

.....
 Date May 7, 2012

WHEREAS, Shirley Harper, 1151 Ascension Street, filed an appeal before the City Council of the Hearing Officer's decision upholding the Acting Chief Humane Officer's declaration of her dog as a Vicious Animal; and

WHEREAS, Ms. Harper requested an opportunity to address the City Council regarding her appeal; and

WHEREAS, Ms. Harper has been provided with the opportunity to address the City Council on her appeal; NOW THEREFORE,

BE IT RESOLVED by the City Council of the City of Des Moines, Iowa: (Choose one of the two alternatives):

_____ Alternative One: That the order of the hearing officer be upheld and Ms. Harper's dog be declared a vicious animal.

MOVED BY _____ TO UPHOLD
 DECLARATION.

_____ Alternative Two: That the order of the hearing officer be reversed and Ms. Harper's dog not be declared a vicious animal.

MOVED BY _____ TO REVERSE
 DECLARATION.

FORM APPROVED: _____ MOVED BY _____ TO ADOPT.

K. Massier
 Katharine J. Massier
 Assistant City Attorney

COUNCIL ACTION	YEAS	NAYS	PASS	ABSENT
COWNIE				
COLEMAN				
GRIESS				
HENSLEY				
MAHAFFEY				
MEYER				
MOORE				
TOTAL				

CERTIFICATE

I, DIANE RAUH, City Clerk of said City hereby certify that at a meeting of the City Council of said City of Des Moines, held on the above date, among other proceedings the above was adopted.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed my seal the day and year first above written.

MOTION CARRIED _____ APPROVED _____
 _____ Mayor

_____ City Clerk

EXHIBITS FOR VICIOUS ANIMAL

“ MAN-MASTER”

EXHIBIT A **Letter from Police Animal Control
Declaring the Dog “Vicious”
(Pages 1 – 3)**

EXHIBIT B **Appeal from Shirley Harper
Letter Setting Date of Administrative
Hearing
(Pages 1 – 4)**

EXHIBIT C **Animal Incident Investigation Report
(Pages 8 – 15)
Previous Incidents
(Pages 16 -26)
Municipal Code
(Pages 27-31)**

EXHIBIT D **Administrative Hearing Officer’s Ruling
(Pages 1 – 7)**

EXHIBIT E **Appeal from Shirley Harper
Letter setting date for appeal to
City Council
(Pages 1 - 2)**

EXHIBIT F **Letter to Shirley Harper
(Page 1)
Administrative Hearing Transcript
(Pages 1 – 29)**

EXHIBIT A

EXHIBIT A

12-7690

March 20, 2012

Ms. Shirley M. Harper
1151 Ascension St
Des Moines, Iowa 50314



Dear Ms. Harper,

On July 17th, 2010 your tan and white colored male Mastiff/Boxer mix dog, named "Man-Master," was at your residence at 1151 Ascension st when she bit and injured an adult female. The adult female sustained 3 puncture wounds to her left breast area and 4 puncture wounds on one of her legs. During the follow-up investigation your dog was placed under home quarantine. Reference Des Moines Police case: (2010-22744)

On July 22nd, 2010 your dog, named "Man-Master," ran out of the front door of your property at 1151 Ascension and knocked over an adult female causing her to strike her head on the pavement. Victim suffered a concussion as a result of Man-Master's actions. Reference Des Moines Police case: (2010-23452)

On July 25th, 2011 your dog, named "Man-Master," ran off your property at 1151 Ascension and attacked a poodle breed dog causing puncture wounds to one of its legs. Reference Des Moines Police case: (2011-23765)

On March 15th, 2012 you dog, named "Man-Master," ran off your property at 1151 Ascension and attacked a juvenile female. The resulting injury to the juvenile female was a large laceration to her right calf which needed 10 stitches to close. Reference Des Moines Police case: (2012-7690)

Because of your dogs behavior it is being declared a "Vicious Dog," as defined by city ordinance 18-41.

You may reclaim your dog by properly licensing it as a vicious dog with the City Clerk's Office and properly confining/leashing it as a vicious dog, **however, if your dog is found unlicensed as a vicious dog in the City of Des Moines it will be destroyed in a humane manner, in accordance with city ordinance 18-58.** Also if your dog is found not properly confined/leashed more than twice it will be destroyed in a humane manner, in accordance with city ordinance 18-57.

