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February 19, 2025

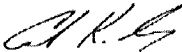
Senator Bobby Joe Champion
Senate Rules Subcommittee on Ethical Conduct
3401 Minnesota Senate Building
95 University Avenue West
St. Paul, MN 55155

Dear Mr. Chair:

Attached to this letter is a complaint regarding the conduct of Senator Nicole Mitchell. This complaint is prepared pursuant to the provisions of Senate Rule 55. By delivery of this letter and attached complaint, it is hereby filed pursuant to Rule 55. We ask for the Subcommittee on Ethical Conduct to investigate these matters immediately and take action in accordance with this Rule.

We look forward to the Subcommittee acting expeditiously on this complaint.

Sincerely,



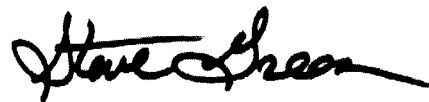
Senator Cal Bahr



Senator Rich Draheim



Senator Steve Drazkowski



Senator Steve Green



Senator Karin Housley



Senator Mark Johnson



Senator Mark Koran



Senator Bill Lieske



Senator Eric Lucero



Senator Paul Utke



Senator Nathan Wesenberg

3rd AMENDED COMPLAINT

**COMPLAINT
TO THE
SUBCOMMITTEE ON ETHICAL CONDUCT
REGARDING THE ACTIONS
OF
SENATOR NICOLE MITCHELL**

Senators Bahr, Draheim, Drazkowski, Green, Housley, Johnson, Koran, Lieske, Lucero, Utke, and Wesenberg, each being first duly sworn, state and allege under oath the following based upon information and belief:

Sen. Mitchell violated Senate Rules 56.1, 56.2, and 56.3 by breaking into the home of an elderly family member, attempting to steal the victim’s personal effects, and subsequently attempting to cover up her conduct by publishing conflicting information. She further has violated the public trust by using her Senate position to delay criminal liability while using her criminal trial to avoid accountability in the Senate.

1. On April 22, 2024, Senator Nicole Mitchell was booked into the Becker County Jail for a violation of Minn. Stat. §609.582, Subd. 1, Burglary- first degree. (Exhibit A)
2. On February 10, 2025, the State amended its statement of probable cause against Senator Mitchell, resulting in Senator Mitchell facing charges for violations of both of Minn. Stat. §609.582, Subd. 1, Burglary- first degree and of Minn. Stat. §609.59, Possession of Burglary or Theft tools. (Exhibit L)
3. At approximately 4:45 a.m. on the morning of April 22, 2024, the Detroit Lakes Police Department was dispatched to the home owned by Carol Mitchell, Senator Mitchell’s stepmother. (Exhibits A and B)
4. After being located by police in the basement of the residence wearing all black clothing and a black hat, Senator Mitchell was ordered to the ground and placed under arrest. (Exhibit A)
5. A flashlight was discovered near Senator Mitchell that appeared to have been modified with a black sock to control the amount of light emitting from the flashlight. (Exhibit A)
6. Responding officers observed a basement window propped open with a black backpack, which contained Senator Mitchell’s Minnesota driver’s license, Minnesota Senate identification card, two laptops, a cellphone, and Tupperware containers. (Exhibit A)
7. According to the amended statement of probable cause filed in Becker County District Court, Senator Mitchell “had removed her shoes and prior to being caught and placed them near or under a couch.” She stated “I have never done anything like this. You are going to find out I am a military commander for God’s sake.” After having received a Miranda rights warning, Senator Mitchell proceeded to tell the officer “I’m just hoping, um, this mistake won’t completely f*** up my life.” (Exhibit L)

8. According to the amended statement of probable cause, Senator Mitchell was informed she was being placed under arrest and “sat silent for a moment, became emotional, and stated ‘My God, my military retirement. Shoot.’” (Exhibit L)
9. The amended statement of probable cause reports Carol Mitchell called law enforcement and informed them “she had located an item in an egress window.” Officers found a blue crowbar, which Carol Mitchell indicated was not hers. Officers found faint pry marks around the window and traces of dirt on the windowsill and they later determined the egress window was likely the entry point to the home for Senator Mitchell. (Exhibit L)
10. Senator Mitchell admitted to arresting officers she left Woodbury at around 1:00 a.m. According to Google Maps, a non-stop drive from Woodbury to Detroit Lakes takes 3 hours and 38 minutes. (Exhibit A)
11. Senator Mitchell was released by the Becker County Jail on April 23, following an 11:00 a.m. hearing at which she was given the conditions of her release. Conditions of her release included travel restrictions and adherence to a restraining order filed by the victim and granted by the court. (Exhibit C)
12. A violation of Minn. Stat. §609.582, Subd. 1, (Burglary in the first degree) is a felony, punishable by up to 20 years in prison and/or a fine of \$35,000. However, a burglary committed while the dwelling is occupied carries an enhanced penalty, requiring a minimum sentence of at least six months incarceration.
13. A violation of Minn. Stat. §609.59, (Possession of Burglary or Theft Tools) is a felony punishable by up to 3 years imprisonment.
14. During Carol Mitchell’s 911 call to police, she reported an intruder in her house and asked for help. She said she didn’t get a look at the intruder in the dark but, “I tripped over ‘em. Ah, he was on the floor next to my bed. He ran downstairs into my basement.” (Exhibit B) Following Senator Mitchell’s release from the Becker County Jail, Carol Mitchell told 5 Eyewitness News “She was dressed like a burglar at the foot of my bed...I get goosebumps just talking about it. [...] I think she meant me physical harm. There’s no other reason to be on the floor of my room.” (Exhibit H)
15. Senate Rule 56.1 states: “Members shall adhere to the highest standard of ethical conduct as embodied in the Minnesota Constitution, state law, and these rules.”
16. Senator Mitchell’s premeditated burglary - which included driving over three-and-a-half hours (dressed in all black clothing and hat), using a blue crowbar to forcibly enter the basement window of an occupied house at 4:45 in the morning while using a sock-covered flashlight, and attempting to covertly remove effects from the home – violates state law and the “highest standard of ethical conduct” required under Senate Rule 56.1.
17. Shortly after her release from the Becker County Jail, Senator Mitchell attempted to frame the public narrative and recharacterize the nature of her arrest; however, the social media statement Senator Mitchell issued directly conflicts with statements she made to law enforcement. (Exhibit D)
18. At approximately 2:30 p.m. on April 23, Senator Mitchell issued a Facebook statement, which included: “Over the weekend, I learned of medical information which caused me grave concern and **prompted me to check on that family member** (emphasis added). I entered a home I have

come and gone from countless times in the past 20 years, where my son even once had his own room. Unfortunately, I startled this close relative, exacerbating paranoia, and **I was accused of stealing, which I absolutely deny** (emphasis added).” (Exhibit D)


19. Senator Mitchell’s suggestion she was at the home to check on a family member is inconsistent with information presented in the criminal complaint. Specifically, that she forcibly entered the house through a basement window at 4:45 in the morning dressed in all black clothing, carrying a modified flashlight. In addition, Senator Mitchell told responding officers her stepmother had stopped communicating with the family, stating “that she previously got into an argument with Victim and they stopped speaking.” (Exhibit A) According to a news report, Ms. Mitchell said she’s afraid of her stepdaughter and was granted a restraining order against her. (Exhibit E)
20. Regarding the accusation of stealing, according to the criminal complaint, “While being detained MITCHELL stated to the Victim, “Carol, it’s Nicole. I was just trying to get a couple of my dad’s things because you wouldn’t talk to me anymore.” She also told officers she just wanted a couple of her dad’s mementos, and acknowledged she hadn’t spoken to her stepmother in a month. (Exhibit L)
21. Senator Mitchell’s own attorney, Bruce Ringstrom Sr., has conceded “it was her plan to go in and out without disturbing anyone.” “She wanted to [...] retrieve a couple of items that she felt were being wrongfully withheld from her despite earlier promises.” (Exhibit E)
22. Ringstrom also said, “Mitchell had a key to the house, but could not get in to check on her stepmother.” (Exhibit E) However, according to a May 2nd 5 Eyewitness News report, “Carol told 5 EYEWITNESS NEWS she didn’t know Nicole had a key and she never gave her one.” (Exhibit H)
23. Senate Rule 56.2 states: “A member shall not publish or distribute written material if the member knows or has reason to know that the material includes any statement that is false or clearly misleading...”
24. The written material Senator Mitchell published on April 24th includes statements which are “false or clearly misleading.” This is a violation of Senate Rule 56.2. Her statements to the police and statements by her attorney acknowledge her intent to take things from the home, and she proceeded to tell the public via her social media pages that she was merely trying to “check on” an ailing family member.
25. As members of the Minnesota Senate, all senators take an oath to uphold and protect the constitution. This is a duty to uphold the rule of law, maintain high ethical standards, and represent the public with dignity and respect.
26. Senate Rule 56.3 states: “Improper conduct includes conduct that violates a rule or administrative policy of the Senate, that violates accepted norms of Senate behavior, that betrays the public trust, or that tends to bring the Senate into dishonor or disrepute.”
27. As outlined in the criminal complaint, Senator Mitchell’s actions not only represent a felonious violation of state law, but they also clearly betray the public trust and bring the Senate into dishonor and disrepute. In addition, the public’s trust was blatantly violated when Senator Mitchell published a post-release statement on Facebook that directly conflicts with statements she made to law enforcement officers just one day prior.

