

STATE OF WISCONSIN	CIRCUIT COURT	FOND DU LAC COUNTY
STATE OF WISCONSIN	Plaintiff,	DA Case No.: 2022FL000161 Assigned DA/ADA: Tessa Button Agency Case No.: 22-271 Court Case No.: ATN:
vs.		
JAYSON BROOKS KENISTON 70-11 E Merrill Av Fond Du Lac, WI 54935 DOB: 07/16/1977 Sex/Race: M/W Alias:		CRIMINAL COMPLAINT
Defendant.		<i>For Official Use</i>

The undersigned law enforcement officer Kyle W Hoefer, of the Fond du Lac Police Department, being first duly sworn, states that:

Count 1: BATTERY TO A LAW ENFORCEMENT OFFICER

The above-named defendant on or about Thursday, January 13, 2022, in the City of Fond du Lac, Fond du Lac County, Wisconsin, did intentionally cause bodily harm to Officer Clapper, a law enforcement officer, without their consent, and at the time of the act, the defendant knew or should have known that Officer Clapper was a law enforcement officer and the act was in a response to any action taken by a law enforcement officer in an official capacity, contrary to sec. 940.203(2), 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 2: RESISTING AN OFFICER CAUSING SUBSTANTIAL BODILY HARM TO OFFICER

The above-named defendant on or about Thursday, January 13, 2022, in the City of Fond du Lac, Fond du Lac County, Wisconsin, did cause substantial bodily harm to an officer while knowingly resisting the officer, while such officer was doing an act in an official capacity and with lawful authority, contrary to sec. 946.41(2r), 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 3: SUBSTANTIAL BATTERY

The above-named defendant on or about Thursday, January 13, 2022, in the City of Fond du Lac, Fond du Lac County, Wisconsin, did cause substantial bodily harm to Officer Clapper, by an act done with intent to cause bodily harm to that person, contrary to sec. 940.19(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 4: DISORDERLY CONDUCT

The above-named defendant on or about Thursday, January 13, 2022, in the City of Fond du Lac, Fond du Lac County, Wisconsin, while in a private or public place, did engage in abusive, boisterous, indecent, profane, violent, unreasonably loud or otherwise disorderly conduct, under circumstances in which such conduct tended to cause or provoke a disturbance, contrary to sec. 947.01(1), 939.51(3)(b) Wis. Stats., a Class B Misdemeanor, and upon conviction may be fined not more than One Thousand Dollars (\$1,000), or imprisoned not more than ninety (90) days, or both.

Count 5: DISORDERLY CONDUCT

The above-named defendant on or about Thursday, January 13, 2022, in the City of Fond du Lac, Fond du Lac County, Wisconsin, while in a private or public place, did engage in abusive, boisterous, indecent, profane, violent, unreasonably loud or otherwise disorderly conduct, under circumstances in which such conduct tended to

cause or provoke a disturbance, contrary to sec. 947.01(1), 939.51(3)(b) Wis. Stats., a Class B Misdemeanor, and upon conviction may be fined not more than One Thousand Dollars (\$1,000), or imprisoned not more than ninety (90) days, or both.

Count 6: DISORDERLY CONDUCT

The above-named defendant on or about Thursday, January 13, 2022, in the City of Fond du Lac, Fond du Lac County, Wisconsin, while in a private or public place, did engage in abusive, boisterous, indecent, profane, violent, unreasonably loud or otherwise disorderly conduct, under circumstances in which such conduct tended to cause or provoke a disturbance, contrary to sec. 947.01(1), 939.51(3)(b) Wis. Stats., a Class B Misdemeanor, and upon conviction may be fined not more than One Thousand Dollars (\$1,000), or imprisoned not more than ninety (90) days, or both.

PROBABLE CAUSE:

Complainant bases this complaint upon the report and investigation of Officer K. Hoefer of the Fond du Lac Police Department. Complainant and Officer K. Hoefer are presumed reliable as sworn law enforcement officials.

Complainant reports that Officer K. Hoefer reports that on 01/13/2022 at 2222 Officer K. Hoefer, was dispatched to the Kaloudis Apartments, located at 70 East Merrill Avenue, Apartment #7, to back up Officer Clapper for a Disorderly Conduct complaint. Dispatch advised that a female party by the name of VICTIM 2 had called, stating that her neighbor was trying to break down the door. The reporting party was on the second floor. A male party could be heard screaming in the background. The reporting party did not know the male's name but knew that he lived in Apartment #11 and was aware the police had been called. VICTIM 2 stated that he was telling her, "Call the police. They won't help you, bitch". Officer K. Hoefer was then advised that the male party had gone back into his apartment. While Officer K. Hoefer was responding to the scene, the female party had hung up the phone and would state she would call back if the male had returned. At 2227 hours, Officer K. Hoefer arrived on scene and parked behind Officer Clapper's squad car, as he had arrived on scene, about a minute before Officer K. Hoefer did. Officer K. Hoefer exited his squad car and began walking towards the building, at which point Officer K. Hoefer heard Officer Clapper shouting in distress, Officer K. Hoefer's first name. It sounded that Officer Clapper was in trouble and Officer K. Hoefer sprinted towards the building.

Officer K. Hoefer ran up the stairs and found Officer Clapper still physically struggling with the male party, who was later identified as JAYSON B. KENISTON. Officer K. Hoefer observed blood on the floor, around both subjects and Officer Clapper was physically struggling with the male party, who was on his stomach and rolled a little bit onto his right side, grabbing up at Officer Clapper. Officer K. Hoefer drew his Taser and jammed it into the lower, right back of the male party, shouting at him that he needed to stop resisting or he would be Tased. The male party appeared to be exhausted and was no longer actively attempting to hurt Officer Clapper. It was at this time, that Officer K. Hoefer holstered his Taser and prepared to handcuff the male suspect. At this time, Officer K. Hoefer realized that Officer Clapper was very injured, as he was dripping blood onto his uniform from his face.

