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MONTANA THIRTEENTH JUDICIAL DISTRICT COURT, YELLOWSTONE COUNTY

STATE OF MONTANA,

Plaintiff,

vs.

CRISTOVAL ANTONIO MONTANEZ,
 Defendant.

CAUSE NO. DC 21-0687

JUDGE: GREGORY R. TODD

**MOTION FOR LEAVE TO FILE
 AMENDED INFORMATION WITH
 SUPPORTING AFFIDAVIT**

The undersigned Deputy County Attorney of Yellowstone County, Montana, being first duly sworn upon his oath, moves the Court for Leave to File an Amended Information based upon an investigation conducted by law enforcement officers charging the above-named Defendant with the offenses of:

COUNT I: ARSON (FELONY)
OR IN THE ALTERNATIVE TO COUNT I:
COUNT II: ARSON (FELONY)
COUNT III: ARSON (FELONY)
COUNT IV: ARSON (FELONY)
COUNT V: ARSON (FELONY)

committed at Yellowstone County, State of Montana, on or about April 10, 2021, through May 11, 2021.

That law enforcement officers have made a full and careful investigation of all the facts and circumstances surrounding the commission of said offense, so far as they are known or ascertainable; that he believes it a proper case for filing of an Amended Information and that for this reason, and none other, the foregoing motion is made.

The Court is informed that the Billings Police Department (BPD) investigation revealed the following:

On April 10, 2021, the Billings Fire Department (BFD) responded to a reported structure fire on the 600 block of S. 32nd St. in Billings, Montana. There, they discovered fire on the south exterior siding of a detached alley apartment. BFD extinguished the fire and Deputy Fire Marshal Morgan responded to investigate. This was one of two fires reported approximately 30 minutes apart occurring in alley-accessed outbuildings. The two fires were found about two blocks apart. Deputy Fire Marshal Morgan reviewed video

surveillance of a male in the area approximately 15 minutes before smoke was visible. This was all relayed to BPD Detective Dennler.

Detective Dennler arrived on scene and assisted Deputy Fire Marshal Morgan's investigation. Detective Dennler also reviewed the surveillance and saw a male wearing a backpack looking around the area, walking out of view, and then returning to view backpack in-hand just prior to smoke appearing from the structure. The male was described as White, in his 20s, average build, black shoes with gray accents, black athletic pants with a white stripe, a gray hoodie, blue t-shirt, and backpack. The male also appeared to have dark, scruffy facial hair and eyeglasses.

The structure was occupied by several people at the time of the fire, they are identified by initials as C.S. (born in June 1986), C.A. (born in January 1991), A.B. (born in July 1990), and John Jane Doe #1. C.S. said he lives in the building that was burned and that he was present at the time with his girlfriend, C.A. Two co-workers had come over earlier and the four planned to go to Ihop for breakfast later. C.S. said he and C.A. were asleep in the bedroom during the fire. The two co-workers, A.B. and John Jane Doe #1 were asleep in the living room during the fire. C.S. and C.A. awoke because of the smoke from the fire causing them to cough and choke. Their bedroom was located on the south side of the structure and the arsonist set fire to its exterior wall. All four exited the building safely. C.S. said that in the moment he had been scared he may die due to the smoke.

The evidence reflects that the wall of the structure was ablaze. Evidence also reflects the cause of fire as incendiary in which specific material was ignited next to the building siding. Internal accidental sources were ruled out. The cost of repair is estimated at \$5,599.09.

On May 11, 2021, Fire Marshal Spini sent notice to the Fire Investigation Team that over the past few weeks there were several fires in the same south-side Billings area with similar circumstances. One such fire had video surveillance of a male walking down an alley, holding a lighter up to several spots on the exterior siding of a building and then leaving once the siding caught fire. The male in the video matched the description and dress from the suspect seen on video in the April 10 fire. On May 12, 2021, law enforcement developed a lead in the arson string by pulling a fingerprint from a piece of cardboard used to start a fire at a structure on the 3200 block of 5th Ave. S on May 10. That fingerprint returned to CRISTOVAL MONTANEZ (born February 1995), the Defendant herein. Law enforcement records showed the Defendant matched the description of the male suspect seen in multiple video surveillance captures.

Detectives Dennler and Lapham compiled data of 19 separate fires in the Billings South Side between April 10, 2021, and May 10, 2021. The fires were of varying size and degree of severity as follows:

1. Saturday April 10, 2021, at 0910 hours in the 600 block of South 32nd Street, owner R.M. (DOB TBD). This was a residential building structure off the alley that was on fire and charged as Counts I and II herein.
2. Saturday April 10, 2021, at 1038 hours in the 400 block of South 33rd Street, T.C.N. (born January 1952). This was the inside of a garage of the alley that was on fire. Video surveillance showed the Defendant was observed at the scene shortly before the smoke was observed coming from the garage.

The Defendant was dressed the same as observed on the other 4/10/21 surveillance. The damage amount is yet to be determined.

