

IN THE CIRCUIT COURT OF
LIMESTONE COUNTY,
ATHENS, ALABAMA

STATE OF ALABAMA,	}	
	}	
Plaintiff,	}	
	}	
vs.	}	AFFIDAVIT IN SUPPORT OF
	}	CRIMINAL COMPLAINT
SANDRA TUCKER,	}	
	}	
Defendant.	}	CASE NO. _____
_____ /		

AFFIDAVIT

by

Arthur Hirsch,

victim and witness of criminal activity.

I, Arthur Hirsch, complainant, being duly sworn, state as follows:

1. THAT I am competent to declare and affirm the facts set forth herein.
2. THAT I have personal knowledge of the facts set forth herein, unless based upon best information and belief, which I will so state if applicable, and will testify to their veracity if called upon as a witness.
3. THAT I live in Lawrence County, Tennessee.
4. THAT I am unschooled in law.
5. THAT the sole purpose of this affidavit is to establish probable cause for a criminal complaint against SANDRA TUCKER of 26494 1st Street, Ardmore, AL 35739 and 26704 Main Street, Ardmore, AL 35739, alleging that she has violated –

<i>Ala. Stat. § 13A-6-25(a).</i>	<i>Criminal coercion.</i>
<i>Ala. Stat. § 13A-8-4(a).</i>	<i>Theft of Property in the Second Degree.</i>
<i>Ala. Stat. § 13A-10-2(a)(1).</i>	<i>Obstructing Governmental Operations.</i>
<i>Ala. Stat. § 13A-10-12(a)(3).</i>	<i>Tampering With Governmental Records.</i>
<i>Ala. Stat. § 13A-10-129(a)(1)(b).</i>	<i>Tampering With Physical Evidence.</i>
<i>Ala. Stat., § 13A-10-130(a)(3).</i>	<i>Interfering with judicial proceedings.</i>

Ala. Rules of Criminal Procedure, Rule 4.3(1)(1)(iii).
Ala. Rules of Criminal Procedure, Rule 7.2(b).
Recognizance or on Bond.

Ala. Rules of Criminal Procedure, Rule 17.1.
Ala. Rules of Criminal Procedure, Rule 17.3.

Procedure Upon Arrest.
Right to Release on One's Personal

Authority to Issue Subpoenas.
Subpoena Duces Tecum.

Alabama Constitution (1901), Article I, Section 10. Right to prosecute civil cause.
Alabama Constitution (1901), Article I, Section 13. Courts to be open; remedies for all injuries; impartiality of justice.

6. THAT on the 26th day of July, 2009, I was arrested without a warrant by police officers TERRY JOHNSON ("JOHNSON") and TRACY LUNA ("LUNA"), without probable cause, while I was on private property outside of the Town of Ardmore, Alabama city limits.

7. THAT I was then searched, handcuffed and placed in a patrol car by arresting officer JOHNSON, and taken by officer LUNA to the Ardmore jail where I was charged with a misdemeanor, incarcerated, held for an extended period of time, then subjected to a coercive, intimidating, and humiliating booking procedure.

8. THAT upon my release from jail on Sunday morning, July 26, 2009 around 10:30 a.m., police officer JIM KENNEDY ("KENNEDY") took me before Ardmore clerk-magistrate, SANDRA TUCKER ("TUCKER"), at the town hall, located at 26494 1st Street, Ardmore, Alabama, who executed an appearance bond agreement, set bail at \$750 and took receipt of cash for the same amount, and scheduled an arraignment for 08/12/09 at 8:30 a.m. at the Ardmore Municipal Court. My friend, Col. George Nelson (USAF Retired), from Huntsville, AL was witness to all that transpired.

