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MONTANA FIFTH JUDICIAL DISTRICT COURT,
MADISON COUNTY

STATE OF MONTANA, Plaintiff, vs. JESSE MICHAEL BOYD, BETHANY GRACE BOYD, CARTER NORMAN PHILLIPS, and ERIC ANTOHONY TRENT, Defendants.	Cause Nos. DC-29-2022-022 DC-29-2022-023 DC-29-2022-024 DC-29-2022-026 ***AMENDED* MOTION TO DISMISS and BRIEF IN SUPPORT (OPPOSED)**

COME NOW Defendants Jesse M. Boyd ("Boyd"), Carter N. Phillips ("Phillips"), Bethany Boyd ("Bethany"), and Eric Trent ("Trent"), by and through their counsel of record, and hereby move to dismiss all charges against them pursuant to § 46-13-101(3), MCA. For the following reasons, the Motion to Dismiss should be GRANTED:

INTRODUCTORY NOTE

The Defendants previously filed Motions to Dismiss and Supporting Briefs on January 9, 2023, pursuant to § 46-13-401, MCA. In responsive briefs filed on January 18, 2023, the

State of Montana noted that this Court has found probable cause exists to support the charges filed. The State further asserted that the statute cited by the Defendants (§ 46-13-401) does not authorize a motion to dismiss by the Defendants.

§ 46-13-401, MCA, clearly authorizes the Court to dismiss pending criminal charges. There is nothing in the law that precludes the Defendants from presenting grounds for dismissal to the Court, and asking the Court to exercise its authority to dismiss the pending charges under § 46-13-401, MCA. The Defendants nevertheless recognize that § 46-13-401, MCA, provides only an indirect basis for relief. Direct authority for their motion to dismiss can be found, however, at § 46-13-101(3), MCA.

On their face, the charging documents in these cases do not support the charges that have been filed by the State of Montana. The argument the Defendants present here is straightforward, and the only appropriate relief is the dismissal of all charges with prejudice. The Defendants urge this Court to consider the full merits of their arguments. To that end, rather than attempting to rely on § 46-13-101(3) for the first time in a reply brief, and prompting an inevitable knee-jerk objection from the State, the Defendants submit the present amended Motion. This amended Motion will afford the State an opportunity to submit a full response, and avoids any complaints about issues raised for the first time in a reply brief.

This is not a *serial* motion, and it is not filed for any improper purpose. The motion is filed to ensure that the Court has an opportunity to genuinely consider the argument raised by the Defendants. The statute cited by the Defendants in their original motion (§ 46-13-401) unfortunately created an opening for the State to muddy the waters with a secondary issue (i.e., whether § 46-13-401 authorizes defendants to move for dismissal).

The authority for a motion to dismiss from the defense is explicit under § 46-13-101(3), MCA. The statute is just as explicit that timeliness objections or claims of waiver will not defeat a motion under § 46-13-101(3), MCA: "[T]he failure of a charging document to state an

offense is a *nonwaivable defect* and must be noticed by the court *at any time* during the pendency of a proceeding." (Emphasis added.)

BACKGROUND

The four defendants are Christian missionaries who walk across the United States carrying a cross, a flag, and many Bibles and gospel tracts for distribution. The cross is lightweight and collapses on its hinges if struck against any object. The flag and flagpole are flimsy, lightweight and fragile. These missionaries utilize a hybrid automobile/walking system to stage and coordinate their walking missions along America's backroads, sharing driving duties.

On November 12, 2022, members of the group were walking northbound in wintry weather on the side of US Highway 287 south of Cameron when a pickup driver pulled between them and their car and initiated what the Madison County Attorney describes as a "verbal altercation."[1] Words became heated and threatening, and the aggressor then "exited his vehicle" to escalate the "altercation," and advanced angrily toward Jesse Boyd and his 12-year-old son.

Boyd defended himself and his son by drawing a derringer until the aggressor stopped advancing. But as soon as Jesse Boyd handed his defensive firearm to a fellow missionary, the aggressor continued aggressively toward Jesse Boyd. The aggressor punched and pummeled Jesse into the snow and in his own words was "beating the shit out of" him. The violence ended when Jesse's fellow missionaries came to his aid and physically stopped the aggressor.

