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24 OCT -1 PM 3:35

SHEILA E. RICE, CLERK
MUNICIPAL COURT
BY  DEPUTYIN THE CLARK COUNTY MUNICIPAL COURT
CLARK COUNTY, OHIOIn re: Criminal Charges
Against
Erika Michelle Lee

Matter No: _____

Judge: _____

**BENCH MEMORANDUM IN SUPPORT OF THE ATTACHED R.C. 2935.09 (A) AND (D)
CRIMINAL CHARGES OF MICKEAL WALTERS AGAINST ERIKA MICHELLE LEE.**

Mickeal Walters respectfully offers this bench memorandum in support of the attached affidavit under **R.C. 2935.09 (A) and (D)**. The affidavit which is properly submitted under the plain language of the statute to a judge of this Court for review and not the prosecutor's office charges Erika Michelle Lee with the following criminal offenses:

- R.C. 2909.04 (A) and (B) (Disrupting Public Services),
- R.C. 2917.31 (A) (Inducing Panic),
- R.C. 2917.32 (A) (Making False Alarms),
- R.C. 2917.21(A) and (B1) (Telecommunications Harassment),

Mickeal Walters respectfully requests that this Court make independent findings of probable cause based on the facts presented and issue a warrant for Lee's arrest.

1. **R.C. 2935.09 authorizes private citizens to file criminal charges and requires this Court to either issue arrest warrants or refer the matter to the prosecuting attorney for investigation.**

R.C. 2935.09 (D) allows private citizens to file an affidavit charging criminal offenses.

R.C. 2935.09 (Person having knowledge of offense to file affidavit—official review before complaint filed), provides, in relevant part:

(A) As used in this section, “reviewing official” means **a judge of a court of record**, the prosecuting attorney or attorney charged by law with the prosecution of offenses in a court or before a magistrate, or a magistrate.

(B) In all cases not provided by sections **2935.02 to 2935.08 of the Revised Code**, in order to **cause the arrest or prosecution of a person charged with committing an offense in this state**, a peace officer or **a private citizen having knowledge of the facts** shall comply with this section.

(D) A private citizen having knowledge of the facts who seeks to cause an arrest or prosecution under this section may file an affidavit charging the offense committed with a reviewing official for the purpose of review to determine if a complaint should be filed by the prosecuting attorney or attorney charged by law with the prosecution of offenses in the court or before the magistrate. A private citizen may file an affidavit charging the offense committed with the clerk of a court of record before or after the normal business hours of the reviewing officials if the clerk's office is open at those times. A clerk who receives an affidavit before or after the normal business hours of the reviewing officials shall forward it to a reviewing official when the reviewing official's normal business hours resume.

When the **R.C. 2935.09 (D)** affidavit charges a felony, as is true here, **R.C. 2935.10 (A)** (Filing of affidavit or complaint procedure) commands a trial court to either:

- (1) “forthwith” issue a warrant for the arrest of the person charged in the affidavit, or
- (2) refer the matter to the prosecuting attorney for investigation.

So this Court has only two options: issue an arrest warrant or refer the matter to the prosecuting attorney. *State v. Fraley*, 2020-Ohio-3763, ¶ 13 (12th Dist.).

Investigation is neither needed nor requested. The facts presented in the affidavit have been presented and displayed on a local and national level including statements made by Erika Lee herself. The prosecuting attorney, who is the chief law enforcing prosecutor in Springfield

and the County of Clark, nor the prosecutor's assistants has failed and not yet acted to protect the community and hold Lee accountable for the harm, fear, and financial stress to the City of Springfield and the citizens of the community she helped create. Thus, Mickeal Walters requests this Court, independently, to find probable cause based on the facts presented and issue an arrest warrant and bring forth criminal charges against Erika Lee. Probable cause having already been determined by this Court, the prosecuting attorney or the prosecutor's assistants then must make a public decision about whether that office stands for the rule of law, enforce action on law breakers, or sit back and continue with silence and show a lack of accountability and inaction.

2. The probable-cause standard is a low threshold, and the affidavit charging Erika Lee meets it.

A trial court may issue an arrest warrant or summons under **R.C. 2935.10 (B)** upon a finding of probable cause. Affidavits under **R.C. 2935.09 (D)** are governed by Crim.R. 4, which provides for an independent determination of probable cause by a judge, magistrate, clerk of court, or officer of the court designated by the judge. *State v. Moss*, 2003-Ohio-6053, ¶ 18 (5th Dist.).

