformin Hydrochloride, Tadalafil and Vardenafil, drugs that by federal law requires a prescription for dispensing

STATEMENT OF PROBABLE CAUSE

The Complainant states that the following facts establish probable cause:

Your complainant is a licensed peace officer in the State of Minnesota and offers the following to establish probable cause:

On January 25, 2013, Sgt. Larry Osterman of the Washington County Sheriff's Office drove to the Washington County Law Enforcement Center located at 15015 62nd Street North, City of Stillwater, County of Washington, State of Minnesota. He had driven to the center in order to review the evidence intake area and to look at ways to improve workflow and arrange a new intake area to allow for changes that were occurring at the office. When he entered the building at approximately 5:00 p.m. he went into the evidence property area. He is the sergeant assigned to oversee operations in this area and had been reviewing the area for several months. While conducting his duties, the sergeant went past the Administrative Services Division to go to his office. While enroute his attention was drawn to a secure drug cabinet which contains the pharmaceutical drop off box, a.k.a. the drug take-back bin (bin). The reason his attention was drawn was the fact that he observed that the bin was slightly ajar. This is peculiar because the bin should be secured at all times. When he investigated the bin he found that both locks that secure it were unlocked. He also observed that the "drug drum" that should have been in the bin was missing. The drug drum is the container that holds unused medications and drugs turned in by the public. He inspected the locks and door for any damage and did not find any. Nor was there evidence of a forced entry into the bin. At that time, he contacted Commander Anschutz to report his findings.

It should be noted the drug take-back bin is a service to the public which allows citizens to drop off unwanted or unused medications and drugs for the purpose of having the items disposed of in a safe manner. This bin has been devised by the Washington County Sheriff's Office and the Washington County Department of Public Health to address the increased concern that medications have the potential of being abused or falling in the hands of children and other individuals suffering from chemical addictions. This plan was developed and installed using the permanent drop-off box in the Law Enforcement Center. The bin can only be accessed from inside of the Washington County Sheriff's Office by certain designated individuals. The bin has two key locks on the door with in the office. The keys to the bin are limited in number and assigned to certain personnel within the office. Once the door is unlocked and opened a large cardboard drug drum is located inside where the medications accumulate.

On Monday January 28, 2013, at approximately 8:00 a.m., Osterman took a spare drum from the storage area and walked to the secure drug cabinet. At that time, he found that both locks had been secured. Once again he inspected the door and locks and did not see any damage. Osterman is one of the authorized personnel and unlocked the bin. He observed that a drum was now in place as it should have been and that the drum was just over half full. This was unusual to Osterman due to the fact that business hours for the Sheriff's Department had just started, that a drum was now in place when it was not on the 25th, that the doors to the bin were locked and that the bin was half full. Other personnel confirmed that the drug bin had not been used on January 28th and there had not been public access to the bin since the 25th of January, 2013. Osterman confirmed that a change out of the drug bin had not occurred since Friday. Concerned with his investigation, Osterman met with his law enforcement commanders and detectives to report his findings. The decision at that time was to keep the investigation quiet and secret due to the suspected belief that someone within the Department was accessing the bin.

During the evening hours of January 28, 2013, Sergeant Osterman and Detective Ackerknecht installed a video recording device in the ceiling in close proximity to the secure drug cabinet. The camera was set to

cover the immediate area to allow them to observe and record any individuals accessed the drug cabinet. On February 6, 2013, Osterman received a call from Detective Ackerknecht who reported to him that he, after reviewing the tape, had observed one of their deputies, who was not authorized nor should have access to the drug bin, open the secure drug bin on February 6, 2013, at approximately 5:44 p.m. It showed the deputy removing the drug drum and returned it to the bin thirteen minutes later. The deputy was identified as the defendant, Ricky Harry Gruber, dob: 10/28/1969. The defendant was employed as a Deputy Sheriff by the Washington County Sheriff's Department. With this knowledge Ackerknecht and Osterman met with Sergeant Ellickson of the Washington County Sheriff's Office Narcotics Unit, Commander Anschutz, Chief Deputy Starry and Sheriff William Hutton to review the recording and discuss the case. The Sheriff's Department also contacted the Minnesota Bureau of Criminal Apprehension to report their findings and to request assistance in setting up additional cameras to record the area. This was accomplished on February 8, 2013. On February 12, 2013, at approximately 4:00 p.m. Detective Ackerknecht, Sgt. Osterman, Sgt. Ellickson, Commander Dexter and Commander Anschutz were observing a live feed of the video when they saw the defendant at 5:24 p.m. return to the Administrative Services Division. He then walks toward the secure drug cabinet at which time he opens the secure drug cabinet door, removes the drug drum and carries the drum into a room. Within the room the Defendant empties the bin into a cardboard box, looks through the items, takes some drugs and then goes into his office. The defendant then returns to the room and then exits the room carrying the drug drum, returns the drum to the bin, closes and locks the door and then begins to run as Commander Anschutz and Sgt. Ellickson enter the room. He is placed under arrest, relieved of his firearm and is escorted into an interview room. At no time was the defendant authorized to possess a key for the lockbox and did not have the authority to take any items out of the secured bin.