28. As stated in the amended criminal complaint Senator Mitchell explicitly admitted, “I know I did something bad,” and “obviously I’m not good at this.” (Exhibit L)
29. Senator Mitchell filed a request on January 10, 2025, for a continuance for her trial, in which she asserts through her legal team the legislative privilege granted by Minnesota Stat. §3.16 to delay the trial until after the legislative session concludes. As noted in the request, Minnesota Stat. § 3.16 allows officers and members of the legislature to waive the privilege to delay proceedings during session. (Exhibit I).
30. Senator Mitchell was subsequently granted a continuance on January 17, 2025. (Exhibit J)
31. Additionally, Senator Mitchell and her team requested a continuance for other proceedings due to scheduling conflicts on May 29, 2024. (Exhibit K)
32. There was ample time between May 29, 2024 and January 14, 2024 for Senator Mitchell and her legal team to have discussed with the judge the concern about scheduling a trial during the Legislative session. Waiting until the last moments possible to file this motion is an abuse of her legislative position to avoid responsibility for her actions and delay justice for the victim of this crime.
33. Using her pending legal proceedings to press for delays in the proceedings of the Senate Subcommittee on Ethical Conduct while using her Senate service to press for delays in her criminal proceedings is an abuse of due process is a betrayal of the public trust. This is a violation of Senate Rule 56.3.

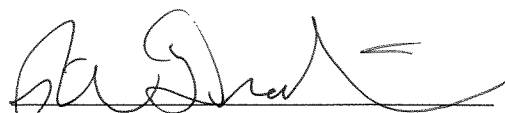
Your complainants ask that the Subcommittee on Ethical Conduct investigate the details of these matters immediately. Given the severity of Senator Mitchell’s conduct, it’s imperative the Subcommittee work expeditiously to review the circumstances of this complaint and recommend discipline to the Rules Committee, pursuant to Rule 55.8. Specifically, the Subcommittee should investigate the true nature of Senator Mitchell’s unwanted/unlawful entry into an estranged relative’s home, the ways in which Senator Mitchell’s published statements conflict with the criminal complaint filed in Becker County, and whether Senator Mitchell’s conduct on April 22 and 23, 2024 is consistent with the Senate’s ethical standards. The Subcommittee is encouraged to use its subpoena authority under Rule 55.3 to assist in ascertaining the facts related to this complaint. The Subcommittee is further requested to seek a speedy conclusion to the matter, so the pending criminal proceedings can be resolved, and justice can no longer be delayed due to a privilege Senator Mitchell has abused.

Your complainants ask the Subcommittee on Ethical Conduct find Senator Nicole Mitchell violated multiple parts of Senate Rule 55 and recommends such disciplinary action as the Subcommittee finds appropriate.


Date: February 19, 2025



Senator Cal Bahr



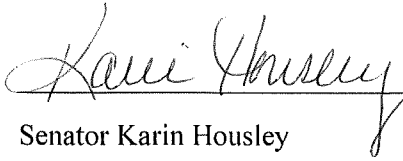
Senator Rich Draheim



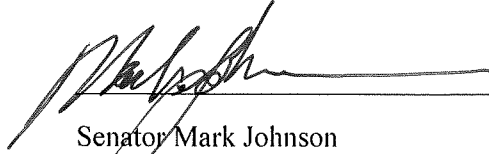
Senator Steve Drazkowski



Senator Steve Green



Senator Karin Housley




Senator Mark Johnson



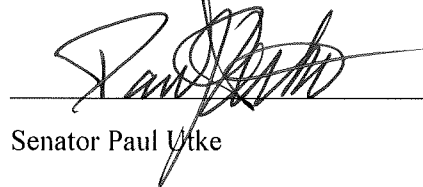
Senator Mark Koran



Senator Bill Lieske



Senator Eric Lucero

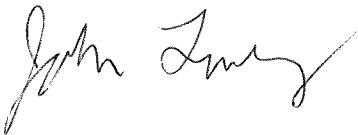


Senator Paul Utke



Senator Nathan Wesenberg

Subscribed to, and sworn before me, a notary public, on February 19, 2025



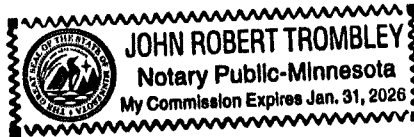


EXHIBIT A

State of Minnesota
County of Becker

District Court
7th Judicial District

Prosecutor File No. 0030030383
Court File No. 03-CR-24-654

State of Minnesota,
Plaintiff,

COMPLAINT
Order of Detention

vs.

NICOLE LYNN MITCHELL DOB: 10/10/1974

3033 Leyland Trail
Woodbury, MN 55125

Defendant.

The Complainant submits this complaint to the Court and states that there is probable cause to believe Defendant committed the following offense(s):

COUNT I

Charge: Burglary-1st Deg-Dwelling-Occupied-Non-Accomplice Present

Minnesota Statute: 609.582.1(a), with reference to: 609.582.1, 609.582.1a

Maximum Sentence: Not less than 180 days in jail or county workhouse and up to 20 years imprisonment, a \$35,000 fine, or both.

Offense Level: Felony

Offense Date (on or about): 04/22/2024

Control #(ICR#): 24000585

Charge Description: On or about April 22, 2024, in the County of Becker and State of Minnesota, Nicole Lynn Mitchell entered a dwelling without the consent of the lawful possessor, and with the intent to commit a crime while in the building, and another person, not an accomplice, was present in the building at the time the act was committed.

STATEMENT OF PROBABLE CAUSE

Complainant is a duly acting and appointed peace officer and as such is familiar with the following facts:

On April 22, 2024, at approximately 4:45 a.m., Detroit Lakes police officers were dispatched to a residence in Detroit Lakes in Becker County on a report that somebody had broken into a residence. The reporting party, a known adult female (hereinafter "Victim"), stated that the suspect ran into the basement. Officer Ethan Wothe arrived on scene at Victim's residence. Once inside, Officer Wothe overheard movement coming from the basement.

Officer Wothe and Officer Sternhagen searched the basement and shortly thereafter located a female dressed in all black clothing and a black hat. The female, later identified as NICOLE LYNN MITCHELL (DOB: 10-10-1974), was ordered to the ground and placed under arrest. While being detained MITCHELL stated to the Victim something to the effect of, "I was just trying to get a couple of my dad's things because you wouldn't talk to me anymore." Officer Sternhagen discovered a flashlight near MITCHELL that had a black sock covering. The flashlight appeared to have been modified so as to control the amount of light emitting from the flashlight.

Officer Wothe searched for MITCHELL's point of entry into the house. He observed a window on the south wall of the basement and a black backpack stuck in a small sliding window. Officers searched the backpack and discovered two laptops, a cell phone, MITCHELL's Minnesota driver's license, MITCHELL's Senate identification, and miscellaneous Tupperware. Officer Wothe later spoke to MITCHELL about the laptops and MITCHELL said they were both hers. MITCHELL stated she had "just gotten into the house" and commented "clearly I'm not good at this."

At his squad, Officer Sternhagen read MITCHELL her *Miranda* warning. After hearing it, MITCHELL stated "I know I did something bad." MITCHELL explained that her father had recently passed away and that Victim (her stepmother) had ceased all contact with her and other family members. MITCHELL stated she wanted various items of her late father's and that Victim refused to give them to her. MITCHELL described these items as pictures, a flannel shirt, ashes, and other items of sentimental value. MITCHELL admitted to driving her vehicle up from the Twin Cities and noted that she left Woodbury around 1:00 a.m. MITCHELL admitted she got into the house through the window where the bag was discovered. At the jail, Officer Sternhagen asked what got MITCHELL "to this stage" and MITCHELL indicated that it was her father's ashes. She stated that she previously got into an argument with Victim and they stopped speaking.

Officer Wothe arrived at the jail and questioned MITCHELL about the laptops. Officer Wothe presented MITCHELL with the first laptop that was dark in color. MITCHELL opened the laptop and pressed a button and Victim's name popped up. The laptop was not password protected. MITCHELL then stated that Victim gave her the laptop "way back when."

Officer Wothe again spoke to Victim, who stated that she did not give a laptop to MITCHELL.

