

FILED
01-08-2021
Clerk of Circuit Court
Brown County, WI
2021CF000037
Honorable John P.
Zakowski
Branch 6

STATE OF WISCONSIN	CIRCUIT COURT BRANCH	BROWN COUNTY
STATE OF WISCONSIN Plaintiff,	DA Case No.: 2021BR000241 Assigned ADA: Meranda J Hillmann Agency Case No.: 21-201239 Court Case No.: 20CF	
vs.		
WALLACE CARL BOWERS 141 Alpine Drive Green Bay, WI 54302 DOB: 01/19/1947 Sex/Race: M/W Eye Color: Hazel Hair Color: Brown Height: 5 ft 04 in Weight: 140 lbs	REFUSAL	CRIMINAL COMPLAINT
Defendant.		

For Official Use

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

Count 1: OPERATING A MOTOR VEHICLE WHILE UNDER THE INFLUENCE - 10TH AND SUBSEQUENT OFFENSE, GENERAL ALCOHOL CONCENTRATION ENHANCER

The above-named defendant on or about Friday, January 8, 2021, in the City of Green Bay, 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)(g) Wis. Stats., a Class E Felony, and upon conviction may be fined not more than Fifty Thousand Dollars (\$50,000), or imprisoned not more than fifteen (15) years, or both.

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 Wisconsin Statute Section 346.65(2)(am)7, the defendant may be fined not more than Fifty Thousand Dollars (\$50,000), or imprisoned not more than fifteen (15) years if the number of convictions under ss. 940.09 (1) and 940.25 in the person's lifetime, plus the total number of suspensions, revocations and other convictions counted under s. 343.307 (1) since January 1, 1989, equals 10 or more, except that suspensions, revocations or convictions arising out of the same incident or occurrence shall be counted as one. The court shall impose a bifurcated sentence under s. 973.01 and the confinement portion of the bifurcated sentence imposed on the person shall be not less than 4 years.

Count 2: RESISTING AN OFFICER

The above-named defendant on or about Friday, January 8, 2021, in the City of Green Bay, Brown County, Wisconsin, did knowingly resist an officer, while such officer was doing an act

in an official capacity and with lawful authority,, contrary to sec. 946.41(1) Wis. Stats., a Class A Misdemeanor, and upon conviction may be fined not more than Ten Thousand Dollars (\$10,000), or imprisoned not more than nine (9) months, or both.

(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 offenses based upon:

1. Complainant's review of the reports of Officer Leah Whitman of the Green Bay Police Department, who indicates that on January 8, 2021, at approximately 12:36 A.M. in the City of Green Bay, Brown County, Wisconsin:

On January 8, 2021, I, Officer L. Whitman, was on full uniformed patrol for the City of Green Bay Police Department as 4D1 in marked squad car 47. At approximately 12:36 am, a call was dispatched to the area of 851 Ricky Lane, in Green Bay, Brown County, Wisconsin, for a report of a transformer that blew up and was arching and sparking. As I was enroute to the call, more calls came in stating a vehicle had struck a power line pole in the area of E Mason Street and Main Street, in Green Bay, Brown County, Wisconsin.

I headed to the area of E Mason Street and Main Street, and saw three vehicles on E Mason Street by Bader Street with their hazards on. As I approached the scene I saw a lime green truck in the ditch with broken wood around it. There were two vehicles that had live power line wires on top of the vehicle or around it. I went over to the lime green truck, bearing Wisconsin military veteran license plate of 1976VN, to assist the driver, verbally identified as Wallace Carl Bowers (01/19/1947), the defendant. I asked Wallace if he was injured and needed medical attention, to which he replied "no" and he informed he that he was a prosthetic leg. I assisted Wallace with walking to level ground, due to his left leg being prosthetic. Wallace stated his prosthetic leg was not connected properly so he could not walk. While assisting Wallace towards EMS, he had an open wound on his forehead, that was not actively bleeding. I could also smell a strong odor of intoxicants coming from Wallace. I asked Wallace if he was drinking tonight, to which he replied yes. I asked Wallace how many drinks he had, and he said two beers. I had Wallace go with EMS so they could assist in getting his prosthetic leg attached and to check him out medically.

While Wallace was in the back of the ambulance with EMS I spoke to one of the complainants, verbally identified as KF who stated she saw the crash happen while her mother was driving. KF provided me with a verbal statement saying her and her mother were driving eastbound on E Mason Street and coming up to the Main Street intersection. A vehicle drove up behind her at a high rate of speed, and did a maneuver to get around KF and her mother as they were driving through the intersection coming up to Bader Street. KF described the vehicle as a big lime green truck with bright headlights. KF believes the vehicle hit a patch of snow or ice and lost control. KF witnessed the vehicle drive into the ditch, which caused snow to shoot back at KF and her mother's vehicle. KF then saw the vehicle strike a pole and cause power lines to

break and fall. When the power line broke and fell, there were two very bright flashes with pops. KF and her mother then pulled over to contact the police.

After speaking to Officer M. Woods and Officer S. Coron, it was determined that due to Wallace admitting to me that he had been drinking, we would pursue operating while intoxicated charges. Wallace agreed to perform the Horizontal Gaze Nystagmus (HGN) test for the Standard Field Sobriety Tests, however due to Wallace having a prosthetic leg, the Walk and Turn test and One-leg Stand test would not be administered. I advised Wallace we would go to St. Vincent's Hospital to perform the HGN test and Wallace agreed. EMS crew assisted in transporting Wallace to St. Vincent's Hospital as he was already on their gurney.

