FILEED 11/01/2023 Karen Yarlott CLERK Big Horn County District Court STATE OF MONTANA By: Michelle Massine DC-2-2023-0000063-IN Wald, Matthew 1.00

Jeanne Torske Big Horn County Attorney P.O. Box 908 Hardin, MT 59034 (406) 665-9720 Attorney for State of Montana

#### MONTANA TWENTY-SECOND JUDICIAL DISTRICT COURT BIG HORN COUNTY

STATE OF MONTANA,	Cause No. DC 2023DC-2-2023-0000063-IN
Plaintiff,	Judge: Matthew J. Wald
vs. ALBERT CAPLETT, III aka "John Boy", Defendant.	MOTION FOR LEAVE TO FILE AND AFFIDAVIT OF PROBABLE CAUSE

The State of Montana, represented by Big Horn County Attorney, Jeanne Torske,

respectfully requests this Court grant leave to file an Information against Defendant, ALBERT

CAPLETT, III, without a preliminary examination hearing, charging Defendant with:

Official Misconduct, a misdemeanor, in violation of § 45-7-401, M.C.A.

Beginning in May 2023 and continuing through to the present, Defendant engaged in acts

in Big Horn County which violated Montana law as more fully described in the Affidavit of

Probable Cause filed concurrently.

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### AFFIDAVIT OF PROBABLE CAUSE

### STATE OF MONTANA ) : ss County of Big Horn )

Jeanne Torske, Big Horn County Attorney, after being duly sworn upon oath, deposes

and says:

#### Jurisdiction

- 1. I am the public prosecutor representing the State of Montana in Big Horn County, and, accordingly, am responsible for reviewing allegations and prosecuting criminal offenses in the Montana Twenty-Second Judicial District Court, Big Horn County.
- 2. Upon review of evidence and information submitted to my office by the Big Horn County Superintendent of Schools John Small, along with information from law enforcement, and upon such information and belief, I present to this Court the following facts known to the State of Montana:
- 3. On or about May 2, 2023, Defendant was elected to serve on the Wyola School Board as a Trustee. This position carries the duty of overseeing a Montana public school.
- 4. Although Wyola receives federal funds, it is not overseen or administered by a federal agency. The school does not receive any Indian education monies from the Bureau of Indian Education. Further it is not overseen by the Crow Tribe. Wyola is not a tribal or federal school.
- 5. Defendant was elected by electors who are registered to vote in the State of Montana. (This was not a tribal or federal election.)
- 6. Defendant took his oath of office on May 9, 2023. The oath was administered by Big Horn County Superintendent of Schools John Small, who also holds a County office and was elected by electors registered to vote in the State of Montana. (Superintendent Small was not elected in tribal or federal election.)
- 7. Defendant swore to uphold the Montana and United States Constitutions. He also swore to discharge the duties of his office with fidelity.
- 8. Based on Defendant's position as a Wyola School Trustee, the manner in which he was elected, his duties and responsibilities, and the position he holds; jurisdiction for this matter is proper in this Court.

### Duties

- 9. School boards have duties to the public. These duties are delineated in the Montana Code Annotated.
- 10. The Wyola School Board is required to have open meetings. § 2-3-203, M.C.A.
- 11. The minutes of those meetings must be available for public inspection. § 2-3-212, M.C.A.
- 12. The trustees of a school board are required to make payments into the teachers' retirement system. § 20-3-324(5), M.C.A.
- 13. The trustees of a school board are required to make reports "from time to time as the county superintendent may require." § 20-3-324(20), M.C.A.
- 14. Defendant along with the two additional board members has violated provisions of the Montana Code Annotated. Violating these sections of the Montana Code Annotated and failing to fulfill his duties, more fully described below, constitutes official misconduct.

### **Open Meetings**

- 15. Montana's open meeting laws require that meetings are open to the public and that the public be allowed to make public comment. On May 9 and 15, 2023, the public was not allowed to provide comment at the meetings.
- 16. On October 5, 2023, letters purportedly written and signed by Wyola Superintendent of Schools Deputee were given to members of the public. The letters stated: "This letter is to inform you that you have been officially banned from attending the Wyola [sshool] and its curricular, cocurricular, and extra-curricular activities until further notice. I will rigorously enforce this ban on school premises should you abridge its terms and conditions."
- 17. These letters did not give any reasons for the banishment nor cite any school policy or law. There does not appear to be any legal justification for banning certain members of the public from attending Wyola school functions, including Board meetings.

### Minutes Available for Inspection

 County Superintendent Small has made both verbal and written requests to the Wyola School Board to see the Board minutes. To date, the Board has not provided the minutes.

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### Failure to Pay into the Teacher's Retirement System

19. On October 25, 2023, County Superintendent Small received notice from the Montana Teacher's Retirement System that the Wyola School District had not paid into the retirement system since June 2023.

