

FILED

APR 22 2019

ANGIE SPARKS, Clerk of District Court
By ~~K~~ KRESGE Deputy Clerk

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4 COUNSEL FOR STATE

5 MONTANA FIRST JUDICIAL DISTRICT COURT, LEWIS AND CLARK COUNTY

<p>6 STATE OF MONTANA,</p> <p>7 Plaintiff,</p> <p>8 v.</p> <p>9 ANTONY HOWARD CARUANA,</p> <p>10 Defendant.</p>	<p>Cause No. <u>A</u> DC-2019-<u>188</u></p> <p>STATE'S MOTION FOR LEAVE TO FILE INFORMATION AND SUPPORTING AFFIDAVIT</p> <p>MIKE MENAHAN PRESIDING JUDGE</p>
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11 STATE OF MONTANA)
12) :ss.
13 County of Lewis and Clark)

14 Chris McConnell, Assistant Attorney General for the State of Montana, moves the
15 Court for leave to file an Information charging the Defendant, ANTONY HOWARD
16 CARUANA, with committing the offense of Theft, by common scheme, a felony, as
17 specified in Mont. Code Ann. §§ 45-6-301(5)(b), -301(8)(b)(i) and 45-2-101(8) (2015).

18 Chris McConnell, after first being sworn upon oath, deposes and says, based on
19 information and belief, that investigative information developed and provided to him by
20 John Komora (Komora), Agent for the Division of Criminal Investigation of the Montana
21 Department of Justice (DCI), demonstrates probable cause to believe that the Defendant
22 has committed the offense on or about and between June 16, 2015 and October 10, 2016,
23 in Lewis and Clark County, Montana. The investigative information relied upon by
24 affiant to support probable cause is as follows:

25 BACKGROUND

26 With some exceptions, every employer in Montana must provide workers'
27 compensation insurance to compensate employees who may suffer an on-the-job injury
or occupational disease. Mont. Code Ann. § 39-71-401. The Montana State Fund

1 (MSF), located in Helena, Lewis and Clark County, Montana, is a nonprofit, independent
2 public corporation established for providing an option for employers to insure their
3 liability for workers' compensation and occupational disease coverage.

4 In general, if a worker is injured on the job, the worker may be eligible for
5 workers' compensation benefits. The worker notifies their employer of the injury and
6 submits a claim form to MSF. Workers' compensation is designed to provide wage-loss
7 benefits and medical benefits to employees suffering from a work-related injury.

8 Wage-loss benefit is a form of payment while the employee is losing wages
9 because the employee's treating physician has taken the injured employee off work, and
10 the injured employee is not able to work in a temporary light duty assignment.

11 Temporary total disability (TTD) wage-loss benefits are monetary benefits paid to an
12 employee who is temporarily unable to do any work at all.

13 Montana Code Annotated § 45-6-301(5)(b) provides that a person commits the
14 offense of Theft if the person purposely or knowingly obtains or exerts or helps another
15 obtain or exert unauthorized control over any part of any benefit provided under the
16 Workers' Compensation Act by means of deception or other fraudulent action. A person
17 convicted of Theft, common scheme, a felony, shall be fined in an amount not to exceed
18 \$50,000 or be imprisoned in a state prison for a term not to exceed 10 years, or both.

19 **ALLEGED INJURY AND TTD BENEFITS**

20 On June 16, 2015, the Defendant claimed that he suffered a workplace knee injury
21 while employed by Campbell's Plumbing and Heating of Belgrade, Montana.
22 Campbell's Plumbing had an active workers' compensation insurance policy with MSF at
23 that time.

24 Nine days prior to this alleged right knee injury, the Defendant competed in a
25 motocross race¹ near Clancy, Montana. The motocross race was called the "Crazy Ben
26

27

¹ "Motocross" is a cross-country motorcycle race over a closed course of rough terrain with steep hills and sharp turns. *Am.. Heritage Dictionary* 1150 (5th ed., Houghton Muffin Harcourt 2011)

1 XC.” It occurred on June 6 and 7, 2015. According to the motocross race organizer, the
2 Defendant finished in 10th place. The Defendant’s motocross bike number is 722.