[1] There are references in the information and supporting affidavit suggesting the driver of the pickup launched the "altercation" to ask defendants to move their car, which the driver reportedly claimed was blocking "access." In the event this case were to go to trial, defendants will show that this suggestion is plainly false. In fact, defendants possess photographic evidence proving the pickup driver was able to "access" all roads and driveways around defendants' Subaru by very wide margins. The true motivation of the driver's initiation of hostility and force against defendants was religious and/or political intolerance.

LEGAL STANDARD

Defenses to a criminal charge based on a lack of jurisdiction or the failure of a charging instrument to state an offense cannot be waived and can be raised at any time:

> Lack of jurisdiction or the failure of a charging document to state an offense is a nonwaivable defect and must be noticed by the court at any time during the pendency of a proceeding.

§ 46-13-101(3), MCA.

The function of a [charging document] is twofold: (1) to give jurisdiction to the courts; and (2) to notify a defendant of his offense, thereby giving him an opportunity to defend. *State v. Heiser*, 146 Mont. 413 (Mont. 1965). For initiating prosecution under §46-11-201, MCA, which provides that leave to file information may be granted only if affidavit of application shows there is probable cause to believe that the charged offense was committed, a showing of probable cause is a jurisdictional threshold. *State v. Davis*, 210 Mont. 28 (Mont.1984).[2] Lack of proper jurisdiction can always be raised at any point in a proceeding. *State v. Liefert*, 309 Mont. 19 (Mont.,2002).

"When parties raise the issue of the sufficiency of the evidence to establish probable cause, the issue is whether the alleged facts satisfy the statutory elements of the crime charged" *State v. Giffin*, 2021 MT 190, ¶ 11, 491 P.3d 1288, 405 Mont. 78, , and, "as a matter of law," an information and supporting affidavit must apprise "the defendant of the offense charged and the alleged facts in support of the offense . . . sufficient to enable him the opportunity to prepare a defense." *Id.* (citing *State v. Wilson*, 340 Mont. 191, 172 P.3d 1264 (2007)).

[2] It should be noted that *State v. Davis* has received severe negative treatment by *State v. Spreadbury*, 361 Mont. 253 (Mont.,2011). However, the real question in *Spreadbury* was whether a defense of insufficient probable cause could be made for the first time on appeal. Such a narrow reading of §46-11-201(3), that such a defense could never be raised would eviscerate the Legislature's intent to extend the time for challenging the sufficiency of the charging instrument beyond the time constraints provided in §46-11-203(1). Here too, the defense has been raised prior to the Omnibus hearing.

ARGUMENT

I. THE CHARGING INSTRUMENTS ALLEGE FACTS THAT, EVEN IF TRUE, FAIL TO TRIGGER CRIMINAL LIABILITY.

The four defendants in these matters have all ostensibly been charged with variations of the offense of "assault with a weapon," allegedly in violation of subsections under § 45-5-213, MCA. The charging instruments, however, fail to lay out probable cause for these "assault" allegations, and fail to adequately account for and develop "all" evidence that the defendants acted in self-defense as required by Montana law.

A. The charging instruments plainly fail as a matter of law to describe an offense.

Even when viewed in the light most extravagantly favoring the prosecution, the charging instruments in these cases do not state any criminal offense under Montana law. Under § 45-3-111(2), MCA, "if a person reasonably believes that the person or another person is threatened with bodily harm, the person may warn or threaten the use of force, including deadly force, against the aggressor, including drawing or presenting a weapon."

The very words of the informations filed in these cases indicate that the defendants were faced with an aggressor who engaged them in "a verbal altercation" and then "exited his vehicle" to initiate violence.[3]

Such stated facts could not give rise to greater reasonableness for a person opposing such aggression to "warn or threaten the use of force, including deadly force, . . . including drawing or presenting a weapon." Moreover, the charges and charging instruments violate Montana law with regard to criminal investigation.

Note that § 45-3-111(2), MCA, does not require that an aggressor threaten *deadly* harm,

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[3] "_____ reported to law enforcement that he stopped his vehicle as it was impeding access to the driveway of _____'s business. A verbal altercation ensued and _____ exited his vehicle and the Defendant aimed and/or pointed a firearm at him."

or *extreme* harm. The statute authorizes persons to draw or present a weapon in response to a threat of "bodily harm." Under Montana law, a person getting a pedicure may draw a weapon if she reasonably believes her pedicurist is about to draw blood, until the pedicurist drops the clippers.