Failure to provide Reports to the County Superintendent of Schools

- 20. County Superintendent Small has made both verbal and written requests to the Wyola School Board to see the Board's claim book. To date, the Board has not provided the claims book.
- 21. The investigation continues.

The State requests this Court issue an order granting leave to file a Criminal Information.

Dated this \_\_\_\_\_ day of November, 2023.

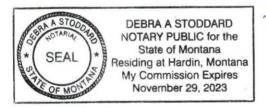
Jeanne Torske

Big Horn County Attorney

State of Montana ) )ss County of Big Horn )

On this 1 day of November, 2023, before me, the undersigned, a Notary Public for the State of Montana, personally appeared Jeanne Torske, known to me to be the person whose name is subscribed to the within instrument, and acknowledged to me she executed the same.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed my Official Seal the day and year in this Certificate first above written.



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# -FILED-

November 3, 2023 Big Horn County District Court

STATE OF MONTANA

By: Michelle Massine



MONTANA TWENTY-SECOND JUDICIAL DISTRICT COURDC-2-2023-0000063-IN BIG HORN COUNTY

STATE OF MONTANA,Cause NoPlaintiff,Hon. JudgVs.ORDERALBERT CAPLETT, III, aka "John Boy",AFFIDA

Defendant.

Cause No. DC-2023-0000063-IN

Hon. Judge Matthew J. Wald

ORDER GRANTING LEAVE TO FILE AN INFORMATION DIRECT AND AFFIDAVIT OF PROBABLE CAUSE

Pursuant to the State of Montana's Motion for Leave to File An Information Direct and

Affidavit of Probable Cause charging the Defendant, ALBERT CAPLETT, III, aka "John

Boy", with committing the offense(s) of Count I: Official Misconduct, a misdemeanor, in

violation of M.C.A. § 45-7-401.

IT IS HEREBY ORDERED that the State of Montana is granted leave to file the

Information direct.

Dated this 3 day of November 2023.

Matthew J. Wald, District Judge

-FILED-November 3, 2023 Big Horn County District Court

STATE OF MONTANA By: <u>Michelle Massine</u> DC-2-2023-0000063-IN

Jeanne Torske Big Horn County Attorney P.O. Box 908 Hardin, MT 59034 (406) 665-9720 Attorney for State of Montana

#### MONTANA TWENTY-SECOND JUDICIAL DISTRICT COURT BIG HORN COUNTY

STATE OF MONTANA, Plaintiff,	Cause No. DC 2023- DC-2-2023-0000063-IN
vs. ALBERT CAPLETT, III aka "John Boy", Defendant.	Judge: Matthew J. Wald INFORMATION

The State of Montana represented by Big Horn County Attorney, Jeanne Torske, believes

there is sufficient evidence to prove that beginning in May 2023 and continuing through to the

present, in Big Horn County, Montana, Defendant, ALBERT CAPLETT, did commit:

Official Misconduct, a misdemeanor, in violation of § 45-7-401, M.C.A.

#### **Maximum Penalties:**

**Official Misconduct**, a person convicted of official misconduct shall be fined not to exceed \$500 or be imprisoned in the county jail for a term not to exceed 6 months, or both.

A list of possible witnesses for the State now known to the prosecution is as follows: BHC Superintendent of Schools John Small BHC Sheriff's Deputy Captain Michael Colvin

All other witnesses listed in the discovery

Dated this  $\__{}^{\textit{b+}}$  day of November, 2023.

Jeanne Torske Big Horn County Attorney

### STATE OF MONTANA ) : ss County of Big Horn )

Jeanne Torske, Big Horn County Attorney, being first duly sworn, on oath, deposes and says that she is the Complainant herein, and that she has read the foregoing Information, and knows the contents thereof, and that the statements therein are true of her own knowledge, except for those matters stated on information and belief, and as to those she believes them to be true.

Dated this  $\underline{191}$  day of November, 2023.

Jeanne Torske Big Horn County Attorney

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SUBSCRIBED AND SWORN TO before me this day of November, 2023.

DEBRA A STODDARD A STOD NOTARY PUBLIC for the State of Montana SEAL Residing at Hardin, Montana My Commission Expires November 29, 2023 DE MO

FILED 11/01/2023 Karen Yarlott CLERK Big Horn County District Court STATE OF MONTANA By: Michelle Massine DC-2-2023-0000064-IN Wald, Matthew 1.00

Jeanne Torske Big Horn County Attorney P.O. Box 908 Hardin, MT 59034 (406) 665-9720 Attorney for State of Montana

#### MONTANA TWENTY-SECOND JUDICIAL DISTRICT COURT BIG HORN COUNTY

STATE OF MONTANA,	Cause No. <b>DC 2023-DC-2-2023-0000064-IN</b>	
Plaintiff,	Judge: Matthew J. Wald	
vs. JUANITA KATE STEWART, aka "Anita Stewart", Defendant.	MOTION FOR LEAVE TO FILE AND AFFIDAVIT OF PROBABLE CAUSE	

The State of Montana, represented by Big Horn County Attorney, Jeanne Torske,

respectfully requests this Court grant leave to file an Information against Defendant, JUANITA

KATE STEWART, aka "Anita Stewart", without a preliminary examination hearing, charging

Defendant with:

Official Misconduct, a misdemeanor, in violation of § 45-7-401, M.C.A.

