STATE OF MINNESOTA
COUNTY OF DAKOTA

DISTRICT COURT
FIRST JUDICIAL DISTRICT

COURT FILE NO. _____
COUNTY ATTORNEY FILE NO. CA-2012-00607
CONTROLLING AGENCY: MNMHP0100
CONTROL NUMBER: 11-407941

State of Minnesota,

Plaintiff,

v.

KIRK EDWARD DEAMOS
1002 DOGWOOD DR
RAYMORE, MO 64083
(DOB: 12/28/89)

Defendant.

[X] SUMMONS
[ ] WARRANT
[ ] ORDER OF DETENTION
[ ] AMENDED

COMPLAINT

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

COUNT 1: CARELESS DRIVING
Minnesota Statutes §169.13, Subd. 2; 609.101
PENALTY: 0-90 Days and/or $300.00 - $1,000.00
MOC: J3901 GOC: N
[ ] Felony [ ] Gross Misdemeanor [X] Misdemeanor [ ] Petty Misdemeanor

On or about October 13, 2011, in the County of Dakota, Minnesota, KIRK EDWARD DEAMOS, did operate or halt a vehicle upon any street or highway carelessly or heedlessly in disregard of the rights of others, or in a manner that endangered or was likely to endanger any property or any person, including the driver or passengers of the vehicle.

STATEMENT OF PROBABLE CAUSE

Your Complainant is a licensed peace officer in the State of Minnesota. Acting in that capacity, I have reviewed the police reports and state that the following facts are true and establish probable cause.

On Thursday, October 13, 2011, at approximately 12:33 p.m., Kirk Edward Deamos, date of birth 12/28/89, was driving a 1998 Mitsubishi 3000 GT northbound on I- 35W just south of the McAndrews Road overpass in the City of Burnsville, Dakota County, Minnesota, when he lost control of his vehicle. The Mitsubishi entered the right side ditch striking Craig Carlson and Ronald Rajkowski who were working at an electrical hand-hole junction for a corporation. Mr. Carlson was pronounced dead at the scene and Mr. Rajkowski died later that day at HCMC as a result of his injuries. Mr. Deamos was not injured. The weather was clear and there was no precipitation or snow or ice on the road.

Mr. Deamos gave a statement to the State Patrol. He advised that he purchased the Mitsubishi two days earlier, on October 10, 2011, which was confirmed by sale documents located in the vehicle. He advised that he had left his home in Missouri that morning at 4 a.m. to travel to visit his girlfriend who was attending St. Benedict's in Collegeville, MN. He advised that he had been stopped for speeding in Iowa, and a citation was located in the vehicle and reports from Iowa were obtained indicating that at 7:33 a.m. that morning Mr. Deamos had been traveling 85 in a 70 mile per hour zone, but was cited for 75 in a 70. Mr. Deamos advised that thereafter he had been using his cruise control to make sure he stayed within the speed limit. When he approached I-35W and McAndrews he slowed his speed from 70 to 60 due to the cement barriers in place. The State Patrol has advised that the area was not a "construction zone" even though the cement barriers were in place because both lanes of traffic were operational and the speed limit remained 70 miles per hour. Mr. Deamos advised that he wanted to disengage his cruise-control while traveling through the area, and briefly looked down at the

steering wheel to press the correct button located on the right side. When he looked up, he felt he was too close to the temporary concrete barrier wall, and steered to the right and braked at the same time. He advised that the Mitsubishi turned farther than he thought it would, and to compensate for too much steering to the right, he steered to the left, then back to the right again, all the while applying the brakes. As a result, he lost traction on the asphalt roadway, causing his vehicle to start to rotate in a clockwise direction, and went off to the right side ditch, striking a pole. His vehicle then continued to slide and struck Mr. Carlson and Mr. Rajkowski.

An accident reconstruction was completed by the Minnesota State Patrol. The reconstruction report advises that the speed limit in the area was 70 miles per hour, and that the Mitsubishi was traveling not more than 60 miles per hour at the time of the crash. The Mitsubishi, which was a 1998 and had over 90,000 miles on the odometer, was in good mechanical condition prior to the crash. Mr. Deamos had a valid driver's license and insurance on the vehicle. A Preliminary Breath Test at the scene failed to detect the presence of alcohol. Mr. Deamos failed to exhibit any indicia of intoxication or impairment. The accident reconstruction concluded that road and weather conditions were not a factor in the accident, and that neither chemical impairment nor cell phone use was a factor in the crash. Cell phone records were obtained and Mr. Deamos' cell phone was examined. Mr. Deamos' cell phone was not operating at the time of or right before the crash, consistent with his statement to police.

A witness, JRM, who was following the Mitsubishi advised that the Mitsubishi did not appear to be travelling at excessive speeds. He advised he saw it veer to the left, then the right, and go out of control. Two other witnesses, RSC and JS, were also interviewed, but only noticed the Mitsubishi when it was sliding into the ditch and could provide no information about the driving behavior. The traffic cameras in the area showed that Mr. Deamos' vehicle was traveling at the speed of surrounding traffic.

NOTICE: You must appear for every court hearing on this charge. A failure to appear for court on this charge is a criminal offense and may be punished as provided in Minn. Stat. §609.49.

Complaint requests that Defendant, Kirk Edward Deamos, 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:**

Subscribed and sworn to before the undersigned this _____ day of _____, 2012.

NOTARY STAMP: **SIGNATURE:**

Notary Public

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

PROSECUTING ATTORNEY'S SIGNATURE:

Date:

(jcb)

Name: Nicole E. Nee
Assistant Dakota County Attorney
Dakota County Judicial Center
1560 Highway 55
Hastings, MN 55033
(651) 438-4438
Attorney Registration No.: 0152006

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.

[X] SUMMONS

THEREFORE YOU, THE ABOVE-NAMED DEFENDANT, ARE HEREBY SUMMONED to appear on _____, at _____ before the above-named court at the Dakota County Judicial Center 1560 Highway 55, Hastings, MN 55033 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 _28th____ day of _____June_____, 2012.

JUDICIAL OFFICER:
NAME:
TITLE: Judge of District Court

SIGNATURE:

_/s/_____
Judge

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

COUNTY OF DAKOTA STATE OF MINNESOTA **STATE OF MINNESOTA** Plaintiff, vs. **KIRK EDWARD DEAMOS** Defendant.	*Clerk's Signature or File Stamp:* *RETURN OF SERVICE* *I hereby Certify and Return that I have served a copy of this COMPLAINT upon the Defendant herein named.* Signature of Authorized Service Agent: _____