You may appeal this declaration by filing a written appeal within three (3) business days with the City Clerk's Office in City Hall at 400 Robert D. Ray Drive in Des Moines, Iowa, however, during an appeal your dog will remain in impound at the animal shelter.

If you do nothing your dog will be destroyed in a humane manner, in accordance with city ordinance 18-59.

If you have any questions please call me at (515) 248-6052 or the animal shelter at (515) 284-6905 or the City Clerk's Office at (515) 283-4209.

Sincerely,

Ex.A

7

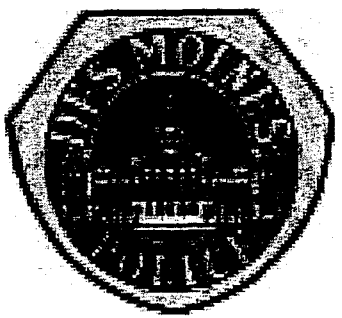
SPO Mark Stuempfig,
Acting Chief Humane Officer,
City of Des Moines, Iowa Police Department

cc: City Clerk's Office



EX A

3



Chief Humane Officer

DOCUMENT SERVICE

DMPD Case number: 12-7690

ARL number (if known): A11089248

Animal owner's name: SHARLEY KANDEL

Address: 1151 ASCENSION ST DSM

Location of service: 1151 ASCENSION DSM

Date and time served: 3-21-12

Official serving document (print name):
SPO MARIL STUEMPFIG

Official's identification number: 4887

Type of document served: Vicious dog letter Dangerous animal letter Illegal animal letter Hearing ruling letter City Council decision letter Other: _____

Name of person receiving document (they print their name):
* LEFT IN DOOR

Their signature: X _____

2012 MAR 21 PM 1:45

EXHIBIT B

AH:

3/23/2012

City Clerk Office DM
Iowa

2012 MAR 23 PM 10:52
CITY CLERK
OFFICE

FILE

To whom it may concern
 I (Shirley Waper (11/51 Ascension
 DM Iowa) verified that
 my dog named Man-
 Master is ~~not~~ a vicious dog
 My neighbors at 1149
 also agree that the dog is
 an asset to the neighborhood
 and a gentle dog. Who
 is also there to put
 a smile on there faces
 Mrs Jennifer Dahls
 watches her grandchildren
 during the day and has
 never had a problem with
 the dog or her children
 playing with the dog ~~5/1/11~~

Sincerely,
Stanley Harper
James Healy
James D. ...

FILED

2012 MAR 23 PM 2:54

CITY CLERK
DES MOINES, IA



March 26, 2012

Ms. Shirley M. Harper
1151 Ascension Street
Des Moines, IA 50314

Re: Administrative Hearing – Vicious Dog Appeal

This is to acknowledge your written request for an appeal regarding the Declaration of “Man-Master” as a Vicious Dog. A hearing has been set for **Monday, April 2, 2012** in the City Council Chambers, south end of the second floor, **City Hall, 400 Robert D. Ray Drive, at 10:30 A.M.**

Parking is available on the streets surrounding city Hall—you will need change to pay the parking meters. Please alert the City Clerk’s Office when you arrive.

Pursuant to Section 18-59 of the Municipal Code, (copy enclosed), you will be given an opportunity to be heard at the hearing.

If you have questions in this regard, please call, 283-4209.

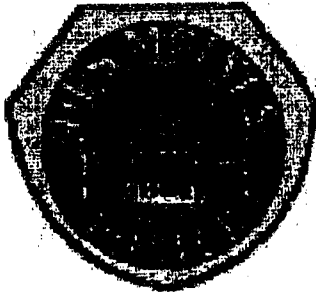
Sincerely,

Diane Rauh
City Clerk

DR:kh
Enc.

cc: Hearing Officer
Asst. City Attorney
Staff Notification

EX. B 4



Chief Humane Officer

DOCUMENT SERVICE

DMPD Case number: 2012-7690

ARL number (if known): A11089248

Animal owner's name: SHERLEY HARPER

Address: 1151 ASCENSION THOMAS

Location of service: SAME

Date and time served: 26 MAR 12 1513

Official serving document (print name):

Sgt. RANVA BAUGH

Official's identification number: 4770

Type of document served: Vicious dog letter Dangerous

animal letter Illegal animal letter Hearing ruling letter

City Council decision letter Other: HEARING

NATE LETTER

Name of person receiving document (they print their name):

Sherley Harper

Their signature: X Sherley Harper
HE ACU

EXHIBIT C

EXHIBIT C
8

Animal Incident Investigation Report

Des Moines, Iowa

2012 MAR 19 AM 11:43

CHE

1. ARL case number: C01126009		2. DMPD case number (If applicable): 12-7690	
3. Victim's name (Last, First M.I.): SIMS, SIERRA L. (Human victim or society)			
32. Impounded or bite animal ARL number: Impounded: No <input type="checkbox"/> Yes <input checked="" type="checkbox"/> ARL# AR503605		4. Race: B	5. Sex: F
33. Animal type: Cat <input type="checkbox"/> Dog <input checked="" type="checkbox"/> Other <input type="checkbox"/> A11089248		6. Age:	7. Date of birth: 26-Nov-97
34. Animal breed: Mastiff/Boxer mix "Man Master"		8. Ethnicity: H <input type="checkbox"/> NH <input checked="" type="checkbox"/>	9. Sobriety: Sob. <input checked="" type="checkbox"/> H.B.D. <input type="checkbox"/>
35. Animal color: Tan and white		10. Residence address: 1334 Martin Luther King Pkwy. 50314	
36. Animal fur length: Short <input checked="" type="checkbox"/> Medium <input type="checkbox"/> Long <input type="checkbox"/> Other <input type="checkbox"/>		11. Residence phone number: 515-865-4826	
37. Animal sex: Female <input type="checkbox"/> Spayed <input type="checkbox"/> Male <input checked="" type="checkbox"/> Neutered <input type="checkbox"/> Unknown <input type="checkbox"/>		12. Business or cellular phone number:	
38. Microchip: No <input checked="" type="checkbox"/> Yes <input type="checkbox"/> (Records Personnel: Enter M/C# as a serial number) M/C#:		13. Place of employment or school:	
39. Rabies tag: No <input type="checkbox"/> Yes <input checked="" type="checkbox"/> R/T#:		14. Type and location of injury: Dog bite - back of right calf - 10 stitches	
39A. Date of vaccination:		15. Medical treatment: Broadlawns ER	
39B. Date of vaccination expiration:		16. Reporting person's name (Last, First M.I.): SIMS, JEROME P.	
39C. Veterinarian:		17. Race: B	18. Sex: M
40. License: No <input type="checkbox"/> Yes <input type="checkbox"/> Lic#:		19. Age:	20. Date of birth: 06-Jun-72
41. Other identifiers (Collar, tattoo, etc.): Red nylon collar		21. Ethnicity: H <input type="checkbox"/> NH <input checked="" type="checkbox"/>	22. Sobriety: Sob. <input checked="" type="checkbox"/> H.B.D. <input type="checkbox"/>
42. Confinement/quarantine location: ARL ACCC		23. Residence address: 1334 Martin Luther King Pkwy. 50314	
43. Impounded or bite animal owner's name (Last, First M.I.): HARPER, SHIRLEY M.		24. Residence phone number: 515-865-4826	
44. Residence address: 1151 Ascension St. 50314		25. Business or cellular phone number:	
45. Residence phone number: 515-447-5952		26. Location of incident (address): 12 St. and Ascension St. 50314	
46. Place of employment or school:		27. Location type: Street	
47. Business or cellular phone number:		28. Date and time incident occurred: 15-Mar-12 1730 hrs.	
48. Animal owner notification: No <input type="checkbox"/> Yes <input checked="" type="checkbox"/>		29. Date and time incident reported: 15-Mar-12 2025 hrs.	
48A. Date and time of notification: 15-Mar-12 2039 hrs.		30. Crime/incident type: Animal Bite - Dog	
48B. Person making notification: WILSON, J/AR5		31. Classification:	
48C. Means of notification: Verbal		49. Witness' name (Last, first):	
50. Residence address: (City and/or state if not Des Moines or Iowa)		51. Daytime or cellular phone number:	
52. Witness' name (Last, First):		53. Residence address: (City and/or state if not Des Moines or Iowa)	
54. Daytime or cellular phone number:		55. Investigative notifications and/or photographs taken: ARL Supervisor: No <input type="checkbox"/> Yes <input checked="" type="checkbox"/> Sergeant: No <input checked="" type="checkbox"/> Yes <input type="checkbox"/> Police Officer: No <input checked="" type="checkbox"/> Yes <input type="checkbox"/> Photographs taken by ARL or PO: No <input checked="" type="checkbox"/> Yes <input type="checkbox"/>	
56. Victim animal ARL number: Impounded: No <input type="checkbox"/> Yes <input type="checkbox"/> ARL#:		57. Animal type: Cat <input type="checkbox"/> Dog <input type="checkbox"/> Other <input type="checkbox"/>	
58. Animal breed:		59. Animal color:	
60. Animal fur length: Short <input type="checkbox"/> Medium <input type="checkbox"/> Long <input type="checkbox"/> Other <input type="checkbox"/>		61. Animal sex: Female <input type="checkbox"/> Spayed <input type="checkbox"/> Male <input type="checkbox"/> Neutered <input type="checkbox"/> Unknown <input type="checkbox"/>	
62. Rabies tag: No <input type="checkbox"/> Yes <input type="checkbox"/> R/T#:		63. Microchip: No <input type="checkbox"/> Yes <input type="checkbox"/> M/C#:	
64. License: No <input type="checkbox"/> Yes <input type="checkbox"/> Lic#:		65. Type and location of injury:	
66. Medical treatment:		67. Confinement/quarantine location:	
68. Victim animal owner's name (Last, First M.I.):		69. Residence address: (City and/or state if not Des Moines or Iowa)	
70. Residence phone number:		71. Business or cellular phone number:	
72. Reporting official: WILSON, J. <i>[Signature]</i>		I.D. No: AR5	73. Status: <input type="checkbox"/> Open <input type="checkbox"/> Closed <input type="checkbox"/> Excep. Closed <input type="checkbox"/> Case file <input type="checkbox"/> Suspended <input type="checkbox"/> Unfounded
74. Copy/copies made by:		75. Referred to: <input checked="" type="checkbox"/> Animal Control <input type="checkbox"/> Detectives <input type="checkbox"/> PIO <input type="checkbox"/> Chief <input type="checkbox"/> OPS <input type="checkbox"/> Other:	
76. Second reporting official:		I.D. No: AR-1	77. Supervisor approving report: <i>[Signature]</i>
78. Reviewed by: <i>[Signature]</i>			

EX. C 9

79. Page: 2 of 2		Animal Incident Investigation Report Des Moines, Iowa				80. DMPD case number (if applicable): 12-7690		
81. Suspect or offender <u>one</u> (1) name (Last, first Middle): HARPER, SHIRLEY MAE					82. Arrested: No <input checked="" type="checkbox"/> Yes <input type="checkbox"/>	83. Warrant needed: No <input checked="" type="checkbox"/> Yes <input type="checkbox"/>	84. Charges filed: No <input type="checkbox"/> Yes <input checked="" type="checkbox"/>	
85. Race: B	86. Sex: F	87. Age:	88. Date of birth: 09-Sep-60	89. Ethnicity: H <input type="checkbox"/> NH <input checked="" type="checkbox"/>	90. Height: 61	91. Weight: 150	92. Hair color: BRO	93. Eye color: BRO
94. Residence address: 1511 Ascension St. 50314 <small>(City and/or state if not Des Moines or Iowa)</small>								
95. Residence or alternate phone number: 515-447-5952			96. Driver license number or social security number: ID: 069BB0800			96A. State: IA	97. Sobriety: Sob. <input checked="" type="checkbox"/> H.B.D. <input type="checkbox"/>	
98. Citation number and crime: 293321 Dog at Large 18-55				99. Citation number and crime:				
100. Suspect or offender <u>two</u> (2) name (Last, First Middle):					101. Arrested: No <input type="checkbox"/> Yes <input type="checkbox"/>	102. Warrant needed: No <input type="checkbox"/> Yes <input type="checkbox"/>	103. Charges filed: No <input type="checkbox"/> Yes <input type="checkbox"/>	
104. Race:	105. Sex:	106. Age:	107. Date of birth:	108. Ethnicity: H <input type="checkbox"/> NH <input type="checkbox"/>	109. Height:	110. Weight:	111. Hair color:	112. Eye color:
113. Residence address: <small>(City and/or state if not Des Moines or Iowa)</small>								
114. Residence or alternate phone number:			115. Driver license number or social security number:			115A. State:	116. Sobriety: Sob. <input type="checkbox"/> H.B.D. <input type="checkbox"/>	
117. Citation number and crime:				118. Citation number and crime:				
119. Narrative: <p>Reporting Officer WILSON, J./AR5 was dispatched to 1151 Ascension St. on 15-Mar-12 to investigate a report of a dog bite involving a dog at that address. As R/O was approaching the above address, R/O was stopped by a party identified as SIMS, JEROME P. who identified himself as the father of the bite victim, SIMS, SIERRA L. R/O spoke to the victim who related that she and a friend were walking at the intersection of Ascension St. and 12 St. at approximately 1730 hrs on 15-Mar-12 when a large, tan and white dog either broke loose from or slipped its chain and ran up and bit the victim on the right calf, causing a significant laceration. A black female exited 1151 Ascension St. and retrieved the dog and the victim made contact with her father, who transported her to Broadlawns ER. The victim's father showed R/O paperwork from Broadlawns ER that showed that the victim required 10 stitches to close the wound. The victim's father took photographs of the wound and provided them to R/O. After speaking to victim's father and explaining quarantine procedures, R/O proceeded to 1151 Ascension St. On arrival, R/O made contact with HARPER, SHIRLEY MAE, who identified herself as the owner of a Mastiff/Boxer mix, male, tan and white in color, named "Man Master" that was involved in the above incident. R/O notified HARPER of the incident, to which HARPER argued that the incident was the victim's fault because she was on Ascension St. and she doesn't live on that street. HARPER also claims that the victim and a friend were arguing loudly and that is why the dog "Man Master" slipped loose from its chain and bit her. R/O explained that neither of those things mattered in this case. HARPER then argued that the dog "Man Master" did not bite the victim but that the victim fell down and slid beneath a car and cut her calf on the car. R/O notified HARPER that the dog "Man Master" was being impounded for quarantine due to the severity of the bite injury and HARPER brought the dog out to the animal control truck and loaded it into the vehicle. R/O then issued HARPER citation 293321 for Dog at Large (18-55) as HARPER admitted and the victim identified that the dog "Man Master" was running at large at the time of the incident. R/O transported the dog "Man Master" to the ARL ACCC shelter without incident. On arrival to the shelter, R/O conducted a records check on HARPER and the dog "Man Master". R/O found that the dog "Man Master" bit LEWIS, SHANTEL on 17-Jul-10 under case number 10-22744, causing 3 puncture wounds to the left breast and 4 puncture wounds to the leg. The dog "Man Master" was placed under home quarantine at that time. While under quarantine in the above case, the dog "Man Master" pushed through the door or 1151 Ascension St. and knocked down COLLEY, CARLA, causing her to loose consciousness and suffer a concussion. This occurred under case number 10-23452. The dog "Man Master" was transferred to the ARL ACCC shelter for the remainder of quarantine. On 25-Jul-11, the dog "Man Master" attacked and injured a dog belonging to the sister of HARPER. The sister's name is HARPER, KIM. The dog "Man Master" was quarantined at ARL ACCC. This is the third bite incident involving the dog "Man Master" and the fourth time it is known to have injured a person or other animal. Hold dog "Man Master" for quarantine through 25-Mar-12 at 1730 hrs. Case forwarded to RADABAUGH, S. for review.</p>								
						120. Date of this report: 15-Mar-12		

EX. C
10

IOWA POLICE CITATION AND COMPLAINT
Law Enforcement Agency

STATE OF IOWA I.A. ID: 069 BB0800
COUNTY OF POLK
COUNTY OF WARREN

No PC 293321

CITY OF DES MOINES Docket No. _____
IN THE COURT AT POLK COUNTY COURTHOUSE, 5TH & MULBERRY, DES MOINES, IOWA 50309
 WARREN COUNTY COURTHOUSE, 115 NORTH HOWARD, INDIANOLA, IOWA 50125

THE STATE OF IOWA Agency Case No. 12-7690
 CITY OF DES MOINES A MUNICIPALITY, PLAINTIFF v.
(IA0770300)

NAME: HALPER SHIRLEY MAE
Defendant Last First Middle
ADDRESS: 1151 ASCENSION ST
Street
CITY: DES MOINES STATE: IA

BIRTH DATE: 09/09/60 Sex B Race F
Mo. Day Yr.
Ht. 61 Wt. 130 Eyes BRO Hair BRO

The Defendant is accused of the crime of Dog At Large
in violation of: _____, Iowa Code, 20 _____ or 18-55, Local Ordinance,

for that on or about 03/15/12 a.m. 5:30
Mo. Day Yr. p.m.

Defendant did: Allow Mastiff mix "MAN MASTER"
to run at large and bite SIMMS
SIERRA L., requiring 10 stitches to
right calf.

DATE: 03/15/12 AR5
Mo. Day Yr. Officer's Signature I.D. No.

REPORT TO THE ABOVE NAMED COURT AND SAID PLACE.
04/17/12 a.m. p.m. 9:00
Mo. Day Yr.

I PROMISE TO APPEAR IN SAID COURT AT SAID TIME AND PLACE
[Signature]
Signature Defendant

I swear that the foregoing citation is true and correct.
[Signature] AR5
(Officer's Signature)

Subscribed and sworn to before me by J. Wilson AR5
At Des Moines, Iowa this 26th day of March, 20 12

Notary Signature Judge Magistrate Clerk District Court
[Signature]

SCOTT RAUDABAUGH
Commission Number 705492
My Commission Expires

865.5 Failure to appear. Any person who willfully fails to appear in court as specified by the
citation shall be guilty of a simple misdemeanor and upon conviction shall be punished by a fine
of not more than one hundred dollars or by imprisonment in the County jail not exceeding thirty
days.

COURT

APR 26 PM 12:54

EX.C
111

IN THE IOWA DISTRICT COURT FOR POLK COUNTY
COMPLAINT AND PROBABLE CAUSE STATEMENT

CITY OF DES MOINES

COURT CASE NO. _____

VS.

DMPD. CASE NO. 12-7690

Shirley Mae Harper
(DEFENDANT)

IA0770300

IA ID: _____
SOC. SEC. NO. 069BB0800

1151 Ascension St
(ADDRESS)

DATE OF BIRTH 09/09/60

Des Moines IA
(CITY & STATE)

DESCRIPTION: B F 61 130
RACE SEX HGT WGT

BRO BRO
EYES HAIR MARKS

THE DEFENDANT IS ACCUSED OF THE CRIME(S) OF: Dog AT Large

AT: 12 St. and Ascension St.
(ADDRESS OR LOCATION)

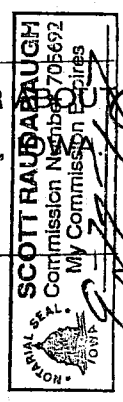
IN VIOLATION OF SECTION(S): 18-55

OF THE MUNICIPAL CODE OF THE CITY OF DES MOINES, 20 11 COMMITTED ON OR
THE 15th DAY OF March, 20 12 IN THE CITY OF DES MOINES, POLK COUNTY

SIGNED AND SWORN TO ON THIS 26th DAY OF March, 20 12

Mark ARS
FILING COMPLAINANT

[Signature]
(NOTARY PUBLIC, ASSOCIATE JUDGE OR MAGISTRATE)



BASIS OF PROBABLE CAUSE

- THE DEFENDANT WAS:
- CAUGHT IN THE ACT
 - IDENTIFIED BY PRINTS
 - NAMED BY WITNESSES
 - HAD PROPERTY ASSOCIATED WITH CRIME
 - ARRESTED FOLLOWING INVESTIGATION
 - WEAPON INVOLVED CRIME
 - IDENTIFIED BY PHOTO
 - ARRESTED AT SCENE
 - OTHER (SPECIFY BELOW)
 - VICTIM INJURED
 - PROPERTY / MONEY TAKEN

VALUE OF PROPERTY TAKEN \$ _____ DAMAGE EST. VALUE \$ _____

OTHER FACTS IMPORTANT TO PROBABLE CAUSE AND BAIL Have Mastiff/Boxer mix "MAN MASTER" running at large and bit Sims, SIERRA L., requiring 10 stitches. Third bite incident involving this dog

Mark ARS
SIGNATURE OF ARRESTING OFFICER NO. _____

03, 15, 12
(DATE OF ARREST)

DATED: 03, 15, 12

WITNESS INFORMATION

NAME	ADDRESS	HM PHONE	WK PHONE
<u>Sierra L Sims</u>	<u>1334 Martin Luther King Pkwy</u>	<u>515-865-4826</u>	<u>515-865-4826</u>
<u>Jerome P Sims</u>	<u>1334 Martin Luther King Pkwy</u>	<u>515-865-4826</u>	<u>515-865-4826</u>

BOND AMOUNT \$ _____ CASH ONLY () CASH OR SURETY ()
OTHER CONDITIONS IMPOSED WITH BAIL: _____

2012 MAR 19 AM 11:53

EXC
112



112