Beginning in May 2023 and continuing through to the present, Defendant engaged in acts

in Big Horn County which violated Montana law as more fully described in the Affidavit of

Probable Cause filed concurrently.

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#### **AFFIDAVIT OF PROBABLE CAUSE**

### STATE OF MONTANA ) : ss County of Big Horn )

Jeanne Torske, Big Horn County Attorney, after being duly sworn upon oath, deposes

and says:

### Jurisdiction

- 1. I am the public prosecutor representing the State of Montana in Big Horn County, and, accordingly, am responsible for reviewing allegations and prosecuting criminal offenses in the Montana Twenty-Second Judicial District Court, Big Horn County.
- 2. Upon review of evidence and information submitted to my office by the Big Horn County Superintendent of Schools John Small, along with information from law enforcement, and upon such information and belief, I present to this Court the following facts known to the State of Montana:
- 3. On or about May 2, 2023, Defendant was elected to serve on the Wyola School Board as a Trustee. This position carries the duty of overseeing a Montana public school.
- 4. Although Wyola receives federal funds, it is not overseen or administered by a federal agency. The school does not receive any Indian education monies from the Bureau of Indian Education. Further it is not overseen by the Crow Tribe. Wyola is not a tribal or federal school.
- 5. Defendant was elected by electors who are registered to vote in the State of Montana. (This was not a tribal or federal election.)
- 6. Defendant took her oath of office on June 28, 2023. The oath was administered by Big Horn County Superintendent of Schools John Small, who also holds a county office and was elected by electors registered to vote in the State of Montana. (Superintendent Small was not elected in tribal or federal election.)
- 7. Defendant swore to uphold the Montana and United States Constitutions. She also swore to discharge the duties of her office with fidelity.
- 8. Based on Defendant's position as a Wyola School Trustee, the manner in which she was elected, her duties and responsibilities, and the position she holds; jurisdiction for this matter is proper in this Court.

### // Duties

- 9. School boards have duties to the public. These duties are delineated in the Montana Code Annotated.
- 10. The Wyola School Board is required to have open meetings. § 2-3-203, M.C.A.
- 11. The minutes of those meetings must be available for public inspection. § 2-3-212, M.C.A.
- 12. The trustees of a school board are required to make payments into the teachers' retirement system. § 20-3-324(5), M.C.A.
- 13. The trustees of a school board are required to make reports "from time to time as the county superintendent may require." § 20-3-324(20), M.C.A.
- 14. Defendant, along with the two additional board members, has violated provisions of the Montana Code Annotated. Violating these sections of the Montana Code Annotated and failing to fulfill her duties, more fully described below, constitutes official misconduct.

### **Open Meetings**

- 15. Montana's open meeting laws require that meetings are open to the public and that the public be allowed to make public comment. On May 9 and 15, 2023, the public was not allowed to provide comment at the meetings.
- 16. On October 5, 2023, letters purportedly written and signed by Wyola Superintendent of Schools Deputee were given to members of the public. The letters stated: "This letter is to inform you that you have been officially banned from attending the Wyola [school] and its curricular, cocurricular, and extra-curricular activities until further notice. I will rigorously enforce this ban on school premises should you abridge its terms and conditions."
- 17. These letters did not give any reasons for the banishment nor cite any school policy or law. There does not appear to be any legal justification for banning certain members of the public from attending Wyola school functions, including Board meetings.

### Minutes Available for Inspection

 County Superintendent Small has made both verbal and written requests to the Wyola School Board to see the Board minutes. To date, the Board has not provided the minutes.

### Failure to Pay into the Teacher's Retirement System

19. On October 25, 2023, County Superintendent Small received notice from the Montana Teacher's Retirement System that the Wyola School District had not paid into the retirement system since June 2023.

Failure to provide Reports to the County Superintendent of Schools

- 20. County Superintendent Small has made both verbal and written requests to the Wyola School Board to see the Board's claim book. To date, the Board has not provided the claims book.
- 21. The investigation continues.

The State requests this Court issue an order granting leave to file a Criminal Information.

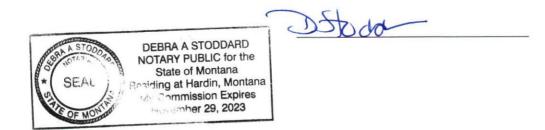
Dated this 127 day of November, 2023.

