

P E T I T I O N

STATE OF MINNESOTA

DISTRICT COURT - JUVENILE DIVISION

COUNTY OF HENNEPIN

FOURTH JUDICIAL DISTRICT

In the Matter of the Welfare of

Child: ANDRE SHELDON WHIRLWIND HORSE, (12/18/1991)
3017 19TH AVE SO
MINNEAPOLIS, MN 55407

Mother: Name and address unknown

Father: Name and address unknown

Grandmother: FRED A WHIRLWIND HORSE
(SAME AS CHILD)

Court Case No:
Family ID: 306551
CA File No.: 062351
Legal Edge No: 09-28560

CA of Record: ROBERT STREITZ
(#106410)

FELONY 17

PRESUMPTIVE CERT MOTION

PO:

The Juvenile Court has jurisdiction by reason of the following allegations: The above-named juvenile is alleged to be delinquent pursuant to Minn. Stat. §260B.007, Subd. 6(1) because said child has violated a state/local law as follows:

COUNT 1: R1153 ATTEMPTED AGGRAVATED ROBBERY FIRST DEGREE – AID AND ABET (FELONY)

MINN. STAT. § 609.245, SUBD. 1,609.05,609.17

That on or about November 7, 2009, near 28th Street East and Hiawatha Avenue, Minneapolis in Hennepin County, Minnesota, **ANDRE SHELDON WHIRLWINDHORSE** acting alone or intentionally aiding, advising, hiring, counseling or conspiring with another attempted to take personal property, from the person or in the presence of P.W., knowing that he was not entitled to the property and used and/or threatened the imminent use of force against P.W., to overcome his resistance or powers of resistance to or to compel acquiescence in the taking or carrying away of the property and inflicted bodily harm upon N.W.

COUNT 2: R3153 ATTEMPTED SIMPLE ROBBERY (FELONY)

MINN. STAT. § 609.24,609.05, 609.17

That on or about November 7, 2009, near 28th Street East and Hiawatha Avenue, Minneapolis in Hennepin County, Minnesota, **ANDRE SHELDON WHIRLWINDHORSE** acting alone or intentionally aiding, advising, hiring, counseling or conspiring with another took personal property, from the person or in the presence of P.W., knowing that he was not entitled to the property and used and/or threatened the imminent use of force against P.W. to overcome his resistance or powers of resistance to or to compel acquiescence in the taking or carrying away of the property.

PROBABLE CAUSE STATEMENT

Your Petitioner, Robert Streitz, is an Assistant County Attorney. In that capacity, Petitioner believes the facts and circumstances recited below establish probable cause:

Arrestment Scheduled On _____ at _____

On November 7th, 2009, Minneapolis Police received a 911 call from the an individual stating that he had just been mugged by two individuals on the Greenway(a bike and walking path) near 28th Street East and Hiawatha Avenue in Minneapolis ,Hennepin County. This individual, P.W., hereinafter victim, told police that he may have stabbed one of his assailants. The victim gave his location to police and flagged them down as they responded near the scene. Police located one of the suspects on the Greenway path where the victim said he was assaulted. That suspect was on the ground and had suffered a single stab wound to his abdomen. That suspect was taken to HCMC but died a short time later.

Police learned from the victim that he had been walking home from a friend's house and when he was on the Greenway path he saw two individuals whom he passed. The victim became nervous given the time and because there had been recent assaults in that area. Consequently, the victim began walking fast and then heard footsteps running up to him from behind. One of the suspects caught up to him and asked why he was going so fast. Fearing for his safety, the victim took a knife out of his pocket and held it by his side as he told the suspect he was concerned because people had recently been "messed up" in the area. That suspect then swung at the victim hitting him in the head with a closed fist. The victim was also struck in the back shoulder by one of the suspects. The victim turned and saw the second suspect behind him ready to hit him with a closed fist, stabbed that suspect and then fled. The two suspects ran after the victim but he was able to reach Hiawatha Avenue where he immediately called 911 and reported what had happened. Police noted that the victim had signs of injuries to his face and the victim complained of soreness to his shoulder.

The investigation led the police to the Respondent. In a Miranda prefaced statement the Respondent initially gave varying accounts of his activities and whereabouts during the time of the incident. Finally, the Respondent told police that he and his accomplice had planned to go to the Greenway to find someone to rob and split the proceeds. Specifically, they went to find a person, beat them up and take their money. At the Greenway they saw the victim and approached him. Respondent admitted hitting the victim in the head and when the victim came at him, his accomplice began fighting the victim. The accomplice then fell to the ground. The Respondent admitted they were trying to rob the victim.

The offense enumerated in Count 1 is a presumptive prison offense.

PURSUANT TO M.S. 260B.125, THE STATE IS MOVING, BY SEPARATE MOTION, THAT THIS PROCEEDING BE CERTIFIED TO THE DISTRICT COURT FOR ACTION UNDER THE CRIMINAL LAWS.

I endorse this Petition as to form and verify that the contents are true to the best of my information and belief pursuant to JCR 6.02, Subd. 2, Subd. 3.

Subscribed and sworn to before me
this 10th day of November, 2009.

Notary Public

By: ROBERT STREITZ Lic. No: (#106410)
 PETITIONER
 ASSISTANT HENNEPIN COUNTY ATTORNEY
 C2200 Government Center
 Minneapolis, MN 55487
 Telephone: 612-348-6954
 Police CCN #: 09345103
 Minneapolis Police Department
 Agency # MN0271100

at _____

Arraignment Scheduled On
 Received Time Nov. 10, 2009 2:41PM No. 7664