PLEASE TAKE NOTICE: Pursuant to Minn. Stat. 609.49., intentional failure to appear for duly scheduled court appearances may result in additional criminal charges, and in addition to any arrest warrant that may otherwise be issued by the Court.

SIGNATURES AND APPROVALS

Complainant requests that Defendant, subject to bail or conditions of release, be:
(1) arrested or that other lawful steps be taken to obtain Defendant's appearance in court; or
(2) detained, if already in custody, pending further proceedings; and that said Defendant otherwise be dealt with according to law.

Complainant declares under penalty of perjury that everything stated in this document is true and correct. Minn. Stat. § 358.116; Minn. R. Crim. P. 2.01, subds. 1, 2.

Complainant

Steve Todd
Chief
807 Summit Ave
Detroit Lakes, MN 56501
Badge: 6231

Electronically Signed:
04/22/2024 04:45 PM
Becker County, stodd

Being authorized to prosecute the offenses charged, I approve this complaint.

Prosecuting Attorney

Brian McDonald
Becker County Attorney
913 Lake Ave
Detroit Lakes, MN 56501
(218) 847-6590

Electronically Signed:
04/22/2024 04:42 PM

FINDING OF PROBABLE CAUSE

From the above sworn facts, and any supporting affidavits or supplemental sworn testimony, I, the Issuing Officer, have determined that probable cause exists to support, subject to bail or conditions of release where applicable, Defendant's arrest or other lawful steps be taken to obtain Defendant's appearance in court, or Defendant's detention, if already in custody, pending further proceedings. Defendant is therefore charged with the above-stated offense(s).

SUMMONS

THEREFORE YOU, THE DEFENDANT, ARE SUMMONED to appear as directed in the Notice of Hearing before the above-named court to answer this complaint.

IF YOU FAIL TO APPEAR in response to this SUMMONS, a WARRANT FOR YOUR ARREST shall be issued.

WARRANT

To the Sheriff of the above-named county; or other person authorized to execute this warrant: I order, in the name of the State of Minnesota, that the Defendant be apprehended and arrested without delay and brought promptly before the court (if in session), and if not, before a Judge or Judicial Officer of such court without unnecessary delay, and in any event not later than 36 hours after the arrest or as soon as such Judge or Judicial Officer is available to be dealt with according to law.

Execute in MN Only

Execute Nationwide

Execute in Border States

ORDER OF DETENTION

Since the Defendant is already in custody, I order, subject to bail or conditions of release, that the Defendant continue to be detained pending further proceedings.

Bail: \$
Conditions of Release:

This complaint, duly subscribed and sworn to or signed under penalty of perjury, is issued by the undersigned Judicial Officer as of the following date: April 23, 2024.

Judicial Officer

Gretchen D. Thilmony

Electronically Signed: 04/23/2024 08:22 AM

Sworn testimony has been given before the Judicial Officer by the following witnesses:

**COUNTY OF BECKER
STATE OF MINNESOTA**

State of Minnesota

Plaintiff

vs.

Nicole Lynn Mitchell

Defendant

*LAW ENFORCEMENT OFFICER RETURN OF SERVICE
I hereby Certify and Return that I have served a copy of this Order of
Detention upon the Defendant herein named.*

Signature of Authorized Service Agent:

03-CR-24-654
DEFENDANT FACT SHEET

*Filed in District Court
State of Minnesota
4/23/2024*

Name: Nicole Lynn Mitchell
DOB: 10/10/1974
Address: 3033 Leyland Trail
Woodbury, MN 55125

Alias Names/DOB:

SID: MN24EV6734

Height:

Weight: 0lbs.

Eye Color:

Hair Color:

Gender:

Race:

Fingerprints Required per Statute: Yes

Fingerprint match to Criminal History Record: Yes

Driver's License #:

Alcohol Concentration:

STATUTE AND OFFENSE GRID

Cnt Nbr	Statute Type	Offense Date(s)	Statute Nbrs and Descriptions	Offense Level	MOC	GOC	Controlling Agencies	Case Numbers
1	Charge	4/22/2024	609.582.1(a) Burglary-1st Deg-Dwelling-Occupied-Non-Accompl ce Present	Felony	B1266		MN0030100	24000585
	Penalty	4/22/2024	609.582.1a Burglary-1st Deg-Occupied Dwelling-Mandatory Minimum	Felony	B1266		MN0030100	24000585
	Penalty	4/22/2024	609.582.1 Burglary-1st Degree	Felony	B1266		MN0030100	24000585

EXHIBIT B

April 22, 2024
4:45 AM
Case # DLP24000585
File # DLP24000585.wav

911 CALL FROM

1
2
3
4
5
6
7
8 Q. (Dispatcher Joe Robbins) Becker County 911?
9 A. Ah, there's – somebody has broken into my house...
10
11 Q. []
12 A. and they just ran down into my basement.
13
14 Q. What's your address?
15 A. Ah, it's, ah, it's, oh, my God, uhm
16
17 Q. in DL?
18 A. yeah.
19
20 Q. (speaking on the radio) Becker 30 car for active burg,
21 A. []
22
23 Q. (officer on the radio) 37.
24 Q. (speaking on the radio) 37, party states a individual broke into their house and ran
25 down in their basement.
26 A. I don't know if he's breaking out the back window or what.
27
28 Q. Did you get a look at him at all?
29 A. N – No, it was completely dark.
30
31 Q. (officer on radio) 05, Becker.
32 A. I tripped over 'em. Ah, he was on the floor next to my bed. He ran downstairs into
33 my basement.
34
35 Q. (officer on the radio) [] Becker, enroute.
36 Q. Okay. Can you hear him breaking out the window in the basement?
37 A. I'm not hearing anything right now.
38
39 Q. Okay,
40 A. I don't know.
41
42 Q. but did it sound like he was breaking something?
43 A. I don't – I don't know. I, ah, -
44
45 Q. Okay.

- 1 A. I don't – maybe the window is already open down there. There's a basement – a drop
2 window that can crank open. I don't know.
3
- 4 Q. Okay.
5 A. Please, just get here.
6
- 7 Q. All right. I'll stay on – I'll stay on the line with you. Don't worry. I have officers
8 enroute right now. If you hear anything, just let me know what's going on, okay?
9 A. Okay.
10
- 11 Q. Are you armed?
12 A. I have a little steak knife in my hand right now.
13
- 14 Q. Steak knife, okay. All right.
15 A. I don't know where they could have... I don't see any, uhm, uhm, my yard lights
16 haven't come on outside or anything. You know, I've got a motion light in back or
17 anything.
18
- 19 Q. Did you notice any vehicles or anything like that?
20 A. No. No, I haven't.
21
- 22 Q. (speaking on the radio) 30 cars, it sounds like this individual broke in, the RP got up
23 and almost tripped over whoever was lying down inside the house before they ran
24 into the basement.
25 Q. (officer on the radio) 37 copies.
26 Q. Okay, am I speaking with ?
27 A. Yes. I don't know what the hell is going on. My God.
28
- 29 Q. Do you hear anything at all?
30 A. No.
31
- 32 Q. (officer on radio) 05, Becker, is there any exits from the basement?
33 Q. (speaking on the radio) There's a drop window. Uhm, she doesn't know if he got it
34 open yet or not.
35 A. On the back side of the house, yeah, on the –
36
- 37 Q. What's that?
38 A. On like – on the back side of the house, yes.
39
- 40 Q. Okay.
41 A. I just turned a small light on in my backyard and I'm trying to look out over that
42 window and –
43
- 44 Q. Did you hear or see any vehicles drive away?
45 A. No, I haven't. I just heard something in the win – downstairs now.
46

1 Q. Okay. (speaking on the radio) Female believes she –
2 A. []
3
4 Q. (speaking on the radio) 10-4. She believes she just heard something else -
5 A. Cop in front of me.
6
7 Q. (speaking on the radio) ah, in the basement.
8 A. There's – is that police?
9
10 Q. There's a – there's officers that just came outside your residence, yeah. He just came
11 []
12 A. Okay. Hold on one second. (speaking in the background) Sorry, I'm still in jammies
13 here. Uhm, there's a drop window in the back side of the house and I don't know if
14 that's how -
15
16 (multiple officers speaking in the background/unable to understand)
17 A. He ran down there.
18
19 Q. (unidentified officer) Okay. I'll go down there. You stay back here.
20 A. Okay.
21
22 Q. All right, , you can –
23 A. Should I –
24
25 Q. (unidentified officer in the background) Police Department!
26 Q. you can –
27 A. Should I hang up?
28
29 Q. Yep, you can hang up.
30 Q. (unidentified officer in the background) Make yourself known!
31 A. Okay. Thank you.
32
33 Q. Yep, bye.
34
35
36 END OF CALL
37
38 ljl

EXHIBIT C

Filed in District Court

State of Minnesota

Apr 23 2024 11:42 AM

STATE OF MINNESOTA
COUNTY OF BECKER

DISTRICT COURT
SEVENTH DISTRICT

Court File Number: 03-CR-24-654
Case Type: Crim/Traf Mandatory

RELEASE ORDER

State of Minnesota vs Nicole Lynn Mitchell

Parties Present

MCDONALD, BRIAN WARREN
Mitchell, Nicole Lynn
State of Minnesota

Attorney
Defendant
Jurisdiction

Nicole Lynn Mitchell, is being charged with the following:

1. Burglary-1st Deg-Dwelling-Occupied-Non-Accomplice Present
April 22, 2024 (Felony) 609.582.1(a) (6095821a) Detroit Lakes, MN 56501

IT IS ORDERED THE DEFENDANT SHALL BE RELEASED UPON THE FOLLOWING:

Mitchell, Nicole Lynn

April 23, 2024

- Post Bail or Bond with No Conditions, \$40,000.00
- Release with Conditions, \$0.00
- Remain law-abiding
- Keep court/attorney informed of current address
- Make and maintain contact with attorney
- Make all future court appearances
- No contact with victim(s)
- Do not leave Minnesota without written court approval, with the exception for travel for official duties or travel to Cass County, ND;
- No Violations of An Active Civil/Criminal No Contact Order
- No violations of an Order for Protection

IF YOU VIOLATE THIS ORDER:

- You could be arrested;
- Your bond or bail could be forfeited;
- You could be charged with a new crime; and/or
- You could be held in contempt of court.

The terms of this order will remain in effect until another court order changes or vacates this order, until you are found not guilty of the criminal charges in this case, until the criminal charges against you are dismissed, or until the sentencing in this case.

Your Next Court Appearance is scheduled for:
June 10, 2024 3:30 PM Omnibus Hearing
Thilmony, Gretchen
Splonskowski, Jennifer
Courtroom 2A

You may appear in person **OR** remotely, unless otherwise ordered by a judicial officer. You do not need to notify the court how you plan to appear for the hearing.

Appearing In Person

The hearing will be held at the following location:

**Becker County District Court
913 Lake Ave
Detroit Lakes MN 56501-3403
218-846-5040**

OR

Appearing Remotely

The hearing will be held via Zoom and shall be by video.

To join by Zoom:

1. Go to <https://zoomgov.com/join>.
2. Enter the **Meeting ID**: 161 236 7491
3. If asked, enter the **Meeting Passcode**: 223830
4. Update your name by clicking on your profile picture. If you are representing a party, add your role to your name, for example, John Smith, Attorney for Defendant.
5. Click the **Join Audio** icon in the lower left-hand corner of your screen.
6. Click **Start Video**.



To receive an eReminder for future court dates via e-mail or text, visit <http://www.mncourts.gov/Hearing-eReminders.aspx> or scan the QR code to enroll.

Date: April 23, 2024



JUDGE OF DISTRICT COURT

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Nicole Mitchell

6d ·

Regarding the recent news:

Like so many families, mine is dealing with the pain of watching a loved one decline due to Alzheimer's and associated paranoia.

Over the weekend, I learned of medical information which caused me grave concern and prompted me to check on that family member. I entered a home I have come and gone from countless times in the past 20 years, where my son even once had his own room.

Unfortunately, I startled this close relative, exacerbating paranoia, and I was accused of stealing, which I absolutely deny.

Thank you to all my friends (and colleagues of both parties) for the kind words of support and for trusting my character even before I had a chance to respond.

This has been a true tragedy for our family and my hope is it can return to being a private matter.

420

17 shares

Like

Comment



Nicole Mitchell limited who can comment on this post.

Log in or sign up for Facebook to connect with friends, family ...

Log In

or

Create new account

EXHIBIT E

DFL state senator charged with first-degree burglary at stepmother's home

Sen. Nicole Mitchell's arrest could cause political complications for Democrats, who control the Minnesota Senate by a one-seat margin.

By [Ryan Faircloth](#) and [Rochelle Olson](#) Star Tribune April 23, 2024 — 7:34pm

Democratic state Sen. Nicole Mitchell was charged with first-degree burglary on Tuesday after she allegedly broke into her stepmother's house a day earlier to take her late father's belongings.

Mitchell, a first-term senator from Woodbury, was arrested in Detroit Lakes early Monday morning. Officers responded to a burglary call around 4:45 a.m. and arrested the 49-year-old Mitchell at the scene.

Police found Mitchell in the basement of her stepmother's home "dressed in all black clothing and a black hat," according to the charges filed Tuesday. As she was being detained, she told her stepmother "something to the effect of, 'I was just trying to get a couple of my dad's things because you wouldn't talk to me anymore,'" the charges state. Her father died last year.

Officers found a flashlight near Mitchell that had with a black sock covering it. A sliding window in the basement had been opened and had a black backpack stuck in it, according to the charges.

"Officers searched the backpack and discovered two laptops, a cellphone,

Mitchell's Minnesota driver's license, Mitchell's Senate identification, and miscellaneous Tupperware," the charging document states. Mitchell allegedly told an officer that both laptops were hers and that she had "just gotten into the house," and commented, "Clearly, I'm not good at this."

After an officer read Mitchell her Miranda warning, Mitchell stated, "I know I did something bad," the filing states. She told the officer her father recently passed away and her stepmother ceased all contact with the family. Mitchell wanted some of her late father's belongings, such as pictures, a flannel shirt and ashes, and said her stepmother had refused to give them to her.

Her father, Roderick Mitchell, died in March 2023 at age 72. His estate was settled in January. The senator and her stepmother were listed as the only two heirs.

Mitchell's estate valued at \$172,931 was left entirely to Carol Mitchell, according to court documents filed in Becker County. Roderick Mitchell didn't have a will, but the court gave his estate to his surviving spouse.

The senator admitted to police that she left Woodbury around 1 a.m. to get to the house, and that she entered through the window where the backpack was found, the complaint states. An officer asked her what brought her to this point, and she said it was her father's ashes.

One of the items that Mitchell attempted to take was a laptop that appears to belong to her stepmother, according to the charging document: An officer "opened the laptop and pressed a button and Victim's name popped up. The laptop was not password protected. Mitchell then stated that Victim gave her the laptop 'way back when.'" The stepmother told the officer she never gave Mitchell the laptop.

Conflicting accounts

The stepmother spoke to the Associated Press on Tuesday, saying she's afraid of her stepdaughter and that she had previously sent Mitchell a miniature container with some of her husband's ashes. She did not respond to the Star Tribune's requests for comment.

Mitchell shared her own version of events in a Facebook post Tuesday afternoon, suggesting her stepmother has declined "due to Alzheimer's and associated paranoia."

"Over the weekend, I learned of medical information which caused me grave concern and prompted me to check on that family member. I entered a home I have come and gone from countless times in the past 20 years, where my son even once had his own room," Mitchell wrote. "Unfortunately, I startled this close relative, exacerbating paranoia, and I was accused of stealing, which I absolutely deny."

Mitchell is charged with first-degree burglary, a felony that carries a sentence of anywhere from six months in the workhouse to 20 years in prison. As a first-time offender, Mitchell would be unlikely to get the maximum. The charge also carries a fine of up to \$35,000.

The senator appeared remotely in court from the Becker County jail on Tuesday morning. She was seated in a holding room next to her attorney Bruce Ringstrom Sr. Ringstrom spoke as Mitchell sat silently in orange jail attire.

Judge Gretchen Thilmony set bail at \$40,000 without conditions. She allowed Mitchell to leave without posting cash or bond provided she follow conditions, including not leaving the state except for official legislative business or to visit Cass County, N.D., where Ringstrom said she has family.

The judge also said she had signed a restraining order against Mitchell on

behalf of an alleged victim identified in court as C.M. Mitchell's stepmother is Carol Mitchell.

The senator did not enter a plea; her next hearing was set for 3:30 p.m. June 10.

In an interview Tuesday afternoon, Ringstrom said Mitchell was trying to make a welfare check on her stepmother.

"She had information that the alleged victim's cognitive abilities are steadily declining. The family is all aware that the alleged victim here has been demonstrating extraordinary paranoia and blocking people out," Ringstrom said.

He said Mitchell had a key to the house but could not get in to check on her stepmother "as well as try to retrieve the items that are hers." Asked why Mitchell allegedly wore all black and carried a flashlight with a sock over it, Ringstrom said, "I agree that all of those circumstances would suggest that it was her plan to go in and out without disturbing anyone."

"I believe she was trying to protect herself from being noticed. I am not going to deny that," he said. "She wanted to basically make a check and retrieve a couple of items that she felt were being wrongfully withheld from her despite earlier promises."

Political consequences?

Mitchell is a former Twin Cities meteorologist and Air Force veteran. Her arrest could cause political complications for Democrats as they head into the final month of this year's legislative session.

The DFL controls the Minnesota Senate by a one-seat margin and wouldn't

be able to pass bills without bipartisan support if Mitchell isn't there to vote.

Senate Minority Leader Mark Johnson, R-East Grand Forks, called for Mitchell's immediate resignation on Tuesday.

"I understand the difficult situation her family is facing; however, the actions taken by Sen. Mitchell are disturbing. The complaint released by the Becker County Attorney lays out the case of a person who took extensive preparation to burglarize a family member's home," Johnson said. "This behavior is unbecoming of a member of the Legislature."

Senate Majority Leader Erin Murphy, DFL-St. Paul, said in a statement Tuesday that "the allegations against Senator Mitchell are upsetting."

"The behavior alleged is far outside the character she has established in the Senate and in her distinguished career in the military. We believe in due process, and Senator Mitchell has the right to a full defense of her case in court," Murphy said. "In the coming days and weeks, Senator Mitchell must also have serious and difficult conversations with her colleagues, constituents and family."

Ringstrom said he's advised Mitchell not to resign from the Senate and added that he doubts Murphy will ask her to. He said he expects her to return to the State Capitol on Wednesday.

"I've specifically told her ... don't do anything, don't make any changes to your position or your career. Just follow the advice of your Senate leader," Ringstrom said. "No matter what the facts are, she is presumed to be innocent."

Read the complaint:

(Can't see the document? [Click here.](#))

EXHIBIT F

Lawyer for Minnesota lawmaker arrested for Detroit Lakes burglary says client is 'flabbergasted'

The Minnesota Republican Party has called for Nicole Mitchell's immediate resignation.



Senator Nicole Mitchell speaks on the senate floor.

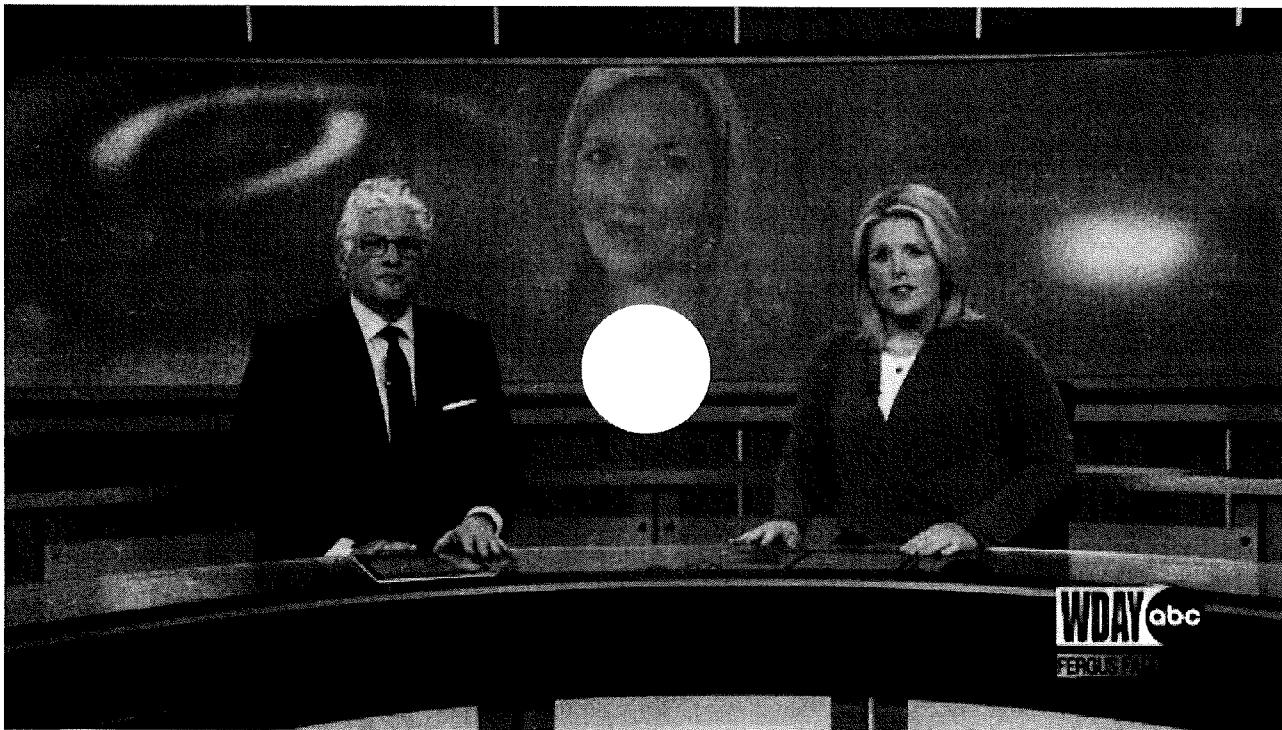
Minnesota Senate TV

DETROIT LAKES — New information Tuesday, April 23, is providing different accounts of what led to the arrest of Minnesota State Sen. Nicole Mitchell, who is accused of breaking into her stepmother's home.

Mitchell was released on her own recognizance after appearing in Becker County court Tuesday.

A criminal complaint says Mitchell's stepmom found Mitchell inside her home around 4:45 Monday morning, dressed all in black.

Mitchell, who is also a Lieutenant Colonel in the U.S. Air Force Reserves and former broadcast meteorologist, told officers her father recently passed away and her stepmother cut off contact with the rest of her family, saying "I know I did a bad thing."



Lawyer for Minnesota senator says she is 'flabbergasted' by burglary case

Tuesday afternoon, Mitchell posted on Facebook about a loved one having Alzheimer's disease, writing, "Over the weekend, I learned of medical information which caused me grave concern and prompted me to check on that family member. I entered a home I have come and gone from countless times in the past 20 years."

"Unfortunately, I startled this close relative and I was accused of stealing, which I absolutely deny."

The Minnesota Republican Party has called for Mitchell's immediate resignation.

Democrats say the allegations are upsetting and far outside of the senator's character, but she deserves her day in court.

"She's pretty flabbergasted by how this all blew up when it was sort of a private family matter," said her lawyer, Bruce Ringstrom Sr.

The lawyer for Mitchell doubled down on the senator's claim that this incident was simply to check on her stepmother and grab a few things.

He revealed the senator has a key to the home.

"If someone is paranoid and they barricade the door and they don't allow visitors so that you can't even check on her welfare, that sort of necessitates an alternative means of entry to check on things and to recover those items that she feels are appropriate, and that were promised, and are hers," he said.

People were seen coming and going from the home Tuesday. Ringstrom said he understands why some may question the 200-mile trip from the Twin Cities area to Detroit Lakes and sneaking in through a window in the middle of the night.

"She (the stepmother) was medicated and would be sleeping soundly and she (Mitchell) could check on her welfare and see how she's doing in the house because she doesn't let anyone visit her or come in," he said.

Ringstrom said the senator had been exploring the legal process of getting

guardianship over her stepmother — claiming she has seen a cognitive decline — but stopped when lawyers advised her she may not have everything a judge would need to grant guardianship.

Ringstrom said he told Mitchell not to resign from the senate.

"Say nothing, do your job, and let us go to work," he said.

Felony first-degree burglary into an occupied dwelling carries a mandatory minimum of 180 days in jail or a county workhouse. The maximum punishment is 20 years in prison.

Mitchell is due back in court in June.

EXHIBIT G

Lawmaker charged with burglary in Detroit Lakes, accused of entering stepmother's home

Paul Jurgens Apr 23, 2024 | 10:46 AM

DETROIT LAKES, Minn. (KFGO) – A state senator from Woodbury, Minnesota has now been charged with burglary for breaking into her stepmother's home in Detroit Lakes.

Nicole Mitchell, 49, told police that she broke into the house to retrieve some of her late father's belongings, including his ashes. Police say Mitchell told responding officers that her stepmother had broken off contact with the family.

Mitchell was dressed all in black and wearing a black hat, the complaint said. The officer said he discovered a flashlight near her that was covered with a black sock, apparently modified to control the amount of light coming from it.

The complaint, filed in Becker County District Court in Detroit Lakes, charges Mitchell with one count of first-degree burglary, a felony.

"I know I did something bad," the complaint quoted Mitchell as saying after she was told of her right to remain silent.

Mitchell's father, Rod Mitchell, died last month, according to an obituary posted by a Detroit Lakes funeral home. He had been married to Mitchell's stepmother for 40 years, it said.

Mitchell told the officer she was after pictures, a flannel shirt, ashes and

other items, but that her stepmother had ceased all contact with her and that they weren't speaking, the complaint said. But it was the ashes that got her "to this stage," it said.

The senator acknowledged that she had entered the house through a basement window that had been propped open with a black backpack, the complaint said. Officers found her Minnesota Senate ID inside it, along with her driver's license, two laptop computers, a cellphone and Tupperware containers, the complaint said. She indicated that she got caught soon after entering.

"Clearly I'm not good at this," it quoted her as saying.

The stepmother said in an interview that she's afraid of her stepdaughter and applied for a restraining order against her. She also said that while most of her husband's ashes were buried, she sent Mitchell a miniature container with some of them.

Mitchell was arrested while the Senate is on its Passover break. Her arrest comes at an awkward time for Senate Democrats, who hold just a one-seat majority with just under four weeks left in the legislative session. Her absence would make it difficult to pass any legislation that lacks bipartisan support.

Mitchell's arrest took Senate leaders by surprise. The Senate Democratic Caucus said in a statement Monday that it's "aware of the situation and has no comment pending further information."

Republican Senate Majority Leader Mark Johnson, of East Grand Forks, said he was shocked but knew very few details.

"The public expects Legislators to meet a high standard of conduct,"

Johnson said in a statement. "As information comes out, we expect the consequences to meet the actions, both in the court of law, and in her role at the legislature."

Mitchell worked as a meteorologist with the U.S. military and for KSTP-TV and Minnesota Public Radio before she was elected to the Senate in 2022 from a suburban St. Paul district. She still serves as lieutenant colonel in the Air National Guard, commanding a weather unit, her official profile says. She worked for The Weather Channel earlier in her career, her profile says.

She got into the home through a basement window. Mitchell said he left her home about 1 a.m. Monday. The break-in was reported at 4:45 a.m.

Mitchell is a Democrat who was elected to the legislature in 2022. She represents Woodbury and Maplewood.

She's a former radio and TV meteorologist and a commander with the Minnesota National Guard.

EXHIBIT H

Watch Now:
Twin Cities Live



Sen. Mitchell's stepmother still fearful after burglary: 'I get goosebumps talking about it'

Tom Hauser KSTP

Updated: May 2, 2024 - 6:59 PM

Published: May 2, 2024 - 6:17 PM

Sen. Mitchell's stepmother still fearful after burglary: 'I get goosebumps talking about it'



The stepmother of DFL state Sen. Nicole Mitchell says she remains fearful more than a week after her stepdaughter's arrest for allegedly burglarizing her home in Detroit Lakes.

"She was dressed like a burglar at the foot of my bed...I get goosebumps just talking about it," 74-year-old Carol Mitchell told 5 EYEWITNESS NEWS in a phone interview this week. Carol was married to Nicole's father until he died in March 2023.

In explaining her actions in a statement posted on Facebook, Nicole wrote, in part, "Like so many families, mine is dealing with the pain of watching a loved one decline due to Alzheimer's and associated paranoia. Over the weekend, I learned of medical information which caused me grave concern and prompted me to check on that family member."

When asked about Nicole's Facebook post, Carol acknowledged that "I was very recently diagnosed with very early stages of Alzheimer's."



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However, she says she hasn't spoken to Nicole about it and that she has not expressed concern.

"You don't make a care call in the middle of the night in a bandit outfit," Carol said regarding Nicole's assertion she was there to check on her.

When Nicole was arrested in Carol's basement by Detroit Lakes Police, a criminal complaint says they "located a female dressed in all black clothing and a black hat. The female, later identified as Nicole Lynn Mitchell, was ordered to the ground and placed under arrest." The complaint also says she was wearing a black hat and had a black sock pulled over a flashlight.

When police later interviewed Nicole and asked her what brought her to this point, she said she was looking for her dad's ashes and other items of sentimental value. However, Carol told 5 EYEWITNESS NEWS she sent Nicole a portion of her dad's ashes in an "urn the shape of a bobber" because her dad was an avid fisherman.

Nicole's attorney couldn't be reached for comment Thursday afternoon, but last week he said the criminal complaint left out "exculpatory" facts that could change the perception of the case, including the fact that he says Nicole has key to Carol's house. Carol told 5 EYEWITNESS NEWS she didn't know Nicole had a key and she never gave her one.

In the criminal complaint, police say after they arrested her, Nicole told them, "Clearly, I'm not good at this" and "I know I did something bad."

Carol declined an on-camera interview, but on the phone told 5 EYEWITNESS NEWS about Nicole, "I think she meant me physical harm. There's no other reason to be on the floor of my room."

In a statement released last week, Nicole said, "I am confident that a much different picture will emerge when all of the facts are known."

She faces a Senate Ethics Subcommittee hearing on Tuesday after **Senate Republicans filed an ethics complaint and have repeatedly asked her to resign.**

Mitchell's next criminal court appearance in Becker County is scheduled for June 10.

PHOTO COURTESY

For Related Stories: [Burglary](#) [Detroit Lakes](#) [Minnesota Senate](#) [Tom Hauser](#) [Woodbury](#)

EXHIBIT I

**STATE OF MINNESOTA
COUNTY OF BECKER**

**IN DISTRICT COURT
SEVENTH JUDICIAL DISTRICT**

State of Minnesota,

Plaintiff,

v.

Nicole Lynn Mitchell,

Defendant.

Court File No. 03-CR-24-654

**MOTION TO CONTINUE
AND FOR OTHER RELIEF**

Nicole Lynn Mitchell, at the insistence of counsel, moves to continue her trial until the first available date after May 19, 2025. The legal authority for this request is Minn. Stat. § 3.16 and caselaw interpreting it.¹ Specifically, *State ex rel. Sviggum v. Hanson*, a 2007 case decided by the Minnesota Court of Appeals, holds:

Section 3.16 does not prohibit legislators from participating in judicial proceedings. *It only authorizes the postponement of a judicial or quasi-judicial proceeding in which a legislator is involved as a party, attorney, or*

¹ Section 3.16 reads in pertinent part:

“No cause or proceeding ... in which a member ... of ... the legislature is a party, attorney, or witness shall be tried or heard during a session of the legislature or while the member ... is attending a meeting of a legislative committee or commission when the legislature is not in session. The matter shall be continued until the legislature or the committee or commission meeting has adjourned.

The member ... may .. waive this privilege. The cause or proceeding ... may then be tried or heard at a time that will not conflict with legislative duties.”

witness while the legislature is in session ... Section 3.16 thus affords legislators [this] privilege, which they are free to exercise or to waive[.]²

Nicole’s continuance request should therefore be granted as matter of settled law.

Next, to provide the Court an opportunity to hear oral argument on the matter, Nicole requests that the motions *in limine* hearing scheduled for January 14, 2024 at 2:00 p.m. in Detroit Lakes, Minnesota be converted to a hearing on this motion. In short, because Nicole’s continuance request is grounded in § 3.16 and caselaw interpreting it, the need for a motions *in limine* hearing is now far less pressing because, if a continuance is granted, a trial would not occur until late-May 2025. Instead, a better use of the January 14th hearing is to discuss this motion.

Finally, Nicole requests permission to appear remotely for the January 14th hearing. The reason for this request is simple: it’s the first day of the 2025 Minnesota state legislative session and her appearance is required by the state constitution.³ To thus avoid a quasi-constitutional crisis and/or prospective separation-of-powers fight between the state’s judicial and legislative branches, the Court should permit Nicole to appear for the hearing remotely from her office at the state capitol. This

² 732 N.W.2d 312, 317–18 (Minn. Ct. App. 2007) (emphasis).

³ See Minn. Const. art. IV, § 16 (“In all elections by the legislature members shall vote *viva voce* and their votes shall be entered in the journal.” And since the election of legislative officers is slated to occur on January 14th, Nicole is required to be present, in-person, at the state capitol that day.) (emphasis).

allows her to fulfill both her duties related to her employment and her duties related to this case. Additionally, given that Becker County is part of the state's remote-hearing pilot program, Nicole's request is not overly burdensome or onerous on the state, the Court, or the Court's staff. Given all this, Nicole requests the Court's permission to appear remotely for the January 14th hearing—whether it be on the motions *in limine*, the motion to continue, or both.

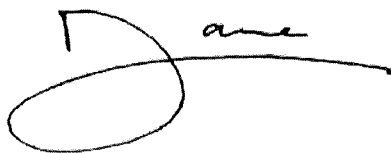
CONCLUSION

For these reasons, Nicole Lynn Mitchell, at the insistence of counsel, respectfully requests that the Court grant her three requests:

- 1) To continue her trial until after May 19, 2025;
- 2) To convert her January 14th motions *in limine* hearing into a hearing on the motion to continue; and
- 3) To permit her to attend the January 14th hearing remotely.

