
STATE OF WISCONSIN,

Plaintiff,

AMENDED CRIMINAL COMPLAINT

vs.

BRIAN T FLATOFF, D.O.B. 12/26/1969,

Case No. 15CF589

Defendant.

CRIMINAL CHARGE

Count 1: SECOND DEGREE RECKLESSLY ENDANGERING SAFETY

The above-named defendant on or about Saturday, December 05, 2015, in the City of Neenah, Winnebago County, Wisconsin, did recklessly endanger the safety of E.M.L.-K., contrary to sec. 941.30(2), 939.50(3)(g) Wis. Stats., a Class G Felony, and **upon conviction may be fined not more than Twenty Five Thousand Dollars (\$25,000), or imprisoned not more than ten (10) years, or both.**

Count 2: POSSESSION OF A FIREARM BY A FELON

The above-named defendant on or about Saturday, December 05, 2015, in the City of Neenah, Winnebago County, Wisconsin, did possess a firearm, having been convicted of a felony in this state, contrary to sec. 941.29(1m)(a), 939.50(3)(g) Wis. Stats., a Class G Felony, and **upon conviction may be fined not more than Twenty Five Thousand Dollars (\$25,000), or imprisoned not more than ten (10) years, or both.**

Count 3: POSSESSION OF A FIREARM BY A FELON

The above-named defendant on or about Saturday, December 05, 2015, in the City of Neenah, Winnebago County, Wisconsin, did possess a firearm, having been convicted of a felony in this state, contrary to sec. 941.29(1m)(a), 939.50(3)(g) Wis. Stats., a Class G Felony, and **upon conviction may be fined not more than Twenty Five Thousand Dollars (\$25,000), or imprisoned not more than ten (10) years, or both.**

Count 4: ATTEMPT FIRST DEGREE INTENTIONAL HOMICIDE

The above-named defendant on or about Saturday, December 05, 2015, in the City of Neenah, Winnebago County, Wisconsin, attempted to cause the death of CRAIG HOFFER, with intent to kill that person, contrary to sec. 940.01(1)(a), 939.50(3)(a), 939.32 Wis. Stats., a Class B Felony, and **upon conviction may be sentenced to a term of imprisonment not to exceed sixty (60) years.**

Count 5: ATTEMPT FIRST DEGREE INTENTIONAL HOMICIDE

The above-named defendant on or about Saturday, December 05, 2015, in the City of Neenah, Winnebago County, Wisconsin, attempted to cause the death of JONATHAN KUFFEL, with intent to kill that person, contrary to sec. 940.01(1)(a), 939.50(3)(a), 939.32 Wis. Stats., a Class

12/15/2015

B Felony, and **upon conviction may be sentenced to a term of imprisonment not to exceed sixty (60) years.**

Count 6: CONSPIRACY TO COMMIT FIRST DEGREE INTENTIONAL HOMICIDE

The above-named defendant on or about Saturday, December 05, 2015, in the City of Neenah, Winnebago County, Wisconsin, conspired to cause the death of VANCE R. DALTON, with intent to kill that person, contrary to sec. 940.01(1)(a), 939.50(3)(a), 939.31 Wis. Stats., a Class B Felony, and **upon conviction may be sentenced to a term of imprisonment not to exceed sixty (60) years.**

Count 7: TAKING HOSTAGES - RELEASE WITHOUT BODILY HARM

The above-named defendant on or about Saturday, December 05, 2015, in the City of Neenah, Winnebago County, Wisconsin, by force or threat of imminent force, did seize, confine or restrain RYAN W. MODERSON, without that person's consent, with intent to use the victim as a hostage in order to influence a person to perform some action, and released the victim without bodily harm before being arrested, contrary to sec. 940.305(2), 939.50(3)(c) Wis. Stats., a Class C Felony, and **upon conviction may be fined not more than One Hundred Thousand Dollars (\$100,000), or imprisoned not more than forty (40) years, or both.**

