

FILED
06-15-2021
Clerk of Circuit Court
Cindy R. Hamre Incha
2021CF000298

STATE OF WISCONSIN CIRCUIT COURT JEFFERSON COUNTY

STATE OF WISCONSIN,
 Plaintiff,

vs.

ELIZABETH M DURKEE
 415 Foster St
 Fort Atkinson, WI 53538
 DOB: 12/12/1984
 Sex/Race: F/W
 Eye Color: Blue
 Hair Color: Blonde
 Height: 5 ft 03 in
 Weight: 220 lbs
 Alias:

Defendant.

DA Case #: 2021JE001564
 Assigned DA/ADA: Monica J Hall
 Agency Case #: 2021-4572
 ATN #:

MISDEMEANOR **FELONY**
CRIMINAL COMPLAINT

For Official Use

The undersigned complainant, of the Wisconsin Department of Justice Criminal Investigation, being first duly sworn on oath, says that:

Count 1: FIRST DEGREE INTENTIONAL HOMICIDE

The above-named defendant on Monday, June 7, 2021, in the City of Fort Atkinson, Jefferson County, Wisconsin, did cause the death of Victim 1, with intent to kill that person, contrary to sec. 940.01(1)(a) Wis. Stats., a Class A Felony, and upon conviction shall be sentenced to imprisonment for life.

Count 2: STRANGULATION AND SUFFOCATION

The above-named defendant on Monday, June 7, 2021, in the City of Fort Atkinson, Jefferson County, Wisconsin, did intentionally impede the normal breathing by blocking the nose or mouth of another person, contrary to sec. 940.235(1) 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: ARSON OF BUILDING

The above-named defendant on Friday, June 11, 2021, Jefferson County, Wisconsin, by means of fire, did intentionally damage the building of Victim 1, without that person's consent, contrary to sec. 943.02(1)(a) 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 4: MUTILATING A CORPSE

The above-named defendant on Friday, June 11, 2021, Jefferson County, Wisconsin, did mutilate a corpse with the intent to conceal a crime, contrary to sec. 940.11(1) 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.

FACTS: Your complainant bases this complaint upon the reports and records of said department which your complainant has relied on in the past and found to be truthful and accurate. Therefore your complainant is informed and believes:

According to reports written by Fort Atkinson Police Officer Kevin Miller, on 6/11/21 at 10:51am Fort Atkinson Police and Fire were dispatched to 415 Foster Street in the City of Fort Atkinson, Jefferson County, WI for a report of a house fire. Officers Miller and Walters arrived on scene at 10:53am. They blocked the road off with their squad cars. They could see flames and smoke coming out of the first floor window on the north side of the house. There was also fire and smoke coming out of the rear of the house. Officers were unable to get inside the home due to the fire. There were no vehicles in the driveway of the home.

According to reports written by Fort Atkinson Police Officer Ryan Walters, he had previous professional contacts at the home. He knew the residents typically used the rear door on the east side of the residence as the main entrance. As he approached the back of the residence, he saw flames coming out of that door. The neighbor to the South of the residence approached and told Officer Walters a heavy set female and young child left prior to the fire. However, the neighbor did not know if the older person who also lived in the house was still inside.

Officer Walters ran to the front of the residence, where there was another entrance. however, the smoke was too heavy from the floor to the ceiling. He started to yell inside. He was forced by the fire to retreat to the road.

Officer Miller had previous professional contacts at the home. He knew that Victim¹ had medical issues and was mainly bedbound. He also knew that her bedroom was on the first floor on the north side of the house next to the window. The fire seemed to be strongest at that window. Officer Miller reported that when the fire department arrived and suppressed the fire enough to see inside that window, they saw a human body.

Officer Miller called Victim's Daughter. She came to the house. She said she had a falling out with Victim, but had somewhat worked it out. The last time she visited Victim was in March 2021. She said her daughter, Elizabeth Durkee (the Defendant herein) and Elizabeth's daughters have been living at the house with Victim.

Officer Miller called the Defendant's phone number, but got her voicemail. He left a message for her to call him immediately. Victim's daughter (Defendant's mother) and Defendant's sister tried calling the Defendant as well and could not get ahold of her. They said the Defendant didn't work and had no idea where she could be. They said her phone only worked when she was connected to WiFi.

Officer Walters talked again with the neighbor to the south of 415 Foster St. She said just prior to the fire, she stepped outside and could smell smoke, but she did not see any smoke. While she was outside, she saw a heavy set blonde and a younger child come out of the house, get into the only vehicle associated with the residence and leave. The neighbor said she went back into her house. About five minutes later, she came back outside and could smell smoke and saw heavy smoke coming out of the kitchen area of the home next door.

Officer Walters located a camera on the west side of the Hoard Museum, which is across the street from the residence. He contacted the director of the museum and asked if law enforcement could view video prior to the fire being reported. Officer Walters watched the video with the museum director. At 10:44:22 CDT a silver car backed out of the driveway of 415 Foster St. At 10:46:15 smoke was visible

¹ The identity of the victim/witness will be disclosed to the Defendant through discovery and under seal through the Victim/Witness key pursuant to Article I, §9m of the Wisconsin Constitution and Wis. Stat. §§950.04(1v)(dr) & (2w)(dm) & §85.103(1), Wis. Stats.

coming out of the front window on the first floor of the residence. At 10:52:10, Officer Walters arrived on scene.

Officer Wagner interviewed Victim's daughter. She said her mother, the victim, wanted the house at 415 Foster St. to go to the Defendant because she didn't want the Defendant to be homeless. Victim's daughter said the Defendant (her daughter) had two children. The father of the Defendant's 2 year old child died in August of 2020. She also said that the Defendant's 17 year old daughter moved out of the residence a few months before because she was stressed out living there. Victim's daughter said she believed Care Wisconsin was coming to the residence to help take care of the Victim's hygiene needs.

According to reports written by Wisconsin Division of Criminal Investigation Special Agent Courtney Bauer, when she and others removed the Victim from the house, they could smell the odor of decomposition. They also located a there was a piece of clothing under her. When SA Bauer looked at the clothing, she saw maggots in the clothing. Based on training and experience, SA Bauer knows that this is an indication the body was already in a state of decay.

According to reports written by DCI SA Schoeneck, he talked on the phone with the Defendant's 17 year old daughter on June 11, 2021 at approximately 9:38pm. The Defendant's 17 year old daughter said the Defendant told her the Defendant wanted to put Victim out of her misery. The Defendant said she hoped the Victim would fall and hurt herself or the Defendant could take a pillow and smother the Victim. The Defendant said if there was a fire in the house, she would leave the victim in the house. The Defendant also said she would burn the house down after the Victim died, or hopes a tornado would hit it. The Defendant also said she would then drive her and her 2 year old daughter into either the Rock River or Lake Michigan.

According to reports written by Wisconsin Department of Criminal Investigations (DCI) Special Agent Pertzborn, in the early morning hours of Saturday June 12, 2021, law enforcement developed information that the Defendant was staying at the Super 8 Motel in the City of Delevan, WI. When he and other law enforcement personal arrived at that location, they saw the vehicle associated with the Defendant in the parking lot of the hotel. Hotel staff told Agents the Defendant, who had checked into the hotel using her name, Elizabeth Durkee, was staying in room #228. Officers knocked and announced their presence at that room. When they did not receive a response, they forced entry. The Defendant and her 2 year old daughter were inside of the room, safe. The 2 year old was eventually turned over to family at the Defendant's request

The Defendant was taken into custody. After she was advised of her rights, she agreed to make a statement. She said she lived at the residence at 415 Foster St. in Fort Atkinson with her 2 year old daughter and her 72 year old grandmother, Victim. Victim was in poor health. Victim had advanced Parkinson's disease and diabetes. She also suffered a debilitating stroke in March of 2021. She was also blind. She spent much of her time bedridden. She required assistance for basic living functions. Care Wisconsin came to the house weekly to help with showering.

The Defendant said Victim enjoyed listening to music from the 1950's. She also enjoyed listening to the evening news, the Price is Right, Law and Order, Forensic Files and Jeopardy. She liked to tell stories about her late husband and other funny family stories. She interacted with the Defendant's 2 year old daughter.

The Defendant said Victim's health was declining and she was suffering anxiety and diarrhea. She said she was sick of feeling bad all the time and feared going back to a nursing home. She also said she did not want to live anymore and wanted to be with her late husband.

The Defendant said as she prepared dinner in the evening of Monday June 7, 2021, Victim talked to the Defendant about the Defendant helping Victim end her life. The Defendant told her they would talk about it when the 2 year old took a nap. The Defendant helped the Victim to the bathroom where the

Defendant told the Victim she would help her, but didn't know how. The Defendant helped the Victim back into bed. Victim said she wanted to be with her husband. The Defendant and Victim told each other they love each other.

The Defendant said she covered the Victim's nose and mouth with flower-colored duct tape. The defendant said she remained in the room while the Victim gasped for air. The Victim made "throwing up noises" and raised her hands to her face, where the duct tape was covering her mouth and nose. The Defendant said it took approximately two minutes for the Victim's body to stop moving. The Defendant said the Victim was calm at first, but started to panic when she could no longer breathe. The Defendant said after the Victim stopped moving, she covered her with a blanket. Later, the Defendant said she knelt beside the Victim's bed and removed the duct tape.

The Defendant said she and her daughter did not leave the house until Wednesday when they got groceries. She spent most of the week deciding what to do. She thought about calling an ambulance, but decided not to.

The Defendant said on Thursday June 10, 2021 she went into the Victim's room and noticed the skin on her face had darkened and the odor of decay was worsening. She tried to use a cinnamon wax melt to cover the smell. She then decided to start the house on fire and have her and her 2 year old die in the fire. The Defendant got a partial can of gas from the garage. She poured the gas on random pieces of furniture and objects throughout the first floor of the home. She also poured gas on the blanket covering the victim. She then decided she could not kill herself and her daughter and put the gas can back in the garage.

The Defendant said she woke up on Friday June 11, 2021 at approximately 9:00am. About an hour after she woke up, she gathered her 2 year old daughter's diaper bag and some toys and put them in the car. She then put her daughter in the kitchen of the home. She went into the bedroom where the Victim was and lit the blanket covering her with a lighter. She then gathered her daughter from the kitchen and left the residence in her car.

According to reports written by DCI SA Bauer, on Monday 6/14/21 she attended the autopsy of Victim. An item of clothing with the Victim had her name on it. Additionally, she had her dentures in her mouth. Those had her name on them as well. It was determined during the autopsy that the Victim died before the fire.

Subscribed and sworn to before me on 06/15/21

Electronically Signed By:

Monica J Hall

District Attorney

State Bar #: 1049039

Electronically Signed By:

Courtney Bauer, Special Agent

Complainant