

**IN THE CIRCUIT COURT OF JACKSON COUNTY, MISSOURI
AT KANSAS CITY**

POLICE NO. :	KC19086919
PROSECUTOR NO. :	095457165
OCN:	

STATE OF MISSOURI,	)	
	)	
PLAINTIFF,	)	
vs.	)	
	)	
MALCOLM P. WESTON	)	
2333 Quincy Ave.	)	CASE NO. 2016-CR
Kansas City, MO 64127	)	DIVISION
DOB: 06/10/1994	)	
Race/Sex: B/M	)	
	)	
DEFENDANT.	)	

**COMPLAINT
WARRANT REQUESTED**

**Count I. Murder 2nd Degree - Felony Murder - During Perpetration/attempted
Perpetration/flight From Perpetration Of A Felony, A Person Dies (565.021-
003Y19840999.0)**

The Prosecuting Attorney of the County of Jackson, State of Missouri, upon information and belief, charges that the defendant, in violation of Section 565.021, RSMo, committed the **class A felony of murder in the second degree**, punishable upon conviction under Section 558.011, RSMo, in that on or about November 13, 2019, in the County of Jackson, State of Missouri, Ricardo Ortiz was killed by being shot as a result of the perpetration of the class A felony of Unlawful Use of a Weapon under Section 571.030 (9), RSMo committed by the defendant and as a result of the immediate flight from the perpetration of the class D felony of Property Damage under Section 569.100 (3), RSMo, committed by the defendant on or about November 13, 2019 in the County of Jackson, State of Missouri.

An individual convicted and sentenced for this offense shall not be eligible for parole until eighty-five percent of the sentence is served.

The range of punishment for a class A felony is imprisonment in the custody of the Missouri Department of Corrections for a term of years not less than ten (10) years and not to exceed thirty (30) years, or life imprisonment.

State vs. Malcolm P. Weston

Count II. Armed Criminal Action (571.015-001Y19755299.0)

The Prosecuting Attorney of the County of Jackson, State of Missouri, upon information and belief, charges that the defendant, in violation of Section 571.015, RSMo, committed the felony of armed criminal action, punishable upon conviction under Section 571.015.1, RSMo, in that on or about November 13, 2019, in the County of Jackson, State of Missouri, the defendant committed the felony of Murder Second Degree, charged in Count I, all allegations of which are incorporated herein by reference, and the defendant committed the foregoing felony of Murder Second Degree by, with and through, the knowing use, assistance and aid of a deadly weapon.

The range of punishment for the offense of Armed Criminal Action in violation of section 571.015 RSMo. is imprisonment in the custody of the Missouri Department of Corrections for a term of years not less than three (3) years without eligibility for parole, probation, conditional release or suspended imposition or execution of sentence for a period of three (3) calendar years. The range of punishment for the offense of Armed Criminal Action in violation of section 571.015 RSMo. as a second offense is imprisonment in the custody of the Missouri Department of Corrections for a term of years not less than five (5) years without eligibility for parole, probation, conditional release or suspended imposition or execution of sentence for a period of five (5) calendar years. The range of punishment for the offense of Armed Criminal Action in violation of section 571.015 RSMo. as a third offense is imprisonment in the custody of the Missouri Department of Corrections for a term of years not less than ten (10) years without eligibility for parole, probation, conditional release or suspended imposition or execution of sentence for a period of ten (10) calendar years. Any punishment imposed pursuant to section 571.015 RSMo. shall be in addition to any punishment provided by law for the crime committed by, with, or through the use, assistance, or aid of a dangerous instrument or deadly weapon.

