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District Judge - Dept. 2
Twenty-First Judicial District
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FILED
DEBBIE HARMON, CLERK

JUN 23 2011


DEPUTY

MONTANA TWENTY-FIRST JUDICIAL DISTRICT COURT, RAVALLI COUNTY

<p>MICHAEL E. SPREADBURY, Plaintiff, vs. KENNETH S. BELL and CITY OF HAMILTON, Defendants.</p>	<p>Cause No. DV 2010-639/48 Department No. 2 OPINION AND ORDER</p>
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Before the Court is *Plaintiff's Leave [to] File Information* (Doc. # 44) filed May 9, 2011.

Plaintiff Michael E. Spreadbury ("Spreadbury") is representing himself. Defendants Kenneth S. Bell ("Bell") and City of Hamilton (the "City") (collectively, "Defendants") are represented by William L. Crowley ("Attorney Crowley") and Natasha Prinzing Jones ("Attorney Jones") of Boone Karlberg P.C. Defendants filed a response brief to Plaintiff's motion on May 16, 2011. The time for filing a reply brief under Montana Uniform District Court Rule 2 has now passed. Accordingly, this motion is now ripe for decision.

Plaintiff has moved for leave to file a criminal information for Criminal Contempt under § 45-7-309(1)(a) against Attorney Crowley and Attorney Jones. The motion was not supported by an affidavit, case law, or any Montana statute.

At one time in Montana, district courts were empowered to order the county attorney to file a criminal information "upon affidavits filed by any person." Sec. 1384, Pen. C. 1895, *re-en.* Sec. 8929,

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Rev. C. 1907; *re-en.* Sec. 11625, R. C. M. 1921, *re-en.* Sec. 94-4911, R.C.M. 1947, *repealed by* Sec. 2, Ch. 196 L. 1967 (effective January 1, 1968). Currently, only a prosecutor may apply to the district court for permission to file a criminal information. § 46-11-201, MCA. "Prosecutor" is defined in §46-1-202(22), MCA as:

an elected or appointed attorney who is vested by law with the power to initiate and carry out criminal proceedings on behalf of the state or a political subdivision.

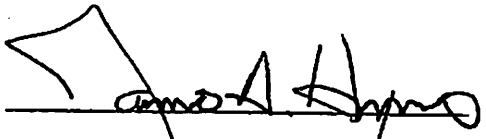
Plaintiff Spreadbury is not a prosecutor. Accordingly, *Plaintiff's Leave [to] File Information* (Doc. # 44) should be denied.

ORDER

It is hereby ORDERED that:

Plaintiff's *Plaintiff's Leave [to] File Information* (Doc. # 44) is **DENIED**.

DATED this 22nd day of June 2011.


HON. JAMES A. HAYNES, District Judge

AR 6-23-11
cc: counsel of record
Michael E. Spreadbury, *pro se*

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