

STATE OF WISCONSIN CIRCUIT COURT COLUMBIA COUNTY

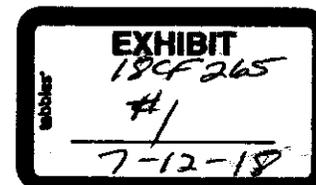
STATE OF WISCONSIN
Plaintiff,

DA Case No.: 2018CO001356
Agency Case No.:

Vs.

Murphy, Wayne Edward
3603 Mayflower Dr
Indianapolis, IN 46221-2429
DOB: 03/06/1976
Defendant.

CRIMINAL COMPLAINT



The undersigned, being first duly sworn, states that:

Count 1: INJURY BY INTOXICATED USE OF A VEHICLE

The above-named defendant on or about Wednesday, May 23, 2018 at 10:16 AM, in the Town of Arlington, Columbia County, Wisconsin, did cause great bodily harm to J.D.W., DOB: 04/26/05, by the operation of a vehicle while under the influence of an intoxicant, contrary to sec. 940.25(1)(a) 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 the Department shall revoke the defendant's operating privilege for two (2) years.

Count 2: INJURY BY INTOXICATED USE OF A VEHICLE

The above-named defendant on or about Wednesday, May 23, 2018 at 10:16 AM, in the Town of Arlington, Columbia County, Wisconsin, did cause great bodily harm to T.M.S.M., DOB: 10/15/03, by the operation of a vehicle while under the influence of an intoxicant, contrary to sec. 940.25(1)(a) 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 the Department shall revoke the defendant's operating privilege for two (2) years.

Count 3: INJURY BY INTOXICATED USE OF A VEHICLE

The above-named defendant on or about Wednesday, May 23, 2018 at 10:16 AM, in the Town of Arlington, Columbia County, Wisconsin, did cause great bodily harm to A.J., DOB: 06/06/02, by the operation of a vehicle while under the influence of an intoxicant, contrary to sec. 940.25(1)(a) 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 the Department shall revoke the defendant's operating privilege for two (2) years.

Count 4: INJURY BY INTOXICATED USE OF A VEHICLE

The above-named defendant on or about Wednesday, May 23, 2018 at 10:16 AM, in the Town of Arlington, Columbia County, Wisconsin, did cause great bodily harm to R.D.D., DOB: 09/01/05, by the operation of a vehicle while under the influence of an intoxicant, contrary to sec. 940.25(1)(a) 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 the Department shall revoke the defendant's operating privilege for two (2) years.

Count 5: INJURY BY INTOXICATED USE OF A VEHICLE

The above-named defendant on or about Wednesday, May 23, 2018 at 10:16 AM, in the Town of Arlington, Columbia County, Wisconsin, did cause great bodily harm to T.D.N., DOB: 01/14/04, by the operation of a vehicle while under the influence of an intoxicant, contrary to sec. 940.25(1)(a) 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 the Department shall revoke the defendant's operating privilege for two (2) years.

Count 6: SECOND DEGREE RECKLESS INJURY

The above-named defendant on or about Wednesday, May 23, 2018 at 10:16 AM, in the Town of Arlington, Columbia County, Wisconsin, did recklessly cause great bodily harm to J.D.W., DOB: 04/26/05, contrary to sec. 940.23(2)(a) 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.

Count 7: SECOND DEGREE RECKLESS INJURY

The above-named defendant on or about Wednesday, May 23, 2018 at 10:16 AM, in the Town of Arlington, Columbia County, Wisconsin, did recklessly cause great bodily harm to T.M.S.M., DOB: 10/15/03, contrary to sec. 940.23(2)(a) 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.

Count 8: SECOND DEGREE RECKLESS INJURY

The above-named defendant on or about Wednesday, May 23, 2018 at 10:16 AM, in the Town of Arlington, Columbia County, Wisconsin, did recklessly cause great bodily harm to A.J., DOB: 06/06/02, contrary to sec. 940.23(2)(a) 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.

Count 9: SECOND DEGREE RECKLESS INJURY

The above-named defendant on or about Wednesday, May 23, 2018 at 10:16 AM, in the Town of Arlington, Columbia County, Wisconsin, did recklessly cause great bodily harm to R.D.D., DOB: 09/01/05, contrary to sec. 940.23(2)(a) 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.

Count 10: SECOND DEGREE RECKLESS INJURY

The above-named defendant on or about Wednesday, May 23, 2018 at 10:16 AM, in the Town of Arlington, Columbia County, Wisconsin, did recklessly cause great bodily harm to T.D.N., DOB: 01/14/04, contrary to sec. 940.23(2)(a) 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.

PROBABLE CAUSE:

Your complainant is a court officer for the Columbia County Sheriff's Department, and has been employed as a sworn law enforcement officer for many years. Your Complainant bases this Complaint upon his review of the reports of Wisconsin State Patrol Troopers Jeffery Splinter, Michael Marquardt, Tracy Drager, Sgt. Nate Henriksen, whose reports your Complainant has previously reviewed and found to be reliable.

