

RUTLAND POLICE DEPT.

Case: 10RL00005

STATE OF VERMONT

Rutland County S.S.

AFFIDAVIT

NOW COMES, OFFICER JUSTIN D. SOUZA affiant(s), being duly sworn on oath, deposes and says he has probable cause to believe that the Defendant, Jamek R. Hart (DOB 07/02/1983), has committed the offense(s) of DISORDERLY CONDUCT violation of Title 13 Vermont Statutes Annotated 1026.

On January 1, 2010 your affiant was on duty as a uniformed police officer for the City of Rutland, assigned to Night Watch II, 1800 hrs to 0600 hrs.

Based on the forthcoming information, your affiant believes that the Defendant, Jamek R. Hart, was a person who, with intent to cause public inconvenience, or annoyance or recklessly creating a risk thereof, by (1) Engages in fighting or in violent, tumultuous or threatening behavior; or (2) Makes unreasonable noise; or (3) In a public place uses abusive or obscene language; or (5) Obstructs vehicular or pedestrian traffic; by; being a person who was using obscene language, recklessly engaging in violent tumultuous behavior which made unreasonable noise and obstructed the pedestrian traffic on Merchants Row.

On January 1, 2010 at approximately 0145 hours I was patrolling the downtown Rutland area monitoring bar patrons. I was mid block on Center Street when Sgt. Schauwecker radioed that there was a fight in front of Jilly's Bar. Upon arrival I observed a black male physically restraining another black male later identified as Jamek R. Hart (DOB 07/02/1983). Jilly's employees were trying to tell the male (Hart) to calm down. Hart was using vulgar and obscene language he stated to the effect of "f--- this s---" and "f--- them". Hart was still being restrained by the other black male and kept trying to free himself. His fists were clenched and he flailed his arms and legs attempting to break free. Hart did all this in front of Jilly's and Aaron's which was obstructing pedestrian traffic. His actions were violent and tumultuous. I had removed my OC canister from my duty belt and gave Hart verbal commands to calm down or he would be sprayed. Hart continued to flail and scream, "Spray me, f---ing spray me". Due to the large crowd and officers down wind, OC was not utilized at this time. Hart appeared to be intoxicated his eyes were red, watery, and bloodshot, I could smell a slight odor of intoxicants as he yelled and screamed.

At this time Sgt. Schauwecker attempted to grab the male's right arm to place him into custody. Hart began to pull his arm away. I attempted to secure his left arm, and as I did so Hart began flailing his arms. Schauwecker and your affiant escorted Hart to the ground, and at which time I lost my grasp on Hart's left arm. Hart pulled his left arm under his body, but after a brief struggle I was able to place his arm on the small of his back and secure the male. At this time Hart began stating that he did not assault anyone, and that I was starting my new year off right by arresting a "n---". Hart continued to refer to himself as "n---" while I conducted a quick pat down for weapons. Hart was so argumentative and out of control that due to all of his yelling and screaming he began salivating from the mouth and was unintentionally spitting towards officers.

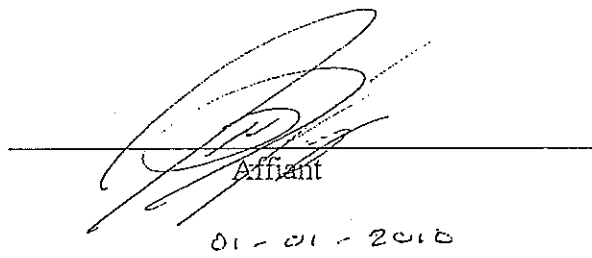
Subscribed and sworn to before me on

this 1st day of January, 2010



Notary Public

(Exp 02/10/2011)



01-01-2010

Date

Sgt. Schauwecker left to assist in crowd control as more and more bar patrons exited the bar. At this time Officer Richardson and Cpl. Prouty assisted your affiant while I double cuffed Harts handcuffs and Richardson and Prouty moved Hart to the front of my police cruiser while I spoke with a male who was agitated by Hart being placed into custody. I explained what was happening to him and observed that Hart continued to use vulgar language and flail and scream at Officers. He was so agitated and tumultuous that he needed to be placed on the hood of my cruiser and he continued to not respond to verbal commands to quiet down.

