

IN THE DISTRICT COURT OF ROGERS COUNTY
STATE OF OKLAHOMA

APR 24 2015

STATE OF OKLAHOMA,

KIM HENRY, COURT CLERK

PLAINTIFF

TCh
DEPUTY

vs.

Case No. CF-2015-251

Kirt Lannon Thacker
W/M 06/19/1969

DEFENDANT

)

AFFIDAVIT FOR ARREST WARRANT

Comes Now, the undersigned Affiant, of lawful age and being first sworn, upon oath, alleges and states that based upon the following, Affiant has reason to believe that the Defendant, has committed the offense of: (1) Embezzlement of County Property (Value Greater than \$25,000), (2) Embezzlement of County Equipment, Materials, and Labor (Value Greater than \$1,000).

I, TAMMY FERRARI, Special Agent with Oklahoma State Bureau of Investigation (OSBI) have been and law enforcement officer for over 12 years and employed with OSBI since 2012. I am CLEET certified and I have received training in investigating all types of crimes to include crimes against persons, property, and financial crimes. In October 2012 I was assigned to by the OSBI to investigate allegations of official misconduct by former Rogers County District 3 Commissioner, KIRT THACKER.

On or about July 5, 2011 JEREMIAH DANIELS, an investigator, formerly with the Rogers County Sheriff's Office was assigned an investigation regarding Rogers County District 3 County Commissioner, KIRT THACKER. DANIELS was advised THACKER was using county-owned equipment on his personally leased property located in Inola. On July 8, 2011, DANIELS with the assistance of Claremore Police Investigator, JOHN SINGER, traveled to the identified area that was located at North-South 4230 Road and East-West 590 Road in rural Inola, Oklahoma, Rogers County. DANIELS and SINGER observed a Komatsu bulldozer, a John Deere trackhoe, and a mobile fuel tank with trailer on the lot which is on the northeast corner of the intersection. DANIELS and SINGER took photographs and video of the equipment. Later the same date, DANIELS also obtained aerial photographs of the equipment on the same property. DANIELS later found the photographs he had taken contained identifying numbers of the equipment. The bulldozer had the numerals "D1-323-0001." This number was later

identified as the district inventory number showing that the equipment belonged to Rogers County Road District 1. DANIELS spoke to District 1 Maintenance Crew, RODNEY HAKEL and CARL HEFNER, and was told the bulldozer (D1-323-0001) had been loaned to District 3. HAKEL and HEFNER also told DANIELS they had been in contact with some County Commissioner Road District 3 workers who had commented they had not had a chance to operate the dozer because it had been on THACKER'S land since they had received it. HAKEL provided DANIELS with GPS information from the dozer showing the activity of the dozer and where it had been located. HAKEL advised THACKER received the dozer on JUNE 21, 2011 and returned it on July 22, 2011. The GPS activity showed the dozer was primarily operated after normal work hours and on days the District 3 barn was closed. GRANT YATES, DUSTIN HEFNER, and JEANNIE HEIDLAGE witnessed the county-owned equipment on THACKER'S leased land.

According to BRIAN BURRIS of Kirby-Smith, Tulsa, Oklahoma and JOE MOSS of Hertz Rental Equipment, Tulsa, Oklahoma, the estimated rental value for the use of this county-owned property for the period it was in THACKER'S exclusive possession totaled \$33,760.

On or about November 13, 2012 OSBI Special Agent TAMMY FERRARI was assigned to investigate an allegation of Official Misconduct that included THACKER and a driveway that was built for the Rogers County Cherokee Association (RCCA). THACKER was interviewed and he advised me he directed his District road crew to rebuild the driveway using County equipment, labor and materials. I found that 13 District 3 road crew members worked on this project on May 29, 2012, using the following County-owned equipment: Heavy truck #6 with a 35' boom bucket, Red pull truck #33 with low boy trailer #76A, John Deere tractor with front-end loader and box blade, White pull truck #32 with 28' dove tail trailer # 7, Case wheel loader backhoe, 10 wheel dump truck # 71, 10 wheel dump truck # 77, ½ ton pickup truck # 4, ½ ton pickup truck # 51, Single axle dump truck # 63, Vermeer brush chipper, Chain saws #5 and #2, together with sufficient fuel to operate said vehicles and said equipment, and tons of road building materials including crushed stone and asphalt millings. I have discovered that the project at the RCCA was never considered or approved by the Board of County Commissioners for Rogers County. I am advised that according to law, a single county commissioner cannot make an agreement on behalf of the county and any attempt to do so is void and cannot be later ratified. See 19 O.S.2011, § 3. I am also advised that the work performed on the property was performed wholly without authority of law because the County cannot undertake such work without a prior written agreement approved by both the Board of County Commissioners and the owner of the land. See 19 O.S.2011, § 339(A)(17) and 74 O.S.2011, § 1221(D). THACKER provided two "Transfer Document" forms purportedly showing that the value of the gravel used in the project was \$1080.00 and that asserted that the asphalt millings used were valueless.

