

**STATE OF MINNESOTA
COUNTY OF HENNEPIN**

**DISTRICT COURT
FOURTH JUDICIAL DISTRICT**

COURT FILE NO.
PROSECUTOR CASE NO. 18A15974
SILS ID. 487925
SILS TRACKING. 3075601
CONTROLLING AGENCY. MN0270000
CONTROL NO. 18013031

State of Minnesota,

Plaintiff,

v.

TIMOTHY JOHN MCNEIL (DOB: 03/14/1964)
18620 ROBINSON ST N #3

DAYTON, MN 55327,
Defendant.

CRIMINAL COMPLAINT

Summons Warrant
 Order of Detention

Amended
 Tab Charge Previously Filed

The Complainant, being duly sworn, makes complaint to the above-named Court and states that there is probable cause to believe that Defendant committed the following offense(s):

Count I

Charge: **Theft-By Swindle**

Minnesota Statute: **609.52.2(a)(4)**, with reference to: 609.52.3(2)

Offense Level: **Felony**

Maximum Sentence: **10 YEARS AND/OR \$20,000**

Offense Date (on or about): **02/02/2016**

Charge Description: That on or about February 2, 2016 to May 27, 2016, in Hennepin County, Minnesota, TIMOTHY JOHN MCNEIL, date of birth 3/14/64, Defendant herein, obtained property or services from the Dayton Heritage Day Committee, by swindling the Dayton Heritage Day Committee using artifice, trick, device or other means, and the property or services had a value in excess of Five Thousand Dollars (\$5,000.00).

STATEMENT OF PROBABLE CAUSE

The Complainant states that the following facts establish probable cause:

Complainant interviewed witnesses, obtained documents, including financial and bank records and learned the following information:

In October of 2018, investigators from the Hennepin County Sheriff's Office were assigned to investigate a report of theft from the Dayton Heritage Day Committee account by one of the committee members, Timothy John McNeil, date of birth 3/14/64, Defendant herein. A community member had brought the allegations to the attention of the Dayton City Council at a council meeting on October 9, 2018.

The City of Dayton, pop 5,300, is located about 20 miles west of Minneapolis in Hennepin County, Minnesota. The Dayton Heritage Day is a community event that occurs once a year and has been in existence for approximately 40 years. The event is funded in large part by private businesses and individuals. The committee and the fund are not part of the City of Dayton, but the city does contribute to the event by providing staff overtime hours to work at the event.

The Dayton Heritage Day Committee is not registered as a non-profit corporation and does not have a formal structure, bylaws or mission statement. Members of the committee are all volunteers. The account in which donations are placed and from which the expenses of the event are paid, is in the name of one of the members, Sandra Borders, who acts as the treasurer of the group. Other members of the present Dayton Heritage Day Committee were identified as Defendant McNeil and two other individuals, Shirley Slater and Lisa Sanchez.

Complainant interviewed Slater, who reported that she was asked by Borders after a committee meeting in August of 2018 to stay after the meeting because she needed to speak to the mayor, Defendant McNeil, about the money for the committee and that she wanted a witness. Slater said that during the meeting, Defendant McNeil admitted that he had taken the money, but said that it was a misunderstanding. McNeil said that he mixed up the debit cards. Slater asked how much money he had taken and he said he had only used the card a couple of times. Borders corrected him and said that it was over \$10,000. Defendant McNeil said that he had the money to pay back what he took, but would like to keep some of it in case his vehicle broke down. Borders said that he had only paid \$500 back of what he had taken. After that meeting, Defendant McNeil sent Borders another check for \$4,000.

On October 18, 2018, Complainant and another detective met with Borders. Borders said that the Dayton Heritage Day event has been around for about 40 years. Borders said that many local businesses donate money to be used for the event and are recognized by fliers and signs. Borders said that she first became the treasurer for the group around 2004 and she and Defendant were consistent volunteers with the group. Borders said that donations for Heritage Day were deposited into an account at Wells Fargo.