Count 8: FALSE IMPRISONMENT

The above-named defendant on or about Saturday, December 05, 2015, in the City of Neenah, Winnebago County, Wisconsin, did intentionally confine or restrain MICHAEL L. PETERSEN, without that person's consent, and with the knowledge that he had no lawful authority to do so, contrary to sec. 940.30, 939.50(3)(h) Wis. Stats., a Class H Felony, and **upon conviction may be fined not more than Ten Thousand Dollars (\$10,000), or imprisoned not more than six (6) years, or both.**

Count 9: FELONY MURDER

The above-named defendant on or about Saturday, December 05, 2015, in the City of Neenah, Winnebago County, Wisconsin, did cause the death of MICHAEL L. FUNK, while committing or attempting to commit False Imprisonment (940.30), contrary to sec. 940.03 Wis. Stats., a Felony, and **upon conviction may be fined not more than Ten Thousand Dollars (\$10,000), or imprisoned not more than six (6) years, or both. And furthermore, because the defendant caused the death of another while committing or attempting to commit this crime, the defendant may be imprisoned for not more than 15 years in excess of the maximum term of imprisonment provided by law for this crime.**

Count 10: FAILURE TO COMPLY WITH OFFICER'S ATTEMPT TO TAKE PERSON INTO CUSTODY

The above-named defendant on or about Saturday, December 05, 2015, in the City of Neenah, Winnebago County, Wisconsin, did intentionally refuse to comply with an officer's lawful attempt to take him into custody and retreats or remained in a building or place and, through action or threat, attempted to prevent the officer from taking him or her into custody and while doing each of the above, remained or became armed with a dangerous weapon or threatened to use a dangerous weapon regardless of whether he or she had a dangerous weapon, contrary to sec. 946.415(2), 939.50(3)(i) Wis. Stats., a Class I Felony, and **upon conviction may be fined not more than Ten Thousand Dollars (\$10,000), or imprisoned not more than three (3) years and six (6) months, or both.**

Count 11: FELONY BAIL JUMPING

The above-named defendant on or about Saturday, December 05, 2015, in the City of Neenah, Winnebago County, Wisconsin, having been charged with a felony and having been released from custody under Chapter 969 Wis. Stats., did intentionally fail to comply with the terms of his bond, to wit: committed the crime of Felon in Possession of a Firearm, contrary to sec. 946.49(1)(b), 939.50(3)(h) Wis. Stats., a Class H Felony, and **upon conviction may be fined not more than Ten Thousand Dollars (\$10,000), or imprisoned not more than six (6) years, or both.**

Count 12: FELONY BAIL JUMPING

The above-named defendant on or about Saturday, December 05, 2015, in the City of Neenah, Winnebago County, Wisconsin, having been charged with a felony and having been released from custody under Chapter 969 Wis. Stats., did intentionally fail to comply with the terms of his bond, to wit: Failure to Maintain Absolute Sobriety, contrary to sec. 946.49(1)(b), 939.50(3)(h) Wis. Stats., a Class H Felony, and **upon conviction may be fined not more than Ten Thousand Dollars (\$10,000), or imprisoned not more than six (6) years, or both.**

Count 13: FELONY BAIL JUMPING

The above-named defendant on or about Saturday, December 05, 2015, in the City of Neenah, Winnebago County, Wisconsin, having been charged with a felony and having been released from custody under Chapter 969 Wis. Stats., did intentionally fail to comply with the terms of his bond, to wit: Committed the Crime of Attempted First Degree Intentional Homicide, contrary to sec. 946.49(1)(b), 939.50(3)(h) Wis. Stats., a Class H Felony, and **upon conviction may be fined not more than Ten Thousand Dollars (\$10,000), or imprisoned not more than six (6) years, or both.**

Count 14: FELONY BAIL JUMPING

The above-named defendant on or about Saturday, December 05, 2015, in the City of Neenah, Winnebago County, Wisconsin, having been charged with a felony and having been released from custody under Chapter 969 Wis. Stats., did intentionally fail to comply with the terms of his bond, to wit: committed the crime of Taking Hostages, contrary to sec. 946.49(1)(b), 939.50(3)(h) Wis. Stats., a Class H Felony, and **upon conviction may be fined not more than Ten Thousand Dollars (\$10,000), or imprisoned not more than six (6) years, or both.**