The effect is that while the Court can issue an arrest warrant based on the affidavit, it cannot reject the complaint without affording the complainant a hearing for the Court to independently determine probable cause, even where the prosecutor disagrees. *See id* at ¶¶ 15, 17, 18, 22.

Crim.R. 4 contains a lesser hearsay standard, which allows for a finding of probable cause based on hearsay evidence, in whole or in part, when there is a substantial basis for believing the hearsay source to be credible and a substantial basis for believing that there is a factual basis for the information furnished. Most if not all the evidence presented in the affidavit is not hearsay. The evidence includes admissions or statements by Lee from reliable and reputable sources, admission by Lee regarding a Facebook post she admits to posting regarding a Haitian community of harming, eating, and stealing pets from community members. The facts and

evidence presented are indisputable and credible that show probable cause and a need for an arrest warrant.

Mickeal Walters asks this Court to find probable cause that criminal charges are warranted for the violated statutes due to the fear, induced panic, recklessness, carelessness, and the financial burden that has impacted the community. Probable cause exists when the facts and circumstances known, which are reasonably trustworthy, are sufficient to warrant a prudent individual in believing another had committed or was committing an offense. *State v. Cavalier*, 2012-Ohio-1976, ¶ 31 (2nd Dist.) citing *Beck v. State of Ohio*, 379 U.S. 89, 91 (1964).

Probable cause is a lower threshold than “by a preponderance of the evidence,” because it does not require the precision or high level of certainty needed for a preponderance of the evidence. See *Kaley v. U.S.*, 571 U.S. 320, 338 (2014), *Gerstein v. Pugh*, 420 U.S. 103, 121 (1975). Probable cause relies on a reasonable belief, which is less stringent than proving whether something is more likely true than not, as the preponderance-of-the-evidence standard requires. See *State v. Reniff*, 2001-Ohio-4353, ¶ 50 Probable cause is less of a standard than beyond a reasonable doubt, the standard required for criminal convictions. Furthermore, Probable cause doesn’t involve intent to commit or have intended to commit a crime. The act of posting a baseless claim recklessly without evidence or solid proof that an action occurred that caused fear, panic, and financial burden when others acted on the baseless claims, justifies an act of inducing panic. An individual is not protected from liability if that person claims an “active shooter” is at Walmart and someone calls the police, only to conclude that no active shooter was ever present. The action falls under the Ohio statute of inducing panic. The actions and statements made by Erika Lee justifies the probable cause in this affidavit for criminal charges and an arrest warrant to be issued.

The lack of response and action by the prosecuting attorney, who was elected by the community, and his office is telling. The direct impact on the City of Springfield, the Haitian community, and citizens cannot be ignored nor overstated that Erika Lee helped create and

contribute to by the posting of a baseless and false claim for the world to see. The baseless post caught the attention of Presidential candidate Donald J Trump and his running mate, Ohio U.S Senator James David (J.D) Vance in which they helped spread Erika Lee's false narrative. Since she posted the false claim, Springfield has received over 30 bomb threats, affecting city hall, local schools, grocery stores, and social services. The actions cause a state of emergency for Springfield, bringing in additional security by Ohio Governor Mike DeWine to combat the threats in the community.

As detailed in the attached and incorporated affidavit, Mickeal Walters seeks an arrest warrant for Erika Lee due to:

- Disrupted public service in violation of **R.C. 2909.04 (A)** and **R.C. 2909.04 (B)** by causing widespread bomb and other threats that resulted in massive disruptions to the public services in Springfield, Ohio.
- Made false alarms and induced panic in violation of **R.C. 2917.32 (A)** and **R.C. 2917.31 (A)** by knowingly causing alarm in the Springfield, Ohio community by using social media to post baseless claims that were not true at the time of the posting.
- Committed telecommunications harassment in violation of **R.C. 2917.21 (A)** and **(B1)** by spreading claims they know to be false on social media by later making a statement via the news media that no evidence of the allegations were present at the time of the social media post.

3. Conclusion

Thus, Mickeal Walters asks this court to bring forth criminal charges, find probable cause and an arrest warrant against Erika Michelle Lee in violations of **R.C. 2909.04 (A), R.C. 2917.31 (A), R.C. 2917.32 (A), and/or R.C. 2917.21 (A)(B1)** of crimes against the people of Springfield, Ohio. The need to hold people accountable is valid and criminal charges presented in this case are justified and with the attached affidavit.

