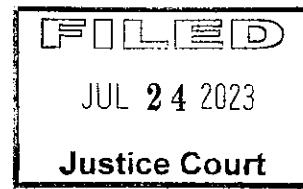


Madison County Justice Court
P.O. Box 277, Virginia City, MT 59755
Phone 406-843-4237 Fax 406-843-4219



IN THE JUSTICE COURT OF MADISON COUNTY, STATE OF MONTANA

STATE OF MONTANA)	
<i>Plaintiff,</i>)	
vs.)	Case No. CR-565-2023-0000009
)	
JOHN PHILLIP MEYER)	ORDER GRANTING
PO Box 412)	MOTION TO DISMISS
Bozeman, MT 59715)	
<i>Defendant.</i>)	

The State filed an Amended Affidavit of Probable Cause and Sworn Complaint on March 7, 2023. The Affidavit alleges that the Defendant had committed the offense of Mont. Code Ann. § 45-6-203. Criminal trespass to property.

On May 23, 2023, Defendant filed Motion and Brief in Support to Dismiss Amended Complaint with Prejudice for Lack of Probable Cause. The State filed a Response to the Motion to Dismiss on June 16, 2023. Defendant filed Reply to States Response to the Motion to Dismiss on June 30, 2023. An extension for filing the Response and Reply was granted by the Court.

Montana defines Mont. Code Ann. § 45-6-203 criminal trespass to property as, "a person commits the offense of criminal trespass to property if the person knowingly enters or remains unlawfully in or upon the premises of another."

Mont. Code Ann. § 45-6-201, Montana has defined entering and remaining unlawfully on the premises of another as,

A person enters or remains unlawfully in or upon any vehicle, occupied structure, or premises when the person is not licensed, invited, or otherwise privileged to do so. Privilege to enter or remain upon land is extended either by the explicit permission of the landowner or other authorized person or by the failure of the landowner or other

authorized person to post notice denying entry onto private land. The privilege may be revoked at any time by personal communication of notice by the landowner or other authorized person to the entering person.

(2) To provide for effective posting of private land through which the public has no right-of-way, the notice provided for in subsection (1) must satisfy the following requirements:

(a) notice must be placed on a post, structure, or natural object by marking it with written notice or with not less than 50 square inches of fluorescent orange paint, except that when metal fenceposts are used, the entire post must be painted; and

(b) the notice described in subsection (2)(a) must be placed at each outer gate and normal point of access to the property, including both sides of a water body crossing the property wherever the water body intersects an outer boundary line.

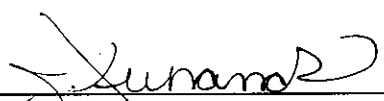
The Defendant entered the stream bed on public property and remained in the stream bed below the high-water mark as they entered Rich Barnhart's property.

The property was not posted pursuant to Mont. Code Ann. § 45-6-201(2)(b) and therefore there is not sufficient probable cause to support the Defendant knowingly entered or remained unlawfully in or upon the premises of another (property owned by Rich Barnhart) due to the property not being posted as private land at "both sides of a water body crossing the property."

IT IS HEREBY ORDERED, ADJUDGED AND DECREED that the Defendant's Motion to Dismiss is granted. The above case is **Dismissed With Prejudice** for lack of probable cause.

IT IS FURTHER ORDERED that all calendared hearings are vacated, and the case is closed.

Done and dated this July 24, 2023.


Justice of the Peace

Copies to:

- County Attorney
- Defendant
- Defendant's Attorney