At the moment the hostile driver (Bradley Terrell) "exited his vehicle" against defendants, Defendant Jesse Boyd and the others were self-evidently justified under the law to "warn or threaten the use of force, including deadly force, against the aggressor, including drawing or presenting a weapon." § 45-3-111(2), MCA.

The elements required to convict someone of the crime of "assault with a weapon" under § 45-5-213(1)(b), MCA, are:

(1) purposely or knowingly
(2) causing
(3) reasonable apprehension of serious bodily injury in another by use of a weapon.

However, because "the Defendant and Co-Defendants claimed to have been acting in self-defense" (according to page 2 of the State's motion to file the information against Jesse Boyd), there is an additional burden on the State:

(4) that defendants' self-defense and defense-of-others defenses don't cast reasonable doubt on defendants' criminal liability.[4] *State v. Matz*, 335 Mont. 201, 150 P.3d 367 (2006).

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[4] Prior to *State v. Matz*, the absence of self-defense was considered an element of all crimes of violence. But *Matz* threw a wrench into the matter and added confusion to the question. In *Matz*, the State Supreme Court wrote that

> We agree with the State that [*State v.*] *Azure*'s statement, . . . approving a jury instruction which placed the burden upon the State to establish the absence of justification for use of force, is no longer good law. Indeed, we have previously explained that this was the effect of our holding in *Daniels*. In *State ex rel. Kuntz v. Thirteenth Jud. Dist.*, 2000 MT 22, P 42, 298 Mont. 146, P 42, 995 P.2d 951, P 42, we noted that "[a]lthough not expressly holding so, *Daniels* overturned a line of case law, notably *State v. Graves* (1981), 191 Mont. 81, 622 P.2d 203, and *State v. Azure* (1979), 181 Mont. 47, 591 P.2d 1125, that had previously held that jury instructions stating that the State had the burden to prove an absence of justification beyond a reasonable doubt were proper." We also cited *State v. Gratzer*, 209 Mont. 308, 318, 682 P.2d 141 (1984), for this proposition.
>
> Matz raised justifiable use of force as his affirmative defense to the shooting. Therefore, it was properly and constitutionally Matz's burden at trial to produce sufficient evidence to raise a reasonable doubt of his guilt based on his justifiable use of force defense, and the

By the State's own filings, the State cannot and will not be able to establish at least two of the four elements or burdens as required by law. Defendants could not "cause" the reasonable apprehension of serious bodily injury in another where the *other* person *caused* the initiation of aggression. And, therefore, the State cannot meet its burden under § 45-3-111(2), which explicitly authorizes persons on the receiving end of aggression to "warn or threaten the use of force, including deadly force, against the aggressor, including drawing or presenting a weapon."

The law could not be more clear. Rather than violate the law, Jesse Boyd and the other defendants followed and complied with the law, *by the plain text of the charging instrument*.

The charging instruments in these cases fail to state a claim upon which any relief can be granted for the State of Montana.

B. The charging instruments fail to make mandatory disclosures pursuant to § 45-3-112, MCA.

These cases must also be dismissed because the investigation behind the charges failed to comply with Montana's duty-to-investigate-self-defense statute, § 45-3-112, MCA:

> When an investigation is conducted by a peace officer of an incident that appears to have or is alleged to have involved justifiable use of force, the investigation **must be conducted** so as to disclose **all** evidence, including testimony concerning the alleged offense that might support the apparent or alleged justifiable use of force.

(Emphasis added.)

The statute, enacted by the Legislature in 2009, was the subject of vigorous debate in the Montana Supreme Court three years later in *State v. Cooksey*, 366 Mont. 346, 286 P.3d 1174 (2012) and *State v. Mitchell*, 366 Mont. 379, 286 P.3d 1196 (2012). The majority of the

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> State was not obligated to prove that Matz did not act with such justification. *Daniels*, 210 Mont. at 16, 682 P.2d at 181.

To say the least, this awkward diffusion of principles and burden-shifting seems to add more confusion than clarity to the mandates imposed on the State. In any case, the State must overcome any self-defense or defense-of-others arguments made by defendants. And in this case, such arguments are substantial, overpowering and compelling—as evidenced in the State's own written pleadings.

