ORIGINAL

IN THE SUPREME COURT OF OHIO
Supreme Court Case Numbers 11-1504 and 11-1593

STATE OF OHIO

Appellee

v.

JILLIAN D. HOBBS

Appellant

On Appeal from the Summit County Court of Appeals Ninth Appellate District Court of Appeals No. 25379

MERIT BRIEF OF APPELLEE STATE OF OHIO

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STATEMENT OF FACTS

On September 16, 2009, Detective Plymire received a report from a patrol officer that a victim, Luana Scott, had reported a recent burglary. (Supp. Tr. 9). Detective Plymire and his partner went to Scott's home to confirm the reported burglary. (Supp. Tr. 12).

Detective Plymire learned that there were two witnesses to the burglary. (Supp. Tr. 11). Law enforcement officers interviewed these witnesses and they indicated that they had seen Hobbs enter the victim's home the prior day, which was the date of the burglary. (Supp. Tr. 11).

At that point in the investigation, Detective Plymire and his partners, Detectives Klein and Brown, went to Hobbs' home to speak with her. (Supp. Tr. 13). The officers found Hobbs at home with a friend, who was identified as Mr. Gowdy. (Supp. Tr. 13).

Detective Plymire averred that Hobbs invited the officers inside her home. (Supp. Tr. 13). The officers advised both Hobbs and Gowdy that they were investigating a burglary and further advised them that witnesses reported they had seen Hobbs enter the victim's home. (Supp. Tr. 13-14).

Hobbs and Gowdy asked to go outside to speak privately. (Tr. 14). The two of them went outside and the officers also went outside; however, the officers remained far enough away from Hobbs and Gowdy to give them privacy. (Tr. 14). After the two spoke, Hobbs returned. (Tr. 14). Hobbs was visibly upset and crying. (Tr. 14). Hobbs confessed that she had taken things from Scott's home and explained that she committed the crime because she had a "drug problem." (Tr. 14).

At that time, Detectives Klein and Brown went back inside the residence with Hobbs, while Detective Plymire remained outside speaking with Gowdy. (Supp. Tr. 16-17). Gowdy provided the detective with some details about the drug dealer that he and Hobbs used and

further indicated to the detective that he and Hobbs were willing to assist the officers in retrieving the stolen property through the drug dealer. (Supp. Tr. 17).

At the same time, inside the house, the law enforcement officers "Mirandized" Hobbs. (Supp. Tr. 16). Hobbs advised the detectives that the stolen property was not inside the home, but, she did tell the officers that she had heroin paraphernalia in her bathroom. (Supp. Tr. 16). Hobbs showed the officers the location of the drug paraphernalia. (Supp. Tr. 16).

Detective Plymire explained that, because Hobbs confessed to entering the home and taking the property, she was placed under arrest. (Supp. Tr. 18). In addition, since Hobbs insisted that Gowdy had nothing to do with the burglary, Gowdy was not arrested. (Supp. Tr. 18). After being taken into custody, Hobbs was transported to the Summit County Jail. (Supp. Tr. 18).

On September 16, 2009, Detective Plymire signed a complaint, which was typed on a preprinted form, alleging that, on September 15, 2009, Hobbs committed the crime of burglary, in that: "Jillian D. Hobbs did trespass in an occupied structure that is a permanent or temporary habitation of Laura Scott, when Laura Scott is present or likely to be present, with purpose to commit in the habitation a criminal offense; in violation of Section 2911.12 of the Revised Code." (App. A-1 & A-2, Affidavit for Arrest or Summons & Complaint in Case No. 09CRA02702 regarding Incident Report No. 012-0904738-09).

Detective Plymire's complaint was sworn to and subscribed before Sergeant Stott, who was acting as a deputy clerk for the Barberton Municipal Court. *Id.* These documents were filed with the municipal court the next day. (App. A-3 & A-4, Affidavit for Arrest or Summons & Complaint in Case No. 09CRA02702 regarding Incident Report No. 012-0904738-09).

While Hobbs was in custody, a deputy sheriff appeared before the Summit County grand jury, and, on October 1, 2009, Hobbs was indicted for one count of burglary. (Trial Court Record No. 2). On November 5, 2009, Hobbs filed a motion to dismiss and to suppress. (Trial Court Record No. 21). Hobbs attached a copy of the complaint and affidavit to her motions. *Id.*

The State opposed the motion and, after a hearing, the trial court denied the motions. (Trial Court Record Nos. 32 & 49; Hobbs' App. A). In the trial court's journal entry, the judge determined that "an arrest warrant found to be defectively issued is a violation of rights guaranteed in the Constitution and as such warrants some type of judicial remedy." (Trial Court Record No. 49, Hobbs' App. A-23). The trial court further determined that "the victim of a detention and indictment predicated on an invalid arrest warrant is not without judicial recourse and the prosecution does not escape scrutiny." (Hobbs' App. A-23).

