

IN THE CIRCUIT COURT OF FAULKNER COUNTY, ARKANSAS

AFFIDAVIT FOR WARRANT OF ARREST

5TH DIVISION

FILED

JEFF JOHNSTON
Defendant's NAME

01/26/1975
DOB

W
Race

M
Sex

2012 AUG 21 AM 10 08

79 Loyd Rd.
Mt. Vernon, AR 72111
Defendant's Address

23CR12-892

RHONDA WHARTON, CLERK
BY [Signature] DC

Pursuant to Rule 7.1 of the Arkansas Rules of Criminal Procedure, the undersigned Affiant(s) duly sworn deposes and states that he has reason to believe that the above named person has committed the offense(s) of violating A.C.A. 5-36-103, THEFT OF PROPERTY, a Class "B" Felony, in Faulkner County, Arkansas, against the peace and dignity of the State of Arkansas.

FACTS CONSTITUTING PROBABLE CAUSE

SEE ATTACHED REPORT.

1) <u>[Signature]</u> Affiant's Signature	2) <u>[Signature]</u> Affiant's Witness Signature
<u>John Randall</u> Print Name	<u>Susan Mills</u> Print Name
<u>801 Locust Ave.</u> <u>Conway AR, 72034</u> Address	<u>609 Locust</u> <u>Conway AR</u> Address
<u>(501) 450-4914</u> Phone Number	<u>450-4927</u> Phone Number

Subscribed and sworn to before me this 20th day of August, 2012.

SUSAN GARRETT MILLS
NOTARY PUBLIC-STATE OF ARKANSAS
FAULKNER COUNTY
My Commission Expires 06-24-2020
Commission # 12377225

BY: [Signature]
Notary/Deputy Clerk/Clerk

I hereby find that this sworn affidavit demonstrates reasonable and probable cause for the issuance of Warrant of Arrest for the above named Defendant, for the above stated offense(s).

[Signature]
Prosecuting Attorney

[Signature]
DISTRICT/CIRCUIT JUDGE

REPORT DETAILING PROBABLE CAUSE

1. In November 2008, Faulkner County Deputy Sheriff Greg Mix was informed by a Faulkner County resident that she was a neighbor of Faulkner County Administrator Jeff Johnston and that she had a suspicion that Johnston had utilized County resources to have an asphalt surface applied to his 11' wide 538' long driveway located at 1301 Highway 36 Mt. Vernon, Arkansas in the summer of 2008. She advised that she witnessed the dump trucks deliver three (3) loads of asphalt and believed the trucks to be owned by Mark Hearon.
2. On January 28, 2009 I contacted Mark Hearon and was advised that he had been contracted to perform asphalt work for Faulkner County but stated he did not remember performing work for County Administrator Jeff Johnston. I asked Hearon if he would check his records and attempt to locate any receipts that he may have for work performed for Johnston and provide them for me at a later date and he indicated he would.
3. At 8:33am, February 4, 2009, I attempted to contact Mark Hearon by telephone with no success. At 11:30 am I attempted to locate Hearon at his residence without success and left my business card on his door asking Hearon to contact me.
4. At 4:05pm, February 4, 2009, I received a telephone call from Johnston's neighbor confirming her information to Deputy Mix and added that the trucks arrived approximately 45 minutes apart.
5. Due to Hearon ignoring my attempts to contact him, I went to his residence at approximately 10:00am, Sunday, February 22, 2009. Hearon responded to the door and I again asked if I could talk with him about the paving job for Jeff Johnston. He replied that he had been instructed by his attorney not to talk with me. I informed Hearon that I was investigating this to see if it had happened and that a complaint had been reported by a county resident. I asked Hearon if he had received my messages to contact me and he replied that he had but the County Judge and the Prosecuting Attorney had told me not to talk with you and if you wanted my records you will have to subpoena them.
6. I contacted Sheriff Byrd and briefed him on the contents of my conversation with Hearon. Sheriff Byrd advised me that he was going to contact the FBI due to the reported knowledge of the County Judge and Prosecuting Attorney and their indicated unwillingness to work with law enforcement authorities in attempts to investigate the potential theft of county funds. Sheriff Byrd also advised me to investigate every known avenue available to verify or disprove this incident prior to him contacting the FBI.
7. I contacted area asphalt suppliers in an attempt to identify any purchase of asphalt made by Jeff Johnston. All companies indicated no such purchases were made by Johnston. Rogers Group indicated trucks belonging to Hearon had picked up loads of asphalt during the summer time frame supplied by the neighbor and that they had all been billed to Faulkner County. No record of sales indicated purchases by Jeff Johnston.
8. On March 12, 2009, I advised Sheriff Byrd that I would need a Prosecutor's subpoena to investigate this matter any further. Sheriff Byrd advised that due to the unwillingness of the prosecutor to provide a subpoena; he had contacted Federal Authorities and that an FBI Agent would be contacting me soon.