Dated September 27th, 2024



Mickeal Walters
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FILED

2024 OCT -1 PM 3:57

SHEILA E. LEBRY, CLERK
MUNICIPAL COURTBY  DEPUTYIN THE CLARK COUNTY MUNICIPAL COURT
CLARK COUNTY, OHIOIn re: Criminal Charges
Against
Erika Michelle Lee

Matter No: _____

Judge: _____

AFFIDAVIT OF MICKEAL WALTERS CHARGING ERIKA MICHELLE LEE
WITH CRIMINAL ACTS

I, Mickeal Walters, being duly sworn according to law, testify as follows on behalf of the Citizens of Springfield, Ohio:

1. I am a private citizen over the age of 18. I have personal knowledge of and am competent to testify regarding the matters discussed below.
2. I am a resident of Springfield, Ohio and Clark County, Ohio.
3. I, along with my family, have felt the impact of the actions and false claims by Erika Michelle Lee in Springfield, Ohio when services and schools were affected.
4. I experienced fear in my community after Erika Lee's false post that led to high tensions and threats in the community.

THE PURPOSE OF THIS AFFIDAVIT

5. This affidavit criminally charges Erika Michelle Lee under **R.C. 2935.09 (D)**. We seek the arrest and prosecution and ask that a reviewing official under **R.C. 2935.09 (A)**, in particular, a judge, "review to determine if a complaint should be filed by the prosecuting attorney or attorney charged by law with the prosecution of offenses in the court."
6. Lee admitted through reliable media sources to posting false information that resulted in harm, fear, financial loss, and panic in the community of Springfield, Ohio.
7. Lee's actions and words of "warning" set a firestorm against the citizens of Springfield, Ohio and caused the Haitian community to live in fear. Many Haitians reported they are afraid to leave their homes they have established in Springfield, Ohio.

8. Lee's actions and words constitute inducing panic, making false alarms, disrupting public service and telecommunications harassment by making false claims. False claims that people have latched on to in order to spread misinformation including political figures in the State of Ohio and on the national level including Presidential Candidate Donald J Trump.
9. Lee is not entitled to 1st Amendment claims due to the impact and fear her words and posting had created that resulted in induced panic in Springfield, Ohio.

SUMMARY OF ERIKA MICHELLE LEE'S LEGAL VIOLATIONS

10. On or around September 5th, 2024, Lee posted on the social media platform, Facebook in the local page "Springfield Ohio Crime Page" with the title "Warning to all about our beloved pets and those around us!!" stated that Haitians hung a cat and was carving it to eat. The post included: "I've been told they have been doing this to dogs, at Snyder park with the ducks and geese." This led to harassment and fear among the Haitian population in Springfield, Ohio **(R.C. 2917.32 (A) - Making False Alarms Violation; R.C. 2917.21 (A) - Telecommunications Harassment)**.
11. The Facebook post informed the public and citizens of Springfield that Haitians were taking the ducks and geese from Snyder Park and Lee was told by the "Rangers & police". A claim later to be false by Lee herself via an interview with NBC News.
12. The Facebook post had been screenshot and reposted on numerous occasions since on or around September 5th, 2024 by social media users and spread to different platforms such as "X" also known as the former "Twitter".
13. Social Media is a powerful tool to express opinions, theories, and stories. Facebook connects millions of people around the world. Lee used the platform, Facebook, to provide a "warning" to local Springfield residents that a Haitian family killed a cat that later was determined as false. The post caused widespread fear in Springfield, Ohio. **(R.C. 2917.31 (A) - Inducing Panic)**.
14. Lee was well aware that Facebook is a powerful tool to reach millions of people and to provide stories.
15. Lee's false claims gained nationwide attention by Presidential Candidate Donald J Trump in which he repeated the claim during a September Presidential Debate with Vice President Kamala Harris. More than 30 bomb threats to area schools, hospitals, grocery stores, government buildings, and social services have been affected since the posting of the baseless and false social media posting. **(R.C. 2917.31 (A) - Inducing Panic; R.C. 2909.04 (A) (B) - Disruption Public Service)**.

FACTS

16. The Facebook post was made by Erika Lee, a Springfield Resident. Lee admitted on September 13, 2024 to NBC News that she had no firsthand knowledge of the claim she had posted, and that she heard the claim from a neighbor who in turn heard it from an acquaintance. Lee admits she didn't verify her claim prior to posting the information. Article dated September 14th, 2024.