At approximately 10:09 a.m. on May 23, 2018, the Wisconsin State Patrol Communications received a check welfare request from a representative from Dahl Trucking. An employee of Dahl Trucking called in to report that the company had been getting driving complaints about one of their trucks. The employee provided a description of the truck and trailer and plate information. The employee indicated that the truck was driven by Wayne Murphy and was currently northbound on Interstate 39 near milepost 142.

Trooper Jeffery Splinter reports that at approximately 10:16 a.m. he was making a traffic stop when he heard State Patrol Communications report a crash between a semi-truck and school bus on Northbound I-39 at milepost 123, in the Town of Arlington, Columbia County, Wisconsin. Trooper Splinter arrived on the crash scene to assist at approximately 10:28 a.m.

Upon arriving, he observed multiple emergency vehicles, including Med Flight helicopters on scene. He also observed several younger kids sitting and laying on the ground near a school bus. There was a semi-truck parked on the right shoulder in front of the school bus. The semi-truck was consistent with the description provided earlier by State Patrol Communications when it sent out the welfare check request.

Trooper Splinter reports that initial on-scene investigation revealed that the school bus was traveling northbound on Interstate 39/90/94 when it experienced engine issues and pulled over to the right shoulder at milepost 123. At approximately 10:15 a.m., a northbound semi driven by the defendant struck the left rear corner of the stationary bus. At the time of the crash there were 33 passengers on the bus, with the majority being middle school aged kids on their way to Wisconsin Dells from Milwaukee for a field trip. Many of the bus occupants were injured to varying degrees as a result of the crash.

Trooper Splinter reports that a short time after he arrived on scene he made contact with the driver of the semi, who was identified by an Indiana Driver's License as Wayne E. Murphy, the defendant herein. As he approached the semi where the defendant was seated, Trooper Splinter observed damage to the left side of the tractor portion of the truck and heavy damage to the right side of the trailer. When asked what happened, the defendant said that he was traveling in the right lane when he saw the school bus stopped on the shoulder about a quarter mile ahead of him. The defendant stated that his truck veered off the road to the right shoulder. When asked why his truck veered onto the shoulder, the defendant was unable to provide an explanation. According to the defendant, he tried to swerve to the left to avoid the school bus but the passenger side of his truck and trailer hit the bus.

When asked where he was coming from, the defendant told Trooper Splinter that he left South Beloit, Illinois, and was going to Regina, Canada. The defendant stated that he left South Beloit at 8:00 a.m. after getting ten hours of sleep. The defendant denied drinking any

intoxicants. During his contact with Trooper Splinter, the defendant did not inquire about the condition of any of the kids on the school bus and generally seemed unconcerned with the situation. Trooper Splinter considered this to be odd behavior under the circumstances. Trooper Splinter observed that the defendant's pupils were very constricted. When asked about any prescription medications he was taking, the defendant stated that he takes Sertraline for anxiety, and that he had taken one and one half pills that morning at 8:00 a.m. The defendant got the prescription bottle out of his truck, which indicated that the defendant was directed to take one pill per day. The label also indicated that it could cause drowsiness and advised to use caution when operating a vehicle. The defendant stated that he had been taking the Sertraline for about a year and that it made him feel calmer. The defendant denied that the medication affected his driving.

Trooper Michael Marquardt reports that he responded to the crash scene to investigate and reconstruct the crash. As part of his investigation, Trooper Marquardt entered the cab of the semi and located a prescription pill bottle on the dash area. The bottle was for Alprazolam (Xanax) and it indicated that it was prescribed to the defendant. Trooper Marquardt reports that the label on the bottle indicated that the prescription was last filled on May 14, 2018, with 120 pills. Marquardt also found two empty pill bottles for the same prescription on the floor of the truck cab. Those bottles were filled on February 6 and April 10, 2018, both for 120 pills. Marquardt reports that based on the pill bottles he found, it appeared as though the defendant was prescribed 120 pills of Alprazolam each month, which would equate to four pills per day. Marquardt opened the bottle dated May 14, 2018, and counted the pills inside. There were 51 of the 120 pills remaining, which meant that the defendant had taken 69 pills since the prescription was filled 8.5 days earlier. Marquardt reports that based on the pill count, it appeared as though the defendant was taking double the prescribed dose of four pills per day.

Trooper Splinter reports that he asked the defendant to walk back to his police cruiser. As they walked past the Med Flight helicopter, EMS personnel were wheeling one of the injured bus passengers toward the helicopter. Trooper Splinter reports that despite seeing this, the defendant did not seem upset or concerned with the situation or the injured kids. According to Splinter, the defendant still appeared as though he was removed from the situation. When asked again how the crash happened, the defendant stated that the truck had just kind of drifted over and that he did not do anything to cause it to do so.