Dated: January 10, 2025

Respectfully submitted,



Dane DeKrey (#0397334)
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dane@ringstromdekrey.com

EXHIBIT J

Filed in District Court

State of Minnesota

01/17/2025

STATE OF MINNESOTA

DISTRICT COURT

COUNTY OF BECKER

SEVENTH JUDICIAL DISTRICT

State of Minnesota,)
Plaintiff,)
)
vs.)
)
Nicole Lynn Mitchell,)
Defendant.)
)

**ORDER
& MEMORANDUM
FILE #: 03-CR-24-654**

The above-entitled matter came on for hearing before the undersigned on January 14, 2025, at the Becker County Courthouse in Detroit Lakes, Minnesota, on the Defendant’s motion to continue the trial in this matter. The State was represented by Becker County Attorney Brian McDonald. The Defendant appeared via Zoom and was represented by attorneys Bruce Ringstrom, Jr., and Dane DeKrey, who appeared in person.

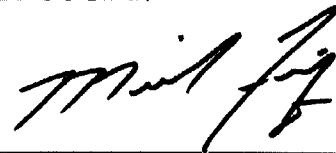
The Court hereby makes the following:

ORDER

1. The Defendant’s motion to continue the jury trial currently scheduled for January 27, 2025, is **GRANTED**. The trial shall be rescheduled within 60 days of May 19, 2025, the end of the legislative session.
2. The attached Memorandum is incorporated herein by reference.

Dated this 17th day of January, 2025.

BY THE COURT:



Michael D. Fritz, District Judge

MEMORANDUM

The Defendant has filed a motion to continue the jury trial currently scheduled to begin on January 27, 2025. The Defendant requests the trial be continued until after May 19, 2025, which will be when this year's legislative session concludes. The motion is made pursuant to Minn. Stat. § 3.16 which states:

3.16 MEMBERS, OFFICERS, AND ATTORNEYS EXCUSED FROM COURT DUTY.

No member or officer of, or attorney employed by, the legislature shall be compelled to attend as a witness in a court of this state during a session of the legislature, or while attending a meeting of a legislative committee or commission when the legislature is not in session unless the court in which the action is pending orders it, upon sufficient showing and with the consent of the presiding officer of the body of which the witness is an employee or the consent of the body of which the witness is a member. No cause or proceeding, civil or criminal, in court or before a commission or an officer or referee of a court or commission or a motion or hearing on the cause or proceeding, in which a member or officer of, or an attorney employed by, the legislature is a party, attorney, or witness shall be tried or heard during a session of the legislature or while the member, officer, or attorney is attending a meeting of a legislative committee or commission when the legislature is not in session. The matter shall be continued until the legislature or the committee or commission meeting has adjourned.

The member, officer, or attorney may, with the consent of the body of the legislature of which the person is a member, officer, or employee, waive this privilege. The cause or proceeding, motion, or hearing may then be tried or heard at a time that will not conflict with legislative duties.

On January 10, 2025, the State filed a demand for a speedy trial pursuant to Rule 11.09 of the Minnesota Rules of Criminal Procedure. Minn. R. Crim. P. 11.09(b) states, in relevant part, "On demand of any party after entry of such plea, the trial must start within 60 days unless the court finds good cause for a later trial date." The State objects to the defense's request for a continuance and argues that its speedy trial demand, pursuant to the rules, directly conflicts with Minn. Stat. § 3.16. The State further cites Minn. Stat. § 480.059 subd. 7, which states:

Subd. 7. Effect upon statutes.

Present statutes relating to the pleadings, practice, procedure, and the forms thereof in criminal actions shall be effective until modified or superseded by court rule. If a rule is promulgated pursuant to this section which is in conflict with a statute, the statute shall thereafter be of no force and effect.

“In matters of procedure rather than substance, the Rules of Criminal Procedure take precedence over statutes to the extent that there is any inconsistency.” *State v. Cermak*, 350 N.W.2d 328, 331 (Minn.1984); *State v. Keith*, 325 N.W.2d 641, 642 (Minn.1982). The legislature, for its part, determines matters of substantive law and has carefully protected that prerogative by providing that the Rules of Criminal Procedure “shall not abridge, enlarge, or modify the substantive rights of any person.” Minn. Stat. § 480.059, subd. 1. The issue here is whether Minn. Stat. § 3.16 is procedural or substantive in nature. The State argues that Minn. Stat. § 3.16 is procedural and therefore Rule 11.09 takes precedence over the statute. The Defense argues the rule and the statute are not in conflict, but if they are the statute is substantive and should take precedence over the rule.

Minn. Stat. § 3.16 and the caselaw interpreting it use mandatory language throughout, as it directs that “[n]o cause or proceeding, civil or *criminal*,” in which a legislator is a party, attorney or witness shall be tried or heard during a session of the legislature. The statute directs that the matter “*shall be continued* until the legislature ... has adjourned.” (emphasis added). The statute provides for no exceptions. The limited caselaw addressing the statute identifies that it authorizes the postponement of a judicial proceeding in which a legislator is involved as a party while the Legislature is in session. The statute creates a privilege for legislators, which they are free to exercise or waive, to continue court proceedings until the legislative session is concluded. *See State ex rel. Sviggum v. Hanson*, 732 N.W.2d 312, 317-18 (Minn. App. 2007); *see also State ex rel. Johnson v. Independent School Dist. No. 810, Wabasha County*, 109

N.W.2d 596 at 602 (Minn. 1961) (Stating it is clear from the provisions of the statute that public policy requires that members of the Legislature, who are also attorneys in private practice, are not called away from their legislative duties during the session of the Legislature.)

The circumstances of this case fall squarely within the purview of Minn. Stat. § 3.16. The Defendant is an elected member of the Minnesota State Senate. She is a party to this action. The trial is scheduled to begin on January 27, 2025, which is during this year’s legislative session. The Defendant has chosen to exercise her privilege in this case and not waive it. The State argues that the Court has complete discretion whether to continue this matter. However, under the plain and unambiguous language of the statute there is no discretion. The Court has no discretion and no ability to abridge or modify the Defendant’s statutory privilege. As the Minnesota Supreme Court said in *State v. Heaney*, 689 N.W.2d 168 (Minn. 2004):

Privileges are not like other rules of evidence and hold a unique place in the law. A question of privilege is an evidentiary question, ...but it has a substantive component. They are created to substantively protect a particular type of relationship deemed valuable to society in general.

Id. at 174.

There is no question here that Minn. Stat. § 3.16 creates a privilege for members of the Legislature. The statute specifically identifies it as such, “[t]he member, officer, or attorney may, with the consent of the body of the legislature of which the person is a member, officer, or employee, waive *this privilege*.” (emphasis added). In this case, the statutory privilege afforded to members of the Legislature is substantive. The privilege ensures that legislators can fulfill their duties to the people of Minnesota and ensures that their constituents are represented during the session. The statute allows legislators to continue not only trials, but *any* type of hearing in a civil or criminal proceeding until the Legislature has adjourned. The

privilege here covers not only members of the Legislature, but officers and attorneys employed by the Legislature as well. Further, the privilege cannot be waived merely by the legislator alone. A valid waiver also requires the consent of the body of the Legislature of which the person is a member. The statute also covers officers and certain employees of the Legislature. The breadth of the statute identifies that the Legislature was deeply concerned with making sure court proceedings would not threaten the functions of the legislative branch while in session. Because the statute is substantive, it takes precedence over Minn. R. Crim. P. 11.09, and the Defendant's request for a continuance, therefore, requires priority over the State's demand for a speedy trial.

The State requests this Court to deny a continuance based on the level of the offense alleged. However, the statute does not differentiate between types of offenses. By its plain language the statute applies to any criminal charge. The State calls into question the wisdom of this law and made policy arguments against the statute. This Court must follow the law as it is written. Minn. Stat. § 3.16 clearly identifies that legislators have a privilege which allows them to continue a court proceeding, trial included, until after the legislative session if they wish.

The Defendant is also entitled to a continuance based upon the good cause exception to the speedy trial demand. A Rule 11.09 speedy trial demand requires that the trial start within 60 days "unless the court finds good cause for a later trial date." There are four factors courts are to consider when determining whether good cause exists to go beyond a speedy trial deadline: the length of delay, the reason for the delay, whether the defendant asserted his or her right to a speedy trial, and any prejudice to a defendant. *Barker v. Wingo*, 407 U.S. 514, 530, 92 S.Ct. 2182, 2192, 33 L. Ed. 2d 101 (1972). While these factors were created in the specific context of protecting a *defendant's* right to a speedy trial, and do not specifically address a demand by the State for a speedy trial, they are nevertheless useful in analyzing whether good cause exists to

continue the trial here.

First, the proposed length of delay is not unreasonable. The Defendant requests to try this case after the legislative session concludes in May 2025. That is not an excessively long delay for a felony case which is less than a year old. This is also the first request for a continuance in this matter. This case has not been unduly delayed or prolonged.

Second, the reason for the delay is that the Defendant wants to be able to represent her constituents during the legislative session. This is not an illegitimate reason to request a continuance, as it is specifically permitted by Minn. Stat. § 3.16.