During transport Hart continued to swear, and flail at which time I began to worry that Hart would harm himself with his aggressive and out of control behavior. Upon arrival at RPD Hart was still highly aggressive. Officers Nesshoever and Officer Richardson assisted your affiant as I conducted a search incident to arrest upon Hart. He continued to flail, swear and spit (unintentionally). Hart continued to state that "you got it, you got your n[redacted]", "happy new year you arrested a n[redacted]", and "I didn't assault nobody, how am I under arrest when I did not hit anyone." Hart flailed his body and leg, at which time for his safety hobble restraints were used to keep Hart from kicking. At RPD while removing Hart from my cruiser he continued to yell and unintentionally spit towards Officers, he was advised to stop spitting.

I then asked Hart for his name and date of birth and he stated his name was "N[redacted]". I checked Hart's criminal history and it revealed that Hart had failed to appear at a previous court proceeding and due to his continued violent and tumultuous behavior under rule 3, I contacted Court Clerk Laurie Canty to set bail based on his failure to appear and continuation of offense. Canty was contacted via telephone and upon first call to her Office Nesshoever was in booking processing a DUI. Hart was continuing to create a disturbance which was interfering with Nesshoever's processing. Officer Nesshoever radioed that he needed my assistance and requested I acquire the departments Pepperball Launcher. Upon response to booking I observed Hart spitting at the glass attached to the top half of the cell and advised he would spit on officers. Hart was hitting his head against the cell bars. He refused verbal instructions to sit down and calm down. At that time Officer Nesshoever gave verbal instructions to sit down. Hart refused and told Officer Nesshoever to "F[redacted] Off". Nesshoever announced to him that he would be use the Pepperball launcher if he did not comply. Hart still refused. At this time Hart turned and put his buttocks against the cell #1 bars and stated "Go Ahead, Shoot a N[redacted]". Officer Nesshoever tried once again to give verbal commands but with no success. At this time Officer Nesshoever fired pepperball (paint ball like rounds) with Inert (Talcum Powder) at Harts thigh and buttocks area. Hart then went to the ground as instructed and a after the cell was opened a spit mask was applied over Harts head and face after he continued to inadvertently spit due to his hysterical nature.

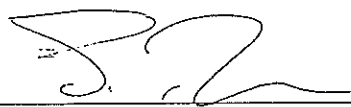
At this time I was able to contact Court Clerk Laurie Canty and bail was set on Hart. He would be arraigned on Monday at 12:30 hours which would require your affiant to contact a judge in compliance with the 48 hour rule. The Honorable Judge Nancy Corsones was contacted and advised Probable Cause had been found. Hart was transported to Marble Valley Regional Correctional Facility (MVRFCF)

Based on the information provided in this affidavit I find probable cause to charge Jamek R. Hart (DOB 07/02/1983) with the offense(s) of Disorderly Conduct violation of Title 13 Vermont Statutes Annotated 1026 because he used obscene language, recklessly engaged in violent tumultuous behavior which made unreasonable noise and obstructed the pedestrian traffic on Merchants Row.

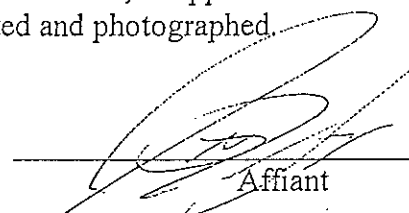
Your affiant is requesting the court order the defendant, Jamek R. Hart, to appear at the Rutland City Police Department, as part of conditions of release, to be fingerprinted and photographed.

Subscribed and sworn to before me on

this 1st day of January, 2010


Notary Public

(Exp 02/10/2011)


Affiant

01-01-2010

Date