In addition, the trial court concluded that, although the warrant for Hobb's arrest was defectively issued in violation of the Constitution, the exclusionary rule was "the relevant remedial framework governing disposition" of the motion, but that "no evidence was obtained as a direct result of the improperly issued arrest warrant." (Hobbs' App. A-23). The trial court concluded that, "without such evidence to suppress, it compels the conclusion that the invalid arrest warrant, in all likelihood, amounts to harmless error on the part of the prosecution with the result that the accused in this case "does not seem to have suffered any legally redressible prejudice." (Hobbs' App. A-24).

Subsequently, the State moved the trial court judge to correct plain error in the factual background section of its order wherein the court found that an "arrest warrant" had issued. (Record No. 51). Hobbs opposed the State's motion. (Record No. 55).

Prior to the trial court ever ruling on the motion, Hobbs entered a plea of no contest, on March 29, 2010, to the charge of burglary and was sentenced to two years imprisonment. (Record No. 59).

Hobbs filed an appeal, raising one assignment of error wherein she challenged the trial court's denial of her motions to suppress and to dismiss. The Ninth District Court of Appeals affirmed the trial court's February 25, 2010 ruling. *State v. Hobbs*, 9th Dist. App. No. 25379, 2011-Ohio-3192.

On September 2, 2011, Hobbs filed a notice in the Supreme Court of Ohio that the Ninth District Court of Appeals had certified a conflict, as to the following question: "May a law enforcement officer, serving a dual-role as an officer and deputy clerk of a local municipal court, act as a neutral and detached magistrate for purposes of Crim.R. 4(A)?" This certified question was accepted by the Ohio Supreme Court. (Ohio Supreme Court Case No. 2011–1504).

Then, on September 19, 2011, Hobbs filed a discretionary appeal before the Ohio Supreme Court. The Court accepted the appeal on Hobbs' Proposition of Law Number 1: A law enforcement officer serving in a dual role as an officer and deputy clerk of a local municipal court may not act as a neutral and detached magistrate. When a warrantless arrest has occurred without showing why a warrant could not first be obtained and is followed by a "bare bones" complaint for a resulting arrest warrant for continued detention issued by operation of such dual role officer as a recurring, systemic practice, the exclusionary rule applies to all evidence directly or indirectly obtained as a result of the policy from the date the policy was implemented, not simply from the date the particular warrant issued. (Ohio Supreme Court Case No. 2011–1593).

On November 22, 2011, the Ohio Supreme Court ordered the two cases consolidated for briefing.

PROPOSITION OF LAW I

A LAW ENFORCEMENT OFFICER SERVING A DUAL-ROLE AS AN OFFICER AND DEPUTY CLERK OF A LOCAL MUNICIPAL COURT MAY NOT ACT AS A NEUTRAL AND DETACHED MAGISTRATE FOR PURPOSES OF CRIM.R. 4(A).

LAW AND ARGUMENT

In her first proposition of law, Hobbs argues that a law enforcement officer who serves in a dual-role as an officer and a deputy clerk of a local court, cannot act as a neutral and detached magistrate for purposes of Crim.R. 4(A).

In this case, the trial court and the Ninth District Court of Appeals held that Sergeant Stott could not serve a neutral and detached magistrate because he was also a law enforcement officer. However, based on the facts of this case, both courts held that no evidence resulted from the improper procedure and, therefore, there was no evidence to suppress.

The State contends that Hobbs' first proposition of law is without merit because it is based on the false predicate that an arrest warrant was issued pursuant to Crim.R. 4(A). No arrest warrant was issued in this case. Instead, Hobbs was arrested without a warrant, based on the detectives' determination that they had probable cause to make a warrantless, felony arrest.

A law enforcement officer can make a warrantless arrest if the officer has probable cause to believe that a felony was committed and a certain person is guilty of that offense. *State v. Wac*, 68 Ohio St.2d 84, 88 (1981), citing *U.S. v. Watson*, 423 U.S. 411 (1976). Likewise, pursuant to R.C. 2935.04, "[w]hen a felony has been committed, or there is reasonable ground to believe that a felony has been committed, any person without a warrant may arrest another whom he has reasonable cause to believe is guilty of the offense, and detain him until a warrant can be obtained." R.C. 2935.04.

Here, Hobbs told three detectives that she had committed a felony. In light of her confession, the detectives determined that they had probable cause to make a warrantless, felony arrest and placed Hobbs under arrest.