Court, in both *Cooksey* and *Mitchell,* construed the statute to be a discovery requirement mandating the prosecution to disclose any evidence it had that was relevant to the defense of justifiable use of force.[5] "[T]he statute reflects long-established obligations regarding thorough and complete police investigations . . ." *Mitchell*, at 383, 1181.

Justices Nelson and Rice dissented regarding the statute, with Nelson stating that the Court's construction of § 45-3-112 "emasculates this statute." *Id*. at 1183. Nelson found the Court's construction of 45-3-112 "would render the statute "mere surplusage" and an "idle act,'" in violation of Court precedent, citing *Formicove, Inc. v. Burlington Northern, Inc*., 207 Mont. 189, 194, 673 P.2d 469, 471 (1983).[6] "Full disclosure of all evidence generated or discovered during an investigation and in the State's possession is already required . . . . and we must presume that in passing § 45-3-112 the Legislature "intended to make some change in existing law," wrote Nelson, citing *Cantwell*, 228 Mont. at 334, 742 P.2d at 470. Cooksey. at 367, 1189 (Nelson dissenting):[7]

> The statute directs the peace officer who finds himself in this situation to conduct the investigation in a particular way. Specifically, "the investigation must be conducted so as to disclose all evidence, including testimony concerning the alleged offense and that might support the apparent or alleged justifiable use of force." Thus, while the statute does not impose a duty to commence an investigation, it does impose a duty where an investigation has been commenced, and the duty is to conduct the investigation as the statute

[5] The majority in *Mitchell* summed up its construction of § 45-3-112, MCA, as "reflect[ing] long-established obligations regarding thorough and complete police investigations and requirements that the prosecution disclose any evidence in the government's possession that is relevant to the defense of justifiable use of force." *Mitchell*, at 382, 1199.

[6] Justice Nelson's multi-page dissent was scathing: "Of all the proffered constructions of this language in the two cases—by Cooksey, by Mitchell, by the Assistant Attorneys General, and by the Court—the Court's is the most extreme and implausible. The Court says that § 45-3-112, MCA, does not impose any new duty on law enforcement, but instead merely "reflects long-established obligations regarding thorough and complete police investigations and requirements that the prosecution disclose any evidence in the government's possession that is relevant to the defense of justifiable use of force." Id. at 365, 1187.
"Not even the Assistant Attorneys General arguing the State's position in these cases propose such a blatant rewriting of the statute," wrote Nelson. *Id* at 365-66, 1187. "The Court's interpretation runs contrary not only to this stated purpose, but also to the presumption that the Legislature does not pass useless or meaningless legislation." *Id*. at 366. Nelson noted that the statute's stated purpose—as passed by the Legislature—was to "to clarify and secure the ability of the people to protect themselves." Id. (citing Laws of Montana, 2009, ch. 332, preamble).

[7] "First, and especially relevant to this case, we presume that the Legislature does not pass useless or meaningless legislation." *Cooksey*, at 364, 1186 (Nelson, J. dissenting in part) (citing State v. Johnson, 365 Mont. 56, 277 P.3d 1232 (2012); Hendershott v. Westphal, 360 Mont. 66, 253 P.3d 806 (2011).

> specifies. Indeed, the State concedes in both *Cooksey* and *Mitchell* that the statute imposes "the duty to conduct [the] criminal investigation in a way that will result in full disclosure to the defendant of all 'evidence.'"

Id. at 367, Nelson dissenting in part.

Defendants agree with Nelson's dissent and that the Legislature, in drafting § 45-3-112 "intended to make some change in existing law…to clarify and secure the ability of the people to protect themselves" by making evidence relative to justifiable use of force available to the court by Information at the time at which the State makes its showing of probable cause. Under this legal theory, the Legislature has placed at least some additional burden on the prosecution by allowing the Defendants to challenge the sufficiency of the Information for its failure to disclose claims of justifiable use of force and the facts, if any, that may support such a claim. At minimum, the prosecution failed to disclose that a justifiable use of force defense had been raised at the time of the incident. How else could ordered liberty rely on justifiable use of force, if the claim itself is shielded from the scrutiny of the Magistrate upon first review?

Under either construction of the law, however, Madison County's investigation in this case flagrantly disregarded the requirements imposed on the State by the plain and unambiguous language of § 45-3-112 — specifically, to conduct their investigations (in cases involving justifiable use of force) so as to discover, expose, and make known "all" evidence, including testimony concerning the alleged offense and that might support the apparent or alleged justifiable use of force.