9. THAT I have researched, learned and believe that TUCKER did commit the crime of interfering with judicial proceedings in the matter of *MUNICIPALITY OF ARDMORE v. Arthur Hirsch*, Case No. MC09-71, by knowingly failing to perform and violating a duty of her office in violation of

● ***Ala. Stat., § 13A-10-130. Interfering with judicial proceedings.***

(a) A person commits the crime of interfering with judicial proceedings if:

(3) As an attorney, clerk or other officer of the court, he knowingly fails to perform or violates a duty of his office, or knowingly disobeys a lawful directive or order of a court;

(b) Interfering with judicial proceedings is a Class B misdemeanor

because she did issue said appearance bond agreement and set bail (i) without making a probable cause determination, (ii) without receiving a complaint copy made out by either of the arresting officers, (iii) without receiving an affidavit of probable cause from either of the arresting officers, (iv) without her taking any testimony that the alleged offense had been committed or that I committed it, (v) without her receiving and reviewing any verified evidence provided by either of the arresting police officers, (vi) without her reading or informing me of the charge against me and

its nature, (vii) without citing to me the law that I allegedly violated and whether it was a state statute or municipal ordinance, (viii) without her giving me the source or authority for the alleged violated law, (ix) without her informing me of my rights (e.g., my constitutionally secured right to assistance of counsel), and of course, (x) without providing me with a copy of the complaint since it was non-existent at that time (it was not issued until five days after my release on 07/31/09). Any allegation, presumption or prima facie evidence to the contrary is hereby rebutted.

10. THAT I have learned from reading **Rule 4.3(a)(1)(iii)** and **Rule 7.2(b)** that TUCKER was not authorized to charge me \$750.00 bail, but only \$300 bail. Thus, she charged me \$450.00 more than was allowed by law.

11. THAT I have researched, learned and believe that defendant, clerk-magistrate TUCKER, did also commit the crime of theft of property in the second degree on the same above date in the aforementioned case by knowingly obtaining unauthorized control over my property (\$450.00 overcharge) through deception, false pretense and embezzlement in violation of **Rule 4.3(1)(1)(iii)** and **Rule 7.2(b)**, with the intent to deprive me of my property (see Ala. Stat. § 13A-8-2(2) definition) in violation of

● ***Ala. Stat. § 13A-8-4. Theft of Property in the Second Degree.***

(a) The theft of property which exceeds two hundred fifty dollars (\$250) in value but does not exceed one thousand dollars (\$1,000) in value, and which is not taken from the person of another, constitutes theft of property in the second degree.

(b) Theft of property in the second degree is a Class C felony.

12. THAT I believe TUCKER's intent to unlawfully deprive me of my property is supported by the fact that she has refused to return said \$450.00 embezzled funds upon notice, and any allegation, presumption or prima facie evidence to the contrary is hereby rebutted.

13. THAT on August 3, 2009, I personally spoke to defendant TUCKER in her office in Ardmore town hall with Col. George Nelson as witness. I asked her for copies of various government documents which I needed for my defense at my pending trial in the Ardmore Municipal Court, i.e., certified copies of the oaths of office for the police officers involved in my arrest and incarceration, police chief WILLIAM M. OLIVER, town mayor RICKY MITCHELL, all the town council members, and a copy of the Town of Ardmore's liability insurance policy or liability bond.

14. THAT TUCKER would not give them to me, but said that she would send them to me by mail in 2-3 days, which she did not do as promised. Any allegation, presumption or prima facie evidence to the contrary is hereby rebutted.

15. THAT I have learned and believe that defendant TUCKER, knowing she lacked the authority to do so, and refusing to deliver up said government documents and records in her possession upon my proper request, which I was lawfully entitled to receive, did commit the crime of tampering with governmental records in violation of –

● **Ala. Stat., § 13A-10-12. Tampering with governmental records.**

(a) A person commits the crime of tampering with governmental records if:

(2) Knowing he lacks the authority to do so, he intentionally destroys, mutilates, conceals, removes or otherwise substantially impairs the verity or availability of any governmental record; or

(3) Knowing he lacks the authority to retain a governmental record he refused to deliver up the record in his possession upon proper request of a person lawfully entitled to receive such record for examination or other purposes.

(b) Tampering with governmental records is a Class A misdemeanor.

16. THAT, further, I have learned and believe that defendant TUCKER, at the same time on 08/03/09, did also commit the crime of tampering with physical evidence by concealing said documents in her custody, without legal right or authority, with the intent that they would be unavailable to me for use in my defense in legal proceedings pending in the Ardmore Municipal Court, of which she was fully aware, in violation of –

● **Ala. Stat. § 13A-10-129. Tampering With Physical Evidence.**

(a) A person commits the crime of tampering with physical evidence if, believing that an official proceeding is pending or may be instituted, and acting without legal right or authority, he:

(1) Destroys, mutilates, conceals, removes or alters physical evidence with intent to impair its use, verity or availability in the pending or prospective official proceeding;

(b) “Physical evidence,” as used in this section, includes any article, object, document, record or other thing of physical substance.

