

FILED
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Clerk of Circuit Court
Wood County, WI
2022CF000440

STATE OF WISCONSIN CIRCUIT COURT WOOD COUNTY

STATE OF WISCONSIN,

Plaintiff,

v.

Case No. 2022-CF-_____

DONALD WAYNE MAIER,

Defendant.

CRIMINAL COMPLAINT

Complainant, Detective David Bailey, of the Wisconsin Rapids Police Department, being duly sworn on oath, and based upon information and belief, states as follows:

COUNT 1: FIRST DEGREE MURDER, Party to a Crime, While Armed

The above-named Defendant, on or about July 17, 1985, in Wood County, Wisconsin, did cause the death of another human being, Benny Scruggs, with intent to kill that person, as a party to a crime, contrary to 1985 Wis. Stat. §§ 940.01 and 939.05, a Class A felony, punishable by life imprisonment.

Furthermore, invoking the provisions of Wis. Stat. § 939.63(1)(a)2., the crime having been committed while using a dangerous weapon, the maximum term of imprisonment may be increased by not more than five years.

FACTS

On July 17, 1985, at 3:01 a.m., Brian Walker, now deceased, telephoned the Wisconsin Rapids Police Department and reported that an ambulance was needed as a friend of his had been stabbed. Wisconsin Rapids police officers and emergency personnel were dispatched to 240 Travis Drive, Wisconsin Rapids, Wood County, Wisconsin.

Brian Walker related to the dispatcher that he lived in the trailer at 253 Travis Drive and was calling from the neighboring trailer where the victim was moaning, full of blood and bleeding, squirting blood. Walker told the dispatcher that he found out about this because the neighbor's wife called concerning her husband. She woke up and freaked out because she saw a shovel in her living room leaning up against the refrigerator, but she had not heard anything before that. Walker said she called him because of her husband and that he should get over there quick. During the 9-1-1 call, Brian Walker told the dispatcher that he had a knife in his hand. The dispatcher told Brian to put the knife away, at which point a female voice could be heard in the background saying, "One of my knives is missing." After the dispatcher directed that pressure be put on the victim's wound, Brian Walker could be heard saying, "Hey, Yvonne, go back there and apply pressure."

Wisconsin Rapids Police Lt. Laverne Schuetz and Officer Tad Wetterau responded to the call, arriving in about five minutes. They found Brian Walker and Yvonne Scruggs inside the trailer home at 240 Travis Drive. They directed the officers to the west bedroom where Officer Wetterau found the male subject, later identified

by Yvonne Scruggs, now deceased, as her husband Benny Scruggs, laying on the left side of the bed clad only in blue underwear. He was lying in a pool of blood which was concentrated in the center of the bed. Brian and Yvonne stated that the stab wound was in Bennie's chest and that the towel Officer Wetterau saw on his chest had been placed there by Brian and Yvonne at the direction of the dispatching officer in an attempt to apply pressure to stop the bleeding.

When Officer Wetterau removed the towel, he found a large stab wound in the left upper chest area. Officer Wetterau was unable to locate a pulse in the area of the carotid artery; meanwhile the ambulance arrived and when the crew attended to Benny, they were unable to locate a pulse in his wrist. The ambulance attendant advised that Benny was expired as he was not able to locate any signs of life.

Yvonne Scruggs, 21 years old, had been present in the southwest corner of the bedroom. However, after it was determined that Benny was deceased, Officer Wetterau escorted Yvonne from the trailer to his squad car where she said the dead man was Benny, her husband. She explained that she and Benny had been out to Lance's the prior evening. She was not sure what time they returned home, but when they did, they went to bed. Benny had fallen asleep after a time, but she had not. She heard their two-and-a-half-year-old son, Victim 1, start crying, so she went to his bedroom, about ten feet away, and stayed there, she said, for about ten minutes, but then, she said, she did not feel right, she felt something was wrong. Yvonne walked out of Victim 1's room into the kitchen area and observed a granite shovel, seen by the officer when he first arrived, up against the front of the refrigerator and, she said,

the south door to the trailer was standing open. This alarmed her as she was in the habit of always locking the trailer before going to bed at night. She said she walked down the hall, walked into the bedroom and found her husband lying in a pool of blood. At that point she called her neighbor, Brian Walker, and asked him to come over immediately.

