

Davison County felony court cases for Sept. 26

Among the cases heard Tuesday was a Huron man who pleaded guilty to discharge of a firearm from a moving vehicle that stemmed from him shooting several rounds from his AK-47 in the air while driving.



The Davison County Public Safety Center. Mitchell Republic file photo



By **Sam Fosness**

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MITCHELL — The following cases were among those heard Tuesday, Sept. 26, during a circuit court session at the Davison County Public Safety Center, with Judge Chris Giles presiding:

- Kevin Mathews, 33, of Mitchell, pleaded not guilty to aggravated assault with a deadly weapon, a Class 3 felony that carries a maximum sentence of 15 years in prison and a \$30,000 fine; possession of a controlled substance (meth), a Class 5 felony that carries a maximum sentence of five years in prison and a \$10,000 fine; and use or possession of drug paraphernalia, a misdemeanor. According to an arrest affidavit, officers responded to a report of shots being fired at a victim, who was Mathews' neighbor. Officers were informed the victim and Mathews had allegedly been drinking at a nearby residence when a verbal altercation broke out between the two, the affidavit says. Mathews left the residence and later returned with his wife, who he began arguing with, according to court documents. The victim attempted to stop Mathews and his wife from arguing, which prompted Mathews to allegedly pull a gun and shoot a round at the victim. Police reports indicate the victim was not struck by

any bullets. During questioning, Mathews allegedly told authorities he threw a “M-80 firecracker” at the victim and denied shooting a firearm. Officers searched Mathews’ residence and uncovered a box of ammunition and a bag of meth.

- James Byler, 37, of Adrian, Minnesota, pleaded guilty to misappropriation of funds, a Class 5 felony that carries a maximum sentence of five years in prison and a \$10,000 fine. According to an affidavit, Byler was hired as a contractor to perform work on a Mitchell resident’s home. He was provided \$4,000 from the homeowner for construction materials, but Byler allegedly deposited the money without performing any work, the affidavit explains. Byler’s sentencing hearing was delayed to Dec. 5. Judge Giles ordered a pre-sentence investigation report to be conducted on Byler.
- Shawn Stemper, 40, of Mitchell, pleaded not guilty to possession of a controlled substance (meth), a Class 5 felony; and use or possession of drug paraphernalia, a misdemeanor. According to an arrest affidavit, authorities located a glass pipe, torch and small baggies containing meth while investigating a storage unit fire that recently occurred on West Birch Avenue. The detectives on scene allegedly could see the drug items in plain view sitting in a vehicle parked inside a storage unit crews had to access for the fire, according to court documents. Authorities learned the storage unit was being rented by Stemper, who told officers that he found the items when he began renting the storage unit and didn't know how to dispose of them, court documents say. Stemper was later drug tested, which allegedly revealed amphetamines were in his system, according to the affidavit.
- James Heginger, 24, of Mason City, Iowa, admitted to violating probation. Heginger is serving probation for fourth-degree rape, a Class 3 felony that carries a maximum sentence of 15 years in prison and a \$30,000 fine; and possession, manufacturing or distribution of child pornography, a Class 4 felony that carries a maximum sentence of 10 years in prison and a \$20,000 fine. Heginger is facing up to 25 years in prison if convicted of the violation.

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Davison County State’s Attorney Jim Miskimins urged against a bond reduction, citing concerns of DeLancey being a “flight risk” and the potential of “vigilantes” seeking retaliation.

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(<https://www.mitchellrepublic.com/news/local/bond-reduced-to-100k-for-mount-vernon-man-charged-with-murdering-3-year-old>)

- Francisco Pabon Gonzalez, 34, of Mitchell, pleaded guilty to discharge of a firearm from a moving vehicle, a Class 6 felony that carries a maximum sentence of two years in prison and a \$4,000 fine. According to an arrest affidavit, Gonzalez fired three shots in the air with his AK-47 rifle from his truck during the late evening hours near a business district in Mitchell. Officers found shell casings near the area that matched Gonzalez's AK-47 firearm, the affidavit says. Prosecuting attorney O'Keefe said Gonzalez did not aim his gun toward anyone or any structures. O'Keefe did not recommend prison time, citing Gonzalez's clean criminal record. He was granted a suspended imposition. Gonzalez was sentenced to serve two years of probation and five days in jail.
- Antoine Cournoyer, 24, of Mitchell, was appointed an attorney to represent him for an alleged probation violation. Cournoyer was serving probation for third-degree burglary, a Class 5 felony. He's currently incarcerated and under the supervision of the Department of Corrections.
- Nicholas Tischler, 35, of Mitchell, had a status hearing scheduled for Oct. 10. Tischler is facing possession of a controlled substance (meth), a Class 5 felony; use or possession of drug paraphernalia and open alcoholic container in a vehicle, which are both misdemeanor offenses.
- Kip Gearey, 40, of Tea, South Dakota, had a jury trial date scheduled for early December in connection to two counts of first-degree rape, each Class C felonies that carry a maximum sentence of up to life in prison and a \$50,000 fine; two counts of sexual contact with a child under the age of 16; each Class 3 felonies that carry a maximum sentence of up to 15 years in prison and a \$30,000 fine. He's also charged with one count of abuse of or cruelty to a minor, a Class 4 felony that carries a maximum sentence of 10 years in prison. Gearey has pleaded not guilty to all of the charges. The indictment alleges Gearey committed first-degree rape between Jan. 1, 2012, and Jan. 27, 2015. The victim who was allegedly raped and abused by Gearey was between the ages of 6 and 9 years old at the time of the alleged incidents, according to the indictment.
- Kayla Charging Hawk, 38, of Mitchell, pleaded not guilty to possession of a controlled substance (meth), a Class 5 felony that carries a maximum sentence of five years in prison and a \$10,000 fine; and use or possession of drug paraphernalia. A bench warrant was issued for her arrest.
- Ervin St. Claire, 48, of Mitchell, pleaded not guilty to possession of a controlled substance (meth), a Class 5 felony that carries a maximum sentence of five years in prison and a \$10,000 fine; distribution and possession with intent to distribute marijuana in the amount between 1 ounce and a 1/2 pound, a Class 5 felony; and use or possession of drug paraphernalia, a misdemeanor. He's scheduled to face a jury trial in December unless he changes his plea prior to the trial date.
- Jasmine Medicine Elk, 22, of Mitchell, admitted to violating probation. Medicine Elk was sentenced to two years in prison for the violation. She was serving probation for aggravated entry into a motor vehicle. She received credit for serving 154 days in