(c) Tampering with physical evidence is a Class A misdemeanor.

17. THAT on the same above date (08/03/09) and place herein described, defendant TUCKER did intentionally refuse my three requests for her to issue a subpoena and subpoena duces tecum (compulsory process) on my behalf in the above styled case. She said she would only issue a subpoena for an attorney and not for me. I have learned and believe that TUCKER did commit the crime of obstructing governmental operations (court proceedings) by means of independent, unlawful interference and intimidation (see Count 7 in criminal complaint), i.e., defendant TUCKER did intentionally obstruct, impair and hinder the fair and just administration of law by denying me compulsory process in violation of–

● **Ala. Stat. § 13A-10-2. Obstructing Governmental Operations.**

(a) A person commits the crime of obstructing governmental operations if, by means of intimidation, physical force or interference or by any other independently unlawful act, he:

(1) Intentionally obstructs, impairs or hinders the administration of law or other governmental function;

(c) Obstructing governmental operations is a Class A misdemeanor.

Alabama Rules of Criminal Procedure

● **Rule 17.1. Authority to Issue Subpoenas.**

(a) Clerk’s Subpoenas. The clerk of the court in which a criminal proceeding is pending shall issue

subpoenas at any time for such witnesses as any party may require for attendance at trial and at hearings, for taking depositions, or for any other lawful purpose.

● **Rule 17.3. Subpoena Duces Tecum.**

(a) Production of Books, Papers, etc. A subpoena may command the person to whom it is directed to produce the books, papers, documents, or other objects which may be designated therein.

18. THAT TUCKER's denial of my right to compulsory process has prevented me from adequately preparing for my trial and has seriously impaired the lawful proceedings in my case since there can be no fair, impartial and just trial without compulsory process if requested.

19. THAT TUCKER has denied my constitutionally protected rights to compulsory process, due process of law, and equal protection under the law, and valid court proceedings have been hindered thereby.

20. THAT I have learned and believe that, by refusing to issue the aforementioned subpoenas upon my request, TUCKER did commit the crime of interfering with critical pre-trial judicial proceedings in the above styled case. She failed to perform and violated the duty of her office, thus, preventing the fair and just administration of court proceedings, in violation of the **Alabama Constitution (1901), Article I, Section 6, the Sixth and Fourteenth Amendments to the U.S. Constitution,** and

● **Ala. Stat. § 13A-10-130. Interfering With Judicial Proceedings.**

(a) A person commits the crime of interfering with judicial proceedings if:

(3) As an attorney, clerk or other officer of the court, he knowingly fails to perform or violates a duty of his office, or knowingly disobeys a lawful directive or order of a court;

(b) Interfering with judicial proceedings is a Class B misdemeanor.

Alabama Rules of Criminal Proceedings

● **Rule 17.1. Authority to Issue Subpoenas.**

(a) Clerk's Subpoenas. The clerk of the court in which a criminal proceeding is pending shall issue subpoenas at any time for such witnesses as any party may require for attendance at trial and at hearings, for taking depositions, or for any other lawful purpose.

● **Rule 17.3. Subpoena Duces Tecum.**

(a) Production of Books, Papers, etc. A subpoena may command the person to whom it is directed to produce the books, papers, documents, or other objects which may be designated therein.

21. THAT on the same above date (08/03/09) and place herein described, I asked defendant TUCKER for the reference in the law that she was using as the basis for her refusal to issue a subpoena on my behalf, i.e., that only lawyers had access to compulsory process in court cases. She refused to give me the cite. When I requested that she please call the town attorney, CHADWICK ("CHAD") WISE, and ask him for the cite, she picked up the phone and called for Ardmore police officer, TRACY LUNA, to come and arrest me in retaliation for my asking her for the legal basis for her refusal. TUCKER's obvious intent was to threaten and intimidate me into waiving my lawful

right to compulsory process in the hope that I would refrain from any further efforts to obtain the issuance of subpoenas from her. Without obtaining favorable witnesses and necessary documents and records for my defense through compulsory process, I would be at a disadvantage at trial, which would assure the prosecution of an easy conviction and a penalty fine for Ardmore's coffers—all to the monetary benefit of Ardmore employees' paychecks. TUCKER's attempt to criminally coerce me into abandoning my request for compulsory process to my detriment by threatening police violence against me, my constitutionally protected rights to compulsory process, due process and equal protection were denied.