Count III. Unlawful Use Of Weapon - Subsection 9 - Shoot At/from Motor Vehicle, At Person, Motor Vehicle Or Building, Resulting In Death Or Injury (571.030-015Y20145213.0)

The Prosecuting Attorney of the County of Jackson, State of Missouri, upon information and belief, charges that the defendant, in violation of Section 571.030, RSMo, committed the **class A Felony of unlawful use of a weapon**, punishable upon conviction under Sections 558.011 and 571.030.9, RSMo, in that on or about November 13, 2019, at Linwood Blvd.and Charlotte St., in the County of Jackson, State of Missouri, the defendant, knowingly shot a firearm at another person, Ricardo Ortiz, and as a result of the above described conduct, Ricardo Ortiz suffered injury or death.

The range of punishment for a class A felony is imprisonment in the custody of the Missouri Department of Corrections for a term of years not less than ten (10) years and not to exceed thirty (30) years, or life imprisonment.

State vs. Malcolm P. Weston

Count IV. Armed Criminal Action (571.015-001Y19755213.0)

The Prosecuting Attorney of the County of Jackson, State of Missouri, upon information and belief, charges that the defendant, in violation of Section 571.015, RSMo, committed the felony of armed criminal action, punishable upon conviction under Section 571.015.1, RSMo, in that on or about November 13, 2019, in the County of Jackson, State of Missouri, the defendant committed the felony of Unlawful Use of a Weapon charged in Count III, all allegations of which are incorporated herein by reference, and the defendant committed the foregoing felony of Unlawful Use of a Weapon by, with and through, the knowing use, assistance and aid of deadly weapon.

The range of punishment for the offense of Armed Criminal Action in violation of section 571.015 RSMo. is imprisonment in the custody of the Missouri Department of Corrections for a term of years not less than three (3) years without eligibility for parole, probation, conditional release or suspended imposition or execution of sentence for a period of three (3) calendar years. The range of punishment for the offense of Armed Criminal Action in violation of section 571.015 RSMo. as a second offense is imprisonment in the custody of the Missouri Department of Corrections for a term of years not less than five (5) years without eligibility for parole, probation, conditional release or suspended imposition or execution of sentence for a period of five (5) calendar years. The range of punishment for the offense of Armed Criminal Action in violation of section 571.015 RSMo. as a third offense is imprisonment in the custody of the Missouri Department of Corrections for a term of years not less than ten (10) years without eligibility for parole, probation, conditional release or suspended imposition or execution of sentence for a period of ten (10) calendar years. Any punishment imposed pursuant to section 571.015 RSMo. shall be in addition to any punishment provided by law for the crime committed by, with, or through the use, assistance, or aid of a dangerous instrument or deadly weapon.

Count V. Property Damage - 1st Degree - Damage To Motor Vehicle With Intent To Steal (569.100-003Y20172902.0)

The Prosecuting Attorney of the County of Jackson, State of Missouri, upon information and belief, charges that the defendant, in violation of Section 569.100, RSMo, committed **the class D felony of property damage in the first degree**, punishable upon conviction under Sections 558.002 and 558.011, RSMo, in that on or about November 13, 2019, in the County of Jackson, State of Missouri, the defendant knowingly damaged a Green Chevrolet Suburban, a motor vehicle, by breaking its window, which property was possessed by Ricardo Ortiz while making entry into the vehicle for the purpose of committing the offense of stealing.

The range of punishment for a class D felony is imprisonment in the custody of the Missouri Department of Corrections for a term of years not less than two (2) years and not to exceed seven (7) years; or by imprisonment for a special term not to exceed one (1) year

State vs. Malcolm P. Weston

in the county jail or other authorized penal institution; or by a fine not to exceed ten thousand dollars (\$10,000); or by both imprisonment and a fine. If money or property has been gained through the commission of the crime, any fine imposed may be not more than double the amount of the offender's gain from the commission of the crime.

The facts that form the basis for this information and belief are contained in the statement(s) of facts filed contemporaneously herewith, made a part hereof, and submitted as a basis upon which this court may find the existence of probable cause.

Wherefore, the Prosecuting Attorney prays that an arrest warrant be issued as provided by law.