Count 15: FELONY BAIL JUMPING

The above-named defendant on or about Saturday, December 05, 2015, in the City of Neenah, Winnebago County, Wisconsin, having been charged with a felony and having been released from custody under Chapter 969 Wis. Stats., did intentionally fail to comply with the terms of his bond, to wit: committed the crime of False Imprisonment, contrary to sec. 946.49(1)(b), 939.50(3)(h) Wis. Stats., a Class H Felony, and **upon conviction may be fined not more than Ten Thousand Dollars (\$10,000), or imprisoned not more than six (6) years, or both.**

Count 16: FELONY BAIL JUMPING

The above-named defendant on or about Saturday, December 05, 2015, in the City of Neenah, Winnebago County, Wisconsin, having been charged with a felony and having been released from custody under Chapter 969 Wis. Stats., did intentionally fail to comply with the terms of his bond, to wit: committed the crime of Failure to Comply With Officer's Attempt to Take Person Into Custody, contrary to sec. 946.49(1)(b), 939.50(3)(h) Wis. Stats., a Class H Felony, and

upon conviction may be fined not more than Ten Thousand Dollars (\$10,000), or imprisoned not more than six (6) years, or both.

AFFIDAVIT IN SUPPORT OF CRIMINAL COMPLAINT

J. Curtis/ J. Venne/ J. Goggins, of the Winnebago County District Attorney's Office, being first duly sworn on oath and in that capacity has knowledge of the following:

Your affiant is informed from the reports of the Winnebago County Sheriff's Department kept in the normal and ordinary course of business in which your affiant believes to be truthful and reliable and have proven so on numerous occasions in the past that on or about December 5th, 2015, at approximately 9:30 am, Lieutenant Lara Vendola-Messer of the Winnebago County Sheriff's Office was paged out to assist the city of Neenah with a hostage situation. The on-going incident was occurring at Eagle Nation Cycles, located at 206 Main St. in the city of Neenah, Winnebago County, Wisconsin. Upon arriving at that location, Lieutenant Vendola-Messer made contact with E.M.L.-K.. E.M.L.-K. said that she believed her very good friend, Brian Flatoff, was involved in the hostage incident. E.M.L.-K. further positively identified Brian Flatoff as **BRIAN T. FLATOFF, DOB 12/26/1969** (herein referred to as the defendant). E.M.L.-K. stated that the defendant had been at her home at [REDACTED], city of Neenah, Winnebago County, Wisconsin, overnight as a friend and guest. E.M.L.-K. said she had been up all night with the defendant and that the defendant had been drinking Vodka or Rum throughout the course of the night. E.M.L.-K. said that the defendant was so intoxicated early in the morning hours, that at one point when he stood up, he fell over and hit his head.

E.M.L.-K. told Detective Craig Quick that she stayed up with the defendant until he fell asleep in her living room at around 7:00 am. E.M.L.-K. said that she then went to bed and sometime later, she woke up to the defendant stumbling around in the living room. E.M.L.-K. said that she yelled at the defendant that she thought he had a concussion and that she was going to call 911 to get an ambulance to come to the house. E.M.L.-K. said that the defendant then ran into the bedroom with a .45 caliber pistol in his hand and started to yell at her. E.M.L.-

K. said that the defendant crawled onto the bed and pulled a pillow from the corner of the room and held it like he was going to put it over her face. E.M.L.-K. stated she said something to the effect of, "really Brian", and the defendant responded, "you know I can't handle going back there, to prison". E.M.L.-K. said that the defendant was straddling her and he then pointed the gun at the wall behind her, above her head, and pulled the trigger. E.M.L.-K. said the gun fired and put a hole in the wall. E.M.L.-K. told Lieutenant Vendola-Messer that she probably had gunpowder from the shot on her face, but she had since wiped her face off.

