

FILED
02-01-2019
Clerk of Circuit Court
Brown County, WI
2019CT000137
Honorable William
Atkinson
Branch 8

STATE OF WISCONSIN	CIRCUIT COURT GROUP A BRANCH	BROWN COUNTY
---------------------------	---	---------------------

STATE OF WISCONSIN
 Plaintiff,

vs.

RICHARD ROBERT HEIDEL
 667 Hickory Drive
 Oneida, WI 54155
 DOB: 09/17/1952
 Sex/Race: M/W
 Eye Color: Green
 Hair Color: Brown
 Height: 6 ft 1 in
 Weight: 205 lbs
 Alias:

Defendant.

DA Case No.: 2019BR000736
 Assigned DA/ADA: William RF
 Ackell
 Agency Case No.: 19-004188
 Court Case No.: 19CT
 ATN:

CRIMINAL COMPLAINT

For Official Use

Complainant, an Assistant District Attorney, being first duly sworn on oath, deposes and says that:

**Count 1: OPERATING A MOTOR VEHICLE WHILE INTOXICATED - 3RD OFFENSE,
 GENERAL ALCOHOL CONCENTRATION ENHANCER**

The above-named defendant on or about Friday, February 1, 2019 at 12:36 AM, in the Village of Hobart, Brown County, Wisconsin, did operate a motor vehicle while under the influence of an intoxicant, contrary to sec. 346.63(1)(a), 346.65(2)(am)3, 346.65(2)(g) Wis. Stats., a Misdemeanor, and upon conviction shall, for the third offense counted under s. 343.307(1) since January 1, 1989, be fined not less than Six Hundred Dollars (\$600) nor more than Two Thousand Dollars (\$2,000), and imprisoned for not less than 45 days nor more than one year in the county jail.

And further, invoking the provisions of sec. 346.65(2)(g) Wis. Stats., because the defendant has two or more prior convictions as counted under 343.307(1), and therefore is subject to an alcohol concentration fine enhancer, if defendant's alcohol level is .170 to .199 minimum and maximum fines will be doubled, if alcohol level is .20 to .249 minimum and maximum fines will be tripled, if alcohol level is .25 or greater minimum and maximum fines will be quadrupled.

And furthermore, invoking the provisions of sec. 343.30(1q)(b)4 and (1q)(c) Wis. Stats., upon conviction, the court shall revoke the defendant's operating privilege for not less than two (2) years nor more than three (3) years, and shall order the defendant to submit to an alcohol and drug abuse assessment and to comply with treatment as a condition of reinstatement.

(OWI-3RD AND ABOVE) NOTICE: IT IS THE POLICY OF THE BROWN COUNTY CIRCUIT COURT JUDGES THAT UPON CONVICTION AND SENTENCING FOR A THIRD OR SUBSEQUENT OPERATING WHILE INTOXICATED OFFENSE YOU WILL BE REQUIRED TO IMMEDIATELY REPORT TO JAIL.

Complainant is an Assistant District Attorney with the Brown County District Attorney's Office and knows of the above offense(s) based upon:

1. Complainant's review of the reports of Deputy Milks of the Brown County Sheriff's Department, who indicates that on February 1, 2019, at approximately 12:34 A.M. in the Village of Howard, Brown County, Wisconsin:

I, Deputy Kelly Milks #1346 and Deputy John Rapp #227 were dispatched to the intersection of Riverdale Drive at North Riverdale Drive, in the Village of Howard, Brown County Wisconsin, for report of an elderly male that had driven into a ditch and was possibly having a seizure. CAD Notes indicated that the complainant was not willing to check on the driver but was waiting in a Dodge Nitro with their hazard lights on. Updated CAD Notes stated that the complainant said the male looked like he was shaking and was slumped over at the wheel. As I was responding, I responded to the intersection of Riverdale Drive at County Highway RK which is the border between the Village of Howard and Village of Hobart. I did not locate the vehicle and continued West on Riverdale Drive into the Village of Hobart. I asked Dispatch to verify with the complainant and ask for a better location of where they were located. Dispatch stated the complainant gave the intersection of Riverdale Drive (County Highway J) and Hillcrest Road (County Highway FF) which is the Village of Hobart's jurisdiction. Officer Matthew Prokash #507 stated he was responding to assist. Once I arrived, I observed a white Buick bearing Wisconsin registration 927-VTX in the West ditch facing oncoming traffic on Hillcrest Road at Riverdale Drive. The vehicle was on and running but placed in park and did not have any front end damage. I approached the passenger side of the vehicle and made contact with a male in the driver's seat. I asked the male to tell me what had happened and how he got in the ditch. The male replied "I don't know." I asked the male if he was possibly having a seizure or any medical conditions. The male, who was later identified by his Wisconsin Driver's license as Richard R. Heidel (male/white, DOB 09/17/52) stated he did not have a seizure and does not have any medical conditions. When I was speaking with Richard, I noticed his speech was slurred and he had an odor of intoxicants emitting from his breath. I asked Richard what day today was and he said today was Friday. I asked Richard if he knew what the year was and he replied "2019". I asked Richard if he knew who our current US President was and Richard replied "Trump." Richard was answering my questions appropriately but County Rescue Services were also dispatched and asked to respond and evaluate Richard for any medical conditions. Richard had his cell phone up to his ear and said he was on the phone with Triple A wrecker services to help him pull his vehicle out of the ditch. Once County Rescue arrived, County Rescue personnel helped me assist Richard out of his vehicle and walk him over to their ambulance. When county rescue personnel and I were assisting Richard out of his vehicle, Richard was stumbling and needed our assistance to help hold him up. Richard was escorted into the ambulance to warm up and fill out some paperwork.

Once inside the ambulance, Richard was asked a few medical questions from the rescue workers. The rescue workers stated Richard was answering their questions appropriately and did not have any concerns in regards to a possible seizure. Richard stated he did not want to be transported to a hospital. I asked Richard if he had been drinking tonight. Richard said he

was drinking earlier and admitted he drank a beer at C Street in the City of Green Bay before driving home. Richard said he stopped drinking approximately 40 minutes ago. It was determined that Deputy Rapp and I were going to transport Richard to St Mary's Hospital to run him through field sobriety tests. I asked Richard if he would be willing to come with Deputy Rapp and I to St Mary's Hospital to submit to field sobriety tests to make sure he was okay to be driving. Richard agreed to submit to field sobriety tests.

2. Complainant's review of the reports of Deputy Rapp of the Brown County Sheriff's Department, who indicates that on February 1, 2019, at approximately 12:36 A.M. in the Village of Hobart, Brown County, Wisconsin:

I, Deputy John Rapp #227 was dispatched to the area of Riverdale Dr and CTH FF, Village of Hobart, Brown County, Wisconsin for a car in the ditch with an elderly male having a seizure. Deputy Kelly Milks #1346 and Officer Mathew Prokash were also dispatched. Deputy Milks was the first officer to arrive on scene. County Rescue was also dispatched to assist. The car was located on the West shoulder in the deep snow at the Northwest corner of the intersection. The vehicle was running, lights on and it appeared to be in gear with the reverse lights on. Deputy Milks assisted getting the male out of the driver's seat of the vehicle. He was alone in the vehicle. She assisted in walking him back to the Rescue Squad. He was stumbling and had a difficult time walking. County Rescue also assisted in helping him walk. Deputy Milks advised me that the driver-Richard R Heidel-ID by WI Picture DL, admitted that he had been drinking and she observed that his speech was slurred. He also said that he was driving home from the C Street Tavern. He was checked over by Rescue and signed off that he was not in need of further medical help. I could detect an odor of intoxicants as he spoke and as I stood next to him. He continued to sway/stumble and needed assistance to stand. I advised him that he was being detained at this time for suspicion of OWI. Deputy Milks placed him in handcuffs and again advised him that he was only being detained and he was not under arrest. Richard was assisted into the rear seat of her squad for transport to St Mary's Hospital for Standardized Field Sobriety Tests. SFST was not performed at the scene do to the inclement weather. The air temperature was approximately -10 degrees F.