On September 16, 2009, Detective Plymire signed a complaint, which was typed on a preprinted form, alleging that, on September 15, 2009, Hobbs committed the crime of burglary, in that: "Jillian D. Hobbs did trespass in an occupied structure that is a permanent or temporary habitation of Laura Scott, when Laura Scott is present or likely to be present, with purpose to commit in the habitation a criminal offense; in violation of Section 2911.12 of the Revised Code." (App. A-1 & A-2, Affidavit for Arrest or Summons & Complaint in Case No. 09CRA02702 regarding Incident Report No. 012-0904738-09).

The criminal complaint and affidavit were filed with the Clerk of the Barberton Municipal Court, on September 17, 2009. (App. A-3 & A-4, Affidavit for Arrest or Summons & Complaint in Case No. 09CRA02702 regarding Incident Report No. 012-0904738-09). Hobbs argues that an arrest warrant issued at the same time. The State disagrees and argues that the complaint and affidavit were completed by Detective Plymire in accordance with R.C. 2935.05 and were not a request for the issuance of an arrest warrant pursuant to Crim.R. 4(A).

Hobbs further contends that the "arrest warrant" was void *ab initio* because it was authorized by a Summit County Sheriff's Deputy who was acting as the Deputy Clerk for the Barberton Municipal Court. The State disagrees that the document was an arrest warrant and further argues that the document that was clerked by Sergeant Stott was not void.

The State argues that Hobbs has mischaracterized the "Complaint" and "Affidavit for Arrest" which were clerked after her arrest, as an "arrest warrant." Additionally, Hobbs has

mischaracterized the affidavit and complaint as constituting the probable cause determination required when an arrest warrant is issued.

At the trial court level, the State sought to have these mischaracterizations corrected; however, the corrections were not made. Consequently, these mischaracterizations persist today.

Based on the foregoing, the State contends that Hobbs' First Proposition of Law must fail because it is based on the faulty premise that Sergeant Stott acted as a neutral and detached magistrate for purposes of Crim.R.(4)(A). As argued *supra*, Crim.R. 4(A) is inapplicable in this case because that section of the rule applies to the issuance of warrants or summons for arrest based on a complaint, after a probable cause determination. In this case, no arrest warrant was issued; therefore, Crim.R. 4(A) does not apply. Instead, Hobbs was taken into custody based on a warrantless arrest that occurred after officers determined that they had probable cause to believe that a felony had been committed. Thus, Crim.R. 4(E)(2), which relates to the procedure for an arrest without a warrant is applicable in this case rather than Crim.R. 4(A).

Crim.R. 4(E)(2) states that, "[w]here a person is arrested without a warrant the arresting officer shall, except as provided in division (F), bring the arrested person without unnecessary delay before a court having jurisdiction of the offense, and shall file or cause to be filed a complaint describing the offense for which the person was arrested. Thereafter the court shall proceed in accordance with Crim.R. 5." Crim.R. 4(E)(2). Criminal Rule Five sets forth the procedure for an initial appearance, which includes the requirement that the court find that there was probable cause that a felony was committed by the accused. Crim.R. (5)(B)(4)(a).

The paperwork that was filed in this case was not a request for the issuance of an arrest warrant. The state contends that the affidavit and complaint that were filed in this case were filed pursuant to the statutory requirement of R.C. 2935.05 and Crim.R. 4(E)(2) and Crim.R. 5.

R.C. 2935.05 requires that, when a person named in R.C. 2935.03 has "arrested a person without a warrant, he shall, without unnecessary delay, take the person arrested before a court or magistrate having jurisdiction of the offense, and shall file or cause to be filed an affidavit describing the offense for which the person was arrested. Such affidavit shall be filed either with the court or magistrate, or with the prosecuting attorney or other attorney charged by law with prosecution of crimes before such court or magistrate and if filed with such attorney he shall forthwith file with such court or magistrate a complaint, based on such affidavit." R.C. 2935.05

Since the affidavit and complaint were not a request for the issuance of a warrant, the Fourth Amendment requirements that a probable cause determination be made by a neutral and detached magistrate. This argument is supported by R.C. 2935.081, which provides that a police officer, "who has completed a course of in-service training that includes training in the administration of oaths and the acknowledgment of documents and that is approved by the chief legal officer of the political subdivision in which the peace officer is elected or of the political subdivision or other entity in which or by which the peace officer is appointed or employed may administer oaths and acknowledge criminal and juvenile court complaints, summonses, affidavits, and returns of court orders in matters related to the peace officer's official duties."

Thus, the State argues that when a law enforcement officer acknowledges a complaint and affidavit, the Fourth Amendment requirement for a neutral and detached magistrate is not applicable because the dual-role officer is acknowledging the probable cause upon which the arresting officer made the arrest and is *not* making a probable cause determination for the issuance of a warrant to arrest.

