

FILED

SEP - 5 2017

**STATE OF MINNESOTA
COUNTY OF HENNEPIN**

**DISTRICT COURT
FOURTH JUDICIAL DISTRICT
27-62-17-22050
COURT FILE NO.
PROSECUTOR CASE NO. 17A06673
CONTROLLING AGENCY. MNVA0017Y
CONTROL NO. 17001165**

State of Minnesota,

Plaintiff,

v.

CRIMINAL COMPLAINT

MATTHEW LEININGER (DOB: 06/04/1975)

311 Kenwood Parkway

Unit 306

Minneapolis, MN 55403,

Defendant.

Summons Warrant

Order of Detention

Amended

Tab Charge Previously Filed

The Complainant, being duly sworn, makes complaint to the above-named Court and states that there is probable cause to believe that Defendant committed the following offense(s):

Count I

Charge: **Theft-By Swindle**

Minnesota Statute: **609.52.2(a)(4)**, with reference to: 609.52.3(2)

MOC Code: **TS99C**

Offense Level: **Felony**

Maximum Sentence: **10 YEARS AND/OR \$20,000**

Offense Date (on or about): **08/05/2016**

Charge Description: That on or between 8/5/2016 and 12/24/2016, in Hennepin County, Minnesota, Matthew Leininger obtained property or services from Minneapolis VA Health Care System by swindling the entity using artifice, trick, device or other means, and the property was a controlled substance listed in Schedule I or II, to wit: Hydromorphone.

Count II

Charge: **Theft-By Swindle**

Minnesota Statute: **609.52.2(a)(4)**, with reference to: 609.52.3(2)

MOC Code: **TS99C**

Offense Level: **Felony**

Maximum Sentence: **10 YEARS AND/OR \$20,000**

Offense Date (on or about): **06/22/2016**

Charge Description: That on or between 6/22/2016 and 10/23/2016, in Hennepin County, Minnesota, Matthew Leininger obtained property or services from Minneapolis VA Health Care System by swindling the entity using artifice, trick, device or other means, and the property was a controlled substance listed in Schedule I or II, to wit: Oxycodone.

Count III

Charge: **Theft-By Swindle**

Minnesota Statute: **609.52.2(a)(4)**, with reference to: 609.52.3(2)

MOC Code: **TS99C**

Offense Level: **Felony**

Maximum Sentence: **10 YEARS AND/OR \$20,000**

Offense Date (on or about): **08/16/2016**

Charge Description: That on or between 8/16/2016 and 8/20/2016 ^{9/1/2016}, in Hennepin County, Minnesota, Matthew Leininger obtained property or services from Minneapolis VA Health Care System by swindling the entity using artifice, trick, device or other means, and the property was a controlled substance listed in Schedule I or II, to wit: Morphine.

Count IV

Charge: **Theft-By Swindle**

Minnesota Statute: **609.52.2(a)(4)**, with reference to: 609.52.3(2)

MOC Code: **TS99C**

Offense Level: **Felony**

Maximum Sentence: **10 YEARS AND/OR \$20,000**

Offense Date (on or about): **06/29/2016**

Charge Description: That on or between 6/29/2016 and 12/25/2016, in Hennepin County, Minnesota, Matthew Leininger obtained property or services from Minneapolis VA Health Care System by swindling the entity using artifice, trick, device or other means, and the property was a controlled substance listed in Schedule I or II, to wit: Fentanyl.

Count V

Charge: **Theft-By Swindle**

Minnesota Statute: **609.52.2(a)(4)**, with reference to: 609.52.3(3)(b)

MOC Code: **T099D**

Offense Level: **Felony**

Maximum Sentence: **5 YEARS AND/OR \$10,000**

Offense Date (on or about): **06/22/2016**

Charge Description: That on or between 6/22/2016 and 9/21/2016, in Hennepin County, Minnesota, Matthew Leininger obtained property or services from Minneapolis VA Health Care System by swindling the entity using artifice, trick, device or other means, and the property was a controlled substance listed in Schedule III, IV, or V, to wit: Midazolam.

STATEMENT OF PROBABLE CAUSE

Complainant has investigated the facts and circumstances of this offense and believes the following establishes probable cause:

MATTHEW LEININGER, DEFENDANT herein, was previously employed as a nurse by the U.S. Department of Veterans Affairs Medical Center (VAMC), located at 1 Veterans Drive, Minneapolis, Hennepin County, Minnesota. In December 2016, the Office of the Inspector General (OIG) learned that DEFENDANT may be diverting controlled substances from the VAMC. The following is a summary of the OIG's investigation and findings.