<https://www.nbcnews.com/news/us-news/-just-exploded-springfield-woman-says-never-meant-spark-rumors-haitian-rcna171099>



17. On September 13th, 2024, Lee provided an interview to NBC News and was quoted “I feel for the Haitian community,” she said. “If I was in the Haitians’ position, I’d be terrified, too, worried that somebody’s going to come after me because they think I’m hurting something that they love and that, again, that’s not what I was trying to do.” Article dated September 14th, 2024.
<https://www.nbcnews.com/news/us-news/-just-exploded-springfield-woman-says-never-meant-spark-rumors-haitian-rcna171099>
18. On September 13th, 2024, Lee provided an interview to NBC News and admitted that she pulled her daughter out of school as she was worried about her safety and the Haitian community’s safety as well. Article dated September 14th, 2024.
<https://www.nbcnews.com/news/us-news/-just-exploded-springfield-woman-says-never-meant-spark-rumors-haitian-rcna171099>
19. Lee posted in the Facebook Group Page “Springfield Ohio Crime Page” with the purpose of reporting a crime happening by a Haitian family killing a cat and “carving it up to eat”. A crime later confirmed was untrue and reported by NBC 15 when the cat known as Miss Sassy was found in a basement of its home. Article dated September 20th, 2024.
<https://mynbc15.com/news/nation-world/miss-sassy-cat-at-center-of-ohio-pet-eating-controversy-allegedly-found-alive-wild-animals-dogs-ducks-swan-springfield-2024-presidential-election-claims-rumors-immigration-donald-trump-jd-vance-kamala-harris-tim-walz>

20. Lee posted in the Facebook Group Page “Springfield Ohio Crime Page” about a killed animal by a Haitian family that would generate feedback, likes, comments, and/or attention by the post by the Springfield Community. An action that Lee was aware would happen based on his history of use on the social media platform and would have painted the Haitian family and/or community in a negative way in the Springfield Community.
21. After his Facebook post, President candidate Donald J Trump referenced Lee’s alarming and misinformation post to over 73 million viewers in the United States in the September Presidential Debate on September 10th, 2024 with the quote *“In Springfield, they’re eating the dogs,” Trump said at the debate. “The people that came in, they’re eating the cats. They’re eating the pets of the people that live there. And this is what’s happening in this country.”* YouTube video by the Wall Street Journal.
<https://www.youtube.com/watch?v=IHycpIhnFcU> (Audio)
22. Lee’s post did not have a positive impact on the Haitian community and sent the community in fear that pets and wildlife was being stolen and used for food by the Haitian population that sparked tensions among the community and government officials.
23. Since the spread of misinformation resulting from Lee’s post, Springfield has received more than 30 bomb threats to various buildings in the city. On September 12, 2024, Springfield Mayor Rob Rue reported the City’s reason for these closures during an interview when asked about the nature of the threats received: *“There was enough negative language towards immigrants, towards Haitian folks that would bring enough concern. And then when it followed up with the threat at the end of a bomb threat that, you know, like I said, it was pretty much, it was just the beginning of the conclusion that they’re going to threaten to harm people.”* YouTube <https://www.youtube.com/watch?v=2nalpn4yDyU&t=4s> (Audio)

ERIKA MICHELLE LEE HAVE VIOLATED OHIO CRIMINAL LAW

24. As detailed below, Lee has violated the following Ohio Revised Code criminal statutes:

- R.C. 2909.04 (A) and (B) (Disrupting Public Services),
- R.C. 2917.31 (A) (Inducing Panic),
- R.C. 2917.32 (A) (Making False Alarms),
- R.C. 2917.21(A) (Telecommunications Harassment),

25. **R.C. 2909.04 (A) (Disrupting Public Services)** provides that:

(A) No person, purposely by any means or knowingly by damaging or tampering with any property, shall do any of the following:

(1) Interrupt or impair television, radio, telephone, telegraph, or other mass communications service; police, fire, or other public service communications; radar, loran, radio, or other electronic aids to air or marine navigation or communications; or amateur or citizens band radio communications being used for public service or emergency communications;

(2) Interrupt or impair public transportation, including without limitation school bus transportation, or water supply, gas, power, or other utility service to the public;

(3) Substantially impair the ability of law enforcement officers, firefighters, rescue personnel, emergency medical services personnel, or emergency facility personnel to respond to an emergency or to protect and preserve any person or property from serious physical harm.

26. **R.C. 2909.04(B) (Disrupting Public Services)** further provides that:

(B) No person shall knowingly use any computer, computer system, computer network, telecommunications device, or other electronic device or system or the internet so as to dispute, interrupt, or impair the functions of any police, fire, educational, commercial, or government operations.

27. Lee's statements/post have led, contributed, and influenced the interruption of school-bus transportation within Springfield, Ohio as multiple school buildings were evacuated and schools were closed in response to bomb and other threats including bomb threats to city buildings, colleges, and grocery stores. This violates **R.C. 2909.04(A)(2) & R.C. 2909.04(A)(1) & R.C. 2909.04(B)**.

