

IN THE IOWA DISTRICT COURT FOR STORY COUNTY

STATE OF IOWA, : SMSM062530
Plaintiff, :
v. : ORDER
ALEXANDER JAMES WILSON, :
Defendant. :

NOW, on this 24 day of August, 2006, the Court, finds that the foregoing Motion to Dismiss should be granted.

OR YL
Judge, District Associate Court

COPY HEREOF MAILED OR
DELIVERED TO all parties
ON 8/25 06
OFFICE OF THE CLERK OF DISTRICT COURT
STORY COUNTY, IOWA

Copies to:
County Attorney - McIntosh
Defendant's Attorney - Gordon Allen 6835 N.W. 100th St.,
Johnston, IA 50131

FILED
CLERK OF DISTRICT COURT
2006 AUG 25 AM 10:43
STORY COUNTY
AMES, IOWA

IN THE IOWA DISTRICT COURT FOR STORY COUNTY

STATE OF IOWA

Plaintiff

vs.

ALEXANDER WILSON,

Defendant

No. SMSM062530

No. SMSM062317

DEFENDANT'S RESPONSE
AND
WRITTEN PLEA

FILED
CLERK OF DISTRICT COURT
STORY COUNTY
AMES, IOWA

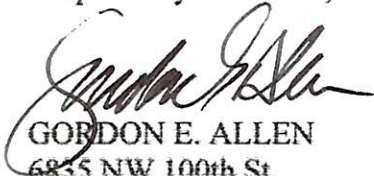
2006 AUG 25 AM 10: 52

The Defendant, through undersigned counsel, RESPONDS to the "State's Recommendation" in SMSM062317, and contingent upon the acceptance of the recommendation by the Court, conditionally enters this written plea of GUILTY to the charges. In support, Defendant states:

1. Paragraphs 1, 2, and 3 of the State's Recommendation are admitted.
2. Paragraph 4 is admitted to the extent the "plea agreement" is partially described. The Defendant affirmatively states that the entry of the guilty plea in SMSM062317 is conditional, and contingent upon the dismissal by the Court of the charge in SMSM062530.
3. Paragraph 5 is admitted to the extent the "plea agreement" is partially described. The Defendant affirmatively states that the entry of the guilty plea is conditional, and contingent upon the entry of a sentence of jail time no greater than that served by the Defendant awaiting trial.
4. Paragraph 6 is admitted subject to the affirmative statements contained in paragraphs 2 and 3 above. Contingent upon the dismissal of the charge in

SMSM062530, and the entry of a sentence in SMSM062317 to time served,
the Defendant hereby enters his written plea of GUILTY to the charges in
SMSM062317. If either or both of these conditions are not met by the orders
of the court, this plea is withdrawn, and is null and void.

Respectfully submitted,



GORDON E. ALLEN
6855 NW 100th St.
Johnston, IA 50131
515 249 6777
gallen478@msn.com

Copy to Cynthia McIntosh
ACA
126 S. Kellogg, Suite 203
Ames, IA 50010

FILED
CLERK OF DISTRICT COURT
2006 AUG 25 AM 10:52
STORY COUNTY
AMES, IOWA

IN THE IOWA DISTRICT COURT FOR STORY COUNTY

STATE OF IOWA,	:	SMSM062530
Plaintiff,	:	
	:	MOTION TO DISMISS
v.	:	_____
	:	
	:	SMSM062317
ALEXANDER JAMES WILSON,	:	
	:	STATE'S RECOMMENDATION
Defendant.	:	

FILED
 CLERK OF DISTRICT COURT
 2006 AUG 22 PM 3:18
 STORY COUNTY
 AMES, IOWA

COMES NOW the State of Iowa, by Cynthia McIntosh Assistant Story County Attorney, and moves the Court to dismiss the Case No. SMSM062530, and for reasons states:

1. The Defendant has been charged with Criminal Trespass, in violation of Iowa Code Section 716.7, and Interference with Official Acts, in violation of Iowa Code Section 719.1 both simple misdemeanors(SMSM062317).
2. The Defendant has also been charged with a separate charge of Criminal Trespass in violation of Iowa Code Section 716.7, a simple misdemeanor (SMSM062530).
3. Trials in these matters are scheduled for August 29, 2006 at 11:00 a.m. (SMSM062317), and September 7, 2006 at 9:00 a.m. (jury trial - SMSM062530).
4. Pursuant to a plea agreement, the defendant has agreed to plead guilty to the Criminal Trespass and Interference with Official Acts charges (SMSM062317) and the State is requesting the Court to dismiss the subsequent Criminal Trespass charge (SMSM062530).
5. The State further recommends that the Court impose a jail sentence for Case No. SMSM062317 with credit for time served (11 hrs. and 32 min. between the two arrest dates of May 22 and July 21, 2006).
6. Counsel for the Defendant will be submitting a written guilty plea to the Court.