The defendant was interviewed by Sgt., Ellickson. Prior to questioning he was read his Miranda rights. The defendant stated he understood his rights and he wished to speak with the Sergeant. When asked which items the defendant had taken from the drug bin, defendant indicated and admitted that he had been taking drugs from the bin. He admitted to taking different kinds of drugs. He stated that the items he most recently took were in his office inside a red bag. Defendant stated he took these items for personal use. He stated that he started taking items a few months prior and that he had been in the drug bin a half a dozen times or more. He stated that he had taken other items such as Ambien and claimed that he took many of these items due to a medical condition that was present during times of sexual intimacy. He stated that he had been researching online different medications that may assist him with his medical conditions. This was confirmed by a review of his work computer history. Defendant confirmed that he would take the drug drum out, brings it to a back room, dump it out and looks and take he believed he needed. He stated that he sometimes would just scan through the top of the drum and take what he wanted. The items that he wanted would be placed into a red bag in his office. When asked how the defendant was able to get a key to the drug take-back bin he stated that he had taken a ring from one of the authorized individuals and made a copy. He was able to access the individual's desk which contained the key that was kept in a secured area by using an access key. The defendant signed a voluntary consent to search his office and his personal property located within the office. He also signed a voluntary consent to search his vehicle. The following were items of interest were found after the searches were conducted:

Items located and removed from the defendant's person were a bronze colored access key, handcuff key, AF-5 Medeco key, Ford key and Aysess keyall were removed from the defendant's key ring; a copied ACE drug bin key; a County pager, Sheriff's ID card, US Bank purchase card for Sheriff's Office, Tiburon business card, Sheriff's Office pass card, SWAT phone list card, a paper with passwords for computers.

Items located and removed from the defendant's office were: a red bag found on top of desk area. The bag contained paper items, clothing, a brother ink cartridge property of the Sheriff's department, an aerosol dust buster, property of the Sheriff's department, pens, 3 bottles of pills containing prescription medications identified as Amoxicillin [18 pills], Hydroxyzine [40 pink pills and 60 green pills], and

Trazadone [22 ½ pills]; a key ring with 15 keys; 19 blue and white speckled pills and 2 ½ pills of the same type marked MP273, identified as Phentermine Hydrochloride a schedule 4 controlled substance and white box with Lidocaine; separate prescription medications identified as: 20 pills of Metformin Hydrochloride and 90 pills of Tadalafil.

Items located and removed from the defendant's personal truck: prescription pills that were in a bubble pack and were yellow in color, identified as Vardenafil; One blue oblong pill with markings 93 42, identified as Fluoxetine hydrochloride, one broken blue pill [darker in color] that was broken, and one black larger oblong pill. All these were located in the driver's door pocket.

The 19 Phentermine Hydrochloride taken by the defendant are defined as a Schedule 4 controlled substance by Minnesota Statute 152.02, Subd. 5.

The following are drugs that were taken are considered legend drugs and cannot be dispensed without a valid prescription: Amoxicillin, Hydroxyzine, and Trazadone, Metformin Hydrochloride, Tadalafil and Vardenafil and are valued in excess of \$1,000.00.

All items were entered into evidence.

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 **May 15, 2013 at 9:00 AM** before the above-named court at 14949 62nd Street N PO Box 3802, Stillwater, MN 55082-3802 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: No use/random testing.

This complaint is issued by the undersigned Judge as of the following date: February 27, 2013.

Judicial Officer

Richard Ilkka
Judge of District Court

Electronically Signed: 2/27/2013

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

**COUNTY OF WASHINGTON
STATE OF MINNESOTA**

State of Minnesota

Plaintiff

vs.

Ricky Harry Gruber

Defendant

Clerk's Signature or File Stamp:

RETURN OF SERVICE

I hereby Certify and Return that I have served a copy of this Summons upon the Defendant herein named.

Signature of Authorized Service Agent: