State of Wisconsin **Circuit Court** **Outagamie County**

STATE OF WISCONSIN

Plaintiff,

-VS-

Daniel J. Frausto
Dodge Correctional Institute
Waupun, WI

Defendant,

MAY 1 2013

DA Case No.: 2012OU001927
Assigned DA/ADA: Melinda Tempelis
Agency Case No.: LGC10-013311
LGC10-019603
LGC12-001555
Court Case No.: 13 CF 464

SUMMONS

THE STATE OF WISCONSIN TO SAID DEFENDANT:
A complaint, a copy of which is attached, having been made accusing the defendant of committing the crime(s) of:

THE CRIME(S) OF:	DATE OF VIOLATION:	CONTRARY TO WIS. STATUTE(S).:
Burglary of a Building or Dwelling; PTAC, as a Party to a Crime; Repeater	08/28/2010	943.10(1m)(a); 939.05; 939.62(1)(c)
Misdemeanor Battery; PTAC, as a Party to a Crime; Repeater	12/13/2010	940.19(1); 939.05; 939.62(1)(a)
Misdemeanor Theft; PTAC, as a Party to a Crime; Repeater	01/31/2012	943.20(1)(a) and (3)(a); 939.05; 939.62(1)(a)

The original of such complaint has been filed in the office of the Clerk of Courts for Outagamie County.

You, the defendant, are therefore summoned to appear before the Court Commissioner of Outagamie County, at the Outagamie County Justice Center, 320 S. Walnut St. Appleton, WI 54911, in on:

DATE/TIME: June 20, 2013 at 1:00 PM

And in case of your failure to appear, a warrant for your arrest may be issued. If you would like attorney representation at this appearance, contact the State Public Defender's Office at 100 W. Lawrence St. Suite 250, Avenue, Appleton, WI 54911 (920-832-2774).

Dated 16 day of May, 2013.

Melinda Tempelis
Deputy District Attorney
State Bar No. 1032157

cc: Attorney Robert Vanderloop

State of Wisconsin **Circuit Court** **Outagamie County**

STATE OF WISCONSIN
Plaintiff,
-vs-

Daniel J. Frausto
Dodge Correctional Institute
Waupun, WI
DOB: 09/08/1975
Sex/Race: M/W
Eye Color: Blue
Hair Color: Brown
Height: 6 ft 0 in
Weight: lbs
Alias: Also Known As Daniel Jay Frausto
Also Known As Daniel John Frausto

DA Case No.: 2012OU001927
Assigned DA/ADA: Melinda Tempelis
Agency Case No.: LGC10-013311
LGC10-019603
LGC12-001555
Court Case No.: 13 CF 464
ATN:

MAY 1 2013

Criminal Complaint

PAUL WOLFF Defendant,
, being first duly sworn, states that:

Count 1: BURGLARY OF A BUILDING OR DWELLING - PTAC, AS A PARTY TO A CRIME, REPEATER

The above-named defendant on or about Saturday, August 28, 2010, in the Town of Grand Chute, Outagamie County, Wisconsin, as a party to a crime, did intentionally enter a dwelling, the Michiels' residence, without the consent of the person in lawful possession of the place, and with intent to steal, property, contrary to sec. 943.10(1m)(a), 939.50(3)(f), 939.05, 939.62(1)(c), 973.046(1g) Wis. Stats., a Class F Felony, and upon conviction may be fined not more than Twenty Five Thousand Dollars ($25,000), or imprisoned not more than twelve (12) years and six (6) months, or both.

And further, invoking the provisions of sec. 939.62(1)(c) Wis. Stats., because the defendant is a repeater, having been convicted of a felony, which conviction(s) remain of record and unreversed, the maximum term of imprisonment for the underlying crime may be increased by not more than 2 years if the prior convictions were for misdemeanors and by not more than 6 years if the prior conviction was for a felony.

And furthermore, invoking the provisions of Wisconsin Statute 973.046(1g), the court may impose a deoxyribonucleic acid analysis surcharge of $250.

Count 2: MISDEMEANOR BATTERY - PTAC, AS A PARTY TO A CRIME, REPEATER

The above-named defendant on or about Monday, December 13, 2010, in the Town of Grand Chute, Outagamie County, Wisconsin, as a party to a crime, did cause bodily harm to Monte P. Michiels, by an act done with intent to cause bodily harm to that person, without that person's consent, contrary to sec. 940.19(1), 939.51(3)(a), 939.05, 939.62(1)(a) 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.

And further, invoking the provisions of sec. 939.62(1)(a) Wis. Stats., because the defendant is a repeater, having been convicted of a felony, which conviction(s) remain of record and unreversed, the maximum term of imprisonment for the underlying crime may be increased to not more than 2 years.

Count 3: MISDEMEANOR THEFT - PTAC, AS A PARTY TO A CRIME, REPEATER

The above-named defendant on or about Tuesday, January 31, 2012, in the Town of Grand Chute, Outagamie County, Wisconsin, as a party to a crime, did intentionally take and carry away the movable property of Carol J. Valeri, without consent and with intent to permanently deprive the owner of possession of the property, contrary to sec. 943.20(1)(a) and (3)(a), 939.51(3)(a), 939.05, 939.62(1)(a) 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.

And further, invoking the provisions of sec. 939.62(1)(a) Wis. Stats., because the defendant is a repeater, having been convicted of a felony, which conviction(s) remain of record and unreversed, the maximum term of imprisonment for the underlying crime may be increased to not more than 2 years.

PROBABLE CAUSE:

AND PRAYS SAID DEFENDANT BE DEALT WITH ACCORDING TO LAW; AND THAT THE BASIS FOR THE COMPLAINANT'S CHARGE OF SUCH OFFENSE IS AS FOLLOWS:

Complainant states that (s)he is an employee with the Outagamie County Sheriff's Department and bases this complaint upon the reports and investigations of Det. Renkas, Officer Keuler, Officer Jones, Det. Kuehl, and Officer Reiter of the Grand Chute Police department, as well as statements from Monte Michiels, Carol Valeri, Kathleen Smith and Eric Christman. Complainant, Det. Renkas, Officer Keuler, Officer Jones, Det. Kuehl and Officer Reiter are presumed truthful and reliable as sworn law enforcement officials. The statements of Monte Michiels, Carol Valeri, Kathleen Smith and Eric Christman are presumed truthful and reliable as adult citizen witnesses.

Complainant reports that Officer Keuler reports that on August 28, 2010, at approximately 7:47 AM, she was dispatched to 64 Spencer Village Court in the Town of Grand Chute, Outagamie County, Wisconsin, where she spoke to Monte Michiels. Officer Keuler reports that Monte stated that someone entered his residence either Thursday or Friday evening. Monte stated he returned home Saturday at approximately 7:30 in the morning and went to place his loose change from his pocket into his change jar, which he keeps in his closet on a shelf. Monte stated when he put the change in the jar, he realized the change fell directly to the bottom of the jar and he knew it was more than half full. Monte stated he looked up and also noticed the safe that he keeps on the shelf above the change jar was also missing. Monte estimated a couple hundred dollars was in the change jar and the Sentry small blue safe was locked. Monte stated that the safe contained his passport and his will. Monte stated his condo is for sale and there have been a couple people walking through the condo and he does have a spare key on the shelf in the garage and that the door to the garage is unlocked. Monte stated that he did not give anyone permission to enter his residence, to take his loose change or his safe. Monte stated that he left his residence on Thursday morning at approximately 8:30 and did return until Friday morning at approximately 7:30.

Officer Reiter reports that on December 13, 2010, he was dispatched to 64 Spencer Village Court in the Town of Grand Chute, Outagamie County, Wisconsin, where he spoke to Monte Michiels. Monte stated he was in his house and heard the doorbell ring at approximately 7:45 PM. Monte said he had just gotten home and was doing some laundry and sat down to watch the Badger game on TV. Monte said he opened the main door and could see a male party, approximately 12 to 15 feet away to the west of his main door on the concrete walkway wearing all dark clothing and a dark ski mask. Monte stated that he opened the storm door to attempt to contact and was immediately met by an individual standing to the left side of the door in the corner who attacked him. Monte stated that the first individual he noticed standing in the walkway was approximately 5'8" and was wearing dark clothing, possibly dark jeans with either a dark pull over or jacket and a dark face mask. Monte stated that he could only see around his eyes and the face mask was

pulled up to the bridge of his nose. Monte stated that the person had a thin build, approximately 150 pounds and he could not tell if the individual was wearing gloves. Monte stated the individual who was standing to the left of the door as he opened it and who attacked him was a taller individual, approximately 6' to 6'2" and was tall and lanky and weighed approximately 160 to 180 pounds. Monte stated that the individual was dressed in all dark clothes and possibly dark jeans and a dark top and also had a dark colored face mask pulled up to the bridge of his nose and he was only able to see his eyes and immediate surrounding skin area. Monte stated the individual who attacked him started to wrestle with him. Monte stated that the individual had actually made contact with him while in the threshold area of his apartment and at one point while wrestling had tried to get behind Monte and attempted to place him in bear hug around the mid to lower waist area of his person while attempting to trap his hands. Monte said he was able to break free, however, he was struck with a hard metal object that he described as being black and shiny. Monte stated that he received injuries to the immediate area above his right eye and a little lower to the right side of his face and then a final lump that was visible near the temple area of his head. Det. Kuehl reports that the injuries on Monte Michiels all appeared to be the right side other than the small cut he had received in his inner left ear and also visible was a scratch behind and below his left ear. Monte stated after he had been struck, it was like seeing lightning in his eyes and everything became light. Monte stated that he remembered that he had not gone down to the ground and was still conscious of the second individual who was standing by on the concrete walkway but had not made his approach. Monte said that individual was actually nervous and was fidgety. Monte stated he was concerned however that that individual would attack him as well. Monte explained that he pushed the individual into the screen door and continued to wrestle with him for a short time and was able to spin the individual and throw him towards his friend who was still standing on the walkway. Monte stated that after doing this, he could hear the two individuals mumbling but could not make out any part of their conversation other than possibly "lets get out here." Monte stated that the right portion of his head where he was struck rated approximately 8 or 9 out of a pain scale of 1 to 10 with 10 being the most pain when he was struck. Monte stated that at the time he was being interviewed, the pain was more of a 5. Monte stated that he immediately put ice on the injury. Monte explained that he had been broken into early that year in the summer where his small safe and a few hundred dollars had been taken from his residence. Complainant believes upon information and belief that no permission was given to anyone to strike Monte.

Kathleen Smith stated that she was doing email at her residence when she heard a door bell ring. Kathleen stated that she went to the door and opened the inside door and heard shouting from the neighbor referencing Monte Michiels. Kathleen stated that the storm door opened and Monte was half pushing out and half being dragged by a taller male dressed in all black with a full ski mask covering his face. Kathleen noticed that Monte was hit over the head with something dark but could not tell if it was a gun, flashlight or billy club. Kathleen opened the screen door and yelled out "hey." Kathleen stated Monte told her to call the cops. Kathleen stated she saw the second male run away from the front door and the other male run in the opposite direction. Kathleen stated both men were dressed in all black, black jacket, black pants, black ski masks covering their whole face except for their eyes.

Det. Kuehl reports that he spoke to Eric Christman who stated that he was traveling on the west roadway on Spencer Village Court, passing the location where the incident had occurred and advised that he noticed two persons wearing all dark clothing and dark face masks walking on the west side of the roadway, approximately one or two residences to the north of the incident location. Eric described one of the individuals as being tall and very slender with a height of approximately 6'1" to 6'2" under 200 pounds, perhaps around 180, wearing dark clothes from top to bottom with a dark face mask. He described the other individual as shorter, approximately 5'6" to 5'8", approximately 150 pounds, wearing a dark lower clothing, possibly jeans and a dark jacket.