3 Agent Komora discovered video footage from this race on the race’s website. A
4 weblink from this website showed video clips of the race trail, the wooded landscape and
5 muddy terrain, and the obstacle course section of the race, which included jumping the
6 motorcycle over logs, riding over a pile of rocks and tires, and other obstacles.

7 Subsequent investigations uncovered that the Defendant competed in three other
8 motocross races in the two months prior to his alleged workplace injury.²

9 The Defendant’s right knee injury allegedly occurred while he was working at a
10 jobsite in Bozeman, Montana, on June 16, 2015. The Defendant’s main duties at
11 Campbell’s Plumbing were to install HVAC (Heating Ventilation & Air Conditioning)
12 systems and conduct service calls. The Defendant claimed he injured his right knee
13 while doing forced air installation in an attic. There were no witnesses to this injury.

14 The Defendant saw a nurse practitioner later that day at an urgent care center. The
15 Defendant denied that any non-work-related event or illness possibly contributed to or
16 was related to the development of his symptoms. The nurse practitioner diagnosed the
17 Defendant with a sprained knee. The nurse practitioner recommended modified work
18 duty for the Defendant to include wearing a knee brace at work, not to kneel, squat, run,
19 jump, or lift anything over 25 pounds in weight. The Defendant’s follow-up appointment
20 was two weeks later. The Defendant went back to work at Campbell’s Plumbing.

21 That same day, the Defendant filed an MSF First Report of Injury (FROI) form
22 claiming that he was injured at work. The Defendant stated on the FROI that he tripped
23 and twisted his right knee while working in an attic. The Defendant signed and submitted
24 the FROI form to MSF. Next to the Defendant’s signature on the FROI is a warning.

25
26
27 ² April 25/26, 2015 at OUGHTsixENDURO race near Cascade, MT;
May 16/17, 2015 at the Burnt Timber XC near Winifred, MT; and
May 30/31, 2015 at Idaho City 100 Enduro Race near Idaho City, ID.

1 The warning states, "I also understand that if I obtain or exert unauthorized control over
2 workers' compensation benefits, I may be subject to civil and criminal penalties."

3 MSF reviewed the Defendant's claim. MSF sent the Defendant a letter, which
4 explained the workers' compensation benefits procedures. This letter also warned the
5 Defendant if he received benefits he was not entitled to then he may be criminally
6 prosecuted and may be guilty of theft.

7 Eleven days after the Defendant's claimed right knee injury and before his next
8 follow-up medical visit, the Defendant competed in a motocross race near Belfry,
9 Montana. The Elk Basin Cross County race occurred on June 27 and/or June 28, 2015.
10 The Defendant took 5th place in his division.

11 On June 30, 2015, the Defendant went to the urgent care for his follow-up
12 appointment. The Defendant complained of similar symptoms as before. The Defendant
13 denied that any non-work-related event or illness possibly contributed to or was related to
14 the development of his symptoms. The nurse practitioner recommended modified work
15 duty for the Defendant to include no kneeling or squatting.

