

STATE OF INDIANA )  
) SS:  
TIPPECANOE COUNTY )

IN TIPPECANOE SUPERIOR COURT NO. 5  
CAUSE NUMBER 79D05 1110 -FD- 00438

STATE OF INDIANA

FILED INFORMATION OF: **Theft 35-43-4-2**  
SUPERIOR COURT NO 5 **D Felony**

VS.

2011 OCT 14 P 3:19

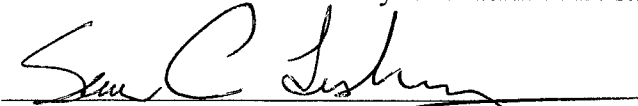
**ROBERT P MALAVENDA**  
1531 LIONHEART LANE  
WEST LAFAYETTE INDIANA 47906  
DOB: 06/27/1961  
OLN: 0770-79-9678

COUNT I

Affiant swears under the penalty of perjury as specified in I.C. 35-44-2-1 that on or about **OCTOBER 8, 2011** in Tippecanoe County, Indiana, **ROBERT P MALAVENDA** did:

- (**CONVERSION 35-43-4-3**) knowingly or intentionally exert unauthorized control over the property of \_\_\_\_\_, said property being \_\_\_\_\_. (A Misd.)
- (**THEFT 35-43-4-2**) knowingly or intentionally exert unauthorized control over the property of WAL-MART, said property being SMOKE ALARMS, LIGHT BULBS, PUMPKINS AND/OR BEDDING, with the intent to deprive the owner of any part of the property's value or use. (D Felony)
- (**AUTO THEFT 35-43-4-2.5**) knowingly or intentionally exert unauthorized control over the motor vehicle of another person with intent to deprive the owner of any part of the value or use of the automobile or its component parts. (D Felony)
- (**RECEIVING STOLEN PROPERTY 35-43-4-2**) knowingly or intentionally receive, retain, or dispose of the property of \_\_\_\_\_, said property being \_\_\_\_\_, that has been the subject of theft. (D Felony)
- (**CRIMINAL MISCHIEF 35-43-1-2**) recklessly, knowingly or intentionally damage the property of \_\_\_\_\_, said property being \_\_\_\_\_, without consent. (B Misd.)
- which resulted in a pecuniary loss greater than \$250 but less than \$2500. (A Misd.)
- which resulted in a pecuniary loss greater than \$2500. (D Felony)
- (**RESIDENTIAL ENTRY 35-43-2-1.5**) knowingly or intentionally break and enter the dwelling of \_\_\_\_\_. (D Felony)
- (**TRESPASS 35-43-2-2**) having no contractual interest in the property, knowingly or intentionally
- entered OR  refused to leave the real property of \_\_\_\_\_ after having been
- denied entry OR  asked to leave. (A Misd.)

All of which is contrary to the form of the statute, and against the peace and dignity of the State of Indiana.

  
\_\_\_\_\_  
Affiant

  
\_\_\_\_\_  
Deputy Prosecuting Attorney, # 23351-49

Case No. WLPD 2011-3763

Witness: Lt Fohr, Chris Heath, Wal-Mart Employees

STATE OF INDIANA )

IN TIPPECANOE SUPERIOR COURT NO. 5

) SS:

TIPPECANOE COUNTY )

CAUSE NUMBER 79D05 1110 -FD- 00438

STATE OF INDIANA

FILED  
SUPERIOR COURT NO. 5

INFORMATION OF: **Conversion 35-43-4-3**

**A Misdemeanor**

VS.

2011 OCT 14 P 3:19

**ROBERT P MALAVENDA**

COUNT II

1531 LIONHEART LANE

WEST LAFAYETTE INDIANA 47906

DOB: 06/27/1961

OLN: 0770-79-9678

Affiant swears under the penalty of perjury as specified in I.C. 35-44-2-1 that on or about **OCTOBER 8, 2011** in Tippecanoe County, Indiana, **ROBERT P MALAVENDA** did:

**(CONVERSION 35-43-4-3)** knowingly or intentionally exert unauthorized control over the property of WAL-MART, said property being SMOKE ALARMS, LIGHT BULBS, PUMPKINS AND/OR BEDDING. (A Misd.)

**(THEFT 35-43-4-2)** knowingly or intentionally exert unauthorized control over the property of \_\_\_\_\_, said property being \_\_\_\_\_, with the intent to deprive the owner of any part of the property's value or use. (D Felony)

**(AUTO THEFT 35-43-4-2.5)** knowingly or intentionally exert unauthorized control over the motor vehicle of another person with intent to deprive the owner of any part of the value or use of the automobile or its component parts. (D Felony)

**(RECEIVING STOLEN PROPERTY 35-43-4-2)** knowingly or intentionally receive, retain, or dispose of the property of \_\_\_\_\_, said property being \_\_\_\_\_, that has been the subject of theft. (D Felony)

**(CRIMINAL MISCHIEF 35-43-1-2)** recklessly, knowingly or intentionally damage the property of \_\_\_\_\_, said property being \_\_\_\_\_, without consent. (B Misd.)

which resulted in a pecuniary loss greater than \$250 but less than \$2500. (A Misd.)

which resulted in a pecuniary loss greater than \$2500. (D Felony)

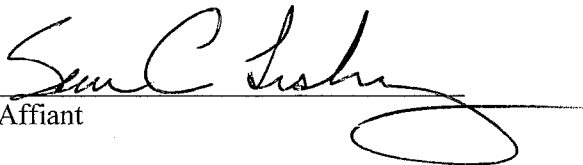
**(RESIDENTIAL ENTRY 35-43-2-1.5)** knowingly or intentionally break and enter the dwelling of \_\_\_\_\_. (D Felony)

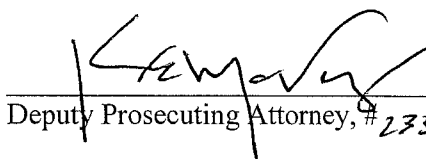
**(TRESPASS 35-43-2-2)** having no contractual interest in the property, knowingly or intentionally

entered OR  refused to leave the real property of \_\_\_\_\_ after having been

denied entry OR  asked to leave. (A Misd.)

