

IN THE CIRCUIT COURT OF BOONE COUNTY, MISSOURI  
DIVISION IV

STATE OF MISSOURI, )  
)  
Plaintiff, )  
)  
v. ) Case No. 19BA-CR05786  
)  
ANDRIA ELIZABETH HEESE, )  
)  
Defendant. )

**MOTION TO DISMISS COMPLAINT**

COMES NOW Defendant, by and through counsel, pursuant to Rules 24.04, 24.02, and 24.03, and hereby requests this Court dismiss the complaint against her because it is fatally defective and therefore void. In support of this request, Defendant states:

1. On December 30, 2019, the State of Missouri filed a complaint charging that Defendant committed the felony of involuntary manslaughter in the first degree, in violation of Section 565.024, RSMo, by “recklessly causing the death of G.C...”
2. The State also filed a document as a “PC Statement” that appears to be a 3-page excerpt from a “General Report” prepared by a Missouri State Highway Patrol trooper.
3. Rule 22.02(e) requires a complaint to “[b]e supported by a statement of probable cause as prescribed by Rule 22.03”; but the complaint is fatally defective because it is not supported by a statement of probable cause that complies with Rule 22.03.
4. Rule 22.03(c), requires that the statement of probable cause “[s]tate the facts that support a finding of probable cause to believe an offense was committed and that the defendant committed it.”

5. The document filed as the “PC Statement” establishes that a tragic accident occurred but does not support a finding of probable cause that an offense was committed or that Defendant committed it.

6. According to Section 562.016.4, RSMo., “[a] person ‘acts recklessly’ or is reckless when he or she consciously disregards a substantial and unjustifiable risk that circumstances exist or that a result will follow, and such disregard constitutes a gross deviation from the standard of care which a reasonable person would exercise in the situation.”

7. The “PC Statement” establishes that a tragic accident occurred but fails to establish that Defendant consciously disregarded a substantial and unjustifiable risk or that Defendant’s actions constituted a deviation (led alone a *gross* deviation) from the standard of care which a reasonable person would exercise in the situation.

8. The “PC Statement” actually establishes the opposite - that Defendant did not deviate from the standard of care in that Defendant “...wasn’t speeding...”, “...wasn’t going fast...”, “drove up on the curb *where they park all of the time...*”, “...gets out of the police car and instantly does compressions on the little girl..”, and “got on the radio and called for help...” Complaint, Statement of Facts ¶ 11 (attached to and made part of the Complaint) (emphasis added).

9. Under Rule 22.03(e), a statement of probable cause must “[s]tate the facts contained therein are true”; but the “PC Statement” fails to include such a statement.

10. Rule 22.03(f) requires a statement of probable cause to “[b]e signed and on a form bearing notice that false statements made therein are punishable by law”; but the “PC Statement” fails to meet these requirements as it is not signed and it is not on a form bearing notice that false statements made therein are punishable by law.

11. The complaint is fatally defective because it fails to meet the requirements of Rule 22.02(e) and the complaint should therefore be dismissed. (See, e.g., *State v. Book*, 436 S.W.3d 671, 682 (Mo. App. S.D. 2014), "Missouri law is clear that if a probable cause statement does not contain sufficient facts to amount to probable cause, the information is defective." See also *State v. Crump*, 223 S.W.3d 915 at 917 (Mo. App. 2007), finding reversible error where a trial court overruled a motion to dismiss an information where the affidavit of probable cause failed to support a finding of probable cause.")

WHEREFORE, Defendant respectfully requests this Court dismiss the defective Complaint filed against Defendant.

Respectfully submitted:



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Donald R. Weaver, #59454  
P.O. Box 231  
Columbia, MO 65205  
Phone (573) 303-5814  
Fax (573) 303-5814  
[dweaver@donaldweaverlaw.com](mailto:dweaver@donaldweaverlaw.com)

Attorney for Andria Elizabeth Heese

### CERTIFICATE OF SERVICE

I hereby certify that a copy of the foregoing was served on all counsel of record by the Court's e-filing system on the date of filing of this document.

