

**State of Minnesota
County of Hennepin**

Filed in District Court
State of Minnesota
Sep 02, 2021 2:29 pm

**District Court
4th Judicial District**

Prosecutor File No. 36.EZ80.0227
Court File No. 27-CR-21-7460

State of Minnesota,

Plaintiff,

vs.

KIMBERLY ANN POTTER DOB: 06/18/1972

10141 Fernwood Lane N
Champlin, MN 55316

Defendant.

COMPLAINT

Summons

[X] Amended

The Complainant submits this complaint to the Court and states that there is probable cause to believe Defendant committed the following offense(s):

COUNT I

Charge: First-Degree Manslaughter Predicated on Reckless Use/Handling of a Firearm

Minnesota Statute: 609.20(2), with reference to: 609.11.5(a)

Maximum Sentence: 15 Years and/or \$30,000 Fine

Offense Level: Felony

Offense Date (on or about): 04/11/2021 to 04/11/2021

Control #(ICR#): 21000273

Charge Description: On or about April 11, 2021, in Brooklyn Center, Hennepin County, Minnesota, Defendant Kimberly Ann Potter caused the death of Daunte Demetrius Wright, while committing the misdemeanor offense of reckless handling or use of a firearm so as to endanger the safety of another with such force and violence that death or great bodily harm to any person was reasonably foreseeable.

COUNT II

Charge: Second-Degree Manslaughter

Minnesota Statute: 609.205(1), with reference to: 609.11.5(a)

Maximum Sentence: 10 Years and/or \$20,000 fine

Offense Level: Felony

Offense Date (on or about): 04/11/2021 to 04/11/2021

Control #(ICR#): 21000273

Charge Description: On or about April 11, 2021, in Brooklyn Center, Hennepin County, Minnesota, Defendant Kimberly Ann Potter caused the death of Daunte Demetrius Wright, by her culpable negligence, whereby Kimberly Potter created an unreasonable risk and consciously took a chance of causing death or great bodily harm to Daunte Demetrius Wright, while using or possessing a firearm.

STATEMENT OF PROBABLE CAUSE

Your Complainant, Assistant Special Agent in Charge (ASAC) Charles Phill is employed by the Minnesota Bureau of Criminal Apprehension. In that capacity, ASAC Phill and SSA Sam McGinnis have reviewed reports and body worn camera footage (BWC) and gathered additional evidence related to this case and to Defendant. Based on that information, your Complainant states the following to establish probable cause:

On April 11, 2021, around 1:53 p.m., Brooklyn Center Police Officer Anthony Luckey and his Field Training Officer, Defendant KIMBERLY ANN POTTER (DOB: 06/18/1972) conducted a traffic stop on a white Buick bearing Minnesota license plate 841UBY near 63rd Avenue North and Orchard Avenue North in Brooklyn Center, Hennepin County, Minnesota. Officer Luckey identified the driver as Daunte Demetrius Wright. There was also an adult female passenger in the front passenger seat. Officer Luckey informed Mr. Wright that the officers stopped him because the vehicle had an air freshener hanging from the rearview mirror and the tabs on the Buick were expired. Officer Luckey returned to his squad car to conduct a record check for Mr. Wright, during which he learned that Mr. Wright had an outstanding arrest warrant for a gross misdemeanor weapons violation. As Officer Luckey ran these checks, Sergeant Mychal Johnson arrived to assist the officers. Officer Luckey and Defendant then re-approached the driver's side of the Buick to arrest Mr. Wright on the warrant. Sergeant Johnson approached the passenger side of the vehicle.

According to time stamped BWC footage, at 2:01:11 p.m., Officer Luckey asked Mr. Wright to step out of the vehicle. Mr. Wright opened the door of the Buick at 2:01:22 p.m. and got out of the Buick at 2:01:30 p.m. At 2:01:31, Officer Luckey asked Mr. Wright to turn around and place his hands behind his back. Mr. Wright did so. Officer Luckey then began attempting to handcuff Mr. Wright. At 2:01:36 p.m., Sergeant Johnson told Mr. Wright that he was under arrest and at 2:01:39 p.m., Defendant added that Mr. Wright had a warrant. At 2:01:43 p.m., Officer Luckey told Mr. Wright not to tense up. At that time, Officer Luckey and Mr. Wright were standing near the open driver's side door of the Buick. Defendant was standing behind and to the right of Officer Luckey. Defendant walked up to Mr. Wright at 2:01:45 p.m. and, at 2:01:48 p.m., took a piece of paper from Mr. Wright's hand using her left hand. Defendant immediately transferred the paper to her right hand.