The State appears to be unlawfully burying evidence and information supporting defendants' self-defense and defense-of-others claims. The original probable cause affidavits used in Justice Court to falsely justify incarcerations with high bonds claimed that Mr. Terrell had sustained injuries or cuts to his *hands*. Of course, cuts and injuries to hands are indicative of punching and striking by the aggressor, Bradley Terrell.

Yet on the "Facts that establish probable cause" paperwork presented by the State in District Court, there is no mention of cuts or injuries to Mr. Terrell's *hands*. This information has been removed, apparently because it demonstrates Terrell was using his fists.

Had investigators properly performed their investigation in accordance with § 45-3-112, they would have collected Jesse Boyd's eyeglasses and noted that Jesse Boyd's eyeglasses were severely broken by Bradley Terrell, which is a fact consistent with Bradley Terrell throwing the first punch. (It might be expected that spectacle-wearing people tend to remove eyeglasses before launching into physical violence.)[8] (This evidence is also consistent with cuts and injuries on Terrell's hands.)

Additionally, Jesse Boyd's pants—still in the possession of the State—have blood from Jesse Boyd which *bled through the fabric*, indicating cuts to Jesse's leg. And although jail staff took pictures of (some) injuries or bruises on the body of defendant Jesse Boyd, the documents filed in Court by the State conspicuously fail to disclose such information. Neither the probable cause affidavits, nor the State's other filed documents, mention these vital facts supporting self-defense.

Nor do any of the informations or affidavits mention Bradley Terrell's admissions that he pushed "the younger one facedown in the snow" and began "beating the shit out of the younger one," or the fact that Mr. Terrell declined multiple times to be transported in an ambulance or seek any medical care despite the fact that the Madison County Sheriff's Office summoned an ambulance for him.

Significantly, the State's one-sided filings mention two witnesses who supposedly saw Mr. Terrell being "attacked," yet the filings conceal from the Court the fact that neither

[8] It is widely recognized that (1) people anticipating starting violence generally take their glasses off first, (2) broken glasses are proof or supportive that the other party threw the first punch, and (3) those who punch people wearing glasses are cheating or not fighting fairly, as broken glasses may injure the face of a victim. Cf. *United States v. Benally*, 146 F.3d 1232 (1998) (reversing murder conviction due to denial of self-defense and lesser-included-offense jury instruction; broken eyeglasses on defendant were a factor weighing in favor of reversal).

"witness" had much grasp of any significant details of the "attack" or mentioned anything about any defendant brandishing a gun. (Upon information and belief, these "eyewitnesses" were guests of Mr. Terrell's and some 750 to 800 feet (two and a half football fields) away with their line of sight blocked by at least one vehicle.) The "eyewitness" accounts indicated that "three children" were walking the highway and that as many as seven males attacked Terrell; yet the State chose to downplay the farcical nature of the accounts and to file charges against defendants despite possessing evidence that Madison County's claims are untrue.

Nor do any of the papers submitted mention the fact that Jesse Boyd's 12-year-old son J.B. was also present and standing next to Jesse at the time of Terrell's attack. This fact further substantiates the reasonableness of Jesse Boyd's immediate defensive reaction upon Terrell's exiting of his vehicle. Nor did Madison County investigators make mention that J.B.'s recorded statement corroborated the accounts of all defendants and <u>fully exonerates</u> the defendants.

Additionally, the State is withholding Eric Trent's iPhone, which contains exculpatory evidence, including evidence that Trent tried to connect to 9-1-1 numerous times. The State failed to collect evidence which plainly shows Bradley Terrell misled authorities about the defendants "blocking access" to driveways. (The roadway was wide enough for two or even three or four vehicles to drive past one another, and defendants' legally parked car did not block any access to anyone or any driveway.) The State failed to disclose evidence of defendants' injuries, including cuts on Jesse Boyd's leg which bled through Jesse's own pants.

The slipshod, biased, one-sided, and perfunctory nature of the State's investigation in this case is self-evident in the State's pleadings. For example, any reader can instantly find conflicts and inconsistencies in the stated accounts of the purported victim and the two described prosecution "eyewitnesses"; yet no inconsistencies whatsoever among the defendants' accounts.