JEAN PETERS BAKER

Prosecuting Attorney
Jackson County, Missouri
by,

/s/ Daniel Portnoy

Daniel Portnoy (#62186)
Assistant Prosecuting Attorney
415 E. 12th St., 11th Floor
Kansas City, MO 64106
(816) 881-3286
dportnoy@jacksongov.org

WITNESSES:

1. [REDACTED]
64106
2. DET Thomas M. Hammond, 1125 Locust, Kansas City, MO 64106
3. DET Mary J Kincheloe, 1125 Locust, Kansas City, MO 64106
4. DET Scott P. Mullen, 1125 Locust, Kansas City, MO 64106
5. [REDACTED]
6. Ricardo Ortiz, Prosecuting Atty. Office, 415 E 12th St, Floor 11, Kansas City, MO 64106
7. Jody L Palmer, Prosecuting Atty. Office, 415 E 12th St, Floor 11, Kansas City, MO 64106
8. DET Hobart D. Price, 1125 Locust, Kansas City, MO 64106
9. DET Daniel G. Thomas, 1125 Locust, Kansas City, MO 64106

PROBABLE CAUSE STATEMENT FORM

Date: 01-17-2020

CRN: KC19086919

I, Det. Scott Mullen #5431

(Name and identify law enforcement officer, or person having information as probable cause.)

knowing that false statements on this form are punishable by law, state that the facts contained herein are true.

I have probable cause to believe that on 11-13-2019, at Linwood Blvd & Charlotte St in
(Date) (Address)

Kansas City, Jackson Missouri Malcolm P. Weston
(County) (Name of Offender(s))

B/M 06-10-1994, [REDACTED] committed one or more criminal offense(s).
(Description of Identity)

The facts supporting this belief are as follows:

On 11-13-2019 at 0701 hours, Officers from the Kansas City Missouri Police Department were dispatched to Linwood/Charlotte in regard to a shooting. Upon arrival the victim, Ricardo Ortiz (d/o/b/ 1-11-68) was located with a gunshot wound to his leg. The victim was transported to an area hospital where he later died as a result of his injuries.

The victim's wife stated prior to being shot, the victim was out walking their dog. She stated prior to 0700 hours, the victim called her and stated he was following an unknown suspect who just broke into the victim's vehicle which was parked in the street outside their residence. When the victim's wife went outside to look for the victim a neighbor told her he had been shot up the street.

The victim's phone was recovered at the crime scene which revealed the victim had taken three photos of an unknown black male wearing all black walking on what appears to be the west side of Charlotte northbound. The last photo showed the suspect at the corner of Linwood/Charlotte and he is holding a cell phone up to his ear.

The victim's vehicle (Green Chevy Suburban) was located in the street in front of his residence. The rear driver's side window had been broken out and there was glass on the ground next to the vehicle. The vehicle was making a noise as if it were trying to start. The steering column on the vehicle had been broken/tampered with consistent with someone trying to steal the vehicle.

Surveillance video from residences and businesses in the area captured the suspect on foot from the area of the victim's house, the shooting at the crime scene, and then the suspect walking eastbound on Linwood Blvd. The video shows the suspect who appears to be on a cellphone while he is walking get into a small silver vehicle which pulled up as the suspect crossed MLK Blvd on Linwood Blvd. Surveillance video showed the small vehicle to be a silver 4door hatchback Pontiac with a distinguishing black mark on the middle of the rear bumper.

PROBABLE CAUSE STATEMENT FORM

CRN KC19086919

The silver Pontiac was later identified and located. The owner of the silver Pontiac was contacted who stated he did not have his vehicle on 11-13-2019 but provided the name and phone number of his friend (████) who had the vehicle on 11-13-2019.