Borders indicated that Defendant McNeil was the sole member of the Dayton Historical Society and suggested that they merge the two groups and that he had an idea to create calendars that

could be used to raise money. On April 2, 2015, Defendant was added as an authorized signer on the Dayton Heritage Day account at Wells Fargo ending in 1314. Borders said that her monitoring of the account was on an as-needed basis and told the officers that sometime after Defendant was added to the account, she was unable to access bank statements electronically. She went into the bank and obtained paper statements and discovered that Defendant had taken money from the account. She confronted him about the missing money and he said that he had mixed up the cards and that he would be getting \$10,000 from his father soon for the Dayton Historical Society. Borders told him that a donation for the Historical Society had no bearing on the fact that he needed to pay the money back. Defendant made one payment of \$500 in September of 2017. Defendant told her that he was working a minimum wage job and did not have the money to pay it back.

Borders said that she decided to tell other members of the committee in 2018 when Defendant had not paid the money back. Borders told another committee member, in Defendant's presence, that he owed about \$10,000 that he had taken from the account for his own personal finances. Defendant told the group that he had the money, but that he needed to hold onto it in case something happened to his car. Defendant told Borders and Slater that he would pay the money back. He provided a check for \$4,000 in September of 2018.

Borders said that the Dayton Historical Society brought no money into the account, but she has paid for expenses for the Dayton Historical Society out of the Dayton Heritage Day account, including an ancestry.com membership and a Go-Daddy domain registration fee and the expenses for the Dayton Historical Society calendar. Borders said that there would be no reason for Defendant to take out the large sums of cash for the Dayton Heritage Day event when he did, as there would not have been expenses for the group when he made those withdrawals.

Defendant McNeil was interviewed in an in-person voluntary setting. McNeil claimed that the theft report was politically motivated. Defendant said that his family has lived in Dayton for five generations and that after moving to Dayton in 2002, he got involved with the Heritage Day group, the church and founded the Dayton Historical Society. Defendant said that he raised money by producing calendars for three years and that when he made deposits into the Heritage Day fund, he would then withdraw cash for the Dayton Historical Society. He said that he kept track of the transactions on a spreadsheet. Defendant said that the money he took out for the Historical Society went into his personal account and that he spent it on Ancestry.com and DNA testing kits.

An examination of the financial records for the Dayton Heritage Day Wells Fargo account ending in 1314 and Defendant's personal account at US Bank ending in 2453 reveal that the following cash withdrawals and deposits were made on the same day:

10-05-2015 \$1,700 cash withdrawal from Dayton Heritage Day account and \$1,700 cash deposit made into Defendant's US Bank account.

10-30-2015 \$1,700.00 cash withdrawal from Dayton Heritage Day account and \$1,700.00 cash deposit made into Defendant's US Bank account.

02-02-2016 \$1,500.00 cash withdrawal from Dayton Heritage Day account and \$1,650.00 cash deposit made into Defendant's US Bank account.

03-03-2016 \$1,500.00 cash withdrawal from Dayton Heritage Day account and \$1,500.00 cash deposit made into Defendant's US Bank account.

04-01-2016- \$1,000.00 and \$17.00 cash withdrawals from Dayton Heritage Day account and \$1,000.00 cash deposit made into Defendant's US Bank account.

05-02-2016 \$1,800.00 cash withdrawal from Dayton Heritage Day account and \$1,800.00 cash deposit made into Defendant's US Bank account.

05-27-2016 \$1,000.00 cash withdrawal from Dayton Heritage Day account and \$1,000.00 cash deposit made into Defendant's US Bank account.

The following payments were made out of the Dayton Heritage Day account with Defendant's card #2684 from that account:

10-09-2015 \$386.00 Payment to Charter Communications

02-02-2016 \$775.95 Payment to Sprint Wireless

04-25-2016 \$30.86 Payment to Marathon gas station

Complainant noted that Defendant made frequent payments to Charter Communications, Sprint Wireless and Marathon gas station out of his US Bank account ending in 2453.

Defendant paid back \$4,500 in checks dated 09-01-2017 (\$500) and 09-01-2018 (\$4,000), leaving a total still due to the Dayton Heritage Day account in the sum of \$8,710.75.

Defendant did not provide officers with the promised spreadsheet which would show money he had paid out of his personal account for the Dayton Historical Society, despite follow up inquiries. And, an examination of his bank records do not show any transactions that appear to be for the Dayton Historical Society or the Dayton Heritage Day event.

Complainant requests that Defendant, subject to bail or conditions of release, be:
(1) arrested or that other lawful steps be taken to obtain Defendant's appearance in court; or
(2) detained, if already in custody, pending further proceedings; and that said Defendant
otherwise be dealt with according to law.

COMPLAINANT'S NAME:

COMPLAINANT'S SIGNATURE:

<Name>

Subscribed and sworn to before the undersigned this ____ day of _____, 20__.

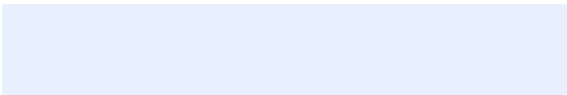
NAME/TITLE:

SIGNATURE:

Being authorized to prosecute the offenses charged, I approve this complaint.

Date: _____

PROSECUTING ATTORNEY'S SIGNATURE:


Name: Susan B. Crumb
Assistant County Attorney
C2000 Government Center
300 South Sixth Street
Minneapolis, MN 55487
612-348-5612
Attorney Registration # 0148246

FINDING OF PROBABLE CAUSE

From the above sworn facts, and any supporting affidavits or supplemental sworn testimony, I, the Issuing Officer, have determined that probable cause exists to support, subject to bail or conditions of release where applicable, Defendant's arrest or other lawful steps be taken to obtain Defendant's appearance in court, or Defendant's detention, if already in custody, pending further proceedings. Defendant is therefore charged with the above-stated offense.

SUMMONS

THEREFORE YOU, THE ABOVE-NAMED DEFENDANT, ARE HEREBY SUMMONED to appear on the ____ day of _____, 20__ at _____ a.m./p.m. before the above-named court at _____ to answer this complaint.

IF YOU FAIL TO APPEAR in response to this SUMMONS, a WARRANT FOR YOUR ARREST shall be issued.

WARRANT

To the Sheriff of the above-named county; or other person authorized to execute this warrant: I hereby order, in the name of the State of Minnesota, that the above-named Defendant be apprehended and arrested without delay and brought promptly before the above-named court (if in session), and if not, before a Judge or Judicial Officer of such court without unnecessary delay, and in any event not later than 36 hours after the arrest or as soon as such Judge or Judicial Officer is available to be dealt with according to law.

Execute in MN Only *Execute Nationwide* *Execute in Border States*

ORDER OF DETENTION

Since the above-named Defendant is already in custody, I hereby order, subject to bail or conditions of release, that the above-named Defendant continue to be detained pending further proceedings.

Bail: \$
Conditions of Release:

This complaint, duly subscribed and sworn to, is issued by the undersigned Judicial Officer this ____ day of _____, 20____.

JUDICIAL OFFICER:
NAME:
TITLE:

SIGNATURE:

Sworn testimony has been given before the Judicial Officer by the following witnesses:

<p>COUNTY OF HENNEPIN STATE OF MINNESOTA</p> <p>STATE OF MINNESOTA</p> <p style="text-align: right;">Plaintiff,</p> <p style="text-align: center;">vs.</p> <p>TIMOTHY JOHN MCNEIL,</p> <p style="text-align: right;">Defendant</p>	<p><i>Clerk's Signature or File Stamp:</i></p> <p style="text-align: center;"><i>RETURN OF SERVICE</i></p> <p><i>I hereby Certify and Return that I have served a copy of this COMPLAINT upon Defendant herein named.</i></p> <p>Signature of Authorized Service Agent:</p> <p>_____</p>
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