In this case, after Hobbs was arrested, a complaint was filed on September 17, 2009. On the face of the pre-printed forms, Sergeant Stott acknowledged Detective Plymire's sworn

statement as to the truth of the probable cause narrative set forth by the complainant, Detective Plymire. (App. A-3). Additionally, Sergeant Stott acknowledged Detective Plymire's sworn statement as to the essential facts that Detective Plymire wrote on the affidavit for the Complaint. (App. A-4).

At the suppression hearing, Sergeant Stott averred that, before he "clerked" the complaint, he determined that Detective Plymire did have probable cause to believe that Hobbs had committed the crime set forth in the complaint. (Tr. 36). Sergeant Stott's probable cause determination related to the issuance of a *complaint*, not the issuance of an arrest warrant.

Hobbs has mischaracterized Sergeant Stott's acknowledgement of Detective Plymire's attestation to the truth of the affidavit and complaint as constituting a probable cause determination for the issuance of an arrest warrant. This mischaracterization is incorrect.

The record shows that in this case: the detectives made a warrantless arrest based on probable cause that Hobbs committed a felony; Detective Plymire completed a complaint and affidavit; another officer, Sergeant Scott, acknowledged the complaint and affidavit; and, Sergeant Stott filed or caused to be filed the complaint and affidavit so that a probable cause determination could later be made by a neutral judge, clerk or magistrate.

At the hearing, Detective Plymire averred that, after Hobbs was arrested without a warrant based on the officers' determination that there was probable cause to believe she had committed a felony, he followed standard procedure, which included completing an affidavit and a complaint. (Supp. Tr. 22-23; 26). Detective Plymire attested that Sergeant Stott, who was acting as the deputy clerk for the Barberton Municipal Court, acknowledged Detective Plymire's signature on the affidavit for the complaint. (Supp. Tr. 23-24).

Detective Plymire specifically testified that no warrant was issued for Hobbs' arrest. (Supp. Tr. 24). The detective also said that no warrant was needed for the arrest. (Supp. Tr. 29).

With regard to the complaint that was issued in this case, Detective Plymire explained that, after the complaint is clerked, it becomes the arrest warrant confirming the arrest. (Supp. Tr. 24-26). The detective did not, however, say that a warrant issued for Hobbs' arrest in this case. (Supp. Tr. 24).

Sergeant Stott averred that Detective Plymire called him and advised him that he had arrested Hobbs after she confessed to committing burglary. (Tr. 37). Sergeant Stott testified that Detective Plymire later appeared with an affidavit and complaint (Supp. Tr. 37). Sergeant Stott attested that, when the detective came to the office: he talked to Detective Plymire about the facts of the case; he asked the detective if everything in the complaint and the facts were true; Detective Plymire swore to the facts alleged in the complaint; and, Sergeant Stott then clerked the affidavit and complaint. (Supp. Tr. 37). Sergeant Stott attested that he clerked the complaint because there was probable cause for the complaint. (Supp. Tr. 37-38).

Sergeant Stott explained that a complaint that is filed by a police officer is treated different that a complaint that is filed by a citizen because a complaint brought by a citizen is not clerked until there has been a determination of probable cause. (Supp. Tr. 55-57). Sergeant Stott explained that an ordinary citizen must first go through a process whereby their case is referred to a prosecutor or the police before their complaint is clerked. (Supp. Tr. 56-57). In contrast, a complaint made by a police officer will be clerked because, in the officer's complaint the officer swears to the facts upon which the officer had probable cause for the arrest. (Supp. Tr. 56). Sergeant Stott further stated that after a such complaint is signed, the suspect is transported to the jail. (Supp. Tr. 46-47).

In light of the foregoing, it is clear that the Sergeant Stott did not make the probable cause determination that is necessary for the issuance of an arrest warrant pursuant to Crim.R.4(A). There was no arrest warrant issued in this case. Hobbs' arrest was warrantless and was based on the officers' determination that there was probable cause that Hobbs committed a felony. As such, Hobbs' First Proposition of Law must fail because it is based on the faulty premised that a law enforcement officer serving a dual-role as an officer and deputy clerk of a municipal court clerk made a determination of probable cause for purposes of Crim.R.4(A).

Assuming, however, that this Court addresses the issue of whether a law enforcement officer can serve a dual-role as an officer and deputy clerk of a municipal court clerk, the State argues that, if an officer is acknowledging another officer's complaint and affidavit which were made following a warrantless, felony arrest, the officer can serve in this dual role because the Fourth Amendment requirement that a neutral and detached magistrate must make a probable cause determination for an arrest warrant is not applicable. When the officer is completing such an affidavit and complaint in accordance with R.C. 2935.05 and Crim.R. 4(E)(2), as the officer did in this case, the "neutral and detached magistrate" requirement does not apply.