3. Wednesday April 14, 2021, at 0338 hours in the 400 block of South 33rd Street, victim City of Billings. This was a dumpster fire that was also melting a fence. The fire was in progress at the time of the call in and BPD patrol that responded extinguished the fire.
4. Thursday April 15, 2021, at an unknown time in the 300 block of South 32nd Street, victim B.A.W. (born January 1988). Investigators located charred fencing and charred items at this location while investigating the April 14, 2021, fire described herein. The charred items were consistent with the items used at the origin of fire of the offenses charged in Counts I and II. The damage amount is yet to be determined.
5. Thursday April 22, 2021, at 0550 hours in the 200 block of South 31st Street, victim J.L.A. (born September 1965). This was an alley garage fire. The fire marshal's investigation concluded the evidence was similar/linked to the prior fires described herein. The damage amount is yet to be determined.
6. Sunday April 25, 2021 at 0925 hours in the 300 block of South 34th Street, victim S.L. (DOB TBD). This was a shed on fire. The damage amount is yet to be determined.
7. Sunday April 25, 2021, at 1003 hours in the 200 block of South 30th Street. This was a tree of fire that subsequently caught a larger wooden shed on fire, victim John/Jane Doe #2 TBD. The damage amount is yet to be determined.
8. Monday April 26, 2021, at 0919 hours in the 20 block of Broadwater Avenue. This was someone caught lighting a fire, but a connection to the others described herein is not apparent at this time and is not therefore listed in any charge at this time.
9. Wednesday April 28, 2021, at 0400 hours in the 400 block of South 34th Street, victim D.O.B. (born February 1958). This was a report of a porch having had been lit on fire, possibly within the past 24 hours. Charred items found on scene were consistent with the items used at the origin of fire of the offenses charged in Counts I and II. The damage amount is approximately \$800.
10. Sunday May 2, 2021, at 1036 hours in the 400 block of South 32nd Street, victim B.N (DOB TBD). This was a garage and its door on fire. The damage amount is yet to be determined.
11. Saturday May 8, 2021 at 1620 hours in the 600 block of South 35th Street, victim City of Billings. This was a City of Billings trash can, bushes and fence on fire spreading close to a shed. The damage amount is yet to be determined.
12. Sunday May 9, 2021 at 1433 hours in the 500 block of South 32nd Street, victim D.J.O. (born January 1985). This was a fire burning a garage where a neighbor put it out. The repair costs by the owner was approximately \$100.

13. Monday May 10, 2021, at 0230 hours in the 500 block of South 32nd Street, victim D.J.O. (born January 1985). This was a garage fire. The Defendant was observed on surveillance at the scene bending down by the corner, igniting a lighter, and watching the flames catch the building on fire. The damage amount is approximately \$1,000.
14. Monday May 10, 2021, at an unknown time (call not called into the 911 center) in the 200 block of South 32nd Street, victim L.G. (born September 1951). This was a fire of a fence and wood pile. The damage amount is approximately \$500.
15. Monday May 10, 2021, at 1118 hours in the 3200 block of 5th Avenue South, victim M.B. (born February 1956). This was a trash fire in an alley. The charred items were consistent with the items used at the origin of fire of the offenses charged in Counts I and II. The Defendant's prints were located on recovered items used to ignite the fire. The damage amount is yet to be determined. The damage amount is approximately \$1,000.
16. Monday May 10, 2021, at 2028 hours in the 300 block of South 33rd Street. This was in an alley with furniture on fire that spread to a building, victim John/Jane Doe #3 TBD. The damage amount is yet to be determined.
17. Monday May 10, 2021, at 0911 hours in the 300 block of 33rd Street, victim John/Jane Doe #4 TBD. This was furniture/dumpster on fire in an alley that spread. The caller reported a male that matched the description of the Defendant in the area by the burnt items just before the fire was observed.
18. Tuesday May 11, 2021, at 1509 hours in the 400 block of South 32nd Street, victim T.F.K. (born June 1957). This was fire damage to a garage when the property owner was checking the area. Charred items found on scene were consistent with the items used at the origin of fire of the offenses charged in Counts I and II. The damage amount is yet to be determined.
19. Saturday April 24, 2021, at 1411 hours in the 400 block of South 33rd Street, victim M.L.C. (born January 1938). This was a report that someone had attempted to burn a home and two feet of siding had melted. Charred items found on scene were consistent with the items used at the origin of fire of the offenses charged in Counts I and II. The damage amount is yet to be determined.

The detectives also generated a map showing the locations and proximity of each of these fires, as well as two surveillance cameras, denoted as (C) that some information was based on. This map is incorporated herein as follows:

Prior to the interview, Detective Dennler advised the Defendant of his *Miranda* rights. The Defendant acknowledged his rights and agreed to give a statement which was recorded. The Defendant identified himself as the person in the surveillance footage. When asked for specifics about how he set the fires, the Defendant said he couldn't remember. The Defendant then repeatedly said he didn't need to set the fires, he didn't want to hurt anyone, and he wanted his parents to care about him. The Defendant admitted he was the person responsible setting the fires. The Defendant said he did it in order to get attention to get his parents to care about him.

Fire Marshal Spini presented the Defendant with photographs from the fires. One photo included the piece of cardboard which carried the Defendant's fingerprint. The Defendant recalled the cardboard was from a nearby dumpster. This information was not public knowledge and added credibility to the Defendant's admissions. The interview was concluded, and the Defendant was arrested on an outstanding bench warrant for nonappearance.

Since being incarcerated the Defendant has made recorded calls incriminating himself. On a May 17, 2021, call to his mother the Defendant complained she and his father never listen to him and that is why he did "the things outside." In a May 20, 2021, call in which he was speaking with his sister, the Defendant complained to her that their parents do not care about him and do not listen to him. The Defendant's sister confronted him about setting the fires and the Defendant justified setting them, claiming his parents do not listen to him and need to treat him better.

The investigation of continues.

I declare under penalty of perjury that the foregoing is true and correct.

DATED: June 3, 2021

/s/ Brett D. Linneweber
Deputy County Attorney

CERTIFICATE OF SERVICE

I, Brett D. Linneweber, hereby certify that I have served true and accurate copies of the foregoing Motion - Motion and Affidavit for Leave to File Information to the following on 06-03-2021:

Kris Copenhaver (Attorney)
207 North Broadway, Suite 201
Billings MT 59101
Representing: Cristoval Antonio Montanez
Service Method: eService

Electronically signed by Jennifer Fouhy on behalf of Brett D. Linneweber
Dated: 06-03-2021