

COUNTYCOURT, LAKE COUNTY COLORADO

CASE NUMBER L-007

WARRANT FOR ARREST UPON AFFIDAVIT

THE PEOPLE OF THE STATE OF COLORADO

Plaintiff

VS.

WILLIAM STEVEN BERRY

Defendant

THE PEOPLE OF THE STATE OF COLORADO

To: Any Peace Officer or any person authorized by law to execute warrants within the State of Colorado:

You are hereby commanded to arrest **WILLIAM STEVEN BERRY** and bring him/her without unnecessary delay before the County Court in and for the County of Lake Colorado. It appearing from an affidavit sworn to before me relating facts sufficient to establish probable cause that the offense(s) of: **Theft** in violation of C.R.S. 18-4-401(1)(a)(2)(f) a class 6 felony; **Unlawful Purchase of Firearms** in violation of C.R.S. 18-12-111(1) as amended, a class 4 felony; **Embezzlement of Public Property** in violation of C.R.S. 18-8-407 as amended a class 5 felony; **Unauthorized transfer of a firearm** in violation of C.R.S. 18-12-112(2)(a)9(a) a class one Misdemeanor; **First Degree Official Misconduct** in violation of C.R.S. 18-8-404 a class one Misdemeanor were committed and probable cause exists that **WILLIAM STEVEN BERRY** committed said offense(s).

BAIL fixed by the Court in the amount of \$ 7,500.00

DATED this 18th day of APR 2014

JUDGE

*MR. BERRY
MUST ALSO SURRENDER
HIS PASSPORT AND
ALL FIREARMS BEFORE
RELEASE.*

RETURN OF SERVICE

STATE OF COLORADO)
COUNTY OF LAKE) ss.

I duly served the within warrant by arresting _____

As required on _____, 2014.

County Court, County of Lake, State of Colorado

File #: _____

AFFIDAVIT IN SUPPORT OF ARREST WARRANT

Investigator Rick Wallingford of the Office of District Attorney, Fifth Judicial District, you Affiant, first being duly sworn, states as follows:

1. Your affiant states that he is and was at all times relevant hereto employed as an Investigator for the Office of District Attorney, Fifth Judicial District. Your Affiant further states that all incidents described herein occurred within the County of Lake, State of Colorado.
2. That on or about April 8, 2014, Your Affiant was assigned to conduct an investigation of missing / stolen firearms from the Lake County Sheriff's Office in Lake County, by District Attorney Bruce Brown.
3. That on April 9, 2014, at approx. 5:00 p.m. Your Affiant contacted Lake County Undersheriff Fernando Mendoza in reference to the missing / stolen firearms from the Lake County Sheriff's Office.
4. Undersheriff Mendoza informed Your Affiant that on April 1, 2014 he had received a telephone call from a one _____ inquiring about Lake County Deputy William Berry. _____ stated that he, _____, had purchased a 38 cal. Semi-auto, Colt "El Colonel" pistol, serial number thru "GunBroker.com. on Feb. 7, 2014 for \$2275.00 dollars plus \$25.00 dollars for shipping for a total of \$2300.00 dollars and the seller was listed as William Berry. _____ further stated that he had been informed by William Berry that Berry got the weapon from a case that Berry had worked on where the weapon was confiscated from an illegal in the country. _____ stated that Berry was using the email address of (deputyberry@lakecountysheriff.co) while corresponding with _____. _____ stated that the purpose of his inquiry was that he had sent the money to Berry and has never received the weapon from Berry and Berry will no longer correspond with _____.
5. Undersheriff Mendoza informed Your Affiant that William Berry was no longer employed with the Lake County Sheriff's Office and was currently employed with the Teller County Sheriff's Office in Divide, Co. Therefore

Mendoza did forward the information about Berry and the weapon to the Teller County Sheriff's Office. That Berry's last day with the Lake County Sheriff's Office was on or about Feb. 2, 2014.

