

**FILED**

MAY 26 2021

**CLERK**       

1 Cory Swanson  
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6 *Counsel for State of Montana*

7  
8 **IN THE JUSTICE COURT NO. 1, COUNTY OF BROADWATER,**  
9 **STATE OF MONTANA**  
10 **BEFORE THE HONORABLE KIRK FLYNN, JUSTICE OF THE PEACE**

11 **STATE OF MONTANA,**

12 **Plaintiff**

Cause No. CR-2021- 2

13 vs

14 **JASON WENDELL ELLSWORTH,**

**COMPLAINT**

15 **Defendant**

16  
17 STATE OF MONTANA     )  
18                                     ) ss.  
19 County of Broadwater    )

20 PERSONALLY APPEARED before me this day Cory Swanson, Broadwater County  
21 Attorney's Office, who, being first duly sworn according to law, deposes and says that the  
22 Defendant committed the following offense:

23 **Count I: Violation in a Construction Zone - Exceed Posted Speed Limit Of 55 MPH**  
24 **at Night in a Construction or Work Zone, Misdemeanor, Mont. Code Ann. §§ 61-8-314(2),**  
25 when on or about May 23, 2021, the Defendant Jason Wendell Ellsworth operated a motor  
26 vehicle upon the public roadway at night in Broadwater County, driving 88 miles per hour in  
27 construction or work zone with a posted speed limit of 55 miles per hour. Construction workers  
28 were not present at the time.

**PENALTY**

Complaint

1 This offense is punishable pursuant to Mont. Code Ann. §§ 61-8-314(5)(b) and 61-8-725(b), by a  
2 fine of \$200.

3 **Count II, Charged in the Alternative to Count I: Reckless Driving, a Misdemeanor,**  
4 **in violation of Mont. Code Ann. § 61-8-301(1)(a),** when on or about May 23, 2021, the  
5 Defendant Jason Wendell Ellsworth operated a motor vehicle upon the public roadway at night  
6 in Broadwater County, in willful or wanton disregard for the safety of persons or property by  
driving 88 miles per hour in construction or work zone with a posted speed limit of 55 miles per  
hour. Construction workers were not present at the time.

7 **PENALTY**

8 This offense is punishable pursuant to Mont. Code Ann. § 61-8-715. A first conviction is  
9 punishable by a fine of \$25 to \$300 and up to 90 days in jail. A second or subsequent offense is  
10 punishable by not less than 10 days or more than 6 months in jail, and a fine of \$50 to \$500.

11 **Count III: Obstructing A Peace Officer Or Other Public Servant, Misdemeanor,**  
12 **Mont. Code Ann. § 45-7-302(1),** when on or about May 23, 2021 in Broadwater County, the  
13 Defendant Jason Wendell Ellsworth knowingly obstructed, hindered, or impaired the  
14 enforcement of the law or the performance of a governmental function when he approached the  
Highway Patrol vehicle and refused to comply with repeated orders from a Montana Highway  
Patrol Trooper during the course of a traffic stop.

15 **PENALTY**

16 This offense is punishable pursuant to Mont. Code Ann. § 45-7-302(3), by up to 6 months in jail  
17 and up to \$500 fine.

18 **STATEMENT OF PROBABLE CAUSE**

19 The Court is informed that the following information to establish probable cause was  
20 derived from the official reports from law enforcement officers:

21  
22 1. On Sunday, May 23, 2021, Montana Highway Patrol Trooper Mackenzie Gifford  
23 was conducting a uniformed patrol shift in Broadwater County. She established a  
24 stationary patrol point at a highway construction zone o Highway 12/287, where the  
25 marked speed limit is 55 miles per hour. At around 10:20 pm, Trooper Gifford observed a  
26 vehicle approaching from the rear at a high rate of speed. Trooper Gifford activated her  
27 radar, which emitted a high pitch tone and displayed a speed of 88 miles per hour. The  
28 officer locked in the vehicle's speed at 86 miles per hour.

2. Trooper Gifford initiated a traffic stop on the vehicle, which bore a dealer's  
license plate. She made contact with the driver, an adult male identified as Jason Wendall  
Ellsworth. Trooper Gifford informed Mr. Ellsworth of his speed and asked why he was in  
such a hurry. Mr. Ellsworth stated he was headed to a legislative session in the morning.  
Mr. Ellsworth showed his legislative identification card to the officer.