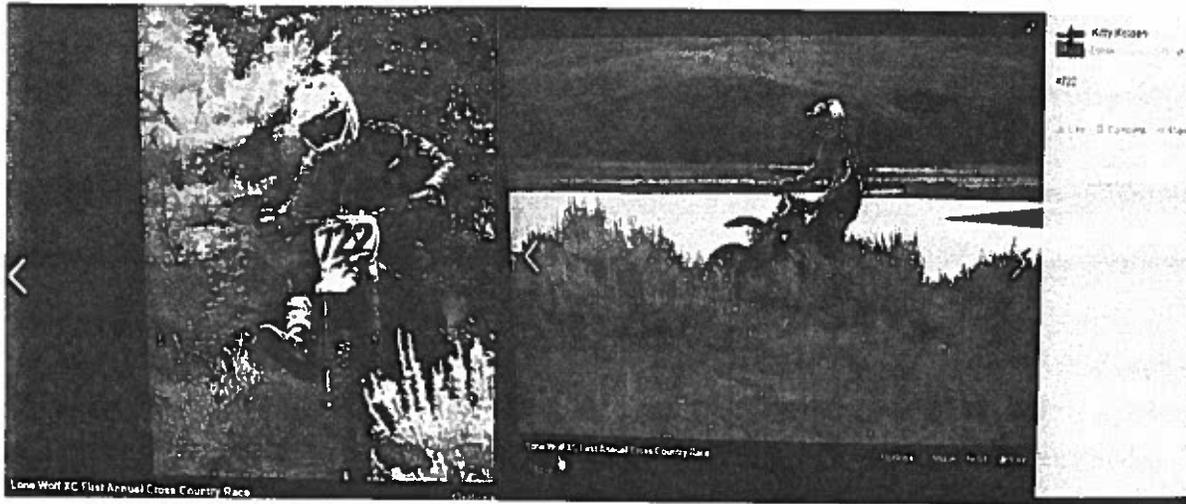
16 Also, on June 30, 2015, MSF accepted the Defendant's claim. MSF began paying
17 the Defendant's medical bills. That same day, MSF Claim Examiner Michael Sanders
18 spoke with the president of Campbell's Plumbing, Jeff Nehring. Nehring had concerns
19 about the Defendant's MSF claim. Nehring stated that the Defendant participated in a
20 motorcycle race the previous weekend (i.e. Elk Basin race). See supra.

21 Nehring knew that motorcycle racing was a physical sport with riders often
22 sustaining injuries. Nehring heard that the Defendant had injured his knee riding dirt
23 bikes well before the purported workplace injury.

24 Claims Examiner Sanders also spoke with the Defendant on June 30, 2015.
25 Sanders asked the Defendant about the claimed injury, previous injuries, job description,
26 job history, and the Defendant's hobbies. Sanders also asked the Defendant what the
27 Defendant had been doing since the claimed right knee injury. The Defendant stated that

1 he was trying not to aggravate it and was being extra cautious. The Defendant did not
2 mention to Sanders that he competed in a motocross race in Belfry three days earlier.

3 Less than two weeks later, the Defendant competed in another motocross race near
4 Wolf Point, Montana. The motocross race, called the Lone Wolf Cross Country,
5 occurred on July 11 and/or July 12, 2015. The following photos were found on the social
6 media website, Facebook, and were from the Lone Wolf motocross race:



16 As noted above and below, the Defendant's motocross bike number is 722.

17 On July 20, 2015, Dr. Michael Ferrell examined the Defendant at Bridger
18 Orthopedic in Bozeman. Dr. Ferrell diagnosed the Defendant with meniscus tear in his
19 right tear. Dr. Ferrell released the Defendant to return to work with certain restrictions.
20 The restrictions included a limitation of lifting anything heavier than 25 pounds and from
21 climbing. The Defendant received a magnetic resonance imaging (MRI) of his knee.

22 On July 29, 2015, Dr. Ferrell reviewed the MRI findings with the Defendant and
23 discussed treatment options. The MRI confirmed the tear. The Defendant chose to have
24 surgery. Dr. Ferrell continued the Defendant's work restrictions. Campbell's Plumbing
25 could not accommodate the Defendant's work restrictions.

26 The Defendant started receiving workers' compensation temporary total disability
27 (TTD) wage-loss benefits from MSF based on the Defendant's workplace injury claim.

1 The Defendant received approximately \$1,304.04 in bi-weekly TTD wage-loss benefits.
2 The Defendant's last TTD benefits payment from MSF was on or about September 28,
3 2016. Thus, the Defendant received at least 30 checks of TTD benefits in this case.

4 The Defendant's right knee surgery occurred on August 7, 2015. Dr. Ferrell noted
5 a complex tear in the meniscus in the Defendant's right knee. Following surgery, the
6 Defendant received physical therapy.

7 On August 17, 2015, Dr. Ferrell saw the Defendant for a post-surgery examination
8 and reviewed the surgery results with the Defendant. Based in part on the Defendant's
9 complaints, Dr. Ferrell recommended sedentary work-duty only.

