

ALTERNATIVE COUNT V: CRIMINAL CHILD ENDANGERMENT, a Felony, in violation of M.C.A. § 45-5-628(1)(a).

Affiant has reviewed reports submitted by the Great Falls Police Department. These reports pertain to the events hereinafter described, and on the basis of the same, Affiant makes the allegations hereinafter set forth:

On November 20, 2019 at 9:07 a.m., Great Falls Police received a dispatch call from Stephanie Byington (Renova), who called 911 to report her child was not breathing. As dispatchers tried to walk her through conducting CPR, she reported that "blood was coming out" and sounded panicked. When officers arrived, they ran into Unit #1, then ran through the apartment into the child's room. The child was unresponsive, on the floor in the bedroom. The child (a five-year-old male identified hereinafter as "John Doe") was bleeding from the nose and mouth. Officers began doing CPR, but the child showed no responsiveness. The child had blood and what was possibly brain matter on his clothing and the floor around his body. It was later determined the substance on his head that was mistaken for brain matter was actually some sort of glue used to close a previous head laceration.

Officers identified Doe's father, Emilio Renova. There were two other people who had spent the night the previous night. The apartment is a two-bedroom one-bath residence. The other two people were identified as Racso Birdtail and Teanna Small. As officers looked around, they found blood in the bathroom on the bathtub ledge and inside the bathtub. There was a small streak of blood in the tub itself. The blood was streaked or smeared, and there was not a great quantity of blood deposited on the tub.

On closer examination, Officers noticed Doe was covered in bruises. His knees, torso, ribs, face were all bruised. One of the child's leg appeared to be abnormal and possibly broken. This was later determined to be due to the child's low weight and was a protuberance of the bones in his knee. There was blood on the carpet in several locations.

The parents said they found the child on the floor. Based on the on-scene assessment of officers, Doe appeared to have been assaulted. The child had an obvious gash on his head that was about the size of a silver dollar. The gash was on his hairline and was very apparent as it had been closed with some sort of glue in an amateur fashion.

The occupants of the apartment were not in distress when officers arrived. The father was not reacting as officers would have expected for such a traumatic event. The mother was very upset for moments then would calm down. Their behavior was not consistent with what the officers would have expected from a mother and father experiencing such a traumatic event.

During the 911 call, Renova was not heard and was not assisting with CPR or helping in any other fashion from what can be heard on the call.

Sgt. Eric Bauman was the first on scene and saw Racso Birdtail walking out of the apartment carrying bags to a dumpster. Officers saw what appeared to be a bloody rag with other "gory stuff" on it in the dumpster. There were also alcoholic beverage containers and possibly clothing, all thrown in haphazardly. The dumpster was photographed in place and then moved to a more secure location to preserve the

contents. Racso later admitted to "cleaning up" the apartment by disposing of these items before police arrived, as he did not want the apartment to appear to be dirty. There was a large quantity of aluminum beer and twisted tea cans in a garbage bag in the dumpster. Officers also found a sweatshirt the child may have been wearing during the incident in the trash. The child can be seen wearing the same sweatshirt in the videos described below.

Emilio Renova was interviewed and admitted that he had been drinking. He claimed that he woke up that morning, went outside to smoke a cigarette and his wife came outside and told him his son was not breathing. Emilio claimed ignorance of any injuries to Doe or why he might not be breathing. Emilio admitted that he had been the last person to touch the child. When pressed further about the matter, he became upset and called detectives "faggots."

Based on observations by officers on scene, there are multiple discrepancies in Renova's statements. First, there is blood on Emilio's pants, which he claimed was nail polish. Emilio said he did not touch the child after he was injured. He did not assist in the CPR and thus would not have had blood on him in that manner. Second, officers noted blood on Emilio's face and lip that appeared as if it been cleaned off prior to officers arriving.

Scene evidence seen by the officers who performed CPR showed blood in the bed next to where Emilio normally lies. Based on other statements made by Stephanie, two other children were sleeping in the bed as well. There was what appears to be blood on the bed in the spot where a child would have slept on the bed.

Based on Renova's claims, he would have had to remove his arm from the child to exit the bedroom to go smoke a cigarette but claims he did not notice the child was non-responsive. Further, there would not have been time for the injuries to occur in the short time Emilio went outside to smoke. Based on where the blood was on the bed, and the extensive injuries to the child, it is unlikely Emilio would not have noted that when he climbed off of the bed.