The VAMC uses an automated medication management machine commonly referred to as a Pyxis Machine to permit access to drugs to nurses and to secure the substances. There are numerous Pyxis Machines located at nursing stations throughout the hospital. Each nurse with access to a Pyxis Machine has a unique user identification and either uses a password or his or her fingerprint to access the drugs in the machines. To access a drug, the nurse must enter his username ID, his password or fingerprint, and an identifier indicating which patient will be receiving the drugs. At the Minneapolis VAMC, all nurses' usernames are the first initial of the nurse's last name and the last four numbers of his social security number. All nurses must use their fingerprint, in lieu of a password, unless specially authorized and named on a list to use a password. If password permission is given, a second employee must be present when the drugs are accessed. Your complainant is aware that DEFENDANT was not on any authorized list to use a password in lieu of his fingerprint.

Each drug removed from a Pyxis Machine is individually wrapped in a bar-coded package. The nurse enters in drug type and dosage into the machine, and the machine opens a compartment. The nurse then must count the number of individually wrapped doses currently in the compartment and enter that number into the machine. After the nurse enters that number, he may take the drug and shut the compartment door. The Pyxis Machine records the date and time of removal, the type and amount of drug removed, which nurse removed the drug, the patient to whom the drug will go, and will document any excess wasting of the drug as recorded by the employee.

When a nurse administers a drug, that administration is documented by scanning the bar code on the unit dose packaging. The Bar Code Medication Administration (BCMA) is the digital record keeping program for administering drugs. Nurses also keep medical record notes in a database called Computerized Patient Record System (CPRS).

By comparing records from Pyxis, BCMA, and CPRS, your complainant has learned that DEFENDANT has taken the following drugs out of a Pyxis Machine without any documentation that the drug was ever administered or wasted:

- 1) June 22, 2016 – 2 Oxycodone 5 mg tablets and 2 Midazolam 2mg/2ml syringes;
- 2) June 29, 2016 – 2 Fentanyl 100 mcg/2ml syringes;
- 3) July 20, 2016 – 1 Fentanyl 100 mcg/2ml syringe;
- 4) July 27, 2016 – 1 Fentanyl 100 mcg/2ml syringe;

- 5) July 28, 2016 – 4 Fentanyl 100 mcg/2ml syringes;
- 6) August 5, 2016 – 1 Hydromorphone 2mg/1ml syringe;
- 7) August 11, 2016 – 1 Fentanyl 100 mcg/2ml syringe;
- 8) August 12, 2016 – 4 Fentanyl 100 mcg/2ml syringes;
- 9) August 15, 2016 – 1 Fentanyl 100 mcg/2ml syringe;
- 10) August 16, 2016 – 1 Morphine 4mg/1ml syringe;
- 11) August 19, 2016 – 1 Fentanyl 100 mcg/2ml syringe;
- 12) August 20, 2016 – 1 Morphine 4mg/1ml syringe;
- 13) August 23, 2016 – 1 Fentanyl 100 mcg/2ml syringe;
- 14) September 1, 2016 – 2 Hydromorphone 2mg/1ml syringes;
- 15) September 13, 2016 – 2 Fentanyl 100 mcg/2ml syringes;
- 16) September 19, 2016 – 1 Fentanyl 100 mcg/2ml syringe;
- 17) September 20, 2016 – 1 Fentanyl 100 mcg/2ml syringe;
- 18) September 21, 2016 – 1 Midazolam 2mg/2ml syringe and 2 Fentanyl 100 mcg/2ml syringes;
- 19) September 22, 2016 – 1 Fentanyl 100 mcg/2ml syringe;
- 20) September 23, 2016 – 1 Fentanyl 100 mcg/2ml syringe;
- 21) October 17, 2016 – 2 Hydromorphone 2mg/1ml syringes;
- 22) October 18, 2016 – 1 Fentanyl 100 mcg/2ml syringe;
- 23) October 21, 2016 – 4 Fentanyl 100 mcg/2ml syringes;
- 24) October 22, 2016 – 5 Fentanyl 100 mcg/2ml syringes and 2 Oxycodone 5mg Tablets;
- 25) October 23, 2016 – 2 Oxycodone 5mg Tablets and 5 Hydromorphone 2mg/1ml syringes;
- 26) December 5, 2016 – 2 Hydromorphone 2 mg/ml syringes;
- 27) December 6, 2016 – 1 Hydromorphone 2 mg/ml syringe;
- 28) December 7, 2016 – 1 Hydromorphone 2 mg/ml syringe;
- 29) December 8, 2016 – 3 Fentanyl 100 mcg/2ml syringe;
- 30) December 19, 2016 – 1 Hydromorphone 2 mg/ml syringe;
- 31) December 20, 2016 – 2 Hydromorphone 2 mg/ml syringes;
- 32) December 23, 2016 – 2 Fentanyl 100 mcg/2ml syringes and 2 Hydromorphone 2 mg/1ml syringes;
- 33) December 24, 2016 – 3 Hydromorphone 2 mg/1ml syringes;
- 34) December 25, 2016 – 1 Fentanyl 100 mcg/2ml syringe.