Furthermore, if this Court determines that the neutral and detached magistrate requirement does apply to the issuance of criminal complaint and affidavit that were based on a warrantless, felony arrest, the State contends that the officer in this case was neutral and detached. The State asks this court to decline to hold that an officer acting in this dual role is *per se* incapable of being neutral and detached for purposes of clerking an affidavit and complaint that are filed by an officer following a warrantless felony arrest based on the arresting officer's determination of probable cause.

Finally, if this Court holds that, as a matter of law, a law enforcement officer cannot be neutral and detached and therefore can never serve in a dual capacity role of officer and a deputy clerk for a municipal court, the State contends that the appropriate remedy is the application of the exclusionary rule. The State argues that the exclusionary rule was properly applied in this case.

Detective Plymire attested that evidence was gathered after Hobbs' arrest. (Supp. Tr. 30). Hobbs confessed prior to being placed under arrest. As such, the trial court and the appellate court correctly determined that there was no evidence to suppress in this case.

Finally, if this Court reaches the merits of Hobbs' first proposition of law, the State asks that this Court adopt the holding of the Eighth District Court of Appeals and hold that a law enforcement officer from the same department can serve as a neutral and detached magistrate when acting in the dual-role of an officer and deputy clerk of a local municipal court as long as the officer acting in the dual-role is not involved in the investigation. *State v. Garrett*, 8th Dist. App. No. 87112, 87123, 2006-Ohio-6020, ¶ 29.

For the foregoing reasons, the State asks that this Court decline to adopt Hobbs' first proposition of law.

PROPOSITION OF LAW II

WHEN A WARRANTLESS ARREST OCCURRED WITH NO SHOWING WHY A WARRANT COULD NOT FIRST BE OBTAINED FOLLOWED BY A "BARE BONES" COMPLAINT FOR AN ARREST WARRANT FOR CONTINUED DETENTION AND THE WARRANT ISSUED WHEN ONE OFFICER ACTED IN THE DUAL ROLE OF OFFICER AND DEPUTY CLERK WHERE THAT DUAL-ROLE WAS PART OF A RECURRING, SYSTEMIC PRACTICE DENYING PROMPT DETERMINATIONS OF PROBABLE CAUSE BY A NEUTRAL AND DETACHED MAGISTRATE, THE EXCLUSIONARY RULE MUST APPLY TO ALL EVIDENCE OBTAINED DIRECTLY OR INDIRECTLY DUE TO SUCH POLICY FROM THE TIME THE POLICY WAS IMPLEMENTED AS WELL AS APPLY TO BAR EVIDENCE DIRECTLY OR INDIRECTLY OBTAINED AFTER THE PARTICULAR WARRANT ISSUED.

LAW AND ARGUMENT

In Hobbs' second proposition of law, she argues that the proper remedy is for the exclusion of all of the evidence, not just the exclusion of evidence that was obtained after her arrest.

In this case, Detective Plymire testified that the decision was made to arrest Hobbs after the officers interviewed her about a reported burglary. After Hobbs confessed, she was placed under arrest.

It is clear from the transcript of the suppression hearing that the detective did not believe that he had probable cause for an arrest warrant prior to speaking to Hobbs. As such, no arrest warrant was obtained. However, after Hobbs confessed, the officers determined that they had probable cause to believe that Hobbs committed a felony. Therefore, the officers conducted a warrantless, felony arrest.

On direct appeal, Hobbs argues that the exclusionary rule proved a circle of protection around defendants and that the fact she confessed before she was arrested does not preclude the suppression and exclusion of all of the evidence. *State v. Hobbs,* at ¶ 18. The appellate court rejected Hobbs' unsupported contention. *Id.*

Now, Hobbs argues that her confession should be excluded because it "followed upon an admitted pre-existing systematic pattern and practices of ignoring the requirement that probable cause determinations be made by a neutral and detached magistrate[.]" (Hobbs' brief at page 26). The State respectfully disagrees with Hobbs' assertion.

In addition, the State notes that the record in this case is devoid of any *finding* that there was a "pre-existing systematic pattern and practices of ignoring the requirement that probable cause determinations be made by a neutral and detached magistrate." The trial court did not make any such finding and the State vehemently denies that such a pattern or practice exists.

Furthermore, the State reiterates that this is *not* a case where an arrest warrant was issued; instead, it involves a warrantless, felony arrest. As such, Hobbs' argument that Sergeant Stott made a probable cause determination as required for the issuance of an arrest warrant is incorrect.

The State contends that, in this case, Hobbs was arrested based on her confession, which was freely made to officers who were investigating a burglary complaint. As such, Hobbs' confession was *not* derived from the subsequent complaint, which both the trial court and the appellate court have characterized as an "invalid arrest warrant." Accordingly, one cannot say that the "invalid arrest warrant" flows back to the confession in this case. In this case, the lower courts properly determined that Hobbs' confession should not have been suppressed.