10 On September 22, 2015, Dr. Ferrell saw the Defendant for another post-surgery
11 examination. The Defendant was unhappy and complained of sharp pain underneath his
12 knee cap. Based in part on the Defendant's complaints, Dr. Ferrell recommended
13 modified work duty for the Defendant to include no kneeling, prolonged squatting,
14 climbing or lifting anything over 10 pounds.

15 Less than a month later, Dr. Ferrell saw the Defendant again. The Defendant
16 reported pain in his knee and was unhappy with his post-surgery recovery. The
17 Defendant mentioned that he went for a bike ride the previous week and has had pain
18 since then. Dr. Ferrell ordered an arthrogram.³

19 The arthrogram revealed a complex tearing in the meniscus of the right knee.
20 Dr. Ferrell examined the Defendant and informed him of the recurrent meniscus tear.
21 They discussed treatment options. The Defendant chose to have a second surgery on the
22 same right knee. The second surgery occurred on December 2, 2015.

23 On December 16, 2015, Dr. Ferrell saw the Defendant. The Defendant reported
24 that his right knee felt better, but he had yet to start physical therapy.

25 On February 2, 2016, Dr. Ferrell saw the Defendant. The Defendant reported that
26 he was doing much better than after his first knee surgery. The Defendant complained of
27

³ "Arthrogram" is a radiograph of a joint. *Stedman's Med. Dictionary for the Health Prof. & Nursing* 143 (7th ed., Wolters Kluwer Health 2012)

1 pain in the front of his knee joint when he knelt down. Dr. Ferrell found no mechanical
2 symptoms. Based in part on the Defendant's complaints, Dr. Ferrell recommended
3 modified work restrictions which included a prohibition from climbing or lifting anything
4 heavier than 25 pounds.

5 On or about February 3, 2016, Campbell's Plumbing called MSF. They indicated
6 that they could not accommodate the Defendant's work restrictions and could not bring
7 him back into their employment until the Defendant was full-duty.

8 Michael Campbell, the part owner of Campbell's Plumbing, recalled seeing
9 pictures of the Defendant on Facebook riding dirt bikes. These pictures occurred after
10 the Defendant's claimed injury. Campbell stated that anyone who could compete in a
11 very physical, cross-country motorcycle race could do any of the job requirements at
12 Campbell's Plumbing.

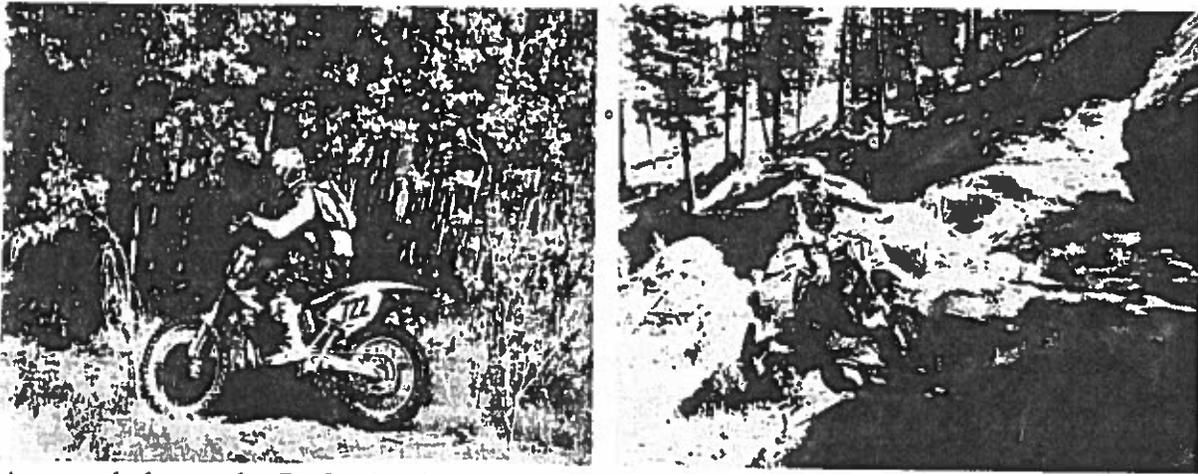
13 Sometime in the spring of 2016, Campbell also spoke to his half-brother, Will
14 Morgan. Morgan relayed to Campbell that the Defendant was riding and racing dirt
15 bikes. Morgan raced motorcycles with the Defendant. It involved riding motorcycles in
16 the mountains, and the races were usually two to three hours long.