6. Undersheriff Mendoza informed Your Affiant that he had looked in the Lake County Sheriff's Office case file _____ and discovered a release of property form showing that the weapons had been released on or about January 17, 2014, by Lake County Sheriff's Sgt. Jeff Hartman, who is also the evidence custodian for the Lake County Sheriff's Office. Per the release of property form, Sgt. Hartman released four (4) firearms, listed as, 2 SKS rifles, with serial numbers of _____ and _____ ; 1 Marlin .22 rifle, serial number _____ and 1 Colt super .38 cal serial number _____ along with mags / ammo. It was discovered by Mendoza that the weapon described as the Colt super .38 did match the description on the weapon purchased by _____ from Berry. Said weapons were being held for safekeeping in the Lake County Sheriff's Office secured evidence room. Said items were released to an individual identified as **Witness** _____. (Copy of the release of property form is attached as Attachment "C").
7. Undersheriff Mendoza informed Your Affiant that he and Hartman are the only individuals employed by the Lake County Sheriff's Office that are authorized to release evidence from the Lake County Sheriff's Office. Undersheriff Mendoza further stated that he and Hartman have attended formal training on the handling of evidence and evidence room security. That said training was taught by Joseph Willis with Public Agency Training Council. The formal training received by Mendoza and Hartman detailed the handling and release of property, to include firearms, from an agency's evidence storage area. Mendoza further stated that Hartman was aware of the practice of the Lake County Sheriff's Office, that evidence was not to be released until the individual that said property was being released to, was personally present and signed for said property in the presence of the evidence custodian. Mendoza stated that **Witness** _____ should have been required to come to the Lake County Sheriff's Office and sign for the property in the presence of Sgt. Hartman and Hartman should have determined, prior to releasing the property, if **witness** could receive it.
8. Undersheriff Mendoza informed Your Affiant that said firearms were taken into custody for safekeeping as a result of a reported incident of domestic violence and assault that was handled by the Lake County Sheriff's Office on or about Aug. 25, 2013, involving a one _____ (defendant) and **Witness** _____ (victim), reference Lake Co. S/O case report number _____. And that Lake County Sheriff's Deputy William Berry was the officer that took custody of the weapons on this date and turned the custody over to Lake County Deputy Basile who later on this same date logged them into evidence at the Lake County Sheriff's Office.

9. Your Affiant was shown a Lake County Sheriff's Office Evidence Log that was completed by Lake County Sheriff's Deputy Basile, dated Aug. 25, 2013, listing the following weapons that were taken from the residence of and **witness** two (2) Norinco SKS rifles; one (1) Marlin .22 rifle and one (1) Colt Gov. Model handgun. Said log show a Lake County Sheriff's Office case number as well as a date of Aug. 26, 2013 at 23:40 hrs. With the initials of "JH", indicating that at the stated date and time was when the items were received by Sgt. Jeff Hartman, evidence custodian and placed in the secured evidence room of the Lake County Sheriff's Office. (Copy of said Lake County Sheriff's Office Evidence Log is attached and incorporated by reference as Attachment "A")
10. Your Affiant reviewed Lake County Sheriff's Office offense report concerning the reported incident of Aug. 25, 2013, and learned that Lake County officers Sgt. Whittington, Dep. David Basile and Dep. William Berry were the officers that responded to the incident. In the Property section of said report was a more detailed description of the weapons sized. Listing serial numbers of for one of the Norinco SKS semi-automatic rifle and serial number for the second Norinco SKS semi-automatic rifle, as well as serial number for the Marlin .22 rifle and serial number for the Gov. model 38 cal. super Colt semi-auto handgun.
11. On April 9, 2014, Your Affiant reviewed Lake County District Court case file concerning the disposition on the charges that were filed on as a result of the reported incident of Aug. 25, 2013 (reference Lake County Sheriff's Department report) between and **Witness**. Your Affiant learned that on Oct. 28 2013, pled guilty to three (3) Class One Misdemeanors and was deported. Your Affiant also noted that said case file showed an evidence release stamp, dated Nov. 11, 2013, authorizing the release of any property that was taken in this case by the arresting agency.(Copy of the Lake County Court case summary for case
12. On this same date, April 9, 2014, Your Affiant was informed by the District Attorney Investigator with the 4th Judicial District, J.D. Walker, that Teller County Sheriff's Office was conducting a criminal investigation concerning the missing weapon from the Lake County Sheriff's Office and William Berry's involvement in the investigation.