These missionary defendants have all been *pro se* until recently. Their phone numbers have been known to investigators continuously. Yet no Madison County investigator has contacted defendants to get any information from defendants, with the exception of the brief initial statements taken at the time of defendants' false arrests. The refusal of Madison County officers to comply with § 45-3-112 requires dismissal of this case.

Indeed, the charges against Jesse Boyd, Bethany Boyd, Eric Trent and Carter Phillips appear to stem from Madison County authorities' *misinterpretation of the law.* § 45-3-110, MCA, provides that "[e]xcept as provided in 45-3-105 [those who commit or escape from the commission of a forcible felony], a person who is lawfully in a place or location and who is threatened with bodily injury or loss of life has no duty to retreat from a threat or summon law enforcement assistance prior to using force. And § 45-3-111, MCA, states that "[a]ny person who is not otherwise prohibited from doing so by federal or state law may openly carry a weapon and may communicate to another person the fact that the person has a weapon."

Yet Madison County authorities appear to be under a false impression of the law that any display or brandishing of a firearm against an unarmed assailant is unlawful or an assault.[9] Montana statutes could not be more clear that the State's assessment of the law in this way is improper. *Displaying or brandishing arms to thwart violent aggression is among the primary essences, designs and purposes of the right to keep and bear arms.* Such a display cannot be, and is not an "assault."

C. <u>The investigation also violated ARM 23.13.203, the public safety officer code of ethics.</u>

The Montana Administrative Rules require that all public safety officers must abide by a code of ethics, and that the fundamental responsibility of public safety officers is to "serve the community, safeguard lives and property, protect the innocent, keep the peace, and ensure

[9] One deputy, Alex Winn, is heard on bodycam video telling defendant Eric Trent, "When you point guns at people it's against the law."

the constitutional rights of all are not abridged." ARM 23.12.203(3)(a). Officers swear that they will "perform all duties impartially, without favor or ill will and without regard to status, . . . religion, creed, political belief or aspiration." *Id*. at (3)(b). Arresting people based on self-interested hearsay and a one-sided assessment of the facts is not acting impartially. Referring to one person in a conflict as a "victim" despite that person saying he "beat the shit out of" a defendant is not acting impartially. Referring to Christian missionaries as "transients," hitch-hikers, and "crazy people" while ignoring their reports of self-defense is not acting impartially.

Prosecuting attorneys are bound by their own rules of ethics. A "prosecutor's role transcends that of an adversary: he 'is the representative not of an ordinary party to a controversy, but of a sovereignty ... whose interest ... in a criminal prosecution is not that it shall win a case, but that justice shall be done.' " *United States v. Bagley*, 473 U.S. 667, 675 n.6 (1985) (ellipses in original) (quoting *Berger v. United States*, 295 U.S. 78, 88 (1935)); accord *State ex rel. Fletcher v. Nineteenth Jud. Dist. Ct*., 260 Mont. 410, 415, 859 P.2d 992, 995 (1993) ("[A] prosecutor should seek justice and not simply an indictment or a conviction.").

Yet in this case—where the very supporting affidavits indicate the purported victim was the aggressor and where Montana statutes thus plainly authorize the drawing of a pistol and using other weapons in such a case—Madison County authorities have plainly thrown in with one version of facts while ignoring, overlooking and concealing another.

Here the allegations are not simply lacking details, as in *Griffin*.[10] The alleged facts—as stated—refute and debunk criminal liability for the defendants.

[10] In *Griffin*, the defendant moved to dismiss on grounds that the "State needed to provide the specific time that Giffin discharged the shotgun, the direction the broken window faced, the type of shotgun Giffin shot, the shotgun shell he used, and whether or not the parking lot was in use when the shotgun discharged," but the court found such facts were "not required to withstand a motion to dismiss his criminal endangerment charge." *Griffin* at 87, 1294. In the instant case, however, the most basic factual assertions of the State are belied by information possessed by the State and evidenced on the face of the State's own charging instrument.

CONCLUSION

For all the foregoing reasons, defendants pray for an order dismissing the charges and charging instruments in these cases, with prejudice. The defendants request a hearing on their motion to dismiss.

RESPECTFULLY SUBMITTED this 1st day of February, 2023.

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CERTIFICATE OF SERVICE

I, Alexander Louis Roots, hereby certify that I have served true and accurate copies of the foregoing Motion - Motion to Dismiss to the following on 02-01-2023:

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