Jeanne Tõrske Big Horn County Attorney

State of Montana ) )ss County of Big Horn )

On this day of November, 2023, before me, the undersigned, a Notary Public for the State of Montana, personally appeared Jeanne Torske, known to me to be the person whose name is subscribed to the within instrument, and acknowledged to me she executed the same.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed my Official Seal the day and year in this Certificate first above written.



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	-FILED-
	November 3, 2023 Big Horn County
	District Court
$\frown$	STATE OF MONTANA
(2) MONTANA TWENTY-SECONI	D JUDICIAL DISTRICT COURT Michelle Massine
BIG HOR	N COUNTY DC-2-2023-0000064-IN
STATE OF MONTANA,	Cause No. DC-2023- <u>64</u>
Plaintiff,	Hon. Judge Matthew J. Wald
Vs.	ORDER GRANTING LEAVE TO FILE AN INFORMATION DIRECT AND
JUANITA KATE STEWART, aka "Anita Stewart"	AFFIDAVIT OF PROBABLE CAUSE
Defendant.	

Pursuant to the State of Montana's Motion for Leave to File An Information Direct and

Affidavit of Probable Cause charging the Defendant, JUANITA KATE STEWART, aka

"Anita Stewart" with committing the offense(s) of Count I: Official Misconduct, a

misdemeanor, in violation of M.C.A. § 45-7-401.

IT IS HEREBY ORDERED that the State of Montana is granted leave to file the

Information direct.

Dated this 3 day of Movember, 2023.

Matthew J. Wald, District Judge

-FILED-November 3, 2023 Big Horn County District Court

STATE OF MONTANA By: <u>Michelle Massine</u> DC-2-2023-0000064-IN

Jeanne Torske Big Horn County Attorney P.O. Box 908 Hardin, MT 59034 (406) 665-9720 Attorney for State of Montana

#### MONTANA TWENTY-SECOND JUDICIAL DISTRICT COURT BIG HORN COUNTY

STATE OF MONTANA,	Cause No. DC 2023 DC-2-2023-0000064-IN
Plaintiff,	Judge: Matthew J. Wald
vs. JUANITA KATE STEWART, aka Anita	INFORMATION
Stewart", Defendant.	

The State of Montana represented by Big Horn County Attorney, Jeanne Torske, believes

there is sufficient evidence to prove that beginning in May 2023 and continuing through to the

present, in Big Horn County, Montana, Defendant, JUANITA KATE STEWART, aka Anita

Stewart, did commit:

Official Misconduct, a misdemeanor, in violation of § 45-7-401, M.C.A.

#### **Maximum Penalties:**

**Official Misconduct**, a person convicted of official misconduct shall be fined not to exceed \$500 or be imprisoned in the county jail for a term not to exceed 6 months, or both.

A list of possible witnesses for the State now known to the prosecution is as follows: BHC Superintendent of Schools John Small BHC Sheriff's Deputy Captain Michael Colvin

All other witnesses listed in the discovery

Dated this 147 day of November, 2023.

Jeanne Torske Big Horn County Attorney

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FILE ED 11/01/2023 Karen Yarlott CLERK Big Horn County District Court STATE OF MONTANA By: Michelle Massine DC-2-2023-0000065-IN Wald, Matthew 1.00

Jeanne Torske Big Horn County Attorney P.O. Box 908 Hardin, MT 59034 (406) 665-9720 Attorney for State of Montana

#### MONTANA TWENTY-SECOND JUDICIAL DISTRICT COURT BIG HORN COUNTY

STATE OF MONTANA, Plaintiff,	Cause No. DC 2023	
	Judge: Matthew J. Wald	
vs. MISTY OLD COYOTE, aka "Misty Takes Enemy", Defendant.	MOTION FOR LEAVE TO FILE AND AFFIDAVIT OF PROBABLE CAUSE	

The State of Montana, represented by Big Horn County Attorney, Jeanne Torske,

respectfully requests this Court grant leave to file an Information against Defendant, MISTY

OLD COYOTE, aka "Misty Takes Enemy", without a preliminary examination hearing,

charging Defendant with:

Official Misconduct, a misdemeanor, in violation of § 45-7-401, M.C.A.

Beginning in May 2023 and continuing through to the present, Defendant engaged in acts

in Big Horn County which violated Montana law as more fully described in the Affidavit of

Probable Cause filed concurrently.