jail. Davison County Deputy State's Attorney Robert O'Keefe said Medicine Elk's violation stemmed from smoking marijuana while on probation.

- Hector Cano Monjaraz, 38, of Mitchell, failed to appear in court Tuesday for a third-offense Driving Under the Influence (DUI) charge, a Class 6 felony that carries a maximum sentence of two years in prison and a \$4,000 fine. According to his attorney, Cano Monjaraz was recently deported to another country. Despite being deported, a bench warrant was issued for his arrest.
- Kordarall West, 36, of Denver, Colorado, had a jury trial moved to December in connection to possession of a controlled substance (cocaine), a Class 5 felony; possession of marijuana in the amount of 2 ounces or less, a misdemeanor; and use or possession of drug paraphernalia, a misdemeanor offense. According to an arrest affidavit, West was pulled over while traveling along Interstate 90 for allegedly going 81 mph in an 80 mph speed zone. A vehicle search uncovered cocaine and a package of cannabis, the affidavit alleges.
- Kyla Jarabek, 35, of Mitchell, pleaded not guilty to possession of a controlled substance (meth), a Class 5 felony; simple assault (domestic abuse), a misdemeanor offense; and use or possession of drug paraphernalia, a misdemeanor. According to an arrest affidavit, officers entered Jarabek's apartment after witnesses reported allegedly hearing "screaming and arguing" coming from her apartment. Upon officers entering Jarabek's apartment, they located Jarabek and uncovered items containing methamphetamine and drug paraphernalia.
- Jacob Fischer, 31, of Tripp, pleaded guilty to a second-offense DUI, a misdemeanor. He was sentenced to serve 90 days in jail with 75 days suspended. He received credit for serving one day in jail. Fischer's license was revoked for one year.
- Angely Caballero Santiago, 27, of Huron, pleaded not guilty to two counts of possession of a controlled substance (xanax) and (oxycodone), each Class 5 felonies; and possession of marijuana in the amount of 2 ounces or less, a misdemeanor.
- Lindsey Hatwan, 43, of Mitchell, had a jury trial scheduled for early December in connection to possession of a controlled substance (meth), a Class 5 felony; and use or possession of drug paraphernalia, a misdemeanor.
- Bryon Fischer, 49, of Mitchell, had a status hearing scheduled for Nov. 21. Fischer is facing felony charges in two separate cases. In one case, he's facing first-degree burglary, a Class 2 felony that carries a maximum sentence of 25 years in prison and a \$30,000 fine. According to an affidavit, Fischer allegedly broke into an apartment while the owner was away and was found sleeping on the couch when authorities entered. In a separate case, Fischer is facing the following charges: grand theft in the amount between \$2,500 and \$5,000, a Class 5 felony that carries a maximum sentence of five years in prison and a \$10,000 fine, aggravated assault with intent to cause bodily injury, a Class 3 felony that carries a maximum sentence of 15 years in prison and a \$30,000 fine, aggravated eluding, a Class 6 felony, unauthorized ingestion of a controlled substance,

reckless driving and failure to make a proper stop, each misdemeanor offenses. An arrest affidavit alleges Fischer led officers on a vehicle pursuit on March 5. During the pursuit that stretched from high-traffic Mitchell roads to Highway 38 on the east side of Mitchell, Fischer allegedly attempted to strike a Highway Patrol trooper's vehicle, which caused the trooper to swerve toward a nearby ditch, the affidavit says. The pursuit came to an end when Fischer's truck began experiencing mechanical problems along Highway 25.