Officer K. Hoefer could see that Officer Clapper was in distress. Officer Clapper stated that his knee hurt and his face was bleeding from his nose. The severity of his injuries was unknown but Officer K. Hoefer could tell that he was certainly hurting.

JAYSON was very up and down with his mood. He would calm down for a bit and was making comments like, "I didn't mean to hurt anyone," and then he would flare up and get very angry and start yelling.

Officer Clapper said that he had been struck in the face multiple times by the male suspect, now being identified as JAYSON KENISTON. Officer K. Hoefer could hear that the officers who were trying to get JAYSON down the stairs were struggling with him. Officer K. Hoefer then went downstairs to assist and stood by as a Safety Officer, as officers walked him to the front of a squad car for transport. When he was in front of the squad car, they performed a better search and Officer K. Hoefer could see that JAYSON was getting more boisterous and belligerent. JAYSON was shouting things like, "Fucking shoot me". Officer K. Hoefer assisted JAYSON into the rear, passenger seat of the squad and seat belted him in for his safety, as he had previously been trying to hit his head against the walls in the building. A female party came out of Apartment #10 and Officer K. Hoefer asked her if she had seen what had occurred. She was identified as VICTIM 1. VICTIM 1 stated that she had heard the male neighbor shouting and screaming in the hallway and yelling at her neighbor, VICTIM 2, who lives in

Apartment #7. VICTIM 1 said that the male party was yelling, "Kill yourselves," and, "Go fuck yourself". VICTIM 1 said that at one point she had opened her door and the male subject was yelling at her, at which point VICTIM 2 came over and as VICTIM 2 was coming towards her, the male party came up behind VICTIM 2 in an aggressive manner, so VICTIM 1 stated that she did grab a broom and yelled at him to get back and leave them alone. She stated that shortly thereafter, an officer arrived on scene and was talking to them and she retreated into her apartment and heard a scuffle occurring outside. She didn't come back out until officers already had JAYSON in custody.

VICTIM 2 advised that she had heard the neighbor from Apartment #11 shouting and screaming in the hallway, acting belligerent and shouting things like, "Go kill yourselves". She made contact and attempted to get him to go back to his room, but he refused and when she closed her door, he attempted to break into her apartment, pounding on the door and causing her to fear for her safety.

VICTIM 2 contacted 911, requesting officers to respond and the male party left her door for a few moments. He then returned to the hallway and began shouting and yelling at VICTIM 1, across the hallway. VICTIM 2 opened the door and went over to assist VICTIM 1, shouting again at the male party to go back to his room, as it was after 10:00 and to leave VICTIM 1 alone. She stated that at this time, the man came up behind her and VICTIM 1 grabbed a broom, shouting at him to get away from them. She stated that the male party went back to his bedroom, and at this time, Officer Clapper arrived on scene. VICTIM 2 stated that she was speaking with Officer Clapper, when the male party again appeared into the hallway and she heard Officer Clapper attempting to identify the male party, who was refusing to identify himself. She stated Officer Clapper told her and VICTIM 1 to go into their apartments and close their door and then she stated, "All hell broke loose".

VICTIM 2 described to Officer K. Hoefer that she could hear scuffling outside of her door and then one of them, or both of them, slammed into her door. She stated that they continued scuffling down the hallway and then when they were further away from her door to the north in the hallway, she peeked out and observed the male party physically beating on Officer Clapper. She stated that he was getting hit in the face or shoulder. It was very difficult to tell what he was hitting, but he was beating on Officer Clapper, which caused her to fear for her safety, again and she closed her door and contacted 911, requesting more officers. VICTIM 2 stated that they scuffled all the way back to her apartment and she heard banging into her door. She stated that at that time, other officers arrived on scene and helped Officer Clapper.

Officer K. Hoefer then traveled out to St. Agnes Hospital where Officer K. Hoefer met briefly with Officer Clapper. In meeting with Officer Clapper, Officer K. Hoefer learned that he had attempted to identify the male party, at which point the male party advanced on him and physically assaulted him, without consent, punching him in the face multiple times. Officer Clapper stated that at this time, he knew that he had a broken nose, a fractured right thumb and some unknown injury to his left knee. As previously stated, Officer Clapper will be completing a report. See his report and information.

After meeting with Officer Clapper, Officer K. Hoefer traveled to the Fond du Lac County Jail, where Officer K. Hoefer updated charges with Fond du Lac County Jail staff and provided them with an Affidavit for three counts of Disorderly Conduct, one count for VICTIM 1, one count for VICTIM 2 and one count for Officer Clapper, as JAYSON KENISTON had been belligerent and threatening towards all three parties, causing a huge scene and for all three parties to fear for their safety. He was also held on one count of Battery to Law Enforcement, for physically assaulting Officer Clapper. In addition, he was held for Substantial Battery, as his battering of Officer Clapper had caused a broken nose, broken thumb and unknown further injuries to his knee. Lastly, JAYSON was held on one count of Resisting an Officer Causing Substantial Injury for the previously mentioned injuries, as he continued resisting Officer Clapper's attempts to take him into custody after the initial assault.

Based on the foregoing, the complainant believes this complaint to be true and correct.

Subscribed and sworn to before me on 01/14/22

Electronically Signed By:

Kristian K. Lindo

Assistant District Attorney

State Bar #: 1089021

Electronically Signed By:

Detective Vance Henning

Complainant