While at St. Vincent's Hospital, Officer C. Vaubel assisted me with the OWI process. Wallace was brought into the OWI processing room. As I was getting ready to administer the HGN test, Wallace asked how he would urinate. Officers advised that he would have to wait a second to use the bathroom. Wallace became extremely agitated at that, and said that he needed to urinate as he had a medical condition. Wallace immediately stood up and tried to walk out of the room. Wallace was advised that he could not leave the room, and Wallace would not allow officers to offer the option of using a bottle or jug that is provided by the hospital staff. Wallace unzipped his pants and said he was going to urinate on the floor. Officers told Wallace that if he continues to try to pull out his penis and urinate on the floor, he would be handcuffed. Wallace ignored officers and pulled his penis out from inside his pants. Officer C. Vaubel and I grabbed Wallace's arm and brought them behind his back to apply handcuffs. Officer C. Vaubel got one cuff secured on Wallace's left hand. When Officer C. Vaubel did this, Wallace pulled away from officers and tensed up his arms. Officer C. Vaubel and I moved to attempt to secure Wallace. As we were adjusting our footing to secure Wallace, his prosthetic leg became detached and Wallace fell into the hospital bed. Officers assisted in bringing Wallace to the ground. While on the ground I had Wallace's left arm with the handcuff secured around it, and Wallace had his right arm tucked underneath his body. Officer C. Vaubel gave multiple commands to give him his arm and Wallace refused. St. Vincent's security came and assisted officers in getting Wallace into handcuffs. Wallace was extremely verbal with officers and was yelling profanities at them.

I attempted to read Wallace the Informing the Accused verbatim, and Wallace refused to agree to the blood draw before I could finish reading the form. I applied for a search warrant for Wallace's blood, which was signed by the on-call Brown County Judge at 2:04 am. During that time, Wallace calmed down with other officers and his handcuffs were removed. While waiting for the phlebotomist, I asked Wallace two times if he had insurance on his vehicle. Wallace looked at me and did not say anything in response to my question. A St. Vincent's phlebotomist began the blood draw from Wallace's left arm at 2:39 am. The blood kit was sealed in the provided container and stayed in my possession until it was submitted into evidence. Wallace was then brought to the sally port of the hospital where he was placed back into handcuffs and searched prior to being transported to jail. I applied handcuffs on Wallace, checked them for tightness and double locked them. Wallace was searched and his property was placed into a clear plastic bag.

I arrived at the Brown County Jail where custody of Wallace and his personal property was transferred to Brown County Jail staff. While in the jail, the correctional officers stated they would not accept the clear pill container that contained aspirin into the jail that was found on Wallace's person. I took custody of this pill container and the three aspirin pills and submitted

an evidence disposal form (Exhibit 755002). I printed off Wallace a copy of his citation for operating a motor vehicle without proof of insurance and explained it to him. Wallace stated he had full coverage insurance, however he stated he did not know I asked him for insurance at the hospital. I advised Wallace I asked him two times and he looked at me both times when I asked the questions. I advised Wallace to go to the court date and speak to the judge regarding this citation. I drove back to the police department where I submitted the OWI blood kit into evidence (Exhibit 755001) and created an evidence transmittal form to the Wausau Crime Lab.

2. The written report of Officer Whitman of the Green Bay Police Department indicates that on the above date and time he had the defendant, after reading the "Informing the Accused", submit to a blood test at St. Vincent Hospital.

3. A radio check with the Wisconsin Department of Motor Vehicles (DMV) which revealed the defendant's operating privilege was valid. According to the DMV, Wisconsin Circuit Court Access Program (CCAP), and the defendant's NCIC (or Triple I), he had seventeen prior Operating While Intoxicated convictions. Pursuant to 346.65(2)(am), the defendant is subject to the mandatory minimums because he was convicted of Operating While Intoxicated on April 19, 1988, May 3, 1993, April 21, 1993, February 17, 1994, February 17, 1994, November 8, 1994, December 5, 1994, December 19, 1994, November 25, 1996, March 13, 1997, August 27, 1997, October 6, 1998, June 2, 2000, August 19, 2000, November 7, 2003, March 11, 2008, and November 21, 2011 with offense dates of January 24, 1998, February 7, 1993, March 12, 1993, May 23, 1993, July 8, 1993, April 17, 1994, December 2, 1994, August 13, 1994, July 31, 1996, September 23, 1996, August 27, 1997, June 13, 1998, May 3, 2000, January 1, 2000, April 14, 2003, July 12, 2005 and October 1, 2011, and suspended as a result thereof.

Complainant believes the reports of Officer Whitman because she has relied on their reports in the past and has found them to be accurate. Complainant believes the information from the DMV because it is kept in the ordinary course of business and she knows that the Department regularly sends notices to each person whose operation privilege has been revoked or suspended. Complainant believes the information from CCAP and the NCIC because it is kept in the ordinary course of business and she has relied upon them in the past and found them to be accurate and reliable.

Subscribed and sworn to before me on
01/08/21

Electronically Signed By:

Caleb J Saunders

Assistant District Attorney

State Bar #: 1094077

Electronically Signed By:

Meranda Hillmann

Complainant