At 2:01:49 p.m., Mr. Wright pulled away from Officer Luckey and got back into the driver's compartment of the Buick. Officer Luckey maintained a grip on Mr. Wright, to keep physical control of him so as to pull Mr. Wright back out of the Buick. Sergeant Johnson, who was on the other side of the vehicle, leaned inside the Buick through the passenger door.

At 2:01:55 p.m., Defendant stated, "I'll tase ya," and simultaneously moved the piece of paper she was holding from her right hand to her left hand. One second later, at 2:01:56 p.m., Defendant's right hand, holding her department-issued Glock 9mm handgun, came into view of her BWC. Defendant pointed her handgun at Mr. Wright and tracked with Mr. Wright's movements as he and Officer Luckey continued moving. Defendant again announced, "I'll tase you," at 2:01:58 p.m. and continued pointing her handgun at Mr. Wright. At 2:02:00 p.m., Defendant said, "Taser, Taser, Taser." Sergeant Johnson and Officer Luckey both immediately began disengaging from Mr. Wright. One second later, at 02:02:01 p.m., Defendant pulled the trigger and discharged her handgun one time, firing a single round of ammunition. The bullet entered the left side of Mr. Wright's chest and sequentially perforated the left 6th rib and 5th intercostal muscles, left lung, pericardium, heart, pericardium once again, right lung, and right 4th intercostal muscles before partially exiting the right chest wall, perforating the skin, and becoming lodged in the right side of Mr. Wright's chest. When she fired the handgun, Defendant was standing outside the driver's side door and in close proximity to Officer Luckey. Defendant's handgun was just inches below Officer Luckey's arm pointing into the driver's compartment of the Buick, in the direction of Mr. Wright, the passenger, and

Sergeant Johnson. Defendant fired her handgun close to Officer Luckey's face, and the discharged cartridge casing from Defendant's handgun appeared to strike Officer Luckey in the face as it was ejected.

At 2:02:02 p.m., Mr. Wright said, "Ah, he shot me." The Buick then traveled short distance down the street, where it crashed into another vehicle. Defendant stated at 2:02:03 p.m., "Shit!" and at 2:02:05 p.m., "I just shot him." Another officer asked, "you did?" and Defendant responded, "yes." At 2:02:09 p.m., Defendant stated, "I grabbed the wrong fucking gun," and repeated again, "I shot him." At 2:03:09 p.m., Defendant stated, "I'm going to go to prison." At 2:07:27, Defendant stated, "I killed a boy." Other officers and paramedics responded. Medical personnel were unable to revive Mr. Wright and Mr. Wright was pronounced dead on scene at 2:18 p.m. Assistant Hennepin County Medical Examiner Dr. Lorren Jackson later conducted an autopsy and determined Mr. Wright's cause of death to be a gunshot wound and deemed the manner of death a homicide.

SSA McGinnis later collected and reviewed the layout of Defendant's duty belt. SSA McGinnis observed that Defendant's handgun was holstered on the right side of the belt, set in a straight-draw position, requiring Defendant to use her right hand to draw the handgun. Defendant's Taser was holstered on the left side of the belt, also set in a straight-draw position, requiring Defendant to use her left hand to draw her Taser. The Taser is yellow with a black grip, while the handgun is entirely black. Additionally, the texture of Defendant's handgun has a distinct grip from that on her Taser. Defendant's Taser is also equipped with a manual safety switch which the operator must physically disengage before the Taser can be discharged and with a laser-sighting feature, which causes a laser indicator to appear on target when the Taser is being aimed after the safety is disengaged. Defendant's Glock handgun is not equipped with such features.

During her 26 years as a police officer, Defendant received a substantial amount of training, including training related to use of force and, specifically, to the use of Tasers and firearms. Defendant completed annual recertification training courses on each of these weapons. These courses included training on how to draw, aim, and use each weapon correctly. The training material for these courses also included notices alerting Defendant to the possibility and risks of drawing a handgun instead of a Taser.

In the six months before this incident, Defendant completed two Taser-specific training courses. For example, on March 2, 2021, Defendant attended a four-hour training course pertaining to the Taser. This course involved a classroom component, which provided detailed and substantive information concerning the function, proper use, and safety concerns associated with using Tasers; a practical component; and a written test. After this training, Defendant was certified for use of the Taser X7. On Defendant's certificate of completion, Defendant provided her signature, acknowledging that she had read and understood the information and warnings provided by the manufacturer regarding safe use of the Taser. One of those warnings states: "Confusing a handgun with a CEW [Taser] could result in death or serious injury. Learn the differences in the physical feel and holstering characteristics between your CEW and your handgun to help avoid confusion" and instructs officers to "always follow your agency's guidance and training." In other prior Taser trainings completed by Defendant, including another on November 5, 2020, Defendant likewise signed paperwork acknowledging that she received, read, and understood identical warnings.