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### **AFFIDAVIT OF PROBABLE CAUSE**

### STATE OF MONTANA ) : ss County of Big Horn )

Jeanne Torske, Big Horn County Attorney, after being duly sworn upon oath, deposes

and says:

#### Jurisdiction

- 1. I am the public prosecutor representing the State of Montana in Big Horn County, and, accordingly, am responsible for reviewing allegations and prosecuting criminal offenses in the Montana Twenty-Second Judicial District Court, Big Horn County.
- 2. Upon review of evidence and information submitted to my office by the Big Horn County Superintendent of Schools John Small, along with information from law enforcement, and upon such information and belief, I present to this Court the following facts known to the State of Montana:
- 3. On or about May 2, 2023, Defendant was elected to serve on the Wyola School Board as a Trustee. This position carries the duty of overseeing a Montana public school.
- 4. Although Wyola receives federal funds, it is not overseen or administered by a federal agency. The school does not receive any Indian education monies from the Bureau of Indian Education. Further it is not overseen by the Crow Tribe. Wyola is not a tribal or federal school.
- 5. Defendant was elected by electors who are registered to vote in the State of Montana. (This was not a tribal or federal election.)
- 6. Defendant took her oath of office on May 14, 2021. The oath was administered by Big Horn County Superintendent of Schools John Small, who also holds a county office and was elected by electors registered to vote in the State of Montana. (Superintendent Small was not elected in tribal or federal election.)
- 7. Defendant swore to uphold the Montana and United States Constitutions. She also swore to discharge the duties of her office with fidelity.
- 8. Based on Defendant's position as a Wyola School Trustee, the manner in which she was elected, her duties and responsibilities, and the position she holds; jurisdiction for this matter is proper in this Court.

### // Duties

- 9. School boards have duties to the public. These duties are delineated in the Montana Code Annotated.
- 10. The Wyola School Board is required to have open meetings. § 2-3-203, M.C.A.
- 11. The minutes of those meetings must be available for public inspection. § 2-3-212, M.C.A.
- 12. The trustees of a school board are required to make payments into the teachers' retirement system. § 20-3-324(5), M.C.A.
- 13. The trustees of a school board are required to make reports "from time to time as the county superintendent may require." § 20-3-324(20), M.C.A.
- 14. Defendant, along with the two additional board members, has violated provisions of the Montana Code Annotated. Violating these sections of the Montana Code Annotated and failing to fulfill her duties, more fully described below, constitutes official misconduct.

### **Open Meetings**

- 15. Montana's open meeting laws require that meetings are open to the public and that the public be allowed to make public comment. On May 9 and 15, 2023, the public was not allowed to provide comment at the meetings.
- 16. On October 5, 2023, letters purportedly written and signed by Wyola Superintendent of Schools Deputee were given to members of the public. The letters stated: "This letter is to inform you that you have been officially banned from attending the Wyola [school] and its curricular, cocurricular, and extra-curricular activities until further notice. I will rigorously enforce this ban on school premises should you abridge its terms and conditions."
- 17. These letters did not give any reasons for the banishment nor cite any school policy or law. There does not appear to be any legal justification for banning certain members of the public from attending Wyola school functions, including Board meetings.

### Minutes Available for Inspection

 County Superintendent Small has made both verbal and written requests to the Wyola School Board to see the Board minutes. To date, the Board has not provided the minutes.

### Failure to Pay into the Teacher's Retirement System

19. On October 25, 2023, County Superintendent Small received notice from the Montana Teacher's Retirement System that the Wyola School District had not paid into the retirement system since June 2023.

Failure to provide Reports to the County Superintendent of Schools

- 20. County Superintendent Small has made both verbal and written requests to the Wyola School Board to see the Board's claim book. To date, the Board has not provided the claims book.
- 21. The investigation continues.

The State requests this Court issue an order granting leave to file a Criminal Information.

Dated this  $\underline{/ 4 }$  day of November, 2023.

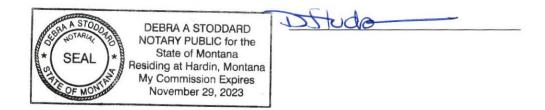
Jeanne Torske

Big Horn County Attorney

State of Montana ) )ss County of Big Horn )

On this  $13^{-1}$  day of November, 2023, before me, the undersigned, a Notary Public for the State of Montana, personally appeared Jeanne Torske, known to me to be the person whose name is subscribed to the within instrument, and acknowledged to me she executed the same.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed my Official Seal the day and year in this Certificate first above written.



# -FILED-

November 3, 2023 Big Horn County District Court

STATE OF MONTANA By: <u>Michelle Massine</u> DC-2-2023-0000065-IN

### MONTANA TWENTY-SECOND JUDICIAL DISTRICT COURT BIG HORN COUNTY

STATE OF MONTANA,	Cause No. DC-2023- <u>DC-</u> 2-2023-0000065-IN
Plaintiff,	Hon. Judge Matthew J. Wald
Vs. MISTY OLD COYOTE, aka "Misty Takes Enemy"	ORDER GRANTING LEAVE TO FILE AN INFORMATION DIRECT AND AFFIDAVIT OF PROBABLE CAUSE
Defendant.	

Pursuant to the State of Montana's Motion for Leave to File An Information Direct and

Affidavit of Probable Cause charging the Defendant, MISTY OLD COYOTE, aka "Misty

Takes Enemy" with committing the offense(s) of Count I: Official Misconduct, a

misdemeanor, in violation of M.C.A. § 45-7-401.