22. THAT I have learned and believe that TUCKER did commit the crime of criminal coercion when, without legal authority, she threatened me with arrest, with the intent of inducing me against my will, to cease requesting compulsory process which was my lawful right. All this was in violation of –

● ***Ala. Stat. § 13A-6-25. Criminal coercion.***

(a) A person commits the crime of criminal coercion if, without legal authority, he threatens to confine, restrain or to cause physical injury to the threatened person or another, or to damage the property or reputation of the threatened person or another with intent thereby to induce the threatened person or another against his will to do an unlawful act or refrain from doing a lawful act.

(b) Criminal coercion is a Class A misdemeanor.

23. THAT on or about November 23, 2009 I commenced a counter claim action against the Municipality of Ardmore in the above referenced case by mailing said counter claim document and summons to court clerk TUCKER (USPS certified mail #7008 0150 0001 7526 1805) to be filed into the court record, the summons executed and issued, and served on counter claim defendant by certified mail. I requested with said documents that TUCKER please send me a certified copy of said counter claim and summons by return mail as proof for my records that she had received said documents and had entered them into the case docket and had issued the summons. TUCKER refused. I have learned that to date, TUCKER has not filed said counter claim into the court record, nor has she issue a summons to the counter claim defendant, nor has she communicated with me and given me any legal reason for her inaction and for not doing her duty as court clerk, in violation of –

Alabama Constitution (1901)

● ***Article I, Section 10. Right to prosecute civil cause.***

That no person shall be barred from prosecuting or defending before any tribunal in this state, by himself or counsel, any civil cause to which he is a party.

● ***Article I, Section 13. Courts to be open; remedies for all injuries; impartiality of justice.***

That all courts shall be open; and that every person, for any injury done him, in his lands, goods, person, or reputation, shall have a remedy by due process of law; and right and justice shall be administered without sale, denial, or delay.

● **Ala. Stat. § 13A-10-130. Interfering With Judicial Proceedings.**

(a) A person commits the crime of interfering with judicial proceedings if:

(3) As an attorney, clerk or other officer of the court, he knowingly fails to perform or violates a duty of his office, or knowingly disobeys a lawful directive or order of a court;

(b) Interfering with judicial proceedings is a Class B misdemeanor.

● **Ala. Stat., § 13A-10-12. Tampering with governmental records.**

(a) A person commits the crime of tampering with governmental records if:

(2) Knowing he lacks the authority to do so, he intentionally destroys, mutilates, conceals, removes or otherwise substantially impairs the verity or availability of any governmental record; or

(3) Knowing he lacks the authority to retain a governmental record he refused to deliver up the record in his possession upon proper request of a person lawfully entitled to receive such record for examination or other purposes.

(b) Tampering with governmental records is a Class A misdemeanor.

● **Ala. Stat. § 13A-10-2. Obstructing Governmental Operations.**

(a) A person commits the crime of obstructing governmental operations if, by means of intimidation, physical force or interference or by any other independently unlawful act, he:

(1) Intentionally obstructs, impairs or hinders the administration of law or other governmental function;

(c) Obstructing governmental operations is a Class A misdemeanor.

● **Ala. Stat. § 13A-10-129. Tampering With Physical Evidence.**

(a) A person commits the crime of tampering with physical evidence if, believing that an official proceeding is pending or may be instituted, and acting without legal right or authority, he:

(1) Destroys, mutilates, conceals, removes or alters physical evidence with intent to impair its use, verity or availability in the pending or prospective official proceeding;

(b) "Physical evidence," as used in this section, includes any article, object, document, record or other thing of physical substance.

(c) Tampering with physical evidence is a Class A misdemeanor.

END OF AFFIDAVIT.

Signature of Affiant – Victim and witness of
criminal activity

Arthur Hirsch
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