We pulled into the sally port at St Mary's and Sgt Christopher Tappen #285 and Deputy Milks assisted Richard in exiting the squad. He had a difficult time maintaining his balance and walking without being held up. I removed his handcuffs and advised him that I would like to perform SFST on him and I asked him if he would cooperate. He said he would cooperate. I told him the first test would be on his eyes-(HGN) I told him to stand with his feet together and hands down at his side. I asked him if I could remove his hat and he agreed. He lost his balance and nearly fell over. He continued to sway back and forth and side to side. I asked him if he had contacts in and he said he did. I asked him if he could see and identify the stimulus(pen) and he said he could see it and he identified it as a pen. I instructed him to follow the pen with his eyes only and not to turn his head to follow the stimulus. I observed his pupils were of equal size and tracked appropriately. He had a difficult time following the stimulus all the way to the corner of his eyes, returning to center. I had a difficult time maintaining the stimulus at 12-15 inches because of his constant and exaggerated swaying. I had to remind him to follow the stimulus with his eyes only and had to make additional passes of the stimulus. I observed that both eyes lacked smooth pursuit, there was distinct and sustained nystagmus at maximum deviation in both eyes as well as onset of nystagmus prior to 45 degrees in both eyes. As I attempted to check for vertical nystagmus, he nearly fell over backwards and had to be caught by Sgt Tappen and Deputy Milks to prevent him from falling. 6 clues observed. I advised Richard the next test I wanted him to perform would be the "Walk

and Turn Test" I attempted to give him instructions to stand on the line(crack) in floor running from left to right in front of my squad car. I told him to turn and face the snow blowers behind him. As he turned he lost his balance. He needed assistance in maintaining his balance to prevent him from falling over. He seemed to have a difficult time understanding my instructions. He eventually turned to face the correct way as instructed. I attempted to put him into the instruction stance-half step forward with his left foot, placing his right foot in front of his left foot, touching heel-toe. He could not do this without losing his balance. He needed assistance to prevent falling over. After a couple attempts, I determined that he could not complete the test safely. I advised him that I was stopping the test because I felt he could not safely complete the test. 8 clues observed. I did not attempt to have Richard perform the last test "The One Leg Stand" as I believed he could not perform it safely. 4 clues assessed. I advised him he was under arrest for OWI.

I escorted him into the OWI processing room. Sgt Tappen and Deputy Milks stood by with him while I went back out to my squad to print the citation (#BB493446-2) for OWI-3rd. I then reentered the OWI processing room and issued Richard the citation. I completed and read Richard "Informing the Accused". He consented to the blood draw.

3. A radio check with the Wisconsin Department of Motor Vehicles revealed the defendant's operating privilege was valid. Pursuant to 346.65(2)(am), the defendant is subject to the mandatory minimums because he was convicted of Operating While Intoxicated on 08/07/97 and 10/31/05 with offense date(s) of 07/06/97 and 06/03/05 and suspended as a result thereof.

Complainant believes the report of Deputy Milks and Deputy Rapp because he has relied on their reports in the past and has found them to be accurate. Complainant believes the information from the Department of Motor Vehicle because it is kept in the ordinary course of business and he knows that the Department regularly sends notices to each person whose operation privilege has been revoked or suspended.

Subscribed and sworn to before me on
02/01/19

Electronically Signed By:
Hannah N Schuchart
Assistant District Attorney
State Bar #: 1097899

Electronically Signed By:
William R F Ackell
Complainant