14. Your Affiant was informed by Det. Dennis Sherman, with the Teller County Sheriff's Office that on April 9, 2014, his department did execute a search warrant on William Berry's residence, _____ in Divide, Co. and recover one of the SKS semi-auto rifles, serial number _____, as well as the Marlin .22 rifle serial number _____. These were the same weapons that were taken into custody by Berry on Aug. 25, 2013 from the residence located at _____ reference Lake County Sheriff's Office case _____. The Colt semi-auto handgun, serial number _____, was also recovered from Alpine Guns in Woodland Park, Co. by Det. Sherman.
15. On April 9, 2014, at approx. 7:00 p.m. Your Affiant conducted an audio recorded interview with **Witness** _____ at the Lake County Sheriff's Office. Undersheriff Mendoza was present and acted as Your Affiant's interpreter during the interview, as **Witness** _____ is not fluent in the English language.
16. **Witness** _____ stated the following about her knowledge of the weapons. She stated that she was contacted by Lake County Sheriff's Deputy Berry while she was parked at a gas station in Leadville and asked by Deputy Berry if she would consider selling the weapons that were taken from her residence by the Lake County Sheriff's Office on Aug. 25, 2013. **Witness** _____ could not remember the exact date of the contact but stated it was a few days prior to Deputy Berry coming to her residence and giving her \$500.00 for the purchase of the weapons. **Witness** _____ stated that she informed Berry she had told the court or the Deputy District Attorney for Lake County that she did not want the weapons back and did not care what happened to them. **Witness** _____ could not remember if she made that statement in court or to the D.A. She stated that Berry stated that if he could get the weapons released, would she sell them to him. She stated that she questioned Berry about the legality of her selling them and him purchasing them. She stated that Berry informed her that the transaction would be legal. She further stated that it was a few days after this contact with Berry that he came to her residence and paid her \$500.00 for the four weapons. She stated that she remembered signing a paper, that she described as the size of a piece of typing paper, but it only listed one weapon on the paper and the paper did not have a logo on it and the wording was typed. She stated that she has not seen the weapons that were taken from her residence since the Aug. 25, 2013 incident.
17. Your Affiant showed **Witness** _____ the Lake County Sheriff's Office Release of Property form that was in the Lake County Sheriff's case file. Said form listed the two (2) SKS semi-auto rifles serial numbers _____ and _____, the Marlin .22 rifle, serial number _____ and the .38 cal. Super Colt semi-auto handgun serial

number _____, along with mags/ammo. The description of the items was handwritten. In the released by area, showed released by Hartman, with a date of 1/17/14. On the Accepted by area of the form, showed a printed name **Witness** _____, with a date of 1/17/2014. There was no time of day listed on the form.

18. **Witness** _____ stated to Your Affiant that she had never seen that form prior to Your Affiant showing it to her and that she did not sign the form and the handwritten name of **Witness** _____ that appears on the form, she did not write. She stated that the paper she signed for Berry did not look anything like the Release of Property form.


29. On April 16, 2014, Your Affiant conducted an audio interview with Lake County Sheriff's Deputy W2. Deputy W2 stated to Your Affiant that he was training with Deputy Berry, when Berry was employed with the Lake County Sheriff's Office. Deputy W2 stated that he, Deputy Berry and Sgt. Hartman were having dinner at a local restaurant in Leadville, when he witnessed a conversation between Deputy Berry and Sgt. Hartman about the release of some weapons. W2 stated that Deputy Berry thanked Sgt. Hartman for helping him with the paperwork in getting the weapons from the lady and that Sgt. Hartman responded by thanking Berry for Berry giving Hartman the SKS rifle. W2 stated that he spoke with Berry later in the evening about the transaction and Berry informed W2 that the lady did not want the weapons and that Berry had purchased them from her for \$500.00 dollars. That there were two SKS rifles involved in the purchase. That one of the SKS rifles had a broken stock and that Berry gave Hartman the SKS that did not have the broken stock. W2 stated that Berry told him that there was a .22 rifle and handgun included in the purchase from the female. W2 stated the he and Berry had no additional conversation about the transaction.

31. Based on the aforementioned information, Your Affiant would also request that the Court order William Steven Berry to surrender his current U.S. Passport and any and all firearms that are in his possession at time of his arrest to the appropriate agency.

32. Based on the foregoing information, Your Affiant moves this Court for the issuance of an arrest warrant for WILLIAM STEVEN BERRY. Described as; W/M; 509; 185 lbs; Bro/Bro, listing a date of birth as 11/21/1965.

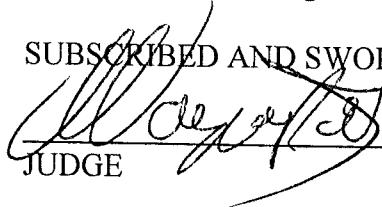
Charging the defendant with; **Theft** in violation of C.R.S. 18-4-401 (1)(a)(2)(f) as amended a class 6 felony; **Embezzlement of Public Property** in violation of C.R.S. 18-8-407 as amended a class 5 felony; **Unauthorized transfer of a firearm** in violation of C.R.S. 18-12-112 (2)(a)9 (a) a class one Misdemeanor; **First Degree Official Misconduct** in violation of C.R.S. 18-8-404 a class two Misdemeanor.

FURTHER AFFIANT SAYETH NAUGHT



Affiant – Rick Wallingford

SUBSCRIBED AND SWORN to before me this 18th day of April 2014



JUDGE