On each of these occasions, DEFENDANT entered into the Pyxis Machine that these drugs were going to be administered to a designated patient.

During this time period there were also approximately thirty one other drugs removed from the Pyxis Machine by DEFENDANT where either there is a record of partial waste with no record of administration of the remaining dose of the drug, or a record of partial administration with no record of the final waste of the remaining dose of the drug.

Hydromorphone, Oxycodone, Morphine and Fentanyl are known schedule II controlled substances. Midazolam is a known schedule IV controlled substance.

On or around December 28, 2016, your complainant and others spoke with DEFENDANT. DEFENDANT was told that the interview was voluntary and he could leave at any time. DEFENDANT stated that he had been using these drugs to try to help his mental health.

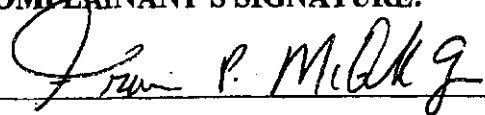
DEFENDANT said it all started due to a lack of accountability with how the unit ran. He described the taking of these drugs as "opportunistic." DEFENDANT estimated he maybe took "a half a dozen to ten" Hydromorphone or Fentanyl syringes. He stated he would drink them. Some days he would take just one syringe, and other days he would take a few syringes. He admitted the last time he took drugs from the VAMC was December 25, 2016. DEFENDANT admitted that he knew he was not supposed to take the drugs, and that they were not prescribed to him.

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'S NAME:

Frank McQuillan

COMPLAINANT'S SIGNATURE:



Subscribed and sworn to before the undersigned this 5th day of SEPTEMBER, 2017.

NAME/TITLE:

WILLIAM H. KOCH
JUDGE OF DISTRICT COURT

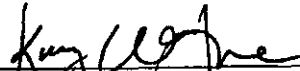
SIGNATURE:


WILLIAM H. KOCH

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

Date: 8/23/17

PROSECUTING ATTORNEY'S SIGNATURE:



Name: Katy Wothe
Assistant County Attorney
C2362 Government Center
300 South Sixth Street
Minneapolis, MN 55487
612-348-5558
Attorney Registration # 0395197

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.

SUMMONS

THEREFORE YOU, THE ABOVE-NAMED DEFENDANT, ARE HEREBY SUMMONED to appear on the ___ day of _____, 20__ at _____ a.m./p.m. before the above-named court at _____ 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 hereby order, in the name of the State of Minnesota, that the above-named Defendant be apprehended and arrested without delay and brought promptly before the above-named 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

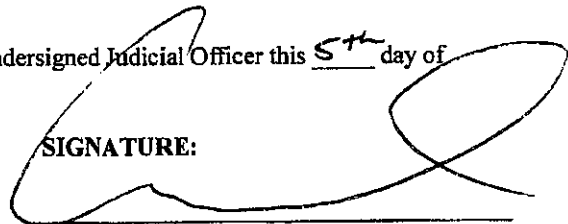
Since the above-named Defendant is already in custody, I hereby order, subject to bail or conditions of release, that the above-named Defendant continue to be detained pending further proceedings.

Bail: \$
Conditions of Release:

This complaint, duly subscribed and sworn to, is issued by the undersigned Judicial Officer this 5th day of SEPT, 2017.

JUDICIAL OFFICER:
NAME: **WILLIAM H. KOCH**
TITLE: **JUDGE OF DISTRICT COURT**

SIGNATURE:



Sworn testimony has been given before the Judicial Officer by the following witnesses: **WILLIAM H. KOCH**

COUNTY OF HENNEPIN
STATE OF MINNESOTA

Clerk's Signature or File Stamp:

STATE OF MINNESOTA

Plaintiff,

vs.

Matthew Leininger,

Defendant

RETURN OF SERVICE

I hereby Certify and Return that I have served a copy of this COMPLAINT upon Defendant herein named.

Signature of Authorized Service Agent: