

FILED

FEB 04 2011

SPOKANE COUNTY DISTRICT COURT

Bail \$ _____

IN THE DISTRICT COURT OF THE STATE OF WASHINGTON
IN AND FOR THE COUNTY OF SPOKANE

STATE OF WASHINGTON)

Plaintiff,)

v.)

JEFFERY M. HARVEY)
M //)

Defendant(s).)

) COMPLAINT

) No. **PX 110004**

) Brian O'Brien

) Deputy Prosecuting Attorney

) DAVE SPURBECK 00109

) Complaining Witness

) PA# 11-6-00476-0

) RPT# 059-11-0000476

) RCW 9A.76.020 (1)-G (#57106)

)

The plaintiff, STATE OF WASHINGTON, charges the above-named defendant(s) with the following crime(s):

OBSTRUCTING A LAW ENFORCEMENT OFFICER, committed as follows: That the defendant, JEFFERY M. HARVEY, in the State of Washington, on or about January 22, 2011, did willfully hinder, delay and obstruct Officer Spurbek , in the discharge of his official powers or duties,

I certify under penalties of perjury that I have reasonable grounds to and do believe that the above person(s) committed the above offenses contrary to law.

DATED this 3 day of February, 2011.


Deputy Prosecuting Attorney

14921
WSBA #



Washington Department of Fish & Wildlife Police Incident Report Form

Incident Number
WA-11-000476

SYNOPSIS

Created by: **DAVE SPURBECK**


Date Created: **01/28/2011**

On January 22, 2011 at 1658 hours I received a violation report from a subject indicating that there was shooting after legal hunting hours in the area of Peone Rd near Deadman Creek. The reporting party provided me with a license plate number of the involved vehicle. I observed the vehicle leaving the area and pulled it over. I was in full uniform, displaying a badge and driving a marked patrol vehicle. Immediately upon the contact with the vehicle the driver exited his vehicle in an aggressive and argumentative fashion. The driver repeatedly failed to obey my commands and instructions. The subject physically blocked me from contacting the occupants of the vehicle. I had to place him in an escort hold and physically moved him away from the vehicle. The subject was warned that his actions were constituting obstruction and if he continued hindering me he would be placed under arrest.

Based upon the actions of Harvey failing to follow my instructions and physically blocking me from speaking with the juveniles to continue my investigation, he violated RCW 9A.76.020 Obstruction of a Law Enforcement Officer.

ADMONITION

I certify under penalty of perjury under the laws of the State of Washington that the foregoing is true and correct to the best of my knowledge.



Officer Signature

W109
Badge #

Spokane
Location

1-31-11
Date



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Incident Number

WA-11-000476

NARRATIVE

Created by: **DAVE SPURBECK**

Date Created: 01/23/2011

On January 22, 2011 at 1658 hours, I received a phone call from a subject that wanted to report illegal waterfowl hunting. The reporting party let me know there were three subjects shooting after legal hours on Peone Rd near Deadman Creek in Spokane County. I know the RP, and I would consider his information to be reliable. The RP told me that he was hunting on Peone Rd near Deadman Crk, and that there were some kids that were shooting after legal hunting hours. The RP told me he saw the kids shoot two times at ducks or geese that were flying over them. The legal hunting hours ended at 4:40 PM as listed in the 2010-2011 Washington State Migratory Waterfowl and Upland Game Seasons Pamphlet.

I started en route to Peone Rd from the area of Midway and Handy. While I was en route, I called the RP back and asked him to get a license plate number of the vehicle, I realized that the roads were slick and it would be an extended period of time before I could get there. The RP gave me WA plate [REDACTED] which I then ran through NCIC on my computer. The plate returned to a silver, 2001 Dodge pickup, and the registered owner was Harvey, Jeffery M. The RP told me that the dad had returned to the area to pick up the boys in the Dodge, but the boys were by themselves when they were shooting.

I continued traveling toward Peone Road. I was eastbound on SR 206, and was approaching Peone Road, when I saw a silver Dodge pickup traveling north on Peone just coming up to the stop sign at the intersection with SR206. I had my blinker on and started to turn onto Peone Road. As I turned, I could see two male subjects wearing camouflage clothing sitting in the front seat. There appeared to be more subjects in the back seat. The driver was an adult male. The front passenger appeared to be a young teenage male. The vehicle matched the NCIC return and the description from the RP. The occupants of the vehicle were wearing clothing consistent with hunting. The silver Dodge turned right onto SR 206 traveling eastbound. I followed the vehicle, and confirmed that the license plate number was the same one that the RP gave me. So I continued to follow it. I decided to follow the vehicle until I came to a wide spot in the road where it would be safe to stop the vehicle. As we approached the intersection with Forker Rd, I decided that Forker would be a safe place to stop the vehicle.

I activated my emergency lights to stop the vehicle. I was dressed in full uniform displaying a badge, and I was driving a marked patrol vehicle. The vehicle continued on SR 206 and then turned left into a driveway shortly after Forker. Before I could shift my vehicle into park, the driver's side door opened and a male subject exited the vehicle and started walking back toward my patrol vehicle. The subject was wearing full camouflage clothing. I exited my vehicle and met the driver at the front of my vehicle. The driver said something similar to what is going on? I explained to the driver that I had received a call that someone associated with this vehicle had been shooting after legal hunting hours.

Before I could finish explaining to him why I was there, the subject immediately raised his voice and said, "No we did not!" I told him that was the report that I received and I believed that someone shot after legal hunting hours. The subject was very argumentative and would not let me finish talking before he started interrupting me. In a raised voice, the subject again said, "No we did not!" I asked the subject if he had three boys with him, and he said yes. I told him that I received a report that the boys had shot after hours. In a raised voice again he said, "No they did not!" I asked him if he was with the boys the whole time and he said that he was not, but he would have heard them if they had shot. I told him that they did shoot.



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The subject was becoming more and more agitated. He said I will tell you what happened! He told me that he and his youngest son walked out to get the pickup. I asked him how far away the pickup was. In a raised voice he said, "Let me finish my story!" He said again that he and his youngest son walked out to get the truck. He said something about his youngest son being cold. He said that if someone would have shot he would have heard it. I asked him how far away the truck was and he said not a quarter mile. I suggested to him that there was a time when he was in the truck that the other two boys could have shot. Again in a raised and agitated voice he said, "No they did not!"

I told him that I was going to talk to the boys and ask them. He said, "No you're not!" We were still standing between the two vehicles, and I told him to stay there, and that I was going to go talk to the boys. The subject said, "No you're not!" I told the subject again to stay where he was and that I was going to go talk to the boys. He said, "No you aren't!" I told him again to stay behind the pickup while I went to talk to the boys. As I started to walk toward the open door of his pickup, the subject said, "No you're not!" He walked in front of me blocking my approach to the door. The subject moved in front of me into the open door of the vehicle, blocking and hindering my ability to speak to the other subjects in the vehicle.

The subjects had just been waterfowl hunting with shotguns. There was an obvious officer safety issue as the subject was going back to vehicle with the door left open and several weapons inside. The subject walked up to the door, and was standing very close to the inside of the cab. As the subject arrived at the door, I put both of my hands on his bicep and told him that he needed to get behind the pickup. The subject told me to get my hands off of him. I maneuvered his arm into the goose-neck escort hold. Once I had the goose-neck hold applied, he said, "What are you doing? You have no right to touch me!" I told him that if he did not do as I was instructing, I was going to take him to jail. The subject said, "What for?" I told him that he was obstructing, and I would take him to jail if he didn't stop.

Again in a raised voice the subject said that he wasn't obstructing, and that he knew what obstructing was. I continued to escort the subject to the front of my vehicle. I told him again unless he listened to what I was telling him, and did what I said, I would take him to jail. In a raised voice, he again said, "For what? I told him he was obstructing, and again he told me that he knew what obstructing was. I told him that if he didn't listen that he was going to jail. I said other law enforcement officers would have taken him to jail by now. I told him again that he needed to stay in front of my vehicle, or I would be taking him to jail. The subject started to comply so I released him from the goose-neck hold. I told him I was simply going to go speak to the boys and that I would be right back with him. I told him again to stay where he was and the subject finally complied. I did not attempt to handcuff the subject because I felt that it would only escalate the situation.

I walked to the open driver's side door and spoke to the boys. There were three juvenile male subjects in the vehicle. I asked them which one walked out to get the pickup with their dad? The subject in the front passenger seat, later identified as [REDACTED] said that was him. I looked at the two subjects in the back seat, and asked them if they had shot while the others were gone to get the truck. The two subjects in the back seat said, yes that they shot twice. They said that they looked at the clock on a phone and it was still shooting light. They said that it was 4:45 PM when they shot. I explained to them that they shot after legal hunting hours. The two subjects in the back seat were later identified as [REDACTED] and [REDACTED].



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I returned to speak with the driver of the vehicle that was between the two pickups. I told him that the two boys in the back seat said that they shot twice. The subject then said that he didn't hear them and then said that he couldn't hear very well and pointed to his ear. I told him again. He pointed to his ear and took out what appeared to be a hearing aid. At no time in the contact up until this point did the subject act like he couldn't hear me. He never asked me to repeat myself. Most of the time he was interrupting what I was saying and raising his voice in rebuttal. I was speaking in a firm raised voice.

I asked the subject for his ID. He provided me his driver's license. I told him to stay where he was while I walked to my vehicle. The subject asked if he could have his jacket. I told him that I would get it for him in a second. I returned to my vehicle and contacted WSP radio. I advised I was on a stop at Day Mt. Spokane and Forker with WA B06911R. I asked for dispatch to send a couple of units toward my location and I ran the subjects name from his driver's license. His driver's license identified him as **Harvey, Jeffery M** [REDACTED]. I asked for the backup because I thought that the contact with Harvey could go bad again. For my safety, I wanted assistance in case it did.

I exited my vehicle and contacted Harvey. Harvey asked me again for his jacket. I told him that I would get it for him. I walked to the driver's side door and asked the boys for their dad's jacket. They handed me the jacket that was on the center console of the front seat. I took the jacket, and as I was walking back to give it to Harvey, I felt the pockets for any weapons. I asked Harvey if there were any weapons in it, and he said yes. I said, "In the jacket?" He said, "no, in the truck." I told him that I understood that there were shotguns in the truck. He said no, that he had pistols. I asked him if he had a concealed weapons permit and he said, "No I don't need one." I said, "What do you mean?" I asked him if the guns in were in plain sight somewhere. He said no. Harvey opened his wallet and pointed to something. I read a card or something that said Spokane Police Department Detective.

I looked at Harvey and said, "You've got to be kidding me!" I was shocked that a police officer would treat another police officer the way he had treated me. I told him that I couldn't believe after everything that just happened, he was a cop. He said what do you mean? I told him I couldn't believe it, after everything he just did including obstructing and showing no respect toward me. I asked him why he didn't identify himself as a police officer. He said something like he couldn't because of the way things were in their department right now, that he would be in trouble by saying he was an officer. I still could not believe he was a police officer, since I had probable cause to arrest him for obstructing.

After Harvey identified himself as an officer, I felt like the situation may not escalate further. I contacted WSP and told them they could keep someone coming, but they could slow down. I knew the roads were very slick. I was concerned an officer responding may be in danger of a collision. As I spoke with Harvey some more, he told me that he felt the whole problem was because of a landowner that didn't want them hunting there. I told him that had nothing to do with it. I told him the reporting party called because someone was shooting after legal hunting hours. Harvey asked who turned them in then. I told him there were other people hunting in the area. Harvey said that he talked to the other hunters. Harvey asked, well if the guy had a problem with what we were doing why didn't he talk to him about it? I said you have to understand people don't want to be confrontational, nor should they be in certain circumstances. I tell most people not to confront violators on their own, but to call me and let me contact them. I would much rather have someone call me than to try and



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take matters into their own hands. At some point Harvey said that he would have gotten the information from the boys if I would have let him talk to them. Harvey never showed any interest in helping me solve the issue.

Shortly after I contacted WSP radio, Deputy Northway arrived on scene. I walked back to him and told him about the situation. I told him the subject was a Spokane PD Detective, and I had to go hands on with him, but that things had de-escalated since then. Shortly after Deputy Northway arrived on scene, Trooper Corkins arrived on scene and I explained the situation to him. I had asked Harvey to get his hunting license and the hunting licenses from the three boys. While I was talking to Corkins and Northway, Harvey was getting the licenses.

The three juveniles came back toward my vehicle with Harvey. I explained to the subjects that they shot after the legal hunting hours, and the hours are posted in the hunting pamphlet. Harvey again said that he thought the whole problem was that someone had a problem with them hunting there. I told him again that had nothing to do with it. Harvey would not admit the two boys shot after legal shooting hours. I retrieved a pamphlet from my vehicle and explained the rules to them. I handed the boys the pamphlet and told them that they needed to know the rules. I told them they needed to make sure they knew what the shooting hours were every time they went hunting. I asked them if they had shot any ducks, and they said they did. They asked if I wanted to see them. I followed them to the back of the pickup and they showed me three hen mallards. I told them that I was very happy to see them out hunting. I told the boys that I was not interested in writing them any tickets, and that it is great to see young hunters. The three boys shook my hand and thanked me. I turned toward Harvey, and he reached out to shake my hand. After shaking my hand, Harvey told me he was sorry for escalating the situation as he held his hand over his head. I returned to my vehicle and left the area.

At one point during the contact with Harvey, I believe he told me that his boys were 13 and 15 years old, when in fact they were 14, almost 15, and the other was 16. I had also asked Harvey if the driveway we were parked in was his driveway, and he said that it was his place. Later I discovered that the driveway where I stopped Harvey was not his residence.

As a Fish and Wildlife Officer, I often work alone in remote locations. Seldom do I feel I need to ask for backup. I rely on my ability to talk courteously and respectfully with people so that situations and circumstances don't escalate. In almost ten years of law enforcement I have successfully exercised my people skills on a daily basis, and only had to go "hands on" one other time. I have never had to go "hands on" with another police officer. I feel the way Harvey acted was completely out of line for any citizen, let alone a fellow police officer.



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ADMONITION

I certify under penalty of perjury under the laws of the State of Washington that the foregoing is true and correct to the best of my knowledge.



Officer Signature

W109
Badge #

Spokane
Location

1-31-11
Date