E.M.L.-K. said that after the defendant calmed down, he set the .45 caliber pistol down. E.M.L.-K. said she then put the gun away in its case. E.M.L.-K. said that she and the defendant then had a discussion in which the defendant said he was going to go to Eagle Nation to talk to Vance. E.M.L.-K. said that the defendant had been having an ongoing issue over a motorcycle with employees at Eagle Nation Motorcycles, specifically Vance Dalton. E.M.L.-K. said that the defendant felt that Vance Dalton and his friends at Eagle Nation had stolen his motorcycle and the defendant said that he was going to go to Eagle Nation this morning to try to talk about what was going on. E.M.L.-K. said initially she believed that the defendant was going to go there to beat Vance up and try to take his motorcycle back. However, E.M.L.-K. said that the defendant assured her that he was going to be good and that he wasn't going to do anything other than talk to Vance like men and see what they could work out. E.M.L.-K. said she wasn't concerned about the defendant's decision to go to Eagle Nation Cycles this morning because the defendant was being reasonable and was going to Eagle Nation to speak like an adult about the issues he was having with his motorcycle.

E.M.L.-K. said that after the defendant left in her old work truck, she went back to bed. E.M.L.-K. said that at approximately 9:00 am, she received a call from her husband who told her that there was a S.W.A.T. call at Eagle Nation. E.M.L.-K. said she immediately got up and walked out into the living room/dining room area and saw the case for her Mac-10 open and on the table with the Mac-10 handgun missing. E.M.L.-K. said she had left the Mac-10 9mm

handgun sitting on the counter in a case with several loaded magazines. E.M.L.-K. described herself as a gun collector and said the 9mm Mac-10 was a new purchase for her.

Detective Quick next escorted E.M.L.-K. back to her house where he observed the open gun case for the Mac-10 on the dining room table and the hole in the wall in the bedroom where the defendant fired the .45 caliber pistol over E.M.L.-K.'s head. E.M.L.-K. then provided Detective Quick with the handgun the defendant fired in her bedroom. Detective Quick identified the handgun as a Taurus .45 caliber model 1911 with a skull in the white grip. Detective Quick also found a large duffel bag containing the defendant's personal belongings. In E.M.L.-K.'s bedroom, detectives located a shell casing from a .45 caliber handgun laying in a laundry basket.

Lieutenant Shaun O'Bre of the Neenah Police Department was also dispatched to the hostage situation at Eagle Nation Cycle Shop. Shortly after arriving, Lieutenant O'Bre was advised by dispatch that the suspect, later identified as the defendant, inside Eagle Nation Cycles was giving five (5) minutes to speak with someone or the defendant would start shooting hostages. Lieutenant O'Bre decided to form a "Hasty Team," which is a group of officers that could respond hastily to an active threat situation when potential loss of life was at risk. Lieutenant O'Bre was then informed by dispatch that the defendant was now giving one (1) minute to speak with someone or the defendant would start shooting hostages. At that time, the decision was made for the Hasty Team to make entry into the business.

Lieutenant O'Bre reports that a stack of five (5) officers assembled and made entry in the rear door of the Eagle Nation Cycle shop. Upon entry, Lieutenant O'Bre, who was the second officer through the door, and the lead officer stepped to the right once inside of the rear door and immediately fell down a stairwell, landing on the cement basement floor. Looking back up the staircase, Lieutenant O'Bre could see the vapor trails from bullets being fired at the entry team crossing above his head. Lieutenant O'Bre reports that an officer on the entry team returned fire from the rear doorway while he and the lead officer were extracted back outside.

During this exchange, one of the entry team officers, Craig Hoffer, was shot by the defendant in the head. Lieutenant O'bre reports that the bullet struck Officer Hoffer's ballistic helmet.

Neenah Police Officer Jonathan Kuffel was also a member of the entry team that entered the rear door of Eagle Nation Cycles in an attempt to rescue the hostages. Officer Kuffel said that the first two officers through the door were the shield team. Officer Kuffel observed upon entry, the shield team officers fell down the stairs to the right. Officer Kuffel said that someone inside of the room fired numerous, rapid shots at the officers while Officer Kuffel was still in the doorway. Officer Kuffel said that Officer Hoffer was next to him and was shot in the helmet and went down. Officer Kuffel said he then returned fire in the direction of the shots that were being fired at the officers while the officers who had fallen down the stairs were extracted from the building through the rear doorway.

Menasha Police Department Officer Raymond Berna was in position monitoring the back door of Eagle Nation Cycles when the Hasty Team made entry. Officer Berna observed the entry team immediately take gunfire before Officer Hoffer yelled, "I'm hit". Officer Berna saw Officer Hoffer fall backwards out of the doorway onto the ground. Shortly after the entry team was cleared from the alley behind Eagle Nation Cycles, Officer Berna heard several gun shots from that direction then observed a man, later positively identified as Michael L. Funk, exit the rear door of Eagle Nation Cycles. Officer Berna saw that Funk had a silver handgun in his hands. Officer Berna heard officers yell, "Police, show me your hands," or, "police drop the gun". Officer Berna said Funk moved while still holding the gun in a manner that caused officers to fear for their safety. Officer Berna said that the police officers behind him then fired at Funk. Officer Berna observed Funk fall to the ground.

Deputy Kyle Schoonover of the Winnebago County Sheriff's Office stated that while assisting Neenah Police Department with securing the perimeter, he observed Michael Funk on the ground and in the alley. Deputy Schoonover reports that based on Funk's positioning, he appeared to be deceased. Deputy Schoonover reports that deputies re-positioned their tactical armored vehicle, called a "Bearcat", in order to recover Funk. Once in position, deputies found a

handgun lying next to Funk's body. Deputies then placed Funk's body into the interior of the Bearcat and exited from the area. Deputies transported Michael Funk to an ambulance crew who took custody of the body. Funk was transported to Theda Clark Medical Center where he was pronounced deceased upon arrival.

Special Agent (SA) Carl Waterstreet from the Wisconsin Department of Criminal Investigations (DCI) reports that during the standoff, Crisis Negotiators from the Neenah Police Department placed a number of calls to the defendant inside Eagle Nation Cycles. During these calls, the defendant told the remaining two hostages to leave the building. These hostages were met outside by deputies of the Winnebago County Sheriff's Office and were identified as Ryan Moderson and Michael Peterson. Eventually, after continued contacts with the negotiators, the defendant agreed to put his gun down and come outside. At that time, deputies of the Winnebago County Sheriff's Office took the defendant into custody without incident.

Detective Christopher Anderson of the Town of Menasha Police Department obtained a statement from Michael Petersen who stated that at approximately 9:00 a.m. he walked over to the Eagle Nation motorcycle shop and entered the business through its rear door in the alley. Petersen said that there was a mechanic working on a motorcycle and Michael Funk was sitting in a chair behind the counter. Petersen said that there was a third man standing next to Funk who was later identified as the defendant. Petersen said that Funk was "very quiet" and was not really saying anything. Petersen said that after several moments he made a comment that he was going to leave, and that is when he noticed that the defendant had a gun pointed at him. Petersen said that the defendant told him, "you're not going anywhere". Petersen said the defendant then put the gun back in his waistband and offered him a seat. Petersen said that Funk "looked really scared" and that the mechanic working on the bike also looked afraid.

Petersen said that a short time later the rear door of the shop opened, and at least two police officers, with the front one having a shield, entered. Petersen said the officers were yelling over and over at the defendant to drop his weapon and to get onto the floor. Petersen

said that the next thing he knew, gun shots were being exchanged between the officer and the unknown male. Petersen said he immediately got off the stool and dropped to the floor.

Petersen said that after the police retreated out the door, the defendant was telling the police over the phone to shut the door and that he did not want to be shot at anymore. Petersen said that the defendant then told Funk to close the rear door. Petersen said that after the defendant told Funk to close the door, he heard more gunshots being fired from inside of the workshop. Petersen said that he believes Funk made a run for it out the back door as he was sent there to close it.

After that, Petersen said the defendant was on the phone with the police and that he was telling them no one else was inside. Petersen said that he yelled out, "what about me". Petersen said that the defendant then told him and the mechanic to get out of there. At that time, Petersen and the mechanic exited the shop through the back door.

Detective Jason Feucht of the Town of Menasha Police Department made contact and obtained a statement from the mechanic, who was identified as Ryan Moderson. Moderson stated both he and his son arrived at Eagle Nation Cycles between 8:15 and 8:30 A.M. Moderson said that he gave Michael Funk a Christmas card and spoke with him for a bit before he went to work on a motorcycle. Moderson stated approximately twenty minutes or so later he heard what he thought was a truck pull up to the back garage door. Moderson said that he observed Funk walk to the back door and then almost immediately begin backing up with his hands in the air. Moderson then observed the defendant coming through the door with a gun and backing Funk up to his desk.