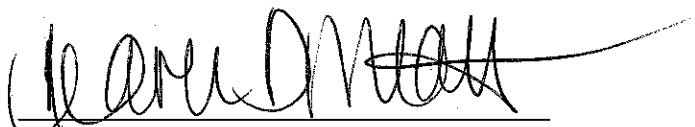
In light of the foregoing, Hobbs' second proposition of law must fail.

CONCLUSION

Pursuant to the argument offered, the State respectfully contends that the judgment of the Ninth District Court of Appeals should be affirmed.

Respectfully submitted,

SHERRI BEVAN WALSH
Prosecuting Attorney



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PROOF OF SERVICE

I hereby certify that a copy of the foregoing Merit Brief was sent by regular U.S. Mail to Attorney Mark H. Ludwig, Law Office of Mark H. Ludwig, LLC, 344 Stouffer Road, Fairlawn, Ohio 44333 on the 9th day of March, 2012.

HEAVEN DIMARTINO
Assistant Prosecuting Attorney
Appellate Division

APPENDIX

COPY

THE BARBERTON MUNICIPAL COURT
BARBERTON, OHIO 44203

STATE OF OHIO/CITY OF Twp Coventry /

vs

Jillian D. Hobbs
name
959 Portage Lakes Dr.
address
Akron, Ohio 44319
city state zip code
SS# ~~XXX-XX~~-7549

D.O.B. 8/9/1987

COMPLAINT F2

CASE NO. 09CRA 03702

ASSIGNED TO JUDGE

Complainant being first duly sworn states that Jillian D. Hobbs defendant on or about the 15 th. day of September ,20 09 / in the City of _____ Township of Coventry , Summit County, Ohio did violate / O.R.C. / or Codified Ordinance # 2911.12 , constituting a charge of Burglary

(state the essential facts)

" Jillian D. Hobbs did trespass in an occupied structure that is a permanent or temporary habitaion of Laura Scott, when Laura Scott is present or likely to be present, with purpose to commit in the habitation a criminal offense; in violation of Section 2911.12 of the Revised Code."

Sgt. Scott M. [illegible]
Complainant

Sworn to and subscribed before me by said Complainant this 16TH day of SEPT. , 20 09

Sgt. H. Stott #203
/ Judge / Clerk / Deputy Clerk /
The Barberton Municipal Court

(SEAL)

COPY

INCIDENT REPORT NO. 012-0904738-09

AFFIDAVIT for ARREST or SUMMONS

COMPLAINT NO.

Case No.

Defendant Information:

LAST	FIRST	MIDDLE	SSN	DOB
Hobbs	Jillian	D.		08-09-1987

STREET	CITY	STATE	ZIP	HOME PHONE	WORK PHONE
959 Portage Lakes Dr.	Akron	Ohio	44319		

SEX	RACE	HT	WT	EYES	HAIR	MARITAL STATUS	OCCUPATION	EMPLOYED BY
Female	White	5'01"	130	Bro	Bro	Single	Unemployed	None

License No. TC544479 Birth Place Vehicle State

Accomplice/case nos.

	CHARGES	CODE	CASE NUMBER
1	Burglary	2911.12	
2			
3			

STATE OF OHIO)
COUNTY OF SUMMIT) SS. AFFIDAVIT FOR COMPLAINT
CITY OF GREEN)

THE UNDERSIGHNED SWEARS THAT (Defendant) Jillian D. Hobbs
ON OR ABOUT THE 15th DAY OF September YEAR 2009AT (LOCATION) 5396 Peach Dr.

DID: (Probable Cause Narrative) Jillian D. Hobbs did trespass in an occupied structure that is the permanent or temporary habitation of Laura Scott, when laura Scott is present or likely to be present, with purpose to commit in the habitation a criminal offense: in violation of Section 2911.12 of the Revised Code.

☐ Additional Affidavits Attached

I swear that the above Statements is correct and true to the best of my knowledge and belief.

Det. Scott M. Plymire 244 Summit County [signature]

Affiant's Name (Where appropriate ID No. and Agency) Affiant's Signature

REQUEST FOR:
☐ SUMMONS
☒ WARRANT

Sworn to and subscribed before me, the undersigned authority, this 16 day of SEPT, in the year 2009.

Sgt. G. Stoff #203

Clerk/Deputy Clerk/Notary Public

FILED OFFICE OF THE CLERK 2009 SEP 17 AM 6:02

COPY

THE BARBERTON MUNICIPAL COURT
BARBERTON, OHIO 44203

STATE OF OHIO/~~CITY~~ OF Twp Coventry /

vs

Jillian D. Hobbs
name
959 Portage Lakes Dr.
address
Akron, Ohio 44319
city state zip code
SS# ~~302-90~~-7549

D.O.B. 8/9/1987

COMPLAINT F2

CASE NO. [illegible]
ASSIGNED TO
JUDGE

Complainant being first duly sworn states that Jillian D. Hobbs defendant on or about the 15 th. day of September, 20 09 / in the City of _____ Township of Coventry, Summit County, Ohio did violate / O.R.C. / or Codified Ordinance # 2911.12, constituting a charge of Burglary.