IT IS HEREBY ORDERED that the State of Montana is granted leave to file the

Information direct.

Dated this 3 day of November, 2023.

Matthew J. Wald, District Judge



November 3, 2023 Big Horn County District Court

STATE OF MONTANA By: <u>Michelle Massine</u> DC-2-2023-0000065-IN

Jeanne Torske Big Horn County Attorney P.O. Box 908 Hardin, MT 59034 (406) 665-9720 Attorney for State of Montana

### MONTANA TWENTY-SECOND JUDICIAL DISTRICT COURT BIG HORN COUNTY

STATE OF MONTANA, Plaintiff,	Cause No. DC 2023-DC-2-2023-0000065-IN
	Judge: Matthew J. Wald
VS.	INFORMATION
MISTY OLD COYOTE, aka Misty Takes Enemy",	
Defendant.	

The State of Montana represented by Big Horn County Attorney, Jeanne Torske, believes

there is sufficient evidence to prove that beginning in May 2023 and continuing through to the

present, in Big Horn County, Montana, Defendant, MISTY OLD COYOTE, aka Misty Takes

Eneym, did commit:

Official Misconduct, a misdemeanor, in violation of § 45-7-401, M.C.A.

#### **Maximum Penalties:**

**Official Misconduct**, a person convicted of official misconduct shall be fined not to exceed \$500 or be imprisoned in the county jail for a term not to exceed 6 months, or both.

A list of possible witnesses for the State now known to the prosecution is as follows: BHC Superintendent of Schools John Small BHC Sheriff's Deputy Captain Michael Colvin

All other witnesses listed in the discovery

Dated this 14 day of November, 2023.

Jeanne Torske Big Horn County Attorney

# STATE OF MONTANA ) : ss County of Big Horn )

Jeanne Torske, Big Horn County Attorney, being first duly sworn, on oath, deposes and says that she is the Complainant herein, and that she has read the foregoing Information, and knows the contents thereof, and that the statements therein are true of her own knowledge, except for those matters stated on information and belief, and as to those she believes them to be true.

**Dated** this  $l^{\mathcal{H}}$  day of November, 2023. Jeanne Torske **Big Horn County Attorney** SUBSCRIBED AND SWORN TO before me this 1 ST day of November, 2023. Abadel DEBRA A STODDARD NOTARY PUBLIC for the A STOD State of Montana Residing at Hardin, Montana My Commission Expires SEA November 29, 2023

# STATE OF MONTANA ) : ss County of Big Horn )

Jeanne Torske, Big Horn County Attorney, being first duly sworn, on oath, deposes and says that she is the Complainant herein, and that she has read the foregoing Information, and knows the contents thereof, and that the statements therein are true of her own knowledge, except for those matters stated on information and belief, and as to those she believes them to be true.

**Dated** this 144 day of November, 2023. Jeanne Torske Big Horn County Attorney SUBSCRIBED AND SWORN TO before me this  $15^{+}$  day of November, 2023. ostad DEBRA A STODDARD A STOP NOTARY PUBLIC for the DAT State of Montana Residing at Hardin, Montana SEAL My Commission Expires November 29, 2023

	THE CROW NATION TRIBAL COURT	CRIMINAL COMPLAINT, AFFIDAVIT AND WARRANT REQUEST Court telephone no. (406) 638-7400		САЅЕ NO. CR-23-0649 Court fax no. (406) 638-7415
Court Add P.O. Box 4 Crow Ager				
THE CROW TRIBE		v.	ALBERT CAPI (DOB: 12/ Defend	31/1974)

### A. CRIMINAL COMPLAINT

The undersigned upon review of the investigative materials from the BIA law enforcement Uniform Services Division and other sources has information and reason to believe that the Defendant has committed the offense of **Official Misconduct**, in violation of §8B-7-301, CLOC.

#### **B. AFFIDAVIT**

1. The Crow Tribal Constitution states in relevant part:

Section 1.

The rights of freedom of worship, conscience, speech, press, assembly and association of member of the Crow tribe of Indians shall not be abridged or hindered without due process of law.

Section 2.

This Constitution shall not in any way alter, abridge, or otherwise jeopardize the rights and privileges of the members of the Crow Tribe as citizens of the United States. Section 4.

In accordance with Title II of the Indian Civil Rights Act of 1968 (82 Sat. 77), the Crow Tribe of Indians in exercising it powers of self-government shall not:

- (a) Make or enforce any law prohibiting the full exercise of religion, or abridging the freedom of speech, or of the press, or the right of the people to peaceably assemble and for a redress of grievances.
- 2. 8B-7-310. Official misconduct.
  - a. A public servant commits the offense of official misconduct when, in official capacity, he/she commits any of the following acts:
    - i. purposely or negligently fails to perform any mandatory duty as required by law or by a court of competent jurisdiction;
    - ii. knowingly performs an act in official capacity which he/she knows is forbidden by law;
    - iii. with the purpose to obtain advantage for himself/herself or another, he/she performs an act in excess of his/her lawful authority;
    - iv. solicits or knowingly accepts for the performance of any act a fee or reward which he/she knows is not authorized by law.

- b. A public servant who has been charged may be suspended from his/her office without pay pending final judgment. Upon final judgment of conviction, he/she shall be reinstated in his/her office and receive all back pay if not impeached or removed under the Crow Tribal Constitution and By-Laws or other applicable Tribal Law.
- c. Final judgment occurs only after an individual has exhausted all avenues of appeal.
- d. This section does not affect any power conferred by law to impeach or remove any public servant or any proceeding authorized by law to carry into effect impeachment or removal.
- e. Official misconduct is a Class C offense for which the offender shall be imprisoned in the Crow Tribal Jail for any term exceed 6 months or be fined an amount not to exceed \$500.00 payable to the Crow Tribal Court, or both.

On or about October 11, 2023 the Defendant (Chairman of the Wyola School Board) refused to allow at least a dozen parents, who are members of the public, into the School Board Meeting and feed at the school. This is an infringement on the members' right to free assembly.

Additionally, each of those members of the public were informed that they were banned from the school without explanation infringing on their right to free speech guaranteed under the Crow Constitution of 2002 as well as a violation of their rights under the Indian Civil Rights Act of 1968 to peaceably assemble and petition for a redress of their grievances.

Finally, the Defendant, as the Chair of the Board, failed to perform a mandatory duty of the office by allowing the school to be closed without explanation. Many of the children who attend the school (88 as of the date of this filing) receive both breakfast and lunch at the school. By depriving the children of food, in allowing the school to be closed without explanation, the Defendant, along with the other members of the Board are depriving each of those children of both their right to assemble and their right to petition for a redress of grievances.

As far as the Tribe is aware, all of the children in question and the Defendant are all members of a federally recognized tribe. Such action is against the peace and dignity of the Crow Tribe.

# C. REQUEST FOR SUMMONS

The Undersigned requests that the Court issue a SUMMONS for the Defendant, and require that he

appear and answer to the above charge.

David H. Sibley Chief Tribal Prosecutor CROW TRIBE OF INDIANS

DATE: November 3, 2023

SUBSCRUBED AND SWORN TO before me on this 3<sup>rd</sup> day of November, 2023.



Notary/clerk of the Crow Tribal Court

	THE CROW NATION TRIBAL COURT	CRIMINAL COMPLAINT, AFFIDAVIT AND WARRANT REQUEST		CASE NO. CR-23- 0650	
Court Add P.O. Box 4 Crow Ager		<b>Court telephon</b> (406) 638-7400	e no.	<b>Court fax no.</b> (406) 638-7415	
THE CROW TRIBE		V.	JUANITA STEWART, IF. (DOB: 10/15/1962) Defendant.		

### A. CRIMINAL COMPLAINT

The undersigned upon review of the investigative materials from the BIA law enforcement Uniform Services Division and other sources has information and reason to believe that the Defendant has committed the offense of **Official Misconduct**, in violation of §8B-7-301, CLOC.

### **B. AFFIDAVIT**

1. The Crow Tribal Constitution states in relevant part:

Section 1.

The rights of freedom of worship, conscience, speech, press, assembly and association of member of the Crow tribe of Indians shall not be abridged or hindered without due process of law.

Section 2.

This Constitution shall not in any way alter, abridge, or otherwise jeopardize the rights and privileges of the members of the Crow Tribe as citizens of the United States. Section 4.

In accordance with Title II of the Indian Civil Rights Act of 1968 (82 Sat. 77), the Crow Tribe of Indians in exercising it powers of self-government shall not:

- (a) Make or enforce any law prohibiting the full exercise of religion, or abridging the freedom of speech, or of the press, or the right of the people to peaceably assemble and for a redress of grievances.
- 2. 8B-7-310. Official misconduct.
  - a. A public servant commits the offense of official misconduct when, in official capacity, he/she commits any of the following acts:
    - i. purposely or negligently fails to perform any mandatory duty as required by law or by a court of competent jurisdiction;
    - ii. knowingly performs an act in official capacity which he/she knows is forbidden by law;
    - iii. with the purpose to obtain advantage for himself/herself or another, he/she performs an act in excess of his/her lawful authority;
    - iv. solicits or knowingly accepts for the performance of any act a fee or reward which he/she knows is not authorized by law.