Moderson heard the defendant say he was looking for Vance Dalton and the defendant then told Moderson to call Dalton and get him down here. Moderson said he called Dalton three times before Dalton picked up the phone. Moderson said that he made it seem like he was having a conversation with Dalton, however, he was able to quietly tell Dalton to call the police and that the defendant had a gun.

Moderson said that the defendant told all of them that he had a "Mac-10 with 75 rounds of ammo." Moderson also observed the defendant had a large knife on his side and a second magazine for the gun sticking out of his front pants pocket. Moderson said that the defendant then fired one round from the gun into the ceiling right near Funk's desk. Moderson heard Funk then tell the defendant, "We know you're serious, we are scared to death." The defendant then replied, "You ought to be scared." Moderson said that within a minute of the defendant's entering the shop, his son was able to escape out the front door.

Moderson said that after the defendant fired the shot off into the ceiling, the defendant ordered him to start putting his motorcycle back together. Moderson said that that he was aware there was at dispute between the defendant and Dalton over this particular motorcycle in the shop. Moderson observed the defendant shut and lock the front door then stay close to Funk by his desk while Moderson worked on assembling the motorcycle in question. Moderson said at some point during this timeframe, Steven Erato, who was in the basement, came upstairs and made eye contact with Michael Funk. Moderson said that Erato immediately went back downstairs and he never saw him again after that.

Moderson said that while he was working on the motorcycle, an individual he knows as "Old Mike", later identified as Michael Petersen, entered the shop through the back door. Moderson said that he tried to tell him to leave; however, he didn't understand what he was saying. Moderson said that "Old Mike" wanted to leave once he saw that the defendant had a gun, however, the defendant told him, "You're not going to leave."

Moderson said that approximately 45 minutes into this he saw the back door by the alley open. Moderson watched a police shield come through the door and heard an officer repeatedly yell, "Police put the gun down." Moderson stated that there was then an exchange of gunfire. Moderson said that a heavy smoke-type fume filled the air, which he described as a yellowish powdery substance. Moderson said that he thought the police had thrown in a smoke grenade or something; however, it was later determined that a fire extinguisher had been hit by a bullet. Moderson said that after a delay, he heard another round of shooting that sounded like it was

coming from the defendant inside. Moderson said the next thing he observed was the defendant on the phone saying, "Shut the back door," and, "I don't want to be shot by anyone."

Moderson said that he did not where Michael Funk had gone and that he didn't see him inside anymore. Moderson said that he heard the defendant say, "Nobody else is in here," while he was still on the phone. Michael Petersen then said, "I'm still here," and then Moderson acknowledged that he was still inside as well. Moderson said that the defendant then told both of them to "get out of here." Moderson stated he went around the counter and helped Old Mike up to his feet and they both went out the back door.

After the defendant was taken into custody, he was transported to Mercy Medical Center in Oshkosh where he was interviewed by DCI SAs Carroll and Novak. The defendant, after being advised of his Miranda Rights, which he freely and voluntarily waived, admitted that the dispute today was as a result of his motorcycle being stolen from him. The defendant said that Vance Dalton posted a \$3000 bond for him in his open Outagamie County case and then told the defendant that he would have to pay him \$8000 to get his motorcycle back. The defendant stated that he considered this a theft of his motorcycle and that, "I have every intention of killing him," referring to Dalton. The defendant said that when he went to recover his motorcycle from Eagle Nation Cycles on this day he "snapped" when he saw his motorcycle on a lift, partially disassembled and partially re-painted. The defendant said that "M.L." was there, who has been identified as Michael Funk, as well as a shop mechanic, earlier identified as Ryan Moderson. The defendant said that some "old guy" then came in and he told him that he couldn't leave. The defendant said that he told the mechanic to get the motorcycle off the lift, put it by the overhead door and to get all of the parts together. The defendant admitted that he went to the shop with a gun that he described as a 9mm pistol with a long magazine. The defendant said the he might have told someone in the shop to call "Hillbilly", who the defendant identified as Vance Dalton, and tell him to get down there. The defendant said that he was going to cut Dalton's throat and then he was going to kill himself. The defendant admitted that he was pointing the gun at everybody inside the shop during this time.