9. On March 13, 2009 I met with the FBI Agent and turned my investigation over to her.
10. On February 23, 2012, I met with Sheriff Byrd and Captain Matt Rice. Sheriff Byrd had been informed that a federal investigation into the theft of asphalt by Jeff Johnston had concluded with no formal action being taken allowing for a deferral back to state action. As a result, Sheriff Byrd instructed me to re-open the case as a state investigation because we were able to access information with a prosecutor's subpoena to complete the investigation on a state level.
11. On March 20, 2012 I interviewed Stan Hargrove who advised he and Mark Hearon performed the labor on Jeff Johnston's driveway. He advised that Jeff Johnston paid him cash money for the labor approximately 2 weeks prior to the driveway being paved. The day the driveway was paved, I asked Johnston how we were going to get the asphalt. He advised to do it the way we always do it, which was charge it to the county. He advised three loads of asphalt were charged to the County and delivered to and applied on Jeff Johnston's driveway.
12. The investigation confirmed three loads of asphalt being picked up by trucks belonging to Hearon on July 14, 2008 that were delivered to Johnston's residence located at 1301 Highway 36 Mt. Vernon, Arkansas. These loads were identified by ticket numbers 00052097, 00052093, and 00052086. These loads were billed to Faulkner County Road Shop on invoice number 0255024321 with the invoice date being July 17, 2008. The invoice billed them as being part of a job on Old Military Road. The total for these 3 loads was \$3,859.54.
13. These loads of asphalt were submitted for payment as part of Faulkner County Purchase Order number 5355 which was approved and signed by County Judge Preston Scroggin. The asphalt was paid for with Faulkner County Check number 44722 written to Rogers Group Inc. totaling \$79,741.47.
14. Hargrove further stated that on a later date, Mark Hearon called him and advised that the Sheriff's Office was asking questions about Johnston's driveway. Hargrove advised that he tried to call Johnston but could not reach him so he called County Judge Preston Scroggin. Hargrove stated that Scroggin said "it's all good".
15. Hargrove advised that after the Sheriff's Office started looking into this, he received a call from Jeff Johnston requesting a receipt for the driveway. Hargrove advised Johnston that he would give him a receipt for the labor cost but not the asphalt as it was charged to the county. Hargrove said that Johnston tried to tell him it was a "turn-key" job and Hargrove replied that was not and their conversation ended.
16. Hargrove advised that he later received a call from Faulkner County Civil Attorney Stephan Hawks who advised him that the paving job was a turn-key job and Hargrove also told Hawks it was not. Hargrove advised that he later received a second call from Hawks who advised Hawks had prepared a receipt for the asphalt and labor as a turn-key operation and that Hargrove needed to meet him somewhere in Conway and sign it. Hargrove advised he initially agreed to sign the receipt but then called Hawks back saying he would not sign the receipt because it wasn't right.
17. At 11:53am, March 26, 2012, I interviewed Mark Hearon. Hearon confirmed that he helped Hargrove do the labor on Johnston's driveway. Hearon also confirmed the driver

picked up three loads of asphalt from Rogers group and delivered them to Jeff Johnston's residence. Hearon also confirmed those 3 loads of asphalt were charged to the County. Hearon advised that when he got the card this investigator had left at his residence, he called Stan Hargrove to see what was going on. Hearon advised that he later received a call from Jeff Johnston. Johnson asked Hearon if he gave this investigator any information or if Hearon talked to me. Hearon replied no and Johnston told him that he would be getting a call from the prosecutor.

18. Hearon further stated he later received a call from a guy name Vaden who said he was the prosecutor for Faulkner County. Vaden told Hearon that he didn't have to talk with this investigator unless I had a prosecutor subpoena and that subpoena had to come through his office. Vaden told Hearon that was not going to happen so he didn't have to talk to this investigator.

19. Sheriff Karl Byrd interviewed Faulkner County Treasurer Regina Oakley. Oakley and advised that she had provided documents to a federal agent in reference to the purchase of asphalt from Rogers Group to Faulkner County. Oakley advised that during the summer of 2010 she received a telephone call from the agent advising that either Faulkner County Administrator Jeff Johnston or Faulkner County Civil Attorney Stephan Hawks would be bringing her a check in the amount of \$3,859.54 and that she would need to provide him (the agent) with a copy of the receipt. Oakley reportedly asked the Agent if the receipt needed to say anything in particular and the Agent reportedly replied no as long as the County got its money back. Oakley advised that on June 23, 2010 Stephan Hawks came to her office and gave her a check and requested she show it to be a donation to the county Road Fund. Oakley did as requested and issued receipt number 6250. Byrd asked Oakley if the FBI Agent had told her what this money was for and she advised that he did not have to because of discussions they had during times she was providing requested documents for his investigation.

John Randall

CAPTAIN JOHN RANDALL
FAULKNER COUNTY SHERIFF'S OFFICE

August 29, 2012
DATE