28. **RC. 2917.31 (A) (Inducing Panic)** provides that:

(A) No person shall cause the evacuation of any public place, or otherwise cause serious public inconvenience or alarm, by doing any of the following:

(1) Initiating or circulating a report or warning of an alleged or impending fire, explosion, crime, or other catastrophe, knowing that such report or warning is false;

(2) Threatening to commit any offense of violence;

(3) Committing any offense, with reckless disregard of the likelihood that its commission will cause serious public inconvenience or alarm.

29. Lee's statements/post was reckless and disregarded the public safety of residents in Springfield, Ohio and have led, contributed, and influenced a fear, financial burden, harm, and widespread panic in the community with misinformation that was not verified. This violates **R.C. 2917.31 (A)(3)**.

30. **R.C. 2917.32 (A) (Making False Alarms)** provides that:

(A) No person shall do any of the following:

(1) Initiate or circulate a report or warning of an alleged or impending fire, explosion, crime, or other catastrophe, knowing that the report or warning is false and likely to cause public inconvenience or alarm;

31. Lee's statements/post was reckless and disregarded the public safety of residents in Springfield, Ohio when she went on the social media platform, Facebook to circulate a report of a crime to "Springfield Ohio Crime Page" that was false and caused widespread panic in the community with misinformation that was not verified. This violates **R.C. 2917.32 (A)(1)**.

32. **R.C. 2917.21(A) (Telecommunications Harassment)** provides that:

(A) No person shall knowingly make or cause to be made a telecommunication, or knowingly permit a telecommunication to be made from a telecommunications device under the person's control, to another, if the caller does any of the following:

(10) Knowingly incites another person through a telecommunication or other means to harass or participate in the harassment of a person.

33. **R.C. 2917.21(B1) (Telecommunications Harassment)** further provides that:

(B)(1) No person shall make or cause to be made a telecommunication, or permit a telecommunication to be made from a telecommunications device under the person's control, with purpose to abuse, threaten, or harass another person.

(2) No person shall knowingly post a text or audio statement or an image on an internet web site or web page for the purpose of abusing, threatening, or harassing another person.

34. Lee's statements/post was by telecommunications either by phone, tablet, computer, or any other electronic device and was intended to harass a Haitian family and/or population by circulating a false claim that they were killing a cat and going to use it as food. This violates **R.C. 2917.21 (A)(10) & R.C. 2917.21(B)(1)(2)**.

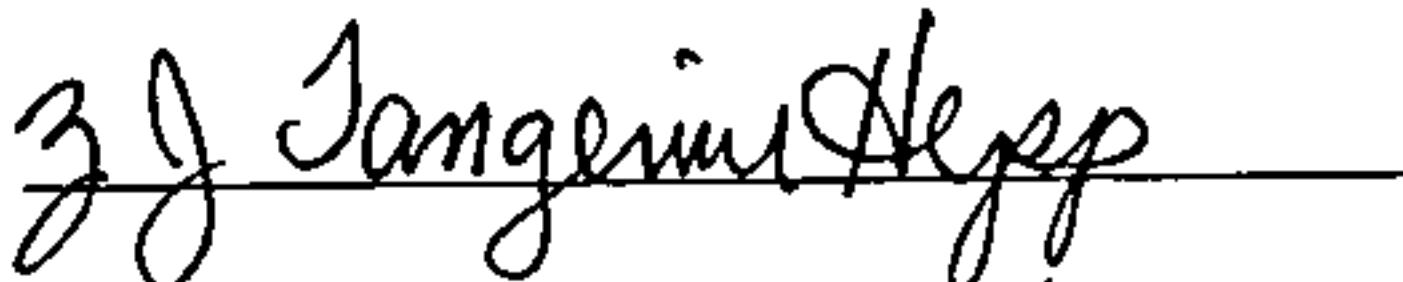
35. Lee's intent was not to bring a positive image toward the Haitian family, community, Or population in Springfield, Ohio and presented falsehood, baseless claims, misinformation, mistruths, and unverified or firsthand accounts. The baseless claims have left a financial burden on Springfield, Ohio and led to fear among the residents of the city and created safety concerns for the citizens of Springfield, Ohio.

I affirm the above to be true to the best of my knowledge under penalty of perjury.



Mickeal Walters

Sworn to and subscribed before me this 27 day of September, 2024.



Notary Public, State of Ohio

My Commission expires 4/3/2029



ZJ TANGERINE HEPP
NOTARY PUBLIC
STATE OF OHIO
MY COMMISSION EXPIRES
APRIL 3, 2029