1  
2 3. The vehicle did not have a registration because it was a dealer vehicle. Trooper  
3 Gifford requested to open the door and photograph the vehicle's identification tag to  
4 check its Vehicle Identification Number (VIN). Trooper Gifford asked Mr. Ellsworth  
5 why he was traveling to Helena on this road, as he was from Hamilton. Mr. Ellsworth  
6 stated he had spent the night in Bozeman and was coming from that direction.

7  
8 4. The VIN did not match any vehicle in the database, so Highway Patrol Dispatch  
9 ran a multi-state check on the VIN. Due to the officer's uncertainty over applicable law  
10 affecting a legislator's exemption from arrest, the officer decided to issue a warning for  
11 the speed. As she was printing out the warning, the officer observed Mr. Ellsworth get  
12 out of his vehicle and walk toward her.

13  
14 5. Trooper Gifford immediately opened her door and addressed Ellsworth, "There's  
15 no reason for you to get out of your car." Ellsworth continued to walk toward the officer  
16 with an object in his hand, and he was mumbling something that could not be understood.

17  
18 6. The following conversation occurred as Ellsworth stood next to the Highway  
19 Patrol Vehicle, at the front left pillar while Trooper Gifford stood at the pillar between  
20 the front and rear seats.

21 Gifford: Okay, you need to go back to your car.

22 Ellsworth: And...

23 Gifford: I'm not talking to you. You need to go back to your car.

24 Ellsworth: You need to release me.

25 Gifford: I'm not arresting you, so this is a traffic stop. You need to go back to  
26 your car.

27 Ellsworth: This is the Montana Constitution (indicating his phone in his hand).

28 Gifford: You are also saying you are going in the middle of the night to a session  
that starts in the morning.

Ellsworth: That's right.

Gifford: Okay.

Ellsworth: To and from -

Gifford: Step back, now.

Ellsworth: To and from -

Gifford: Go back to your car now.

1 Ellsworth: To and from the session.

2 Gifford: Go back to your car now.

3 Ellsworth: If you want me to call the Attorney General –

4 Gifford: Go ahead and call him. Back to your car now.

5 Ellsworth: I would be happy to. I suggest you call your boss.

6 Gifford: Go back to your car now.

7 7. Ellsworth turned and began walking back toward his vehicle. When he got  
8 halfway there, he turned and held up his Legislative ID and he could be heard saying,  
9 "...the Legislature." Trooper Gifford said one more time, "Go back to your car."

10 8. Trooper Gifford notified Dispatch of the incident, and then subsequently informed  
11 the Broadwater County Attorney and MHP Sergeant Brandon Moore, who was also on  
12 duty at the time.

13 9. Ellsworth was apparently referring to the Montana Constitution, Article V,  
14 Section 8, which states in part, "A member of the legislature is privileged from arrest  
15 during attendance at sessions of the legislature and in going to and returning therefrom,  
16 unless apprehended in the commission of a felony or a breach of the peace."

17 10. Further investigation revealed that Ellsworth is a Montana State Senator, and is a  
18 Member of the Legislative Council. The Legislative Council was scheduled for a meeting  
19 to begin on Monday, May 24 at 8:30 am in Helena. The traffic stop was located less than  
20 30 minutes from Helena, and occurred approximately 10 hours prior to the beginning of  
21 the Legislative meeting. Trooper Gifford did not arrest Ellsworth and did not interfere in  
22 his ability to arrive on time for his meeting.

23 11. Trooper Gifford learned that on January 25, 2021, Mr. Ellsworth had been  
24 stopped on Interstate 95 near Helena by Highway Patrol Trooper Thomas Cruse. The stop  
25 occurred at 8:20 am. The call notes indicate Mr. Ellsworth showed his Legislative ID to  
26 the officer and stated he was late for a meeting with the Governor. The officer released  
27 Mr. Ellsworth without issuing a ticket.

28 If this matter proceeds to trial, the State expects to call the following witnesses:

- a. Montana Highway Patrol (MHP) Trooper Mackenzie Gifford;
- b. MHP Sergeant Brandon Moore;
- c. MHP Trooper Thomas Cruse;
- d. MHP Trooper Daniel Arnold; and
- e. Other witnesses as they are discovered and disclosed to the Defendant.