Det. Renkas reports that he reviewed an interview done by Inv. Bellin, of the Winnebago County Sheriff's Department who is presumed truthful and reliable as a sworn law enforcement official, and who interviewed Daniel Frausto. Daniel stated that he was involved in an incident with the owner

of Michiels Bar and Grill, at 64 Spencer Village Court in the Town of Grand Chute, on December 13, 2010. Daniel stated that he was with Doo, otherwise known as Edwin Hughes, and that Edwin had a weapon on him and he knew that Monte Michiels lived in condo number 66 or something close to that. Daniel stated they wanted to get Monte Michiels to take them to wherever the money was at Michiels Bar and Grill. Daniel Frausto stated that they were going to hold him hostage in order to get the money but when they got to the door and Monte answered it, Edwin Hughes immediately pushed him up against the wall. Daniel stated that after Edwin pushed him up against the wall, he was holding him against the door bell to the neighbor's condo. Daniel stated that Edwin Hughes and Monte Michiels were wrestling for a little bit of time and the neighbor came to the door and at that point he stated he and Edwin took off running and jumped a fence and took off in Edwin Hughes' vehicle. Daniel stated that they had previously been in Monte Michiels' residence before that when they burglarized it and took a little locked box which contained passports and other things, a change jar and some marijuana. Daniel Frausto stated that this incident was previous to the incident that had occurred with Edwin Hughes at the door to Monte's condo. Det. Renkas reports that this would have been the incident that would have occurred on August 28, 2010.

Officer Jones reports that he was dispatched on January 31, 2012, to a burglary at 5331 N. Richmond Street in the Town of Grand Chute, Outagamie County, Wisconsin. Upon arriving at the scene, Officer Jones spoke to Carol Valeri who stated that she lives alone and was away from the home between 10:00 AM and 1:00 PM that day. Carol stated that she entered her bedroom and observed the items that sit on top of her large free standing jewelry box where not in the same order she had left them. Carol stated that she found approximately 12 to 15 rings missing from the top portion of the jewelry box. Carol stated that she has two small steel safes that she keeps unlocked with the keys in the doors and the doors in the open position. Carol stated that the safe on the right side of the closet which normally contains approximately $4000.00 and collectible coins was completely empty and even the internal tray had been removed. Carol stated that the safe on the left side of the closet, which contains various documents and collectible coins was missing approximately $2000.00 in coins. Carol stated that the tray containing additional coins was still in tact but was jammed into place. Carol stated that she did not give anyone permission to enter her residence or to take any items from her residence.

Daniel Frausto stated that he decided to hit Carol Valeri's house because he didn't like them and he knew they owned a lot of different businesses and would have money. Daniel stated that he took Robert Miles with him. Daniel stated that Rob took 191 silver coins from the residence and took them to a jeweler and got around $2000.00 for what should have been about $7000.00 in silver, which he stated disgusted him in Rob's stupidity. Daniel Frausto stated that he took 30 coins from the residence, which he never told Rob about since they were so valuable and Rob was so thirsty for money. Daniel Frausto stated that they also went through a jewelry box and took jewelry which Dan cut apart. Daniel Frausto also stated that Edwin Hughes, Doo, took the gold scrap to Stevens Point and sold it. Det. Renkas reports that after receiving the information, he looked on Newprs to locate a transaction at J. Anthony Jewelers at 220 S. Commercial Street in the City of Neenah, Winnebago County, Wisconsin, with a transaction date of January 31, 2012, at 2:23 PM for Robert Miles for selling sterling silver and Mexican dollar coins. Det. Renkas also located a Card and Coin located at 1920 Marley Lane in Ashwaubenon, Wisconsin, for Daniel Frausto with a date of February 1, 2012, at 4:13 PM for him selling two SOP Mexican gold 1980 AA 1/2 ounce gold, one ounce gold art bar and a receipt for American Antiques at 1049 W. Mason Street in Green Bay, Wisconsin, for silver French coins, 20 at 15, 20 at 20, for Edwin Demetrius Hughes.

Complainant reports that (s)he has reviewed the records of the Circuit Court Access Program (CCAP), which records are presumed truthful and reliable as they are kept in the normal and ordinary course of business. These records indicate that Daniel J. Frausto, DOB: 09/08/1975, was convicted of Felony Theft, contrary to Wis. Stats. §943.20(1)(a) and False Imprisonment, contrary to Wis. Stats. §940.30, in Outagamie County Court Case No. 2007 CF 999 on December 12, 2008.

The records indicated that Frausto also received a four year prison sentence with five years of extended supervision as a result of this case. Complainant reports that these convictions remain of record and unreversed.

Subscribed and sworn to before me,
and approved for filing on:

This 16 day of Mar, 2013

Paul Woeg 230
Complainant

for _____
Assistant District Attorney

State Bar No. 1032157 for Assigned DA/ADA