The defendant said that at one point he believed a flash bang had been set off and that "there may even have been a shoot-out". The defendant said that after the "bang", he hit the floor and then began firing over the counter. The defendant said that after he came up above the counter, Funk was behind the desk and he thought that the mechanic ran out the door. The defendant said he then told the "old guy" to get out. The defendant said that he remembered Funk running out of the door .

The defendant stated that if Dalton had shown up at the shop, that "I would have probably killed him".

The defendant then asked the agents if anyone had died during the standoff. The defendant said, "I hope nobody died," and, "with all the gunfire and shooting, that can happen". The defendant then stated, "with no blood on the floor I'm pretty sure no one died".

DCI SA Jed Roffers reviewed surveillance video footage recovered from inside the garage portion of Eagle Nation Cycles. The surveillance video was captured on Saturday, December 5th, 2015. SA Roffers reports that the following events are referenced by the time/date stamp displayed by the video surveillance system, which are approximate:

09:42:51:

The rear access door opens and the law enforcement personnel make entry into the garage. Funk is seated behind the desk and turns to look over his left shoulder towards the rear access door. Four (4) police officers make entry, and the first two (2) officers fall down the stairwell near the rear access door.

09:42:57:

The defendant hunches down behind the computer desk and directs his firearm with his left hand and left arm fully extended. Funk simultaneously lays face down on the concrete floor, appearing to take cover.

09:43:04:

Gunfire is exchanged between the defendant and police officers. As a result, a fire extinguisher behind the desk area gets punctured, which saturates the room with a large cloud of white dust,

primarily the area near the desk occupied by the defendant and Funk. Officers then begin to retreat out the building through the rear access door through which they had just entered. The rear access door remains open.

09:46:20:

Funk approaches the threshold of the rear access door. Funk then grabs the door with his right hand and attempts to slam the door shut behind him as he quickly exits the building. The defendant appears to discharge multiple rounds directed towards Funk as Funk exits the building. The door remained open after Funk attempted to slam it shut.

Your affiant states that per the Wisconsin Circuit Court Access Program, the defendant, Brian T. Flatoff, is a convicted felon following a conviction of Felony Bail Jumping on September 10th, 2003 in Waupaca County Case Number 2003CF000174, which conviction remains of record and unreversed.

Further, your affiant states that per the Wisconsin Circuit Court Access Program, the defendant, Brian T. Flatoff, was released from custody on August 28th, 2015, after posting a cash bond in Outagamie County case 2015CF000661 wherein the defendant is charged with Felony Operating a Motor Vehicle While Intoxicated, 5th/6th Offense. The conditions of the defendant's bond, which were in effect on December 5th, 2015, include that the defendant shall not commit any crime; shall maintain absolute sobriety - no alcohol, and shall not operate a motor vehicle.

Your affiant believes the statements of Michael Petersen, Ryan Moderson, and E ■ L ■ -K ■ to be truthful and reliable in that they are based upon their own personal knowledge, observations, and beliefs. Further, your affiants states that based upon information and belief, at no time did anyone give the defendant consent to seize, confine or restrain them.

It is believed the statements of Brian Flatoff are made contrary to his penal interest.

All of the above incidents occurred in Winnebago County, Wisconsin.

WHEREFORE, as said affiant verily believes and prays that the said **BRIAN T FLATOFF** might be arrested and dealt with according to law.

Complainant

Subscribed and sworn to before
me and approved for filing
this _____ day of December, 2015.

Defendant's Date of Birth: **12/26/1969**

Address: [REDACTED], **STEVENS POINT, WI 54481**

Physical Description: **M / W / Height: 6 ft 2 in / Weight: 200 lbs / Brown / Blue**

Assistant/Deputy District Attorney
Winnebago County, Wisconsin

Prosecuting Attorney: Scott A. Ceman /krb
15WN5704