WHEREFORE the State of Iowa respectfully requests that this Court issue an order dismissing the charge of Criminal Trespass (SMSM062530).

Respectfully submitted,



Cynthia McIntosh
Assistant Story County Attorney
126 S. Kellogg, Suite 203
Ames, IA 50010
(515) 232-4185

Copies to:

County Attorney - McIntosh

Defendant's Attorney - Gordon Allen 6835 N.W. 100th St.,
Johnston, IA 50131

FILED
CLERK OF DISTRICT COURT
2005 AUG 22 PM 3:18
STORY COUNTY
AMES, IOWA

IN THE IOWA DISTRICT COURT FOR STORY COUNTY

STATE OF IOWA,

Plaintiff,

vs.

ALEXANDER JAMES WILSON,

Defendant.

CASE NO.: SMSM062530

ORDER

The Court is in receipt of the defendant's motion to recuse. The Court notes that, while this Court was not a witness to the events alleged in the charge of trespass, the Court directed the Ames Police Department to arrest the defendant on the offense of trespassing. The Court, therefore, finds it appropriate to recuse itself from hearing any further proceedings in this matter.

IT IS THEREFORE THE ORDER of this Court that this Court recuses itself from hearing any further proceedings in this matter.



STEVEN P. VAN MAREL, Judge
DISTRICT ASSOCIATE COURT

Copies to:

County Attorney
Gordon E. Allen

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DELIVERED TO _____

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8-10-06
OFFICE CLERK OF DISTRICT COURT
STORY COUNTY, IOWA

FILED
CLERK OF DISTRICT COURT
2006 AUG - 9 PM 3: 39
STORY COUNTY
AMES, IOWA

IOWA DISTRICT COURT FOR STORY COUNTY

STATE OF IOWA, :
Plaintiff, : Case No. SMSM062530
v. : ORDER FOR TRANSFER OF "MOTION TO
ALEXANDER JAMES WILSON, : RECUSE"
Defendant. :

The defendant's "Motion to Recuse" is more properly directed to the Honorable Steven Van Marel for consideration of withdrawal pursuant to Canon 3 of the Iowa Code of Judicial Conduct.

IT IS ORDERED that the Clerk of Court shall transfer of copy of the defendant's "Motion to Recuse" to the Honorable Steven Van Marel.



THOMAS R. HRONEK
DISTRICT ASSOCIATE COURT

Clerk to furnish copies to:
County Attorney
Gordon E. Allen
Honorable Steven Van Marel

FILED
CLERK OF DISTRICT COURT
2006 AUG - 8 AM 10:37
STORY COUNTY
AMES, IOWA

COPY HEREOF MAILED OR
DELIVERED TO _____

_____ *AI* _____

DATE _____ *8-8-06* _____

BY _____ *[Signature]* _____

OFFICE OF THE CLERK OF DISTRICT COURT
STORY COUNTY, IOWA

IOWA DISTRICT COURT FOR STORY COUNTY

STATE OF IOWA, :
Plaintiff, : Case No. SMSM062530
v. : ORDER ON DEFENDANT'S MOTION TO
ALEXANDER JAMES WILSON, : DISMISS
Defendant. :

FILED
CLERK OF DISTRICT COURT
2006 AUG - 8 AM 10: 27
STORY COUNTY
AMES, IOWA

The defendant, by counsel, files his four-part motion to dismiss a complaint charging the defendant with simple misdemeanor trespass.

Paragraphs numbered 1, 2, and 3 of the defendant's motion to dismiss appear to allege factual or mixed factual and legal defenses. Paragraph number 4 asserts certain legal defenses based upon the alleged applicability of other statutes and the Fifth and Fourteenth Amendment to the United States Constitution. The constitutionality of the statute alleged to have been violated in this proceeding is not, however, placed in issue.

