


IN THE CIRCUIT COURT OF JACKSON COUNTY, MISSOURI
AT INDEPENDENCE

POLICE NO. :	18-131826
PROSECUTOR NO. :	095445553
OCN:	

STATE OF MISSOURI,)	
	PLAINTIFF,)
vs.)	
)	
DUNG N PHAN)	
528 NE Garnet Ln)	CASE NO. 1816-CR
Lees Summit, MO 64064)	DIVISION
DOB: 10/26/1976)	
Race/Sex: A/M)	
)	
	DEFENDANT.)

COMPLAINT

Count I. Dwi - Death Of Another Not A Passenger (577.010-033Y20175404.0)

The Prosecuting Attorney of the County of Jackson, State of Missouri, upon information and belief, charges that the defendant, in violation of Section 577.010, committed the **class B felony of driving while intoxicated – resulting in death**, punishable upon conviction under Sections 558.011 and 577.010, RSMo, in that on or about March 5, 2018, I 470 S of US-40 in the County of Jackson, State of Missouri, the defendant operated a motor vehicle while under the influence of alcohol, and acted with criminal negligence by by operating a motor vehicle exceeding the posted speed limit and as a result caused death to Carl A Martin, and Carl A Martin was not a passenger in the vehicle operated by the defendant.

The range of punishment for a class B felony is imprisonment in the custody of the Missouri Department of Corrections for a term of years not less than five (5) years and not to exceed fifteen (15) years.

The facts that form the basis for this information and belief are contained in the attached statement(s) of facts, made a part hereof and submitted as a basis upon which this court may find the existence of probable cause.

State vs. Dung N Phan

Wherefore, the Prosecuting Attorney prays that an arrest warrant be issued as provided by law.

JEAN PETERS BAKER
Prosecuting Attorney
Jackson County, Missouri
by,

/s/ Michael J. Hunt
Michael J. Hunt (#34818)
Assistant Prosecuting Attorney
321 W. Lexington
Independence, MO 64050
(816) 881-3856
mhunt@jacksongov.org

WITNESSES:

1. CPL J W Huff, 504 E. Blue Pkwy, Lees Summit, MO 64063
2. Carl A Martin, 3514 NE Independence Ave, Lees Summit, MO 64064

PROBABLE CAUSE STATEMENT FORM

Date: 05 / 14 / 2018

I, J. W. Huff, a State Trooper with the Missouri State Highway Patrol, upon my oath, and under penalties of perjury, knowing the facts contained herein are true, state as follows:

1. I have probable cause to believe that on March 5, 2018, at 2325 hours, Dung Ngoc. Phan, a asian male, date of birth October 26, 1976 [REDACTED] of 528 NE Garnet Lane, Lee's Summit, MO 64064 committed one or more criminal acts in the county of Jackson, state of Missouri.

2. The facts supporting this belief are as follows:

On Monday, March 5, 2018, at approximately 2327 hours I traveled upon a two vehicle crash on southbound Interstate 470 south of US-40. I parked my patrol car behind a Jackson County Sheriff's Deputy and exited my patrol car. I observed a white Toyota Camry, bearing Missouri registration, HN6R7S entangled in the median cable barrier. I also observed a extensively damaged Chevrolet Trailblazer in the center median. The Chevrolet was on fire so I retrieved my fire extinguisher from my patrol car. I attempted to extinguish the fire but the car quickly became fully engulfed. I stepped away from the vehicle and noticed a subject laying in the northbound lanes of Interstate 470. The subject had been ejected and fatally injured. The subject was later identified as Carl Anthony Martin, date of birth June 6, 1959.

The Lee's Summit Fire Department and EMS arrived on scene and began extracting the driver of the Toyota, as well as extinguishing the engulfed Chevrolet. I walked over to the Toyota and was handed a Missouri driver's license identifying the driver as Dung Ngoc Phan, date of birth October 26, 1976. I watched Phan be removed from the driver's seat of the Toyota and be placed on a backboard. I asked Phan what happened and he stated he did not know. Phan was transported to Centerpoint Hospital in Independence, Missouri.

After conducting a initial crash investigation, I left the scene and responded to the Centerpoint Hospital emergency room. While I was at the hospital, Sergeant G. Ward with the Missouri State Highway Patrol Major Crash Investigation Unit arrived on scene and began to reconstruct the crash. The Jackson County Medical Examiner also arrived on scene during this time and took possession of Martin.

I made contact with Phan in the emergency room. I asked Phan if he remembered what happened and he said he did not. Phan said, "Is everything okay?" I told Phan the driver of the other vehicle was dead. Phan said, "Is this my fault?" I asked Phan if he was driving his vehicle and he stated he was. I asked Phan where he was coming from and where he was going. Phan stated he had been at work and was driving home. I could smell the odor of intoxicants on Phan's breath and his eyes were bloodshot and glassy. I asked Phan if he had consumed any alcoholic beverages and he stated he had. I asked Phan what kind of alcohol he had consumed and he said, "A couple shots of Hennessy." I asked Phan again if he remembered anything about the crash and he stated he may have fallen asleep. Phan stated he had been up working since 6:00 AM. I asked Phan to provide a sample of his breath into my Preliminary Breath Tester and he agreed. The results of the test were positive, revealing his Blood Alcohol Content as .090. Based on my observations, Phan's admittance to consuming alcohol, and the crash evidence, I placed Phan under arrest for Involuntary Manslaughter. I read Phan his rights per Miranda and he stated he understood. I read Phan Implied Consent and he agreed to provide samples of his blood. Tonya Vegan, Registered Nurse, obtained the first blood sample from Phan at 0128 hours and a second at 0208 hours. I immediately took possession of the samples. Both sample were entered into evidence and have been sent to the Missouri State Highway Patrol Crime Laboratory for chemical analysis.

Phan's vehicle was towed by Elite Tow and Recovery. An investigative hold was placed on Phan's vehicle. I applied for a search warrant to obtain the electronic data from the Event Data Recorder Module. A search warrant was issued on March 9, 2018 and signed by Jackson County, Division 30 Judge Twila Rigby. On March 12, 2018 Corporal R. McCormick responded to the Elite Tow storage lot and downloaded the information from the module.

On April 17, 2018 I recieved a copy of the crash reconstruction report. The detailed report revealed Phan's vehicle was traveling approximately 84 miles per hour as it stuck the rear of Martin's vehicle. Martin's vehicle was traveling approximately 57 miles per hour. The area of the crash was limited to 65 miles per hour.

On May 7, 2018 I was notified by the Jackson County Prosecutor's Office they recieved toxicology reports from Centerpoint Hospital in Independence, Missouri. The reports revealed Phan's Blood Alcohol Content as .126.

I am seeking an arrest warrant from the Jackson County Prosecutor's Office for Involuntary Manslaughter.

Corporal J. W. Huff
Missouri State Highway Patrol



signature

THE COURT FINDS PROBABLE CAUSE

Judge

Date