

State of Minnesota
County of Blue Earth

District Court
5th Judicial District

Prosecutor File No. 0070108753
Court File No. 07-CR-24-3427

State of Minnesota,
Plaintiff,

COMPLAINT
Warrant

vs.

THUAK WIW BITHOW DOB: 02/25/1988

1292 Bellflower Lane
Owatonna, MN 55060-5112

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: Traffic - DWI - Operate Motor Vehicle Under Influence of Alcohol

Minnesota Statute: 169A.20.1(1), with reference to: 169A.24.2

Maximum Sentence: 7 years and/or \$14,000 fine

Offense Level: Felony

Offense Date (on or about): 09/05/2024

Control #(ICR#): 24024497

Charge Description: On or about September 5, 2024, in the County of Blue Earth, said Defendant, Thuak Wiw Bithow, did, drive, operate, or was in physical control of any motor vehicle when he/she was under the influence of alcohol, and the violation was committed within ten years of the first of three or more qualified driving incidents or he/she has previously been convicted of felony D.W.I.

COUNT II

Charge: Traffic - DWI - Refuse to submit to chemical test; Breath or test refusal or failure

Minnesota Statute: 169A.20.2(1), with reference to: 169A.24.1

Maximum Sentence: 7 years or \$14,000 fine or both.

Offense Level: Felony

Offense Date (on or about): 09/05/2024

Control #(ICR#): 24024497

Charge Description: On or about September 5, 2024, in the County of Blue Earth, Minnesota, Thuak Wiw Bithow did, drive, operate, or was in physical control of any motor vehicle and the Defendant refused to submit to a chemical test of the person's breath upon the request of a peace officer who had probable cause to believe the person to be tested was under the influence and committed the violation with within ten years of the first of three or more qualified prior impaired driving incidents or has previously been convicted of a felony under section 169A.24.

COUNT III

Charge: Drivers' Licenses - Driving Restrictions--Alcohol/Controlled Substance;Violations

Minnesota Statute: 171.09.1(f)(1)

Maximum Sentence: 364 days or \$3,000 fine, or both

Offense Level: Gross Misdemeanor

Offense Date (on or about): 09/05/2024

Control #(ICR#): 24024497

Charge Description: On or about September 5, 2024, in the County of Blue Earth, Minnesota, Thuak Wiw Bithow did drive, operate or was in physical control of a motor vehicle while in violation of the restrictions imposed in a restricted driver's license and the restriction relates to the possession or consumption of alcohol or controlled substances.

COUNT IV

Charge: Traffic-DL-Driving after cancellation-inimical to public safety

Minnesota Statute: 171.24.5

Maximum Sentence: 364 days or \$3,000 fine, or both

Offense Level: Gross Misdemeanor

Offense Date (on or about): 09/05/2024

Control #(ICR#): 24024497

Charge Description: On or about September 5, 2024, in the County of Blue Earth, Minnesota, Thuak Wiw Bithow did after being given notice, or reasonably should have known of the cancellation, disobeyed the order by operating in this state any motor vehicle, the operation of which requires a driver's license, while her/his license or privilege was canceled; and the Commissioner of the Department of Public Safety has determined that the operation of a motor vehicle on the highways by the person would be inimical to the public safety or welfare.

COUNT V

Charge: Traffic - Open bottle law; drinking and consumption; crime described

Minnesota Statute: 169A.35.2

Maximum Sentence: 90 days or \$1,000 fine, or both.

Offense Level: Misdemeanor

Offense Date (on or about): 09/05/2024

Control #(ICR#): 24024497

Charge Description: On or about September 5, 2024, in the County of Blue Earth, Minnesota, Thuak Wiw Bithow, did have in his/her possession, while in a private motor vehicle upon a street or highway, any bottle or receptacle containing an alcoholic beverage, distilled spirit or 3.2 percent malt liquor that has been opened, or the seal broken, or the contents of which have been partially removed.

COUNT VI

Charge: Fleeing a Peace Officer By a Means Other Than a Motor Vehicle

Minnesota Statute: 609.487.6

Maximum Sentence: 90 days or \$1,000 fine, or both.

