STATE OF MINNESOTA
COUNTY OF DAKOTA

DISTRICT COURT
FIRST JUDICIAL DISTRICT

COURT FILE NO. 19HA-CR-14-1177
COUNTY ATTORNEY FILE NO. CA-2014-00642
CONTROLLING AGENCY: MN0190100
CONTROL NUMBER: 14-000939

State of Minnesota,

Plaintiff,

v.

DAVID JOHN GHERITY
12600 PARKWOOD DRIVE
BURNSVILLE, MN 55337
(DOB: 5/28/53)

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

Defendant.

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: ASSAULT IN THE FIRST DEGREE (GREAT BODILY HARM)
Minnesota Statutes §609.221, Subd. 1; 609.101
PENALTY: 0-20 Years and/or $9,000.00 - $30,000.00
MOC: A1141 GOC: N
[X] Felony [ ] Gross Misdemeanor [ ] Misdemeanor [ ] Petty Misdemeanor

On or about February 9, 2014, in the County of Dakota, Minnesota, DAVID JOHN GHERITY, did assault another and inflict great bodily harm .

COUNT 2: ARSON IN THE FIRST DEGREE (DWELLING)
Minnesota Statutes §609.561, Subd. 1; 609.101
PENALTY: 0-20 Years and/or $6,000.00 - $20,000.00
MOC: F1810 GOC: N
[X] Felony [ ] Gross Misdemeanor [ ] Misdemeanor [ ] Petty Misdemeanor

On or about February 9, 2014, in the County of Dakota, Minnesota, DAVID JOHN GHERITY, did unlawfully by means of fire or explosives, intentionally destroy or damage any building that is used as a dwelling at the time the act is committed, whether the inhabitant is present therein at the time of the act or not, or any building appurtenant to or connected with a dwelling whether the property of the actor or of another.

COUNT 3: ARSON IN THE FIRST DEGREE (KNOWS PERSON PRESENT)
Minnesota Statutes §609.561, Subd. 2(a); 609.101
PENALTY: 0-20 Years and/or $10,500.00 - $35,000.00
MOC: F1810 GOC: N
[X] Felony [ ] Gross Misdemeanor [ ] Misdemeanor [ ] Petty Misdemeanor

On or about February 9, 2014, in the County of Dakota, Minnesota, DAVID JOHN GHERITY, did unlawfully by means of fire or explosives, intentionally destroy or damage any building not included in Minn. Stat. 609.561, subdivision 1, whether the property of the actor or another, and another person who is not a participant in the crime is present in the building at the time and the defendant knows the person is present.

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 February 9, 2014 at 2:44 p.m., Burnsville Fire Department responded to a condominium in the 12000 block of Parkwood Drive in the City of Burnsville, Dakota County, Minnesota on a report of a smoke alarm. When the Fire Department arrived there was heavy smoke coming from the condominium and a resident of the condominium, an adult female identified as J.I. (hereinafter "victim") was on fire sitting at a table. The fire was extinguished and the victim was transported to the Hennepin County Medical Center Burn Unit (HCMC) in Minneapolis. Later on February 9, 2014, the victim's sister, K.K., contacted the Burnsville Police Department and reported that she was contacted by HCMC. K.K. reported that prior to the time of the fire, the victim contacted K.K. and left a

voicemail whispering that victim's boyfriend of ten years, David John Gherity, date of birth 5-28-1953 (hereinafter "Gherity"), "has gone berserk, I can't call now, I'll call you later".

When fire department medical personnel made contact with the victim, she said "he lit the fire" and "the bastard tried to burn my house down". The fire department reported that there were alcohol bottles in the area where the victim was found, the coffee table was very charred and there was also charring on the bed.

K.K reported to police that on February 10, 2014, she received a call from Gherity and she asked him how this happened. Gherity said that maybe the nail polish, nail polish remover or the hairspray that victim uses started her on fire. K.K. reported that her sister rarely showers and does not use hairspray or fingernail polish. Medical personnel at HCMC reported that Gherity showed up at the hospital and he smelled like smoke from a house fire and had soot on him. Medical personnel asked Gherity if he was in the fire and Gherity stated he was not and that he was checking the condominium out afterward. Later investigation revealed that this is inconsistent with the buildings records of when Gherity last entered that building. Upon arriving at HCMC, the first thing Gherity (a former attorney) asked medical personnel was if the victim had an advanced health care directive. When told victim did not, Gherity said he would write one up and have the victim sign it. Medical personnel told Gherity the victim was medicated and would not be signing anything.

K.K reported that she flew in from out of state to visit the victim in the hospital. K.K reported that while she was with the victim on February 23, 2014, the victim had a scared look on her face. K.K. asked victim if she was scared, victim shook her head yes. K.K. then asked the victim if she was scared that Gherity was going to be at the hospital, victim shook her head yes. K.K. then asked victim if Gherity did this, victim shook her head yes.

Due to the fact that the victim was in a medically induced coma, police had to wait until March 4, 2014, to interview her about the fire. During the interview, victim reported the following. On the date of the fire, she and Gherity were in the condominium together. Gherity was stressed. The victim had been drinking and had taken some medication. Victim had probably been sleeping on the couch in

the living room. When she fell asleep, Gherity was still at the condominium and she does not know when he left. Victim woke up to the fire.

The Bureau of Criminal Apprehension performed an analysis of the clothes the victim was wearing at the time of the fire. A mixture of compounds and substances that can be used as accelerates was detected; including alcohol, lotion and possibly hairspray and fingernail polish remover. Police followed up with the victim on March 7, 2014. The victim reported that she has not used hairspray for several months and she does not use fingernail polish or fingernail polish remover. Victim reported that the clothes she was wearing on the day of the fire were clean and there would be no reason for hairspray to be on anything. Victim reported that the only hairspray in the condominium was left there by Gherity's mother.

Victim is still in the burn unit at the Hennepin County Medical Center and will remain there for an indefinite period of time. Victim's injuries include second degree burns to the scalp and right hand, and third degree burns to the facial area, head, neck, upper right leg and lower left leg. Victim has also lost her ear as a result of the burns. Defendant's whereabouts are unknown.

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, David John Gherity, 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 _____, 2014.

NOTARY STAMP: **SIGNATURE:**

_____ _____
Notary Public

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

PROSECUTING ATTORNEY'S SIGNATURE:

Date:

_____ _____
(rc)

Name: Jessica A. Bierwerth
Assistant Dakota County Attorney
Dakota County Judicial Center
1560 Highway 55
Hastings, MN 55033
(651) 438-4438
Attorney Registration No.: 0337808

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 _____, 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.

[X] 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* **[X]** ***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 __1st__ day of _____April_____, 2014.

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. **DAVID JOHN GHERITY** 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: _____