

STATE OF SOUTH DAKOTA
COUNTY OF STANLEY

IN CIRCUIT COURT OF
SIXTH JUDICIAL CIRCUIT

STATE OF SOUTH DAKOTA,
Plaintiff,

58CR123-000039

vs.

AFFIDAVIT OF PROBABLE CAUSE
FOR WARRANTLESS ARREST

Austin Howard Goss



Defendant,

In the matter of Contact by Telephone or Other Device.

PROBABLE CAUSE FOR THIS ARREST IS AS FOLLOWS:

On January 23rd, 2023, I learned that the South Dakota Highway Patrol (SDHP) had received a report from an individual with the initials of D.L. () that he had received a harassing phone call. I learned that D.L. had received a phone call which is summarized as follows:

"So now, you answer me this ... Between the hours of midnight yesterday, and right now, where they disappear to? ... Did you check your basement? How many boxes of the Moderna were there? ... Oh, you think this is funny? ... Yo! You're making me say way too much on this line already. ... Marculo's on the line here too. You best quit messing with me! ... You know what? I'm going to tell you, I know what you said the other day. ... You telling me, you didn't tell Vito, that you were going to try to move the three boxes of that AstraZeneca outside this family? ... You saying you ain't said that?! ... Oh, I'm getting so angry. ... You saying, you ain't said that?! ... You come here. Say it to my face. ... Yeah, yeah! I want you to say it to my face! ... Hahahahaha! You've just been pranked by PrankDial.com."

I learned that the caller ID of the prank call had been set to appear as though it was coming from South Dakota Governor Kristi Noem's personal cell phone. D.L. provided law enforcement with a screenshot of this call, which showed the Governor's personal cell phone number and contact information to be displayed.

I provided a subpoena to PrankDial Customer Support, and learned that the IP Address used to make the prank call was: 2605:4a80:a300:f1e0:7871:c904:35c5:3be2 on 1/22/23 at 20:27:59. A search of the American Registry for Internet Numbers (ARIN) shows that the IP Address used is registered to Midcontinent Communications.

I then obtained a subpoena for subscriber records related to the Midcontinent Communications IP Address from the Hughes County State Attorney's Office which was served to Midcontinent Communications.

On March 30th, 2023, Midcontinent Communications provided me with their production of records in response to my subpoena. Upon reviewing these records, I observed the IP Address in question to have been utilized by the account of Austin Goss ([REDACTED]) who is registered as living [REDACTED] in Fort Pierre. I learned that Austin is a political journalist for various news outlets.

Upon viewing open-source information posted by Austin, it appears that he has had several personal and professional contacts with Governor Noem, and they have been featured in multiple pictures together. It would stand to reason that Austin may have come into possession of Governor Noem's personal phone number during one of these contacts.

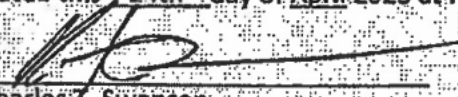
I then made telephonic contact with D.L. D.L. explained that he did know Austin, as he has had to work with him professionally on several occasions. D.L. advised that Austin definitely has his (D.L.'s) personal phone number, because Austin will occasionally text him (D.L.) snide or rude remarks. D.L. went on to explain to me that he was annoyed by the prank phone call and that the tone and tenor of the audio recording startled him and caused him concern for his safety.

Upon interviewing Austin, I learned that he has lived [REDACTED] for approximately two years, has Midcontinent Communications provided internet service, and his home Wi-Fi is password protected. Meaning that the use of his home internet would be restricted to himself and those whom he has personally allowed access, such as his wife or two-year-old child. I further determined that Austin's wife and two year old child would not be expected to have contact information for D.L. or Governor Noem, nor was I able to determine any motive outside of Austin's own dislike for D.L.

Based on the totality of the circumstances and the facts of this case, I determined that probable cause exists to believe that Austin Goss did contact D.L. by telephone or other electronic device with the intent to harass and annoy him, and in doing so intentionally caused a fictitious and misleading caller identification or telephone number (that of Governor Kristi Noem) to be displayed.

Dated this 24th day of April 2023 at Pierre, South Dakota

Signed


Charles J. Swanson
Special Agent
South Dakota Division of Criminal Investigation

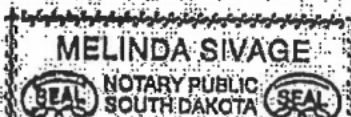
Sworn and subscribed before me, on this 24th day of April 2023.