Offense Level: Misdemeanor

Offense Date (on or about): 09/05/2024

Control #(ICR#): 24024497

Charge Description: On or about September 5, 2024, in the County of Blue Earth, Minnesota, Thuak Wiw Bithow, did, for the purpose of avoiding arrest, detention, or investigation, attempted to evade or elude a peace officer who is acting in the lawful discharge of an official duty, by means of running, hiding or any other means other than fleeing in a motor vehicle.

STATEMENT OF PROBABLE CAUSE

In the evening on September 5, 2024, Officer Kristian Marzolf from the Mankato Department of Public Safety was driving northbound from the intersection of Timberwolf Drive and Monks Avenue in the City of Mankato, County of Blue Earth, when Officer Marzolf noticed a driver operating a car with only the daytime running lights activated to the front. The car appeared to be weaving within its lane. Marzolf observed the driver signal to turn left and begin driving in the shared turn lane, though there was nowhere to turn left for several hundred feet. The driver suddenly swerved back into the southbound lane and immediately turned right onto an intersecting street. Marzolf believed the sudden and erratic maneuver was in response to Marzolf's turn and demonstrated an attempt to evade detection by law enforcement. Marzolf immediately activated emergency lights and the vehicle suddenly halted in the lane of traffic just before the driver exited the vehicle and began running west.

Following a short chase and losing sight of the driver briefly, Marzolf rounded a corner and observed the driver walking towards him. Marzolf directed the driver to lay on the ground and the driver complied before Marzolf applied handcuffs and recovered the driver's ID from his wallet, showing that he was Thuak Wiw Bithow. Marzolf noticed a strong odor of alcoholic beverages emitting from Bithow's breath. Marzolf noticed Bithow's eyes were bloodshot and watery with marked reddening of the conjunctiva. Bithow slurred his words as he spoke, was slow to respond to questions, and struggled to follow simple instructions. Bithow's appearance, driving conduct, and immediate flight were consistent with Marzolf's experiences with people who are extremely intoxicated. Marzolf concluded Bithow was impaired by alcohol and decided not to conduct Standardized Field Sobriety Testing because it would give Bithow a significant opportunity to flee for a second time.

Marzolf informed other officers of his findings and they searched Bithow's vehicle, recovering an open container of liquor and noting a strong odor of alcoholic beverages in the vehicle.

Bithow's driving privileges were revoked at the time of his arrest and "any use of alcohol/drugs" invalidating his license.

Marzolf read Bithow the breath test advisory. Bithow said he understood the advisory and stated, "I'm not going to take no test." After Marzolf gave Bithow a phone, phone book, several directories, and an opportunity to speak with an attorney, Bithow said again he would not take a test. Marzolf asked Bithow if he would take a test and Bithow stated he would not "because [he didn't] want to."

Marzolf arranged for Bithow to be housed at the Brown County Evaluation Center because of his obvious but unquantified level of intoxication.

Mr. Bithow has three convictions in the last ten years for Driving While Impaired.

The State requests the court issue a warrant to transfer Mr. Bithow from the Brown County Evaluation Center to the Blue Earth County Jail.

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

Craig Frericks
Commander
710 S Front St
Mankato, MN 56001-3803
Badge: 3102

Electronically Signed:
09/06/2024 03:16 PM
Blue Earth County, MN

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

Prosecuting Attorney

Thomas P. McDermott
Assistant County Attorney
401 Carver Road
PO Box 3129
Mankato, MN 56002
(507) 304-4600

Electronically Signed:
09/06/2024 03:07 PM

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 as directed in the Notice of Hearing before the above-named court 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: \$100,000.00

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: September 6, 2024.

Judicial Officer

Greg Anderson
District Court Judge

Electronically Signed: 09/06/2024 04:12 PM

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

**COUNTY OF BLUE EARTH
STATE OF MINNESOTA**

State of Minnesota

Plaintiff

vs.

Thuak Wiw Bithow

Defendant

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

Signature of Authorized Service Agent: