

STATE OF MINNESOTA  
COUNTY OF HENNEPIN

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DISTRICT COURT  
FOURTH JUDICIAL DISTRICT

Court File No.: 27-CR-21-1171

State of Minnesota,

Plaintiff,

vs.

Ibssa Youssuf,

Defendant.

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**MEMORANDUM IN  
SUPPORT OF MOTION TO  
DISMISS COUNT ONE FOR  
LACK OF PROBABLE CAUSE**

Mr. Ibssa Youssuf, through the undersigned attorney, submits this memorandum in support of his Motion to Dismiss Count One for Lack of Probable Cause.

**FACTUAL ALLEGATIONS**

On January 15, 2021, Minneapolis Police Officers were dispatched to a reported stabbing at Franklin Deli. (GO# MP 2021-10532, 14, herein after “Police Report,” attached as Exhibit 1). Officers Roberto Hernandez and Jonathan Patino arrived at about 7:50 P.M. and found the alleged victim, Ms. F.K. inside the store. *Id.* Emergency medical services arrived soon after, and Officer Hernandez interviewed Ms. F.K. while emergency medical services was transporting her to the hospital. (Police Report 16). In that interview, Ms. F.K. stated that she was approached by a man who asked her for money. (Police Report 16). Ms. F.K. told Officer Hernandez that the man blocked her path. Ms. F.K. stated that she asked the man to stop, and he pulled a out of his pants knife. *Id.* Ms. F.K. stated that the man stabbed her in the thigh and the shoulder. *Id.* Ms. F.K. mentioned that she dropped her groceries and the unknown man ran away. *Id.* Ms. F.K. was interviewed again at the hospital by Officer Willmer. (Police Report 19). Ms. F.K. did not report that anything was taken from her. *Id.*

Officer Patino interviewed two other witnesses: Mr. Saez and Mr. Gomez. (Police Report 20). Mr. Saez stated that he watched a man stab Ms. F.K. near the back door of Franklin Deli.

(Police Report 21). Mr. Saez did not report watching the man take anything from Ms. F.K. either before or after the stabbing.

Officer Fuchs and Officer Perry arrested Mr. Youssuf at 1800 Chicago Avenue South at approximately 8:43 P.M. (Police Report 22). Mr. Youssuf made statements to the arresting officers about stabbing someone. *Id.* Mr. Youssuf did not mention taking anything from anyone. *Id.* Officer Perry collected Mr. Youssuf's property and completed an inventory report. (Police Report 41-16). The inventory report does not include any groceries or any items bearing Ms. F.K.'s name. *Id.*

### **LEGAL ARGUMENT**

“A person may be charged with a crime only where there is probable cause to believe that the person is guilty – that is, where facts have been submitted to the district court showing a reasonable probability that the person committed the crime.” State v. Lopez, 778 N.W.2d 700, 703 (Minn. 2010). Pursuant to Rule 11.02(a) of the Rules of Criminal Procedure, Mr. Youssuf has demanded a hearing relating to probable cause. The Defense can move for dismissal pursuant to Minn. R. Crim. P. 11.03 when the record developed by the time of the omnibus hearing fails to demonstrate the existence of probable cause. State v. Florence, 239 N.W.2d 892, 900 (Minn. 1976).

The Court is now required to determine whether probable causes exists to believe (I) that an offense has been committed and (II) that Mr. Youssuf committed it. Minn. R. Crim. P. 11.04, subd. 1(a). “The purpose of a probable cause hearing is to protect a defendant unjustly or improperly charged from being compelled to stand trial.” State v. Koenig, 666 N.W.2d 366, 372 (Minn. 2003) (internal quotations and citations omitted). “[T]he test for probable cause is whether the evidence worthy of consideration, in any aspect for the judicial mind to act upon, brings the charge against the prisoner within reasonable probability.” State v. Florence, 239

N.W.2d 892, 896 (Minn. 1976) (internal quotations and citations omitted). “Probable cause exists where the facts would lead a person of ordinary care and prudence to hold an honest and strong suspicion that the person under consideration is guilty of a crime.” State v. Ortiz, 626 N.W.2d 445, 449 (Minn. App. 2001). The fact that there may have been a prior judicial determination that the complaint was adequate to justify a warrant for arrest is not sufficient to satisfy this court’s probable cause inquiry. State v. Florence, 239 N.W.2d 892, 902 (Minn. 1976). The Court is only to deny a motion to dismiss for lack of probable cause when “the facts before the district court present a fact question for the jury’s determination on each element of the crime charged...” State v. Lopez, 778 N.W.2d 700, 704 (Minn. 2010) (internal quotations and citations omitted). Courts are to exercise concern and oversight so that innocent persons are not forced to undergo expensive and demeaning trials only to be found not guilty, particularly when trials are often “delayed or aborted by excessive formalism.” State v. Florence, 239 N.W.2d 892, 902-903 (Minn. 1976).

Mr. Youssuf is charged with Aggravated Robbery in the First Degree in violation of Minn. Stat. § 609.245(1), which provides: “Whoever, while committing a robbery, is armed with a dangerous weapon or any article used or fashioned in a manner to lead the victim to reasonably believe it to be a dangerous weapon, or inflicts bodily harm upon another, is guilty of aggravated robbery in the first degree...” To support a charge of Aggravated Robbery in the First Degree, the State must allege facts sufficient to demonstrate probable cause for each element of the basic crime and each element of the aggravating factors. Accordingly, the State must allege sufficient facts to meet the essential elements of simple robbery set out in Minn. Stat. § 609.24 as follows:

Whoever, having knowledge of not being entitled thereto, takes personal property from the person or in the presence of another and uses or threatens the imminent use of force against any person to overcome the person's resistance or powers of resistance to, or to compel acquiescence in, the taking or carrying away of the property is guilty of robbery...

No facts have been alleged to suggest that Mr. Youssuf took any property from anyone, even on a temporary basis. (Criminal Complaint, attached as Exhibit 2). This is because no such facts exist. As a result, the State has not met its burden of demonstrating that facts exist to justify a jury determination as to the second essential element of robbery and Count One of the criminal complaint should be dismissed.

### CONCLUSION

For the foregoing reasons, Mr. Youssuf respectfully requests that Count One of the criminal complaint against him in 27-CR-21-1171 be dismissed.

Respectfully submitted,

OFFICE OF THE HENNEPIN COUNTY PUBLIC DEFENDER  
LISA M. LOPEZ – FIRST ASSISTANT PUBLIC DEFENDER

Date: February 8, 2023

By: /s/

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