The rules governing the prosecution of a simple misdemeanor offense "are intended to facilitate disposition of criminal charges with as much speed and as little cost as can be accomplished consistent with a fair trial." *Hadjis v. Iowa Dist. Court, in and for Linn County*, 275 N.W.2d 763, 766. The defendant's various allegations upon his motion to dismiss can be considered in a manner consistent with a fair trial at the time set for trial in this proceeding.

IT IS ORDERED that the defendant's motion to dismiss shall be submitted and considered at the time set for trial upon the complaint charging the defendant with simple misdemeanor trespass.


THOMAS R. HRONEK
DISTRICT ASSOCIATE COURT

Clerk to furnish copies to:
County Attorney
Gordon E. Allen
Honorable Steven Van Marel

COPY HEREOF MAILED OR
DELIVERED TO
All
8-8-06
CLERK OF DISTRICT COURT
STORY COUNTY, IOWA

IOWA DISTRICT COURT FOR STORY COUNTY

STATE OF IOWA, :
 Plaintiff, : Case No. SMSM062530
 v. : ORDER; MOTION TO OBTAIN TESTIMONY
 ALEXANDER JAMES WILSON, :
 Defendant. :

FILED
 CLERK OF DISTRICT COURT
 2006 AUG - 8 AM 10:37
 STORY COUNTY
 ANES, IOWA

The defendant has been charged upon a complaint with trespass, a simple misdemeanor, “in violation of Section 716.7(b) of the Iowa Criminal Code.” The complaint alleges the defendant “did unlawfully enter a property without proper authority.” The complaint, executed by a peace officer, further asserts the arrest of the defendant “was ordered by Judge Van Marel.”

The defendant, by counsel, has filed his “Motion to Obtain the Testimony of Witness Van Marel by Deposition Upon Written Interrogatories.” Rule 2.52, Iowa Rules of Criminal Procedure, establishing the applicability of indictable criminal rules to simple misdemeanor proceedings provides:

“Procedures not provided for herein shall be governed by the provisions of the rules or statutes governing indictable offenses which are by their nature applicable to misdemeanor prosecutions.”

The simple answer, therefore, to the defendant’s motion in this proceeding is that the Rules of Criminal Procedure governing indictable offenses do not provide for the deposition of a witness in a criminal proceeding upon written interrogatories. Depositions on written interrogatories are provided for by Rule 1.710, Iowa Rules of Civil Procedure.

Assuming, without deciding, that written interrogatories might under any circumstances be allowed in the prosecution of a criminal proceeding, the Court further notes that the Iowa

Supreme Court has determined that discovery depositions are not available in the case of the prosecution of a simple misdemeanor offense. *State v. Brown*, 243 N.W.2d 854 (Iowa 1976).

The defendant's motion asserts that "the inclusion of a judicial officer as the initiator of the criminal charge, makes it imperative that the defendant obtain his testimony prior to trial. . . ." The fact that a judicial officer may be involved in the prosecution of a proceeding as a witness does not serve to distinguish this proceeding from any number of simple misdemeanor prosecutions considered to be of substantial importance to simple misdemeanor criminal defendants.

At *Hadjis v. Iowa Dist. Court, in and for Linn County*, 275 N.W.2d 763 (Iowa 1979), the Iowa Supreme Court noted that the applicability of portions of the indictable offense rules to simple misdemeanor prosecutions should be considered upon an individual basis by considering relevant factors noted therein. Rules governing the prosecution of simple misdemeanors "are intended to facilitate disposition of criminal charges with as much speed and as little cost as can be accomplished consistent with a fair trial." (275 N.W.2d 766)

A requirement that a witness in a simple misdemeanor prosecution provide a deposition upon written interrogatories, while perhaps convenient for counsel, may well require more time, cost, and effort, on the part of the witness than a prohibited oral deposition.

IT IS ORDERED that the defendant's "Motion to Obtain the Testimony of Witness Van Marel by Deposition upon Written Interrogatories" is denied.