Signed


Notary Public

My Commission Expires
(SEAL)

11/7/2025



PROBABLE CAUSE DETERMINATION

On the basis of the foregoing affidavit, I hereby determine that probable cause to believe that the defendant has committed the crime of:

49-31-31 – Contact by Telephone or Other Device (Class 1 Misdemeanor)

TZA Exists

_____ Does Not Exist

Bond Amount \$ PR

ATTEST:

Signed T-L. [Signature]

Date / Time 5/2/2023 at 5:51 pm

Stanley County Clerk of Courts

Attest:
Caviness, Kelly
Clerk/Deputy

BY: _____



STATE OF SOUTH DAKOTA)
)
COUNTY OF STANLEY) :SS

IN CIRCUIT COURT
(Magistrate Division)
SIXTH JUDICIAL CIRCUIT

STATE OF SOUTH DAKOTA,)
)
)
)
Plaintiff,)

58CRI23-000 39

vs.)

WARRANT OF ARREST

AUSTIN HOWARD GOSS,)
)
)
)
)
)
)
Defendant.)

TO ANY LAW ENFORCEMENT OFFICER OF THIS STATE:

Complaint upon oath having been this date laid before me that the crime of Making Threatening, Harassing, or Misleading Contacts, in violation of SDCL 49-31-31(5)(b), a Class 1 Misdemeanor, has been committed and accusing Austin Howard Goss, [REDACTED] thereof;

You are therefore commanded forthwith to arrest the above-named Defendant and bring him before me at the Courtroom of the Stanley County Courthouse, or in case of my absence or inability to act, before the nearest or most accessible Magistrate.

Bond in the above matter shall be set in the sum of \$ PR

This Warrant of Arrest may be served:
(PLACE INITIALS IN APPROPRIATE BLANK)

T/A At any time of the day or night.

___ Only during the daytime (8:01 A.M. to 7:59 P.M.).

DATED:

Attest:
Caviness, Kelly
Clerk/Deputy



(SEAL)

T. L. Adamski
TARA L. ADAMSKI
Magistrate Court Judge

STATE OF SOUTH DAKOTA)
 :ss
COUNTY OF STANLEY)

RETURN OF OFFICER

I hereby certify that a copy of the above Warrant was received by me on the ____
day of _____, 2023. I executed the same on the ____ day of
_____, 2023, by delivering a copy to _____
at _____.

Law Enforcement Officer

STATE OF SOUTH DAKOTA)
COUNTY OF Stanley)

IN CIRCUIT COURT
SIXTH JUDICIAL CIRCUIT

STATE OF SOUTH DAKOTA)
Vs.)
Goss, Austin)
DEFENDANT)
[REDACTED])

FILE #: 58CRI 23-00039
CHARGE(S): Warrant of Arrest
ARREST DATE: 5-3-2023
PCN#: 051050071983

ORDER SPECIFYING METHODS AND CONDITIONS OF RELEASE

1. ORDER

- PERSONAL RECOGNIZANCE The defendant promises to appear at all scheduled hearings.
- CASH OR SURETY BOND The defendant will execute a bond in the amount of \$_____.
- CASH ONLY (by the deposit of an equal amount of cash.)
- CASH / SURETY (may secure by the undertaking of sufficient sureties)
- 10% DEPOSIT The defendant will execute a bond binding him/her to pay _____ County the sum of \$_____ and will deposit with the Clerk of Courts the sum of \$_____, not being more than 10% of the amount of bond.
- UNSECURED BOND The defendant will execute a bond binding him /her to pay _____ County the sum of \$_____ in the event he /she fails to appear as required.

3RD PARTY POSTING BOND:

_____ I agree to take custody of _____, defendant, and to supervise the defendant as set forth below. I further agree to use every effort to assure the defendant's appearance at all scheduled hearings before this court and to notify this court immediately if the defendant violates any condition of his/her release or attempts to disappear.

_____ I UNDERSTAND THAT ANY CASH BOND POSTED IMMEDIATELY BECOMES THE PROPERTY OF THE DEFENDANT AND WILL BE USED TO PAY THE DEFENDANT'S FINES, COSTS, COURT-APPOINTED ATTORNEY FEES AND RESTITUTION AND IF ANY BALANCE OF BOND REMAINS IT WILL BE RETURNED TO THE DEFENDANT.

Printed name of person posting bond

Signature of person posting bond

Date