While looking for █████ an associate (witness) of hers was contacted. When speaking to the witness she provided the name of "Fro" as someone █████ used to date and stated █████ was now seeing "Fro's" cousin who goes by "Milk". The witness stated "Milk" was from St. Joseph, MO. The witness was shown a picture of the suspect from the homicide which was a still shot from one of the surveillance cameras near the crime scene. When the witness saw the picture her face dropped and she appeared nervous. The witness stated the person in the photo she had already mentioned. When asked if it was "Fro" she shook her head no, when asked if it was "Milk" she shook her head in the affirmative.

Another witness was later contacted who knew █████. The witness stated █████ had been to her house before but not recently. The witness stated █████ was dating a guy named Malcolm and she believed his last name was Westin or Weston. The witness stated Malcolm also went by the name "Milk". The witness also stated she knew Malcolm had ties to St. Joseph, MO. The witness was shown the picture of the suspect from the surveillance camera and she stated the person in the photo looked like Malcolm.

A search of KCPD databases revealed **Malcolm P. Weston B/M 06-10-1994** with the moniker of "Milk". **Weston's** address listed in DOR is in St. Joseph, MO. Weston was arrested 11-21-2019 (8 days after homicide) for an armed robbery (carjacking). A search of **Weston's** jail phone calls revealed he was in contact with █████ at the same number already provided to detectives.

A court order for █████'s phone was obtained which showed the subscriber name to her and the address listed for █████'s mother. The phone records also showed █████ in the area of the homicide at the time of the homicide and when she picked up the suspect in the silver Pontiac. The phone records also showed the phone number █████ was communicating with during those times as 816-601-5128. A court order was obtained for 816-601-5128 which showed the subscriber name as "Milk Money" (**Weston**) and the address listed was an address associated with █████. The phone records also showed the suspect phone in the area of the homicide at the time of the homicide.

█████ was later located and she responded to Police Headquarters to provide a statement. During her statement, █████ admitted to dating "Milk" and gave his name as Malcolm Wesson (**Weston**). █████ stated she was in the area of the homicide because **Weston**, "Called my phone yelling, to come pick me up." █████ confirmed **Weston** had ties to St. Joseph, MO and confirmed he had a cousin who goes by "Fro". █████ stated she did not drop **Weston** off in the area of the homicide but followed him in a truck he was driving. █████ was shown a picture of **Weston** and she confirmed him as "Milk" and the person she picked up in the silver Pontiac after the homicide occurred.

A review of the surveillance video in the case revealed an older truck with a unique silver/maroon paint job pass the victim's house on 11-13-2019 at approximately 0640 hours. The silver Pontiac is observed right behind the truck. It was learned later the truck had been reported stolen on 11-13-2019. A search of ALPR cameras later showed the truck at different in different locations in KCMO. **Weston's** phone records were compared to the locations of the truck and the locations of **Weston's** phone were consistent with the locations of the truck.

PROBABLE CAUSE STATEMENT FORM

CRN KC19086919

On 01-14-2020 **Weston** was brought to Police Headquarters from the Jackson County Jail. After reading **Weston** his Miranda Rights and **Weston** stating he understood them, the case was explained to **Weston**. When offered the chance to offer an explanation, **Weston** requested a lawyer.

Weston was on probation at the time of this homicide in two different cases, 1716-CR02370-01 and 1716-CR00587-01 for Resisting Arrest and Tampering First Degree. Shortly after this homicide occurred, Weston was arrested and charged with Robbery in the First Degree, Armed Criminal Action, Tampering First Degree, Resisting Arrest and Unlawful Possession of a Firearm in 1916-CR07107. Based on Weston's continued refusal to conform his actions to the requirements of the law and the violent nature of the behavior demonstrated in this case, I believe Weston presents a danger to the community and is a flight risk.

Printed Name Det. Scott Mullen #5431 Signature /s/Det. Scott Mullen #5431

The Court finds probable cause and directs the issuance of a warrant this _____ day of _____.

Judge

Circuit Court of _____ County, State of Missouri.