The female visitor reported that the group drank several cases of beer and twisted tea. She said that at one point the five-year-old was up and got in trouble for being awake. Emilio and Stephanie took the child into the bathroom and gave him a cold shower. Emilio remained in the bathroom while Stephanie came out and called her sister. She then heard what she believed was Emilio and Racso beating the child in the bathroom. She reported that Racso was yelling like a drill sergeant and egging Renova on. She heard Emilio calling the child a "fucking faggot" and heard what she described as skin on skin contact like a beating.

She later wanted to use the bathroom and Emilio said the child was still in the bathtub. She went in and didn't see the child but noted the shower was still running. She believed it was cold water because there was no steam in the bathroom. Renova is charged in Count one for felony murder for committing or being legally accountable for the commission assault on a minor (count 2) a forcible felony and in the course of the Forcible Felony or flight thereafter, the Defendant or any person legally accountable for the crime caused the death of another human being, namely John Doe.

She said the child has to hold heavy cans or bottles up over his head as punishment. This was supported by a number of videos found on Byington's phone showing she and Renova leaving the phone's video camera on while they went outside to smoke to ensure the child held cans, or his arms, above his head. In one of the videos Byington and Renova re-enter and discovered the child had wet his pants and became very upset. In another video, the child had wet his pants and was taken into the bathroom where Renova strikes him in the head, folding the child to the floor. Byington likewise slaps the child a number of times in anger over the child wetting himself. Renova is charged with Count 3, assault on a minor for this videotaped blow.

Images of the child show a significantly injured and malnourished child. The child's last well visit with Dr. Goroski at Benefis on February 19, 2019 showed the child weighed 19.958 kg (approx. 44 pounds) At the time of his death the child weighed 31 pounds. Dr. Kathie Wells and Dr. Goroski both believe this supports a diagnosis of inorganic failure to thrive.

During her interview, Stephanie admitted to hearing Emilio beating Doe. Stephanie also reported that about a few weeks prior, Emilio had kicked Doe into a can of some sort, causing the child to be injured. (Count 4) This injury was closed with glue and left a large scab on his head, which is visible in photos. Additionally, Stephanie admitted that both she and Emilio had beaten Doe on prior occasions with a belt and electrical cords.

Both claim the other was the primary person responsible for feeding the child.

Given the foregoing, the undersigned has probable cause to believe that the Defendant has engaged in activity constituting the offenses of:

COUNT I: DELIBERATE HOMICIDE, a Felony, in violation of M.C.A. § 45-5-102(1)(b).

COUNT II: ASSAULT ON MINOR (BODILY INJURY), a Felony, in violation of M.C.A. § 45-5-212.

COUNT III: ASSAULT ON MINOR (BODILY INJURY), a Felony, in violation of M.C.A. § 45-5-212.

COUNT IV: ASSAULT ON MINOR (BODILY INJURY), a Felony, in violation of M.C.A. § 45-5-212.

COUNT V: CRIMINAL CHILD ENDANGERMENT, a Felony, in violation of M.C.A. § 45-5-628(1)(a).

ALTERNATIVE COUNT V: CRIMINAL CHILD ENDANGERMENT, a Felony, in violation of M.C.A. § 45-5-628(1)(a).

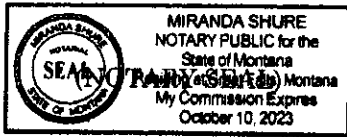
DATED this 29th day of July, 2021.

JOSHUA A. RACKI
Cascade County Attorney



Kory Larsen
Chief Deputy County Attorney

SUBSCRIBED AND SWORN TO before me on the 29th day of July, 2021.



Miranda Shure

Notary Public for the State of Montana,
Residing at Great Falls, Cascade County,
Montana.

My commission expires Oct 10, 2023

CERTIFICATION OF SERVICE

I hereby certify that I served a true and correct copy of the foregoing document

on:

Nick Brooke
Colin M. Stephens
315 W. Pine Street
Smith & Stephens, P.C.
Missoula, MT 59802

by U.S. Mail on this 29th day of July, 2021.

A handwritten signature in black ink, appearing to be 'K. D.', written over a horizontal line.

Cascade County Attorney's Office