- James Keer, 48, of Mitchell, had a status hearing scheduled for Nov. 21 in connection to manufacturing, distributing and possession of a controlled substance, a Class 4 felony; and a drug free zone violation, a Class 4 felony.
- Yetvat West, 38, of Denver, Colorado, had a status hearing scheduled for Nov. 21 in connection to possession of a controlled substance (cocaine), a Class 5 felony; speeding on other roadways and use or possession of drug paraphernalia, each misdemeanor offenses.
- Autumn Neiman, 26, pleaded not guilty to second-degree escape by a prisoner, a Class 5 felony. She was denied her request for a bond modification during Tuesday's hearing. Neiman has additional charges pending.
- Cameron Johnson, 29, of Mitchell, had a jury trial scheduled for early December in connection to two counts of possession, manufacturing and distributing child pornography, each Class 4 felonies that carries a maximum sentence of 10 years in prison and a \$20,000 fine apiece. According to an arrest affidavit, Johnson became the subject of investigation through a cyber tip. Police reports allege Johnson sent a nude image to a cyber tipster of what appeared to be a 4 or 5-year-old victim. Authorities tracked the account that allegedly sent the child pornography images online, which traced to Johnson's IP address and a mobile device, according to an arrest affidavit. The phone number and email address associated with the account that sent the nude image of a child also traced back to Johnson's email and mobile phone.
- John Fredericks, 52, of Mitchell, pleaded guilty to possession of a controlled substance (meth), a Class 5 felony. In addition, he admitted to violating probation. He is scheduled to be sentenced on Oct. 10.
- James Waldon, 34, of Mitchell, admitted to violating probation. He was serving probation for possession of a controlled substance. Waldon was sentenced to five years in prison with five years suspended. He was also ordered to remain serving two years of probation.
- Carlos Negron Davila, 43, of Mitchell, pleaded guilty to possession of a controlled substance (methamphetamine), a Class 5 felony. He is scheduled to appear in court Oct. 10.
- Everado Herrera Torres, 51, of Mitchell, failed to appear in court Tuesday in connection to an aggravated assault (domestic abuse) with a deadly weapon charge, a Class 3 felony; and interference with emergency communications, a misdemeanor. According to an affidavit, Herrera Torres allegedly attempted to stab a victim he was in a relationship with. The victim attempted to call 9-1-1

through a laptop, but Herrera Torres allegedly broke the laptop in the process, an affidavit alleges. The victim told authorities her scream for help was heard by neighbors who reported the domestic incident to law enforcement, which resulted in Herrera Torres allowing the victim to leave the residence, court documents say.

- David Richey, 53, of Mitchell, had a status hearing scheduled for Nov. 21 in connection to possession of a controlled substance (meth), a Class 5 felony; and use or possession of drug paraphernalia, a misdemeanor.
- Thomas Barber, 61, of Mitchell, pleaded guilty to a third-offense DUI, a Class 6 felony. He was sentenced to two years in prison with two years suspended. His driving privileges were revoked for one year.
- Lady Shimaray Hooks, 29, of Mitchell, pleaded guilty to simple assault (domestic abuse), a misdemeanor offense.
- Karla Bridger, 58, of Mitchell, admitted to violating probation. She was serving probation for a third-offense DUI, a Class 6 felony. Bridger was sentenced to two years in prison with two years suspended. In addition, Bridger was ordered to serve two years of probation. She received credit for serving 61 days in jail.
- Theodore Moran, 50, of Mitchell, had a December jury trial scheduled for possession of a controlled substance (meth), a Class 5 felony; keeping a place for use or sale of a controlled substance, a Class 5 felony; and use or possession of drug paraphernalia, a misdemeanor. According to an arrest affidavit, Moran told authorities that people were “frequenting” his house to “try and bring meth because of the previous owner.” However, police reports say Moran tested positive for meth, MDMA and THC after officers searched his residence and found meth items.
- Bradley Townsend, 37, of Mitchell, pleaded not guilty to three counts of failure to register information as a sex offender, each Class 6 felonies.
- Kelsey Kerns, 35, of Mitchell, had her next hearing scheduled for Oct. 10 in connection to possession of a controlled substance, a Class 5 felony; and use or possession of drug paraphernalia, a misdemeanor.
- Tricia Gauker, 51, of Yankton, failed to appear in court Tuesday in connection to an alleged probation violation.
- Timothy Funk, 60, of Mitchell, pleaded guilty to possession of a controlled substance (meth), a Class 5 felony. In addition, he admitted to violating probation. Judge Giles revoked Funk’s suspended imposition, resulting in a felony charge being on his criminal record. He was serving probation for possession of meth. For the probation violation and drug possession charges, combined, Funk was sentenced to 10 years in prison with 10 years suspended. Giles warned Funk that another violation would result in a prison sentence.
- Jewel Old Lodge, 31, of Winner, pleaded guilty to possession of a controlled substance (meth), a Class 5 felony. She was sentenced to five years in prison with five years suspended. Old Lodge was also ordered to serve two years of probation.



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Sam Fosness joined the Mitchell Republic in May 2018. He was raised in Mitchell, S.D., and graduated from Mitchell High School. He continued his education at the University of South Dakota in Vermillion, where he graduated in 2020 with a bachelor's degree in journalism and a minor in English. During his time in college, Fosness worked as a news and sports reporter for The Volante newspaper.