17 According to Campbell, Campbell's other brother Stan saw the Defendant at a
18 construction store at some point after the Defendant's claimed workplace injury. The
19 Defendant appeared to be walking fine until the Defendant saw Stan. After the
20 Defendant saw Stan, the Defendant began to limp. According to Stan, within a few
21 seconds, the Defendant saw Stan and the Defendant's "emotion on his face change[d] and
22 he began limping."

23 On March 8, 2016, Dr. Ferrell saw the Defendant. The Defendant complained that
24 physical therapy caused him knee pain and swelling. The Defendant stated that squatting
25 exercises aggravated his pain. Dr. Ferrell noted that the Defendant's progress "is slower
26 than expected."
27

1 On April 20, 2016, Dr. Ferrell examined the Defendant. The Defendant
2 complained of a sharp, knee pain occurring six to eight times a day.

3 On or about June 4 or June 5, 2016, the Defendant competed in the Crazy Ben XC
4 motocross race near Clancy, Montana. This was the same race the Defendant competed
5 in the previous year. As noted above, the Defendant claimed he injured his knee at work
6 nine days after competing in the 2015 Crazy Ben XC race. The Defendant finished in
7 10th place in 2015 and 8th place in 2016. The following photos were discovered on
8 Facebook from the 2016 Crazy Ben XC race:



16 As noted above, the Defendant's motocross bike number is 722.

17 Will Morgan saw the Defendant at the 2016 Crazy Ben XC race. Morgan saw the
18 Defendant kick-start the Defendant's motorcycle and ride around the campground in
19 preparation for the race. Morgan also saw the Defendant ride his motorcycle away from
20 the campground to the starting line of the race.

21 Morgan also spoke with the Defendant at this race. The Defendant told Morgan
22 that his knee felt pretty good 90% of the time but would have some shooting pain once in
23 a while. The Defendant also told Morgan that he rode his dirt bike around his house.

24 Morgan worked at Campbell's Plumbing when the Defendant first started working
25 there. Morgan's work involved hot water plumbing while the Defendant's work involved
26 forced air installation. According to Morgan, if the Defendant could compete in these
27 races, then the Defendant could absolutely perform his work at Campbell's Plumbing.

1 About two weeks after the 2016 Crazy Ben XC race, the Defendant competed in a
2 motocross race in Kellogg, Idaho. The race occurred on June 18 and/or June 19, 2016.

3 MSF contracted with a private investigative company to conduct surveillance of
4 the Defendant. Peter Nolan of Day and Associates surveilled the Defendant. The
5 surveillance occurred on June 25 and June 26, 2016.

6 Nolan observed the Defendant at the 2016 Elk Basin motocross race near Belfry,
7 Montana. The Defendant was assisting his daughter during his daughter's motorcycle
8 race on June 25 as well as competing in the motocross race himself on June 26, 2016.
9 The Defendant competed in this same race the previous year.

10 Over these two days, Nolan saw the Defendant walking without a limp, running
11 across uneven terrain, including uphill and downhill, kneeling down on his right knee,
12 forcefully kick-starting a motorcycle with his right leg, pounding tent stakes into the
13 ground with his right foot/leg, walking backwards while guiding a motorcycle down a
14 trailer ramp, riding a motorcycle, standing up and straddling the motorcycle, pushing a
15 motorcycle up a ramp into a trailer, and squatting.

16 Nolan observed the Defendant participate in this race, which lasted over two
17 hours. The Defendant placed 8th in his division. Nolan video-recorded many of the
18 Defendant's activities, including the Defendant racing. The Defendant's motocross bike
19 plate number was #722. The following computer screen snapshot was taken from
20 Nolan's video footage:



1 On July 9 and/or July 10, 2016, the Defendant competed in another motocross
2 race. It was the Lone Wolf Cross Country motocross race near Wolf Point. This was the
3 same race the Defendant competed in the previous year.