SIGNATURES AND APPROVALS

Complainant requests that Defendant, subject to bail or conditions of release, be:
(1) arrested or that other lawful steps be taken to obtain Defendant's appearance in court; or
(2) detained, if already in custody, pending further proceedings; and that said Defendant otherwise be dealt with according to law.

Complainant declares under penalty of perjury that everything stated in this document is true and correct. Minn. Stat. § 358.116; Minn. R. Crim. P. 2.01, subds. 1, 2.

Complainant

Charles Michael Phill II
Assistant Special Agent in
Charge
1430 Maryland Avenue E
St. Paul, MN 55106
Badge: 24

Electronically Signed:
09/02/2021 01:06 PM
Hennepin County, Minnesota

Being authorized to prosecute the offenses charged, I approve this complaint.

Prosecuting Attorney

Matthew Frank
Assistant Attorney General
445 Minnesota Street
Suite 1400
St. Paul, MN 55101
(651) 297-1075

Electronically Signed:
09/02/2021 12:08 PM

FINDING OF PROBABLE CAUSE

From the above sworn facts, and any supporting affidavits or supplemental sworn testimony, I, the Issuing Officer, have determined that probable cause exists to support, subject to bail or conditions of release where applicable, Defendant's arrest or other lawful steps be taken to obtain Defendant's appearance in court, or Defendant's detention, if already in custody, pending further proceedings. Defendant is therefore charged with the above-stated offense(s).

SUMMONS

THEREFORE YOU, THE DEFENDANT, ARE SUMMONED to appear as directed in the Notice of Hearing before the above-named court to answer this complaint.

IF YOU FAIL TO APPEAR in response to this SUMMONS, a WARRANT FOR YOUR ARREST shall be issued.

WARRANT

To the Sheriff of the above-named county; or other person authorized to execute this warrant: I order, in the name of the State of Minnesota, that the Defendant be apprehended and arrested without delay and brought promptly before the court (if in session), and if not, before a Judge or Judicial Officer of such court without unnecessary delay, and in any event not later than 36 hours after the arrest or as soon as such Judge or Judicial Officer is available to be dealt with according to law.

Execute in MN Only

Execute Nationwide

Execute in Border States

ORDER OF DETENTION

Since the Defendant is already in custody, I order, subject to bail or conditions of release, that the Defendant continue to be detained pending further proceedings.

Bail: \$

Conditions of Release:

This complaint, duly subscribed and sworn to or signed under penalty of perjury, is issued by the undersigned Judicial Officer as of the following date: September 2, 2021.

Judicial Officer

Luis Bartolomei
District Court Judge

Electronically Signed: 09/02/2021 01:44 PM

Sworn testimony has been given before the Judicial Officer by the following witnesses:

COUNTY OF HENNEPIN
STATE OF MINNESOTA

State of Minnesota

Plaintiff

vs.

Kimberly Ann Potter

Defendant

LAW ENFORCEMENT OFFICER RETURN OF SERVICE
*I hereby Certify and Return that I have served a copy of this
Summons upon the Defendant herein named.*

Signature of Authorized Service Agent:

DEFENDANT FACT SHEET

Name: Kimberly Ann Potter
DOB: 06/18/1972
Address: 10141 Fernwood Lane N
Champlin, MN 55316

Alias Names/DOB:

SID: MN21CV1881

Height:

Weight:

Eye Color:

Hair Color:

Gender: FEMALE

Race:

Fingerprints Required per Statute: Yes

Fingerprint match to Criminal History Record: Yes

Driver's License #:

Alcohol Concentration:

STATUTE AND OFFENSE GRID

Cnt Nbr	Statute Type	Offense Date(s)	Statute Nbrs and Descriptions	Offense Level	MOC	GOC	Controlling Agencies	Case Numbers
1	Charge	4/11/2021	609.20(2) Manslaughter - 1st Degree - While Committing Gross Misdemeanor/Misdemeanor with Violence.	Felony	H4913		MNBCA0000	21000273
	Modifier	4/11/2021	609.11.5(a) Minimum Sentences of Imprisonment-Firearm Use or Possession	Felony	H4913		MNBCA0000	21000273
2	Charge	4/11/2021	609.205(1) Manslaughter - 2nd Degree - Culpable Negligence Creating Unreasonable Risk	Felony	H5013		MNBCA0000	21000273
	Penalty	4/11/2021	609.11.5(a) Minimum Sentences of Imprisonment-Firearm Use or Possession	Felony	H5013		MNBCA0000	21000273