All of which is contrary to the form of the statute, and against the peace and dignity of the State of Indiana.

  
Affiant

  
Deputy Prosecuting Attorney, # 23351-49

Case No. WLPD 2011-3763

Witness: See Ct. I

STATE OF INDIANA

COUNTY OF TIPPECANOE

FILED IN THE SUPERIOR COURT NO. 5  
SUPERIOR COURT NO. 5  
OF TIPPECANOE COUNTY  
2011 OCT 14 P 3:20

STATE OF INDIANA

VS.

ROBERT P MALAVENDA  
1531 Lionheart Lane  
West Lafayette, IN 47906  
DOB: 6-27-1961  
OLN: 0770-79-9678 IN

CAUSE NO. 79D05-1110-FD - 00438

### AFFIDAVIT OF PROBABLE CAUSE

Comes now Affiant, and being duly sworn upon oath, deposes and states that Affiant is an investigator with the Tippecanoe County Prosecutor's Office in Tippecanoe County, State of Indiana, and in said capacity has been involved in an investigation of a theft occurring on October 8, 2011 at the Wal-Mart located in West Lafayette, State of Indiana, and states affirmatively that:

On October 9<sup>th</sup>, 2011, Lt. Fohr of the West Lafayette Police Department met with Wal-Mart Asset Protection Associate Chris Heath concerning a theft occurring on October 8, 2011. Heath prepared a report detailing the events of October 8. According to him, a suspect wearing shorts and blue T-shirt, later identified as Robert P Malavenda, entered the Wal-Mart store located in West Lafayette, on October 8, with reusable blue Wal-Mart bags. Malavenda then selected several items from the store and purchased these items in three separate transactions with a credit card at a self-checkout. Malavenda received receipts for these transactions and exited the store with the purchased merchandise. He then loaded the merchandise into his vehicle, which was later determined to be a Subaru Forester with Indiana License Plate PB8225, and returned to the Wal-Mart with the reusable bags and the receipts from the three transactions.

Malavenda selected the exact same items he had just purchased, passed all points of sale without purchasing these items, and walked to a store exit on the grocery side of the store. Chris Heath, who had been observing Malavenda at this time, instructed a store greeter named Betty to check the receipts since Malavenda had not purchased the items he selected. When Malavenda passed through the EAS system, the alarm went off, and a store greeter verified the receipts before allowing Malavenda to exit the store.

Malavenda then reentered the Wal-Mart at a different entrance – the merchandise entrance – with the items he had not paid for still in his possession. Malavenda then used the receipts from the original transactions to return the items he selected on his second visit to the store, receiving a total of \$160.17 for these items, at the Wal-Mart customer service area. While

Malavenda was doing this, Heath instructed a store manager to obtain the license plate number of Malavenda's vehicle.

After receiving his refund, Malavenda then proceeded to the hardware area of the store and placed light bulbs in the now-empty reusable Wal-Mart bag. Malavenda passed all points of sale and left the Wal-Mart store without purchasing the light bulbs. Once outside the Wal-Mart, Malavenda was then observed placing three pumpkins in his shopping cart and loading them into his vehicle.

All of the foregoing events were recorded on Wal-Mart's surveillance video, which Lt. Fohr observed and reviewed by your Affiant. After observing this video, reading Heath's report, and speaking with Heath, Lt. Fohr made contact with Malavenda at his home in West Lafayette. Lt. Fohr advised Malavenda of the reason for his visit and Mirandized Malavenda, who declined to make a statement. Malavenda was placed under arrest for Theft. While he was being transported to jail, Malavenda asked why he was being arrested and Lt. Fohr responded he knew what he did.

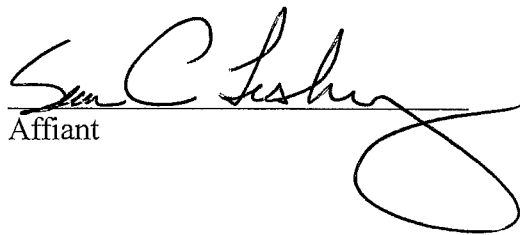
Affiant believes Chris Heath to be reliable and credible in part as he spoke from personal knowledge, as a witness to a crime while engaged in his duties as an employee of Wal-Mart, and his statements were corroborated in part by law enforcement investigation and video evidence.

Affiant believes Lt. Fohr to be reliable and credible because he spoke from personal knowledge obtained while acting in his professional capacity and in the course of his duties as a law enforcement officer in Tippecanoe County, Indiana.

Further Affiant saith not.

Affiant does swear or affirm, under penalties of perjury as specified under Indiana Code 35-44-2-1, that the foregoing representations are true to the best of Affiant's knowledge and belief.

Executed on OCT 14TH, 2011.

  
Affiant

FILED  
SUPERIOR COURT NO 5  
2011 OCT 14 1 P 3:20