THOMAS R. HRONEK
DISTRICT ASSOCIATE COURT

Clerk to furnish copies to:
County Attorney
Gordon E. Allen

COPY HEREOF MAILED OR
DELIVERED TO _____

8-8-06
OFFICE OF THE CLERK OF DISTRICT COURT
CLAY COUNTY, IOWA

IN THE IOWA DISTRICT COURT FOR STORY COUNTY

STATE OF IOWA

VS

ALEX JAMES WILSON

Defendant

No. SMSM062530

APPEARANCE OF
COUNSEL FOR DEFENDANT
and
CONFIRMATION OF PLEA
and
CONFIRMATION OF DEMAND
FOR JURY TRIAL

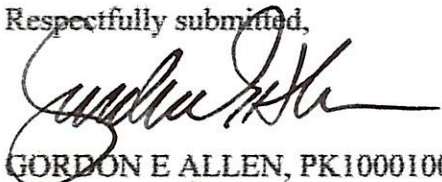
FILED
CLERK OF DISTRICT COURT
STORY COUNTY
AMES, IOWA

2006 AUG -3 AM 10: 22

COMES NOW Gordon E. Allen, and enters his Appearance on behalf of the Defendant, and requests service on behalf of this Defendant at the address below.

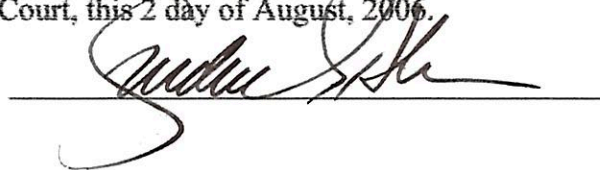
The Defendant has previously entered a plea of NOT GUILTY at his initial appearance and contemporaneously requested a jury trial. By and through undersigned counsel, the Defendant reasserts and confirms his plea and demand. Trial has been set for September 7, 2006 by prior order of court.

Respectfully submitted,



GORDON E ALLEN, PK1000100
6835 NW 100th St.
Johnston, IA 50131
515 249 6777
Gallen478@msn.com

Copy served by ordinary First Class Mail with proper postage attached to the County Attorney and filed with the Clerk of Court, this 2 day of August, 2006.



IN THE IOWA DISTRICT COURT FOR STORY COUNTY

STATE OF IOWA

VS

ALEX JAMES WILSON

Defendant

No. SMSM062530

**DEFENDANT'S
COMBINED MOTIONS**

FILED
CLERK OF DISTRICT COURT
2006 AUG - 3 AM 10: 22
STORY COUNTY
AMES, IOWA

COMES NOW this Defendant, by and through undersigned counsel and MOVES for appropriate ORDERS as more fully explained below:

MOTION TO RECUSE

Defendant MOVES to recuse the Hon. Judge Stephen Van Marel from any and all further proceedings, for the reason that as listed on the Complaint filed and sworn to by Officer Blake Marshall, Badge #882, "[T]his arrest was ordered by Judge Van Marel." Because Judge Van Marel was involved in the initiation of the arrest, he is therefore a witness and must recuse himself from further proceedings to avoid the appearance of impropriety.

**MOTION TO OBTAIN THE TESTIMONY OF WITNESS VAN MAREL BY
DEPOSITION UPON WRITTEN INTERROGATORIES**

Defendant MOVES for an Order providing an adequate schedule for this Defendant to obtain the testimony of the witness Judge S. Van Marel, via deposition upon written interrogatories. Judge Van Marel was identified under oath by the arresting officer as "order"ing the arrest. Although the Rules of Criminal Procedure do not specifically provide for discovery by the Defendant, the inclusion of a judicial officer as

the initiator of the criminal charge, makes it imperative that the Defendant obtain his testimony prior to trial, to be adequately prepared for cross examination of this judicial officer, or if not called by the state, to subpoena the witness on behalf of the Defendant. Due Process under the 5th and 14th Amendments to the U.S. Constitution require no less.

Wherefore Defendant MOVES for appropriate Orders as shall seem just and equitable.

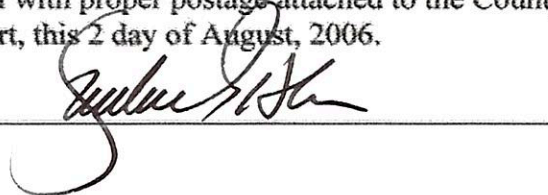
Respectfully submitted,



Gordon E. Allen
6835 NW 100th St.
Johnston, IA 50131
515 249 6777
Gallen478@msn.com

FOR THE DEFENDANT

Copy served by ordinary First Class Mail with proper postage attached to the County Attorney and filed with the Clerk of Court, this 2 day of August, 2006.



IN THE IOWA DISTRICT COURT FOR STORY COUNTY

STATE OF IOWA

VS

ALEX JAMES WILSON

Defendant

No. SMSM062530

**DEFENDANT'S
MOTION TO DISMISS**

FILED
CLERK OF DISTRICT COURT
2006 AUG - 3 AM 10: 22
STORY COUNTY
AMES, IOWA

MOTION TO DISMISS

Defendant, by and through undersigned counsel, MOVES to dismiss this Complaint with prejudice and to exonerate this Defendant from any and all charges arising from the facts and circumstances of July 21, 2006 and in support thereof states:

1.