- b. A public servant who has been charged may be suspended from his/her office without pay pending final judgment. Upon final judgment of conviction, he/she shall be reinstated in his/her office and receive all back pay if not impeached or removed under the Crow Tribal Constitution and By-Laws or other applicable Tribal Law.
- c. Final judgment occurs only after an individual has exhausted all avenues of appeal.
- d. This section does not affect any power conferred by law to impeach or remove any public servant or any proceeding authorized by law to carry into effect impeachment or removal.
- e. Official misconduct is a Class C offense for which the offender shall be imprisoned in the Crow Tribal Jail for any term exceed 6 months or be fined an amount not to exceed \$500.00 payable to the Crow Tribal Court, or both.

On or about October 11, 2023, the Wyola School Board, of which the Defendant is a member, refused to allow at least a dozen parents, who are members of the public, into the School Board Meeting and feed at the school. This is an infringement on the members' right to free assembly.

Additionally, each of those members of the public were informed that they were banned from the school without explanation. This is an infringement on the members' right to free speech guaranteed under the Crow Constitution of 2002 as well as a violation of their rights under the Indian Civil Rights Act of 1968 to peaceably assemble and petition for a redress of their grievances.

Finally, the Defendant, as a member of the Board, failed to perform a mandatory duty of the office by allowing the school to be closed without explanation. Many of the children who attend the school (88 as of the date of this filing) receive both breakfast and lunch at the school. By depriving the children of food, in allowing the school to be closed without explanation, the Defendant, along with the other members of the Board are depriving each of those children of both their right to assemble and their right to petition for a redress of grievances.

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Chief Tribal Prosecutor CROW TRIBE OF INDIANS

DATE: November 3, 2023

SUBSCRIBED AND SWORN TO before me on this 3<sup>rd</sup> day of October, 2023.



Notary/clerk of the Crow Tribal Court

	THE CROW NATION TRIBAL COURT	CRIM AFFIDA	CASE NO. CR-23- 065	
-		<b>Court teleph</b> (406) 638-740		<b>Court fax no.</b> (406) 638-7415
THE CROW TRIBE		v.	MISTY OLD ( a.k.a. TAKI (DOB: 09) Defen	ESENEMÝ /02/1979)

### A. CRIMINAL COMPLAINT

The undersigned upon review of the investigative materials from the BIA law enforcement Uniform Services Division and other sources has information and reason to believe that the Defendant has committed the offense of **Official Misconduct**, in violation of §8B-7-301, CLOC.

#### **B. AFFIDAVIT**

1. The Crow Tribal Constitution states in relevant part:

Section 1.

The rights of freedom of worship, conscience, speech, press, assembly and association of member of the Crow tribe of Indians shall not be abridged or hindered without due process of law.

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- (a) Make or enforce any law prohibiting the full exercise of religion, or abridging the freedom of speech, or of the press, or the right of the people to peaceably assemble and for a redress of grievances.
- 2. 8B-7-310. Official misconduct.
  - a. A public servant commits the offense of official misconduct when, in official capacity, he/she commits any of the following acts:
    - i. purposely or negligently fails to perform any mandatory duty as required by law or by a court of competent jurisdiction;
    - ii. knowingly performs an act in official capacity which he/she knows is forbidden by law;
    - iii. with the purpose to obtain advantage for himself/herself or another, he/she performs an act in excess of his/her lawful authority;
    - iv. solicits or knowingly accepts for the performance of any act a fee or reward which he/she knows is not authorized by law.

- b. A public servant who has been charged may be suspended from his/her office without pay pending final judgment. Upon final judgment of conviction, he/she shall be reinstated in his/her office and receive all back pay if not impeached or removed under the Crow Tribal Constitution and By-Laws or other applicable Tribal Law.
- c. Final judgment occurs only after an individual has exhausted all avenues of appeal.
- d. This section does not affect any power conferred by law to impeach or remove any public servant or any proceeding authorized by law to carry into effect impeachment or removal.
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On or about October 11, 2023, the Wyola School Board, of which the Defendant is a member, refused to allow at least a dozen parents, who are members of the public, into the School Board Meeting and feed at the school. This is an infringement on the members' right to free assembly.

Additionally, each of those members of the public were informed that they were banned from the school without explanation. This is an infringement on the members' right to free speech guaranteed under the Crow Constitution of 2002 as well as a violation of their rights under the Indian Civil Rights Act of 1968 to peaceably assemble and petition for a redress of their grievances.

Finally, the Defendant, as a member of the Board, failed to perform a mandatory duty of the office by allowing the school to be closed without explanation. Many of the children who attend the school (88 as of the date of this filing) receive both breakfast and lunch at the school. By depriving the children of food, in allowing the school to be closed without explanation, the Defendant, along with the other members of the Board are depriving each of those children of both their right to assemble and their right to petition for a redress of grievances.

As far as the Tribe is aware, all of the children in question and the Defendant are all members of a federally recognized tribe. Such action is against the peace and dignity of the Crow Tribe.

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DATE: November 3, 2023

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Notary/clerk of the Crow Tribal Court