# IN THE CIRCUIT COURT OF JACKSON COUNTY, MISSOURI <u>AT KANSAS CITY</u>

| POLICE NO. :          | KC20063499         |  |
|-----------------------|--------------------|--|
| PROSECUTOR NO. :      | : 095460816        |  |
| OCN                   | :                  |  |
| STATE OF MISSOURI,    | )                  |  |
| PLA                   | INTIFF, )          |  |
| vs.                   | )                  |  |
|                       | )                  |  |
| DIEGO CALDERON GUZMAN | )                  |  |
| 5635 E. 16th St.      | ) CASE NO. 2016-CR |  |
| Kansas City, MO 64127 | ) DIVISION         |  |
| DOB: 08/07/1990       | )                  |  |
| Race/Sex: H/M         | )                  |  |
|                       | )                  |  |
| DEFE                  | NDANT. )           |  |
|                       |                    |  |

# COMPLAINT WARRANT REQUESTED

Count I. Murder 2nd Degree - Felony Murder - During Perpetration/Attempted Perpetration/Flight From Perpetration Of A Felony, A Person Dies (565.021-003Y20200999.0)

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 September 16, 2020, in the County of Jackson, State of Missouri, Daisy Martinez was killed by being shot perpetration of the class A felony of unlawful use of a weapon under Section 571.030, RSMo committed by the defendant on or about September 16, 2020, 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.

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#### **Count II. Armed Criminal Action (571.015-001Y20205213.0)**

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 on or about September 16, 2020, in the County of Jackson, State of Missouri, the defendant committed the felony of murder in the second degree charged in Count I, all allegations of which are incorporated herein by reference, and the defendant committed the foregoing felony of murder in the 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 (571.030-015Y20205213.0)

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 September 16, 2020, in the County of Jackson, State of Missouri, the defendant, knowingly shot a firearm at a motor vehicle and another person or persons, and as a result of the above described conduct, Daisy Martinez 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. Diego Calderon Guzman

#### **Count IV. Armed Criminal Action (571.015-001Y20205213.)**

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 on or about September 16, 2020, in the County of Jackson, State of Missouri, the defendant committed the felony of unlawful use of a weapon charged in Count I, 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 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 V. Unlawful Possession Of A Firearm (571.070-001Y20205212.0)

The Prosecuting Attorney of the County of Jackson, State of Missouri, upon information and belief, charges that the defendant, in violation of Section 571.070, RSMo, committed the **class D felony of unlawful possession of a concealable firearm**, punishable under Sections 558.011 and 558.002, RSMo, in that on or about September 16, 2020, in the County of Jackson, State of Missouri, the defendant knowingly possessed a Draco style rifle, a firearm, and on June 1, 2013, the defendant was convicted of the felony of indecent liberties with a child in the District Court of Wyandotte County, Kansas.

The range 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 one (1) year and not to exceed seven (7) years; or by imprisonment for a special term not to exceed one (1) year 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.

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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/ Joseph R. Van Amburg
Joseph R. Van Amburg (#64207)
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#### **WITNESSES:**

- 7. DET Zakary K. Glidewell, 1125 Locust, Kansas City, MO 64106 8.
- 9. PO Bobbie S. King, 1125 Locust, Kansas City, MO 64106
- 10. DET Sean P. Martin, 1125 Locust, Kansas City, MO 64106
- 11. PO Edward Morales, 1125 Locust, Kansas City, MO 64106
- 12. **I**
- 13. DET Timothy R Taylor, 1125 Locust, Kansas City, MO 64106
- 14. DET Nathan S. VanVickle, 1125 Locust, Kansas City, MO 64106

# PROBABLE CAUSE STATEMENT FORM

|   |                                       | CRN: 20-63499  |  |
|---|---------------------------------------|--|--|
|   |                                       |  |  |
| I, Det. Ryan Taylor, #5585 KCPD Hor<br>(Name and identify law enforcement officer | nicide Unit<br>c, or person having in | formation as probable cause.)                              |  |
| knowing that false statements on this for   | m are punishable                      | by law, state that the facts contained herein are true.    |  |
| I have probable cause to believe that on  | 09-16-2020<br>(Date)                  | , at 27 <sup>th</sup> and Southwest Boulevard in (Address) |  |
| Kansas City, <u>Jackson</u> (County)  | Missouri <u>Dieg</u>                  | o Calderon-Guzman (Name of Offender(s))                    |  |
| W/M 08-07-1990, (Description of Identity  | y)                                    | committed one or more criminal offense(s).                 |  |
| <ul> <li>2<sup>nd</sup> Degree Murder</li> </ul>                                  |                                       |  |  |
| <ul> <li>Armed Criminal Action</li> </ul>   |                                       |  |  |
| <ul> <li>Felon in Possession of a Firearm</li> </ul>                              |                                       |  |  |

The facts supporting this belief are as follows:

Date: 09-18-2020

On 09-16-2020 at approximately 2253 hours, Officers of the Kansas City, Missouri Police Department were dispatched to the area of 27<sup>th</sup> and Southwest Boulevard in regard to a shooting. Upon arrival officers located a female suffering from gunshot wounds. The female was transported to a local hospital where she succumbed to her injuries.

While investigating the shooting, information was gathered by officers on scene that the suspect vehicle was a black Chevrolet Silverado with a red LED light strip, and a Missouri License plate 9FDB27. Additionally the vehicle had a large Mexican flag affixed to the center rear bumper.