The complaint charges that the Defendant committed trespass in violation of Iowa Code 716.7(b) by "entering a property without proper authority", i.e. the women's bathroom (sic) outside of the second floor courtroom. Defendant affirmatively asserts that by the terms of the statute, he did not enter a property or remain there "without authority" and the statute is inapplicable to his conduct. The charge must be dismissed.

2.

This Defendant is currently under professional medical care to obtain his true gender, i.e. female, and has been undergoing hormonal therapy for over one year. That according to the Harry Benjamin International Standards for Treatment of transgender patients, it is imperative that the Defendant live both privately and publicly as a female for more than one year preceding his surgery. Because he is following internationally recognized medical regimen under the prescription of a medical professional, he is

without the requisite mens rea to commit the crime as charged in the complaint. The charge must be dismissed.

3.

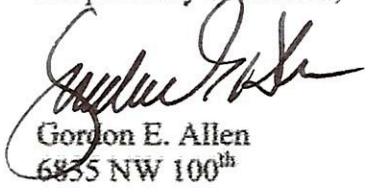
Iowa has provided through other statutes, specifically including Iowa Code section 144.24, but not excluding other examples, for the amendment of the certificate of birth of this defendant once the third step in his treatment is completed, i.e. surgery. He is currently undergoing the first two stages of the treatment, i.e. hormonal therapy for more than a year, and living privately and publicly as a female for more than a year preceding surgery. Once completed Iowa allows him to amend his birth certificate. It is illogical and irrational to deny the Defendant the opportunity to pursue his course of treatment by the operation of the criminal law, when the civil law recognizes the results of that treatment. The criminal charge must be dismissed.

4.

Application of the criminal laws by the Officer Marshall and Judge Van Marel, the County of Story and the State of Iowa denies to this defendant the protections of Title VII of the Civil Rights Act, 42 USC 2000e et seq, the Americans with Disabilities Act, and the Iowa Civil Rights Act, and the 5th and 14th Amendment to the U.S. Constitution. The criminal charge must be dismissed.

Wherefore the Defendants MOVES for appropriate Orders in the interest of justice.

Respectfully submitted,



Gordon E. Allen

6835 NW 100th

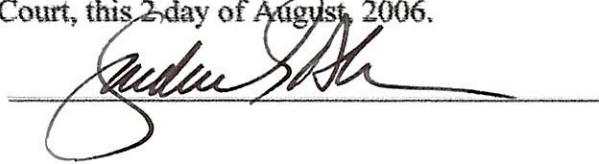
Johnston, IA 50131

515 249 6777

Gallen478@msn.com

FOR THE DEFENDANT

Copy served by ordinary First Class Mail with proper postage attached to the County Attorney and filed with the Clerk of Court, this 2-day of August, 2006.



IOWA DISTRICT COURT FOR STORY COUNTY

STATE OF IOWA, :
Plaintiff, : Case No. Smsm062530
v. :
ALEXANDER JAMES WILSON, : ORDER SETTING TRIAL
Defendant. :

FILED
CLERK OF DISTRICT COURT
2006 JUL 25 AM 10:21
STORY COUNTY
AMES, IOWA

IT IS ORDERED that jury trial in this simple misdemeanor case is set for 9 a.m. on September 7, 2006, at the District Associate Court, 1315 South B Avenue, Courtroom 1A, Nevada, Iowa.

A pretrial conference will be held on August 24, 2006, at 9:30 a.m. in the District Associate Court, 1315 South B Avenue, Courtroom 1B, Nevada, Iowa.


At the pretrial conference, the defendant shall either reaffirm the not guilty plea or submit a written plea of guilty. If a written plea of guilty is submitted, a later sentencing date will be set by the Court. If a written plea of guilty is filed prior to the pretrial conference, the conference will be cancelled.

IF THE DEFENDANT FAILS TO APPEAR FOR THE PRETRIAL CONFERENCE, A WARRANT FOR THE DEFENDANT'S ARREST WILL ISSUE.