(state the essential facts)

" Jillian D. Hobbs did trespass in an occupied structure that is a permanent or temporary habitaion of Laura Scott, when Laura Scott is present or likely to be present, with purpose to commit in the habitation a criminal offense; in violation of Section 2911.12 of the Revised Code."

Det. Scott M. [illegible]
Complainant

Sworn to and subscribed before me by said Complainant this 16TH day of SEPT., 20 09

Sgt. H. Stott #203
/ Judge / Clerk / Deputy Clerk /
The Barberton Municipal Court

(SEAL)

THIS IS TO CERTIFY THAT THE ABOVE IS A TRUE AND CORRECT COPY OF Complaint FILED IN THE BARBERTON MUNICIPAL COURT OF BARBERTON, OHIO ON 9/17, 20 09.

CLERK OF THE BARBERTON MUNICIPAL COURT, BARBERTON, OHIO

[illegible]
Deputy Clerk

COPY

INCIDENT REPORT NO. 012-0904738-09

AFFIDAVIT for ARREST or SUMMONS

COMPLAINT NO.

Case No.

FILED OFFICE OF THE CLERK 2009 SEP 17 AM 6:52

Defendant Information:

LAST	FIRST	MIDDLE	SSN	DOB
Hobbs	Jillian	D.		08-09-1987

STREET	CITY	STATE	ZIP	HOME PHONE	WORK PHONE
959 Portage Lakes Dr.	Akron	Ohio	44319		

SEX	RACE	HT	WT	EYES	HAIR	MARITAL STATUS	OCCUPATION	EMPLOYED BY
Female	White	5'01"	130	Bro	Bro	Single	Unemployed	None

License No. TC544479 Birth Place Vehicle State

Accomplice/case nos.

	CHARGES	CODE	CASE NUMBER
1	Burglary	2911.12	
2			
3			

STATE OF OHIO)
COUNTY OF SUMMIT) SS. AFFIDAVIT FOR COMPLAINT
CITY OF GREEN)
)
)

THE UNDERSIGHNED SWEARS THAT (Defendant) Jillian D. Hobbs
ON OR ABOUT THE 15th DAY OF September YEAR 2009AT (LOCATION) 5396 Peach Dr.

DID: (Probable Cause Narrative) Jillian D. Hobbs did trespass in an occupied structure that is the permanent or temporary habitation of Laura Scott, when laura Scott is present or likely to be present, with purpose to commit in the habitation a criminal offense: in violation of Section 2911.12 of the Revised Code.

☐ Additional Affidavits Attached

I swear that the above Statements is correct and true to the best of my knowledge and belief.

Det. Scott M. Plymire 244 Summit County [signature]

Affiant's Name (Where appropriate ID No. and Agency) Affiant's Signature

REQUEST FOR:
☐ SUMMONS
☒ WARRANT

Sworn to and subscribed before me, the undersigned authority, this 16 day of SEPT, in the year 2009.

Sgt. G. Stoff #203

Clerk/Deputy Clerk/Notary Public

THIS IS TO CERTIFY THAT THE ABOVE IS A TRUE AND CORRECT
COPY OF affidavit for arrest FILED IN
THE BARBERTON MUNICIPAL COURT OF BARBERTON, OHIO
ON 9/17, 20 09.
CLERK OF THE BARBERTON MUNICIPAL COURT, BARBERTON, OHIO

[signature]

Deputy Clerk

Ohio Revised Code Section 2935.04
When any person may arrest.

When a felony has been committed, or there is reasonable ground to believe that a felony has been committed, any person without a warrant may arrest another whom he has reasonable cause to believe is guilty of the offense, and detain him until a warrant can be obtained.

Effective Date: 10-01-1953

Ohio Revised Code Section 2935.081
Peace officer to administer oath or take acknowledgment.

(A) As used in this section, "peace officer" has the same meaning as in section 2935.01 of the Revised Code, except that "peace officer" does not include, for any purpose, the superintendent or any trooper of the state highway patrol.

(B) A peace officer who has completed a course of in-service training that includes training in the administration of oaths and the acknowledgment of documents and that is approved by the chief legal officer of the political subdivision in which the peace officer is elected or of the political subdivision or other entity in which or by which the peace officer is appointed or employed may administer oaths and acknowledge criminal and juvenile court complaints, summonses, affidavits, and returns of court orders in matters related to the peace officer's official duties.