The third and fourth factors are not applicable to this case. The Defendant has not asserted her right to a speedy trial, and there is no prejudice to the Defendant because she is the party who has requested the continuance. Regarding any possible prejudice to the State, Mr. McDonald indicated that their disclosures contain several statements made by the Defendant that the alleged victim has Alzheimer's. However the State did not argue that the strength of their case would be prejudiced in any way by a delay. Based on an analysis of the *Barker* factors, the Court finds good cause exists to continue the trial beyond the 60 days from the State's speedy demand.

Caselaw provides other measured examples of good cause to go beyond the 60-day trial deadline. Courts have found good cause can exist when a key witness is unavailable. *State v. Mikell*, 960 N.W.2d 230 (Minn. 2021). Additionally, delays due to changes in counsel, administrative delays, and scheduling issues involving counsel can also constitute good cause, provided the delay is minimal and necessary under the circumstances. *State v. Letourneau*, 6 N.W.3d 73 (Minn. 2024). The circumstances here present a compelling case to find good cause. If a legislator is forced to stand trial during the legislative session, their constituents would be

without a voice during that session. It is apparent that Minn. Stat. § 3.16 was enacted to avoid this very situation.

Finally, interests of comity between the branches of government also dictate that the Court apply Minn. Stat. § 3.16 and grant the continuance request here. *See State v. Johnson*, 514 N.W.2d 551, 554 (Minn. 1994) (“[D]ue respect for coequal branches of government requires this court to exercise great restraint ... particularly when the consideration involves what is a legislative function and what is a judicial function,” and “of course, if the Legislature passes a statute in an area not already governed by a rule, the court, as a matter of comity, may let it stand.”); *State v. Lemmer*, 736 N.W.2d 650, 663 (Minn. 2007) (“When a statute encroaches upon a judicial function, this court may permit the statute to stand as a matter of comity so long as the statute does not conflict with the court’s inherent authority to make the final decision.”); *State v. Chauvin*, 723 N.W.2d 20, 24 (Minn. 2006) (“[A] court has inherent judicial authority to engage in activities that are (1) necessary (2) to achieve a unique judicial function (3) without infringing on equally important legislative or executive functions.”); *State v. Breaux*, 620 N.W.2d 326, 332 (Minn. Ct. App. 2001) (refusing to invalidate legislative enactment of rule that encroached upon rule of criminal procedure, “not as any acknowledgment of legislative authority but strictly as a matter of comity.”). This case presents precisely the type of situation that triggers comity-based concerns. Granting a continuance does not infringe upon this Court’s inherent judicial authority.

M.D.F.

EXHIBIT K

STATE OF MINNESOTA

IN DISTRICT COURT

COUNTY OF BECKER

SEVENTH JUDICIAL DISTRICT

State of Minnesota,

Court File No. 03-CR-24-654

Plaintiff,

v.

MOTION FOR CONTINUANCE

Nicole Lynn Mitchell,

Defendant.

PLEASE TAKE NOTICE that the defendant, by and through her attorney, Bruce N. Ringstrom Jr., moves the Court for a continuance of her Omnibus hearing currently scheduled for June 10, 2024. Counsel for the defense will be in a jury trial in another county during the currently scheduled omnibus hearing, and needs more time to review discovery. Brian McDonald, attorney for the state, has no objection to this motion and both parties request July 1, 2024 for the new hearing date.

Dated May 29, 2024



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State of Minnesota
County of Becker

District Court
7th Judicial District

Prosecutor File No. 0030030383
Court File No. 03-CR-24-654

State of Minnesota,
Plaintiff,
vs.

COMPLAINT
Summons
 Amended

NICOLE LYNN MITCHELL DOB: 10/10/1974

3033 Leyland Trail
Woodbury, MN 55125

Defendant.

The Complainant submits this complaint to the Court and states that there is probable cause to believe Defendant committed the following offense(s):

COUNT I

Charge: Burglary-1st Deg-Dwelling-Occupied-Non-Accomplice Present

Minnesota Statute: 609.582.1(a), with reference to: 609.582.1, 609.582.1a

Maximum Sentence: Not less than 180 days in jail and up to 20 years imprisonment, a \$35,000 fine, or both.

Offense Level: Felony

Offense Date (on or about): 04/22/2024

Control #(ICR#): 24000585

Charge Description: On or about April 22, 2024, in the County of Becker and State of Minnesota, Nicole Lynn Mitchell did enter a dwelling without the consent of the lawful possessor, and with the intent to commit a crime while in the building, and another person, not an accomplice, was present in the building at the time the act was committed. To wit: Nicole Mitchell entered her stepmother's residence without consent, and with the intent to commit the crime of theft, and her stepmother, C.M., was present at the time the act was committed.

COUNT II

Charge: Possession of Burglary or Theft Tools

Minnesota Statute: 609.59, with reference to: 609.59

Maximum Sentence: Up to 3 years imprisonment, a \$5,000 fine, or both.

Offense Level: Felony

Offense Date (on or about): 04/22/2024

Control #(ICR#): 24000585

Charge Description: On or about April 22, 2024, in the County of Becker and State of Minnesota, Nicole Lynn Mitchell possessed a device or other instrumentality with the intent to use the same to commit a burglary or theft.

STATEMENT OF PROBABLE CAUSE

Complainant is a duly acting and appointed peace officer and as such is familiar with the following facts:

Roderick "Rod" Mitchell died without a will on March 19, 2023. On January 18, 2024, in a probate court proceeding (Court File No. 03-PR-23-823) Mr. Mitchell's surviving spouse C.M. (hereinafter "Victim") was awarded 100% of Rod Mitchell's estate. In probate court documents, the estate consisted of personal property valued at \$172,931.06.

On April 22, 2024, at approximately 4:45 a.m., Detroit Lakes police officers were dispatched to 709 Granger Road in Detroit Lakes, Becker County on the report of a home break-in. Victim, the reporting party, stated that there was an individual on the floor next to her bed and that the individual ran into the basement. Victim would later add that she had stepped on this individual briefly before they got up and fled the room. Officer Ethan Wothe arrived at Victim's residence. Officer Wothe heard movement coming from beneath the stairs. Officer Wothe and Officer Sternhagen descended the stairs into the basement. A short time later, Officer Sternhagen located a female in a basement bathroom who was dressed in all black clothing and a black hat. The female, identified as NICOLE LYNN MITCHELL (DOB: 10-10-1974), was ordered to the ground and placed under arrest. While being detained MITCHELL said "Carol, it's Nicole. I was just trying to get a couple of my dad's things because you wouldn't talk to me anymore."

Officer Sternhagen discovered a flashlight on MITCHELL's person that had a black sock covering the light. The flashlight was modified with the sock so as to control the amount of light it emitted. Officers also noted that MITCHELL had removed her shoes prior to being caught and placed them near or under a couch. MITCHELL spontaneously stated "I have never done anything like this. You are going to find out I am a military commander for God's sake." MITCHELL then reiterated "there were just a couple things of my dad's I wanted to come get."

As MITCHELL was being walked out of the residence she stated "well obviously I'm not good at this." Officer Sternhagen read MITCHELL her *Miranda* warning at his squad car. After hearing her rights, MITCHELL first said "I'm just hoping, um, this mistake won't completely fuck up my life." MITCHELL added "I know I did something bad." MITCHELL admitted she got into the house through a basement window. MITCHELL explained that her father had recently passed away and that Victim, (her stepmother) had ceased contact with her. MITCHELL noted she wanted a couple of her dad's mementos. MITCHELL gave examples of these items as pictures and one of her father's flannel shirts. MITCHELL added that a situation regarding her father's ashes is what got her to this "stage". MITCHELL acknowledged parking her vehicle on a side street. MITCHELL admitted she had not spoken to Victim for at least a month. Officer Sternhagen informed MITCHELL she was being placed under arrest. MITCHELL sat silent for a moment, became emotional, and stated "My God my military retirement. Shoot."

Officer Wothe searched for MITCHELL's point of entry into the house. He observed a small sliding window on the south wall of the basement and noted black backpack shoved into it. Officers searched the backpack and discovered two laptops, a cell phone, MITCHELL's Minnesota driver's license, MITCHELL's Minnesota Senate identification, and miscellaneous Tupperware containers. Officer Wothe briefly spoke to MITCHELL in the back of the squad. MITCHELL stated that she had "literally just gotten into the house", that she "hadn't had time to do anything", and again commented, "clearly I'm not good at this." MITCHELL was then transported to the Becker County Jail.

At the Jail, MITCHELL admitted to Officer Sternhagen that she drove her vehicle up from Woodbury that morning and that she left around 1:00 a.m. Officer Sternhagen asked what got MITCHELL to this point and MITCHELL confirmed that it was the situation surrounding her dad's ashes. MITCHELL added that there