4 Less than a month after Nolan's surveillance and the Belfry and Wolf Point races,
5 Dr. Emily Heid conducted an Independent Medical Examination (IME) of the Defendant.
6 The IME occurred on or about July 14, 2016, which is only four days after the Lone Wolf
7 race. The IME included a review of the Defendant's medical history and records, the
8 Defendant's current complaints, a physical examination, and a review of any treatments
9 concerns.

10 Dr. Heid concluded that the Defendant's subjective pain complaints did not
11 correlate with her objective medical findings. Dr. Heid reported that the Defendant had
12 full range of motion and no visible atrophy in his quadriceps.

13 The Defendant reported to Dr. Heid that he was concerned about returning to work
14 because he does not feel that he could crawl, squat or sit for long periods of time. The
15 Defendant stated he did not feel he could climb a ladder. The Defendant also expressed
16 concern about using a machine called a stomp-shear where he would have to use his right
17 leg to stomp hard on a lever.

18 Dr. Heid noted many conflicting items between what the Defendant subjectively
19 reported to her and objective observations. For example, the Defendant limped during
20 the IME, but did not limp during the Elk Basin motocross race less than a month earlier.
21 The Defendant stated the he was not able to do yard work or run and play with his
22 children at home, yet the Defendant was competing in motorcycle races where he could
23 be seen squatting fully, kneeling, running up and down hills, using his right leg to kick-
24 start motorcycles, pushing off with his right leg, and helping his child compete at a race.

25 Dr. Heid stated:

26 If the self-reported history of Mr. Caruana is reliable then his work-related
27 diagnosis is a medial meniscal tear of the right knee. If the self-reported history of
Mr. Caruana is deemed unreliable, he has no work-related injury. In my opinion,

1 the provided video raises the question of whether or not Mr. Caruana may be
2 considered a reliable historian.

3 The Defendant also hosted a motocross riding clinic at or near his home in the
4 summer of 2016. Based on information and belief, this motocross clinic occurred on or
5 about July 23 and July 24, 2016, which would be 10 days after the Defendant's IME.
6 The Defendant has a dirt bike track at this home or property in Three Forks, Montana.
7 Pictures from this clinic show that the Defendant rode his motocross bike at it.

8 On September 3 and/or 4, 2016, the Defendant competed in the Burnt Timber
9 motocross race near Winifred, Montana. The Defendant finished in 7th place.

10 On September 17 and/or 18, 2016, the Defendant competed in another motocross
11 race. The Defendant placed 7th at the Coyote Run race in Billings, Montana.

12 On September 21, 2016, MSF Fraud Investigator Shane Shaw interviewed the
13 Defendant. The interview occurred about three days after the Defendant's motocross
14 race in Billings. The Defendant told Shaw that one of the hardest difficulties from his
15 claimed injury was not being able to play with his daughter.

16 The Defendant also told Shaw that he could not race, run, kneel or crouch. The
17 Defendant complained that walking aggravates his knee, he has trouble squatting and
18 bending his right knee, he gets an electronic shock sensation when his knee touches the
19 ground, and he could probably never mountain bike or ski again. The Defendant stated
20 that he would be scared to even try mountain biking or skiing now. The Defendant also
21 stated that he was limited in doing about every activity.

22 The Defendant told Shaw that he had not raced his motorcycle for three years.
23 The investigation revealed that the Defendant competed in at least 12 motorcycle races in
24 the preceding 1½ years, which included two races in the previous 18 days.

25 The following day, September 22, 2016, the Defendant called MSF Claims
26 Examiner Sanders. The Defendant left a message trying to explain his statements to
27 Shaw and admitted to riding his dirt bike.