(C) Except as authorized by division (B) of this section, no peace officer who has completed a course of in-service training of a type described in division (B) of this section shall knowingly perform any act that is specifically required of a notary public unless the peace officer has complied with Chapter 147. of the Revised Code.

Effective Date: 03-18-1997

OHIO RULES OF CRIMINAL PROCEDURE
RULE 5. INITIAL APPEARANCE, PRELIMINARY HEARING

(A) Procedure upon initial appearance. When a defendant first appears before a judge or magistrate, the judge or magistrate shall permit the accused or his counsel to read the complaint or a copy thereof, and shall inform the defendant:

(1) Of the nature of the charge against him;

(2) That he has a right to counsel and the right to a reasonable continuance in the proceedings to secure counsel, and, pursuant to Crim. R. 44, the right to have counsel assigned without cost to himself if he is unable to employ counsel;

(3) That he need make no statement and any statement made may be used against him;

(4) Of his right to a preliminary hearing in a felony case, when his initial appearance is not pursuant to indictment;

(5) Of his right, where appropriate, to jury trial and the necessity to make demand therefor in petty offense cases.

In addition, if the defendant has not been admitted to bail for a bailable offense, the judge or magistrate shall admit the defendant to bail as provided in these rules.

In felony cases the defendant shall not be called upon to plead either at the initial appearance or at a preliminary hearing.

In misdemeanor cases the defendant may be called upon to plead at the initial appearance. Where the defendant enters a plea the procedure established by Crim. R. 10 and Crim. R. 11 applies.

(B) Preliminary hearing in felony cases; procedure.

(1) In felony cases a defendant is entitled to a preliminary hearing unless waived in writing. If the defendant waives preliminary hearing, the judge or magistrate shall forthwith order the defendant bound over to the court of common pleas. If the defendant does not waive the preliminary hearing, the judge or magistrate shall schedule a preliminary hearing within a reasonable time, but in any event no later than ten consecutive days following arrest or service of summons if the defendant is in custody and not later than fifteen consecutive days following arrest or service of summons if he is not in custody. The preliminary hearing shall not be held, however, if the defendant is indicted. With the consent of the defendant and upon a showing of good cause, taking into account the public interest in the prompt disposition of criminal cases, time limits specified in this division may be extended. In the absence of such consent by the defendant, time limits may be extended only as required by law, or upon a showing that extraordinary circumstances exist and that delay is indispensable to the interests of justice.

(2) At the preliminary hearing the prosecuting attorney may state orally the case for the state, and shall then proceed to examine witnesses and introduce exhibits for the state. The defendant and the judge or magistrate have full right of cross-examination, and the defendant has the right of inspection of exhibits prior to their introduction. The hearing shall be conducted under the rules of evidence prevailing in criminal trials generally.

(3) At the conclusion of the presentation of the state's case, defendant may move for discharge for failure of proof, and may offer evidence on his own behalf. If the defendant is not represented by counsel, the court shall advise him, prior to the offering of evidence on behalf of the defendant:

(a) That any such evidence, if unfavorable to him in any particular, may be used against him at later trial.

(b) That he may make a statement, not under oath, regarding the charge, for the purpose of explaining the facts in evidence.

(c) That he may refuse to make any statement, and such refusal may not be used against him at trial.

(d) That any statement he makes may be used against him at trial.

(4) Upon conclusion of all the evidence and the statement, if any, of the accused, the court shall do one of the following:

(a) Find that there is probable cause to believe the crime alleged or another felony has been committed and that the defendant committed it, and bind the defendant over to the court of common pleas of the county or any other county in which venue appears.

(b) Find that there is probable cause to believe that a misdemeanor was committed and that the defendant committed it, and retain the case for trial or order the defendant to appear for trial before an appropriate court.

(c) Order the accused discharged.

(5) Any finding requiring the accused to stand trial on any charge shall be based solely on the presence of substantial credible evidence thereof. No appeal shall lie from such decision and the discharge of defendant shall not be a bar to further prosecution.

(6) In any case in which the defendant is ordered to appear for trial for any offense other than the one charged the court shall cause a complaint charging such offense to be filed.

(7) Upon the conclusion of the hearing and finding, the court or the clerk of such court, shall, within seven days, complete all notations of appearance, motions, pleas, and findings on the criminal docket of the court, and shall transmit a transcript of the appearance docket entries,

together with a copy of the original complaint and affidavits, if any, filed with the complaint, the journal or docket entry of reason for changes in the charge, if any, together with the order setting bail and the bail including any bail deposit, if any, filed, to the clerk of the court in which defendant is to appear. Such transcript shall contain an itemized account of the costs accrued.

[Effective: July 1, 1973; amended effective July 1, 1975; July 1, 1976; July 1, 1982; July 1, 1990.]