Officers on patrol heard the vehicle information broadcasted and located that vehicle and identified it by the flag on the back. Officers located the vehicle at E 12 St and Jackson Avenue. The officer in a marked Kansas City Police vehicle activated the emergency equipment to get the truck to stop. The truck refused to stop and the officers pursued the truck, lost it for approximately a minute at E 20 St and Jackson Avenue, and then located the truck again at W 31 St and Jackson Avenue traveling at a high rate of speed (approximately 70 miles per hour). The truck travelled north bound on E 27 St and Jackson Ave where it failed to stop at a stop sign and continued to refuse to stop for the officer's emergency equipment. The truck then turned west onto E 23 St and Jackson Avenue where the truck ran over a tire deflation device deployed by officers. The vehicle continued west bound on E 23 St at speeds in excess of 70 miles per hour in a residential area. The truck failed to stop at a stop sign at E 23 St and Indiana Avenue. Eventually the truck stopped at E 23 St and Agnes. Officers took the driver and owner of the truck, LRC and the front passenger GGC into custody. While ensuring there were no additional occupants in the truck officers observed a chrome plated AK-47 rifle in plain view on the back floor board, and an Apple iPhone cellular device on the front passenger floorboard. The truck was towed to the KCPD vehicle processing facility located at 7760 E Front Street.

# PROBABLE CAUSE STATEMENT FORM

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Detectives canvased the scene and located surveillance cameras in the area of the homicide. Upon review of the footage, detectives observed a large crowd of people and a large amount of vehicles driving towards the direction of the camera view. In the video footage a black Chevrolet Silverado with red LED light strips and a Mexican flag affixed to the rear of the truck is sitting in a parking lot. Two males, one wearing a black shirt and tan pants and the other wearing dark blue jeans and a black and white striped shirt run to the truck. The male wearing the black shirt and tan pants unlocks the truck on the driver's side; the male wearing the black and white striped shirt opens the front passenger door. The male on the passenger side enters the truck, then exits with an apparent chrome AK-47. As this is occurring multiple people, including the victim are observed running down the street and through the parking lot. The front passenger starts firing the rifle towards the street and towards the direction of the victim. The victim falls to the ground in the parking lot. The front passenger then enters the truck again and the truck leaves the parking lot. After the truck left the parking lot, the victim is observed lying face down in her blood, dying.

Detectives contacted LRC and advised him of his Miranda Warning and Waiver. LRC stated that he is the owner of the truck and was the only individual who has access to the vehicle and the only person who drives it. LRC stated that he was with his cousin GGC, were only ones in the truck and that his cousin was in the passenger seat. He stated they were initially at the Legends in Kansas City, KS for a truck "Truck Cruise" and then eventually they all went to the area of  $27^{th}$  and Southwest Boulevard. LRC stated that people running towards him so he ran towards his truck so he got into his truck. LRC stated that his cousin was in the front passenger seat when they left. LRC stated that neither he nor his cousin fired any weapons. LRC did say that the "Draco" rifle was his and was in the truck. Additionally he stated that he had a Glock 27 between the driver's seat and the center console.

Detectives were granted a search warrant for **LRC**'s truck through the Jackson County Circuit Court. The search revealed a Draco style rifle inside the truck. The rifle was taken to the KCPD Crime Lab and a comparison was done between the rifle and the 7.62 shell casings found at the crime scene. The KCPD crime lab concluded the rifle matched those shell casings.

Detectives re-contacted LRC who was shown a picture of the suspect entering the truck just prior to the homicide from security video. LRC stated that CALDERON-GUZMAN, Diego was a family friend and was the individual who shot the victim.

Detectives contacted **GGC** and advised him on his Miranda Warning and Waiver, to which he agreed to speak with detectives. **GGC** was shown a picture of the suspect entering the truck just prior to the homicide from security video. **GGC** stated that the individual was his older brother, CALDERON-GUZMAN, Diego.

On 09-18-2020 **CALDERON-GUZMAN** was taken into custody and transported to 1125 Locust Street, Police Headquarters for questioning.

Detectives advised **CALDERON-GUZMAN** of his Miranda Warning and Waiver to which he agreed to speak with detectives. **CALDERON-GUZMAN** stated that he arrived to Southwest Boulevard for the Mexico Independence Day celebrations. After a while people started fighting and shooting guns, so **CALDERON-**

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| GUZMAN ran back to his truck with LRC and opening the front passenger door and entered into the truck. LRC got into the driver's seat. CALDERON-GUZMAN said there was a Draco rifle sitting on the passenger seat, so he took the rifle and fired shots at what he believed were individuals driving down Southwest Boulevard shooting at him. CALDERON-GUZMAN did not see the victim run in front of him as he shot. CALDERON-GUZMAN got back into the truck and LRC started to drive out of the parking lot. CALDERON-GUZMAN observed the victim lying on the ground and told LRC to stop. Instead LRC continued to drive out of the parking lot and drive east on Southwest Boulevard. LRC dropped CALDERON-GUZMAN off by 9 <sup>th</sup> and Van Brunt and was picked up by a friend who took him home. |
|---|
| CALDERON-GUZMAN admitted that he was a convicted felon and that he knew he was not allowed to possess firearms.   |
| <b>CALDERON-GUZMAN</b> was convicted of Felony indecent liberties with a child on 06-01-2013 in Wyandotte County, KS.   |
| Printed Name /s/ Det. Ryan Taylor, #5585  Signature day of day of   |
| day of  |
| Judge   |
| Circuit Court of County, State of Missouri.   |