1 Agent John Komora investigated the Defendant's conduct and his MSF claim.
2 Agent Komora reviewed the Defendant's healthcare records relating to his claim. Agent
3 Komora did not find any comments made by the Defendant to his providers, during the
4 timeframe he received TTD benefits, that he was racing his motorcycle. The only
5 reference Agent Komora found occurred on October 13, 2015, in which the Defendant
6 stated to Dr. Ferrell that he had ridden his bike the previous week. See supra.

7 Agent Komora interviewed the Defendant. The Defendant waived his *Miranda*
8 rights. The Defendant recounted how he injured his right knee while working in an attic.
9 The Defendant acknowledged that Campbell's Plumbing could not accommodate the
10 work restrictions his doctors recommended. The Defendant acknowledged receiving
11 TTD wage-loss benefits in the form of bi-weekly paychecks. The Defendant deposited
12 these checks at Stockman Bank.

13 Contrary to his statements to MSF Investigator Shaw, the Defendant admitted to
14 Agent Komora that he rode his motorcycle. The Defendant stated that riding his
15 motorcycle did not bother his knee and strengthened his muscles. The Defendant
16 admitted to competing in the Crazy Ben XC race in Clancy in June 2016 and several
17 others after that. Again, the Defendant stated that racing did not bother his knee. The
18 Defendant stated his race number was 722.

19 The Defendant acknowledged reviewing the private investigator's video from the
20 June 25 and June 26, 2016 Elk Basin race. The Defendant told Agent Komora, "...yeah I
21 saw that video and thought I absolutely knew that I should not be doing that ..."

22 Agent Komora pointed out that the Defendant was not limping at the Elk Basin
23 race but then was limping during the IME with Dr. Heid, which was about two and a half
24 weeks later. The Defendant responded that the pain is a "come and go thing."

25 Agent Komora also interviewed Dr. Ferrell. Dr. Ferrell treated the Defendant for
26 nearly ten months after the initial injury report. Dr. Ferrell recalled the MRI, which
27 indicated a meniscus tear in the Defendant right knee, and the subsequent surgery.

1 Dr. Ferrell stated that most people who have had a similar surgery are back to full-
2 duty work status in about six weeks. Six weeks from the first surgery would have been
3 approximately mid-September 2015.

4 Dr. Ferrell reviewed his work restriction recommendations with his patients,
5 including the Defendant, at every visit. Work restrictions are based in part on a patient's
6 complaints and reporting to the treatment provider.

7 Dr. Ferrell recalled the Defendant complaining of pain after the first surgery. The
8 second MRI revealed a new or recurrent meniscus tear. At the time of the diagnosis of
9 this meniscus tear, the Defendant had not been working. Dr. Ferrell stated that in the ten
10 years of his practice as an orthopedic surgeon, he had never seen a meniscus tear without
11 a new traumatic event.

12 Dr. Ferrell reviewed the video surveillance footage from the 2016 Elk Basin race.
13 Dr. Ferrell met with the Defendant two months earlier. According to Dr. Ferrell, the
14 Defendant's activity level in the race was not consistent with his complaints during his
15 April 20, 2016 visit.

16 Agent Komora also interviewed Dr. Heid. Dr. Heid conducted the Defendant's
17 IME. See supra. The Defendant told Dr. Heid that he could not do any yard work, crawl,
18 squat, or sit for long periods of time. The Defendant complained of pain when standing
19 with weight on his right leg. The Defendant never told Dr. Heid that he raced
20 motorcycles. Dr. Heid considered it unusual that the Defendant did not list motorcycle
21 racing as one of his activities because motorcycle racing is a high-risk activity for injury.

22 The Defendant completed a pain disability score during the IME. The
23 Defendant's score was inconsistent with Dr. Heid's observations as well as inconsistent
24 with the Defendant's ability to motocross race. Dr. Heid reviewed the video footage
25 from the June 25/June 26, 2016 Elk Basin race. As noted above, the IME occurred
26 twenty days after this motocross race.