Trooper Splinter asked the defendant to perform field sobriety tasks and the defendant agreed. On the first field sobriety task, the Horizontal Gaze Nystagmus, Trooper Splinter did not observe any clues. On the second task, the Walk and Turn, Trooper Splinter observed that the defendant lost his balance during the instructions, stepped off the line several times, and nearly fell on the first step. The defendant also missed heel to toe on a couple of steps. On the third task, the One Leg Stand, Trooper Splinter observed that the defendant put his foot down four times and stopped the task before it was completed. When Trooper Splinter advised the defendant to continue the task, the defendant hopped slightly and swayed.

At approximately 12:12 p.m. Trooper Splinter and the defendant arrived at Divine Savior Hospital in Portage for the purpose of obtaining a legal blood draw. The defendant was placed under arrest for operating while intoxicated (OWI) causing injury and consented to an evidentiary test of his blood. A lab technician performed the blood draw and the sample was packaged and delivered to the Wisconsin State Laboratory of Hygiene for analysis.

Trooper Tracy Drager reports that on the afternoon of May 23, 2018, she responded to the University of Wisconsin Hospital to make contact with some of the bus passengers who were transported there for medical treatment. Drager spoke first with K.C., the mother of J.D.W., DOB 04/26/2005, who had been sitting in the rear of the bus at the time of the crash. K.C. told Trooper Drager that J.D.W. was unconscious and was being treated for a broken

right ankle, broken toes, sore ribs, and head pain as a result of the crash. J.D.W. was admitted to the hospital and as of the morning of May 24, 2018, was awaiting more scans to determine if he needed surgery on his right ankle.

Trooper Drager reports that she also spoke with T.M., the mother of T.M.S.M., DOB 10/15/2003, who was also being treated at UW Hospital. T.M.S.M. was knocked unconscious in the crash and was having difficulty breathing, and was transported by Med Flight from the crash scene. T.M. told Trooper Drager that T.M.S.M. suffered pain in his neck, spine, and left leg. Trooper Drager reports that she spoke with T.M. again on June 4, 2018, and was advised that T.M.S.M. was hospitalized overnight after the crash because he had swelling on his spine. T.M.S.M. was diagnosed with a mild traumatic brain injury and left side weakness due to the hit to his left leg at impact, which has gotten worse since the crash. T.M.S.M. also has swollen and tender ligaments on the right side of his neck and suffered torn tissue in his neck. He continues to experience pain in his head, neck and back, and is required to wear a neck brace. T.M. advised Drager that T.M.S.M. is scheduled to see a neurosurgeon and will eventually have to undergo physical therapy.

Trooper Drager reports that on May 24, 2018, she spoke with L.J., the mother of A.J., DOB 06/06/2002, who was seated in the rear of the bus at the time of the crash. A.J. was admitted to the U.W. Hospital in critical condition after the crash. L.J. advised Trooper Drager that A.J. was unconscious and could not breathe on her own after the crash and so she was placed on a ventilator. A.J. also had to receive a blood transfusion and was being treated for multiple injuries, including a broken shoulder. L.J. advised Trooper Drager that she had no timeline for when A.J. would be released from the hospital.

Sergeant Nate Henriksen reports that he responded to the emergency room at UW Hospital after the crash to make contact with some of the bus passengers and their parents. Sergeant Henriksen reports that he made contact with R.D.D., DOB 09/01/2005, and his

mother. R.D.D. was seated in the back of the bus and was being treated for a fractured knee and sore back.

Sergeant Henriksen further reports that while in the emergency room he made contact with T.D.N., DOB 01/14/04, and his mother. T.D.N. was being treated for a concussion, broken collarbone, and ligament injuries in his shoulder.

Trooper Marquardt reports that he made contact with J.B., a truck driver who was following the defendant north on Interstate 39/90 between Janesville and Madison. J.B. advised Marquardt that the defendant had been all over the road, which had prompted J.B. to call the 1-800 number listed on the rear of the defendant's trailer to report the unsafe driving to the company. J.B. provided Trooper Marquardt with several photographs showing the defendant's semi and trailer driving several feet onto the right shoulder near milepost 155 in Dane County.

Your complainant believes the statements of K.C., T.M, and L.J. to be truthful and accurate as they are statements made by an ordinary citizen witness without expectation of personal gain. Your complainant believes the statements of the defendant to be truthful and accurate insofar as they are statements made against his penal interest. Your complainant knows Jeffery Splinter, Michael Marquardt, Tracy Drager, and Nate Henriksen are law enforcement officers, who were working in an official capacity and with lawful authority, and therefore believes the above information to be accurate and reliable.

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

Subscribed and sworn to before me on 06/06/18
Electronically Signed By:
Mary Ellen Karst
Assistant District Attorney
State Bar #: 1001844

Electronically Signed By:
Deputy Max A. Jenatscheck
Complainant