THOMAS R. HRONEK
DISTRICT ASSOCIATE COURT

Clerk to furnish copies to:
Story County Attorney
Defendant

COPY HEREOF MAILED OR,
DELIVERED TO all parties
ON 7/25 
OFFICE OF THE CLERK OF DISTRICT COURT
STORY COUNTY, IOWA

IN THE IOWA DISTRICT COURT FOR STORY COUNTY

STATE OF IOWA

Plaintiff,

Case No. SM5M062530

Vs.

Date 7/21/07

Alexander James Wilson

INITIAL APPEARANCE

Defendant

FILED
CLERK OF DISTRICT COURT
2006 JUL. 25 AM 10:31
STORY COUNTY
AMES, IOWA

Defendant appears (in custody) with/without counsel _____
The Court appoints as counsel _____
Application for court-appointed counsel denied.
Defendant granted until _____ to have an attorney appear or record
Initial appearance is continued to _____ at _____,
_____, Iowa.
Defendant is informed of the charge and his/her rights and receives a copy of the Complaint.
Preliminary hearing is set for _____ at _____
District Associate Court, Story County Courthouse, 1315 South "B" Ave., Nevada, IA 50201.
Preliminary hearing waived in writing/ on the record.

Bail is set as follows:

_____, cash or surety.
 \$ 500⁰⁰, 0 % to be posted. Per. Rev. Eng. h.

Defendant is placed under the supervision of the Department of Correctional Services for the Pretrial Release Program.

Possible jail sentence; Defendant informed of possible jail sentence, waives application for appt. of counsel.

Defendant has a right to have bail reviewed within 24 hours.

Notes:

Defendant pleads not guilty; Trial to be set by written order, Defendant wants to trial by jury.

COPY HERE OF WAIVER OR
DELIVERED TO
AWJ copy of comp
ON 7/25/07
OFFICE OF THE CLERK OF DISTRICT COURT
STORY COUNTY, IOWA

[Signature]
District Associate Judge/ Magistrate

Cc: Defendant X-JL
County Attorney X
Dept. of Correctional Services _____
Sheriff's Office or Police Dept. X-JL

If you require the assistance of auxiliary aids or services to participate in Court because of a disability, immediately call your district ADA coordinator at 1-515-421-0990 (If you're hearing impaired, call Relay Iowa at 1-800-735-2942.

AMES POLICE DEPARTMENT
IN THE IOWA DISTRICT COURT IN AND FOR LORRY COUNTY

THE STATE OF IOWA

Before Magistrate _____
Criminal Number 313000062530
APD Case # 06-14839

Vs

Wilson, Alexander James *DOB: 01.26.1982*
4505 SW Sawgrass Prkwy
Ankeny, IA 50023

W/M

ST1068295

COMPLAINT AND AFFIDAVIT

The defendant is accused of the crime of **TRESPASS** in violation of section **716.7(b)** of the Iowa Criminal Code in which said crime is a **SIMPLE MISDEMEANOR** and that the defendant on or about the **21st of July, 2006** at approximately **1407** hours at **515 Clark Ave. Ames, IA**, did unlawfully **enter a property without proper authority**.

THEREFORE, Complainant requests that the said Defendant, subject to bail or conditions of release where applicable,

- (1) Be arrested or that other lawful steps be taken to obtain Defendant's appearance in court; or
- (2) Be detained, if already in custody, pending further proceedings; and that said Defendant otherwise be dealt with according to law.

Complainant *[Signature]*
Blake Marshall #882

STATE OF IOWA,
AFFIDAVIT

I, the undersigned, being duly sworn, state that the following facts know by me or told to me by other reliable persons form the basis for my belief that the Defendant committed this crime.

I, Officer Blake Marshall was in court waiting for trial to start. It was brought to my attention that the defendant was in the women's bathroom. I then observed Wilson in the women's bathroom outside of the second floor courtroom. Wilson is still listed as a male on his DL and is currently taking drugs to change from a male to a female. This arrest was ordered by Judge Van Marel.

Signature of Complainant *[Signature]*
Blake Marshall #882

Subscribed and sworn to me before me by the person(s) signing this complaint (and affidavit(s)) on the **21st** day of **July 2006**.

Signature of Notary *Margaret Reitano*

FILED
CLERK OF DISTRICT COURT
2006 JUL 25 AM 10:21
STORY COUNTY
AMES, IOWA

MARGARET ANNE REITANO
Commission Number 181601
My Commission Expires 10/10/07

Complaint and affidavit(s) filed and probable cause found that the defendant committed the offense charged.

Magistrate _____