1 Dr. Heid noted that the Defendant could walk normally with no sign of a limp, had
2 normal stride lengths, ran at times through sage brush on a hillside, ran at a normal pace,
3 ran uphill over rocky terrain, used his right leg to repeatedly kick-start a motorcycle,
4 erected a tent/canopy and used his right foot to drive the tent stakes into the ground, was
5 able to fully squat down with his knees fully flexed and stand up easily afterwards, and
6 did not limp after doing so. Many of the activities translate to similar movements
7 necessary for the Defendant to work in full-duty status for Campbell's Plumbing.

8 However, during the IME, the Defendant limped consistently and would not squat
9 down fully. Dr. Heid stated, "...I would say the presentation I saw on July 14, 2016 is
10 wholly inconsistent of what I saw on that surveillance video."

11 Dr. Heid also conducted a distraction test during the IME. A distraction test is a
12 method of examining and evaluating a specific area of the patient's body without the
13 patient realizing that specific area is being evaluated. Dr. Heid conducted this test on the
14 Defendant's knee. During this test, the Defendant did not report any pain.

15 Ultimately, Dr. Heid found that the Defendant was at maximum medical
16 improvement. Dr. Heid recommended that the Defendant immediately return to full duty
17 work with no restrictions.

18 On September 26, 2016, MSF sent the Defendant a letter. The letter informed the
19 Defendant that Dr. Heid released him to full-duty status. The letter informed the
20 Defendant that MSF would terminate his TTD wage-loss benefits on October 10, 2016.
21 On September 28, 2016, MSF sent the Defendant his final TTD wage-loss payment.

22 The next day, the Defendant called MSF Claims Examiner Sanders. Among other
23 things, the Defendant admitted to Sanders to competing in six motorcycle races since
24 January 2016. The Defendant stated that the races lasted about two hours each.

25 Within 14 days of the termination of his TTD benefits, the Defendant was hired by
26 a different plumbing and heating company in Belgrade. On October 24, 2016, Central
27 Plumbing and Heating of Belgrade hired the Defendant.

1 SUMMARY

2 From approximately June 16, 2015 to October 10, 2016, the Defendant was
3 collecting medical and/or TTD benefits from MSF under the claim that he was injured at
4 work. Additionally, the Defendant misrepresented his condition to medical personnel
5 and to MSF so that his workers' compensation benefits would continue even though he
6 was capable of working at a full-duty-status. The Defendant's conduct occurred in a
7 continuing course. Because of the Defendant's deception or fraudulent actions as noted
8 above, the Defendant purposely or knowingly obtained or exerted unauthorized control
9 over workers' compensation benefits, valued at more than \$1,500.

10 During this time fame, the Defendant received up to \$91,770.18 worth of medical
11 benefits and \$40,937.78 in TTD wage-loss benefits that he was not entitled to. Just
12 considering the time frame of June 2016 (the Defendant's first post-surgery motocross
13 race) to October 10, 2016, the Defendant received at least \$12,295.14 in TTD benefits.

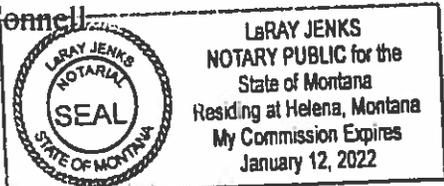
14 The Defendant engaged in a series of acts or omissions motivated by a purpose to
15 accomplish a single criminal objective or by a common purpose or plan that resulted in
16 the repeated commission of the same offense (Theft) or that affected the same person or
17 the same persons (State Fund) or the property of the same person or persons (State Fund
18 compensation/benefits). The value of property in this case exceeds \$1,500.

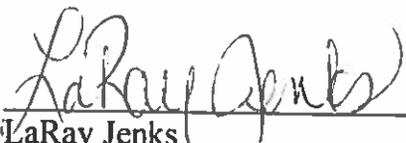
19 Based on these facts, the affiant believes probable cause exists that the Defendant
20 has committed the alleged offense of felony Theft. Accordingly, the affiant moves the
21 Court for leave to file the requested Information.

22 Dated this 15th day of April, 2019.

23 
24 CHRIS McCONNELL
Assistant Attorney General

25 SUBSCRIBED AND SWORN TO before me this 15th day of April, 2019 by
26 Chris McConnell




LaRay Jenks