THACKER advised he fixed the driveway even though he didn't feel RCCA wanted him to fix it. THACKER knew he couldn't do work for 5013C entities, but could do work for Cherokee Nation through Inter-Local Agreements. THACKER believed Cherokee Nation owned the land RCCA was on so he could do the work. THACKER advised FERRARI that Cherokee Nation had given District 1 a million dollars for a bridge repair and extra money for another small job they had. THACKER made the statement to MYRON GRUBOWSKI that the reason he repaired the driveway was "the Indians gave us a lot of money."

On April 21, 2015 FERRARI interviewed ROBIN LEPAGE, District 3 clerk, regarding THACKER and RCCA. LEPAGE witnessed THACKER request CYNTHIA VAUGHN to "back

date" letters purportedly written in reference to the RCCA driveway. According to LEPAGE, VAUGHN provided these letters by fax transmission after work had been performed and purporting to document making THACKER aware of the driveway, as well as purporting to request a meeting in regards to the dangers of the driveway and a thank you letter was sent after the driveway was repaired. LEPAGE also advised she witnessed THACKER "white out" the receipt date of the letters and then copy and destroy the original letter to make sure no one knew when the actual letters were received since they were received after the driveway had been repaired.

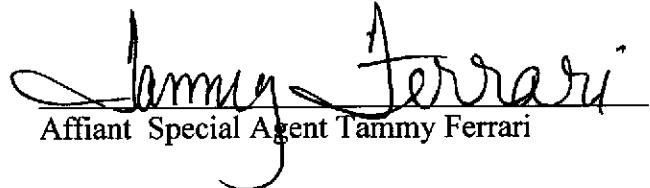
According to my investigation, the estimated cost of materials and equipment used was \$5,861 and the cost of labor to the County is still being determined.

Special Agent TAMMY FERRARI, your affiant, is aware of Oklahoma Statute Title 21 O.S. § 1451 Embezzlement, Section A.1. It is a felony for any person to fraudulently appropriate any property of any person or legal entity, legally obtained, to any use or purpose not intended or authorize by its owner, or the secretion of the property with the fraudulent intent to appropriate it to such use or purpose, where the property was obtained by being entrusted to that person for a specific purpose, use, or disposition and shall include, but not limited to, any funds "held in trust" for any purpose, as defined by law.

Based upon this Affidavit, the undersigned prays that this Honorable Court issue a finding of facts that there is probable cause to issue a warrant of arrest for the crime of: (1) Embezzlement of County Property (Value Greater than \$25,000), (2) Embezzlement of County Equipment, Materials, and Labor (Value Greater than \$1,000).

Further Affiant Sayeth Not.

Dated this 24th day of April, 2015.


Affiant Special Agent Tammy Ferrari

Subscribed and sworn to before me this 24th day of April, 2015.

My commission expires: 3-18-17 My commission #: 09002577


Notary Public



ORDER

I, Terrell S. Crosson, Judge of the District Court reviewed this Probable Cause Affidavit on the 24 day of April, 20 15, and I make the following findings and order.

X This Affidavit contains sufficient facts showing probable cause to arrest and detain the said defendant, Kirt Lannan Thacker to await further proceedings.

X The Court sets an Appearance Bond in the amount of \$ 30,000

 The Court denies Bond at this time.

 This Affidavit contains insufficient facts to show there is probable cause to arrest or detain the said defendant, _____.



JUDGE OF THE DISTRICT COURT
4-24-15 @ 11:30 a.m.

RCCA Driveway, Tiawah, Oklahoma May 29, 2012

Equipment leasing information obtained from Kirby-Smith, Tulsa Oklahoma.

Low Boy Trailer, \$3900/month, \$130/day= \$130

Information provided by BRIAN BURRIS of Kirby-Smith.

Equipment leasing information obtained from of Hertz Equipment Rental, Tulsa, Oklahoma.

1998 8100 International = \$850/day

2013 Mack Pull Truck= \$850/day

35 foot Boom Bucket Truck= \$275/day

½ Ton Pick-Up=\$175/day: 2 used that day #4 and 51, \$350

28 foot Dove Tail Trailer=\$105/day

10 Wheel Dump Truck: 2 used that day #77 and #71=\$845/day, \$1690

28 foot Gooseneck trailer=\$70/day

Single Axle dump truck=\$335/day

18 inch Chainsaw: 2 used that day #2 and #5= \$63/day, \$126

Equipment total=\$4781

Information provided by JOE MOSS of Hertz Equipment Rental, Tulsa, Oklahoma.

Materials

180 tons of Crusher Run, \$6 per ton. 180x6=\$1,080.

4230/590 Roads, Inola, Oklahoma, THACKER'S Leased Land, June 21, 2011 to July 22, 2011>>32 days

500 gallon fuel tank, leased from Frosman Fuel of Claremore, OK at \$150/month. (Estimated at \$5 a day for a 30 day month)

32x \$5= \$160

Information provided by JODY BOES of Frosman Fuel.

Komatsu 39EX and Jon Deere Dozer 200DLC, leasing information obtained from Kirby-Smith, Tulsa Oklahoma.

Komatsu \$500/day

Jon Deere Dozer \$550/day

\$500x32=\$16,000

\$550x32=\$17,600

Information provided by BRIAN BURRIS of Kirby-Smith.

Total=\$33,760