Yvonne became uncooperative and insisted on going back into her trailer. She did so, in spite of Officer Wetterau trying to keep her in the squad car. She then tried to re-enter her bedroom area. She was finally escorted from the trailer to Brian and Carrie Walker's trailer until she could be further interviewed.

Officer Wetterau then spoke with Witness 1, 20 years old, who lived in the trailer at 244 Travis Drive and who said she had babysat Victim 1 for Yvonne and Benny while they went out the night before. Witness 1 said Yvonne and Benny returned at about 1:00 a.m. and seemed in good spirits, in a better mood than usual. She spoke with them for about ten minutes and returned to her own trailer at about 1:10 a.m.

After speaking with Witness 1, Officer Wetterau spoke again with Yvonne who this time told him that after she and Benny went to bed, they both fell asleep, and she was awakened by Victim 1's crying. In fact, this time she said Victim 1 walked into their room crying hysterically, whereupon she picked him up and carried him back to his bedroom where she lay with him in his bed for about ten minutes. He could not be comforted so she left him and went into the kitchen, found the shovel leaning against the refrigerator and the door wide open. She went to check on Benny,

found him in the pool of blood and called the neighbor. While officers waited for her to spend some time with friends, Officer Wetterau heard Yvonne say to her friends, “I was asleep next to him, he got stabbed, and I don’t know it.”

Officer Wetterau interviewed Yvonne for a third time at about 3:55 a.m. She again said that she and her husband went to bed and both fell asleep. This time she said she was awakened by either Benny throwing up or Victim 1 crying, claiming they were happening simultaneously. She also said that when she and Benny went to sleep, he was on the left side and she on the right as one faces the bed from the foot of the bed, which is opposite to where Officer Wetterau found Benny when he entered the bedroom. She said when Victim 1 came in the room, Benny was throwing up. She also said when Brian Walker came over to her house, she then noticed that a black kitchen cutlery type knife was missing from the knife holder set in the kitchen between the cupboard and the refrigerator. Lieutenant Schuetz observed that there was a part of a cupboard where there was a white knife rack hanging that had spaces for three knives and one of these knives with a black handle was missing from the knife rack.

Lieutenant Schuetz reports that the body of Benny Scruggs eventually was wrapped in a disposable white plastic blanket by Coroner William R. Voight and others and was removed from the trailer and placed on a cot and into the coroner’s station wagon at about 9:20 a.m. to be transported for an autopsy. The autopsy was done at about noon at University Hospitals in Madison by Dr. Robert Huntington, now deceased, who your complainant knows to have been one of the preeminent

forensic pathologists in the State of Wisconsin for decades. Dr. Huntington found the wound four-and-a-half inches above the left nipple and one-and-a-half inches to the center of the body. Doctor Huntington described the knife which inflicted this injury as, “one hell of a big knife, like a butcher knife.” He described that the blade would have been nearly two inches wide. Doctor Huntington asserted, “this man was knifed in his sleep as he has no defense wounds to his hands or arms.” The knife was inserted into Benny’s body parallel to the rib cage and penetrated the left lung completely through and on through the rear between two vertebrae and into the final layer of skin on the back, nearly six inches into the chest cavity. Doctor Huntington said, “another 3/8 of an inch and there would have been a hole in the waterbed.” The knife “nicked” one artery. The knife was inserted on a slightly upward angle. It was a single-edged weapon. Doctor Huntington noted that death would have resulted in “minutes.” Based on the results of Dr. Huntington’s autopsy, Wood County Coroner Voight issued a death certificate that 28-year-old Benny Scruggs died on July 17, 1985, where the cause of death was a stab wound to the chest, and the manner of death was homicide.

The knife has never been recovered. Yvonne later described the knife missing from her knife set as a butcher knife with about an eight-inch blade. Searches were conducted of the pond next to the trailer park, including with a metal detector, but no knife was ever found there. Between July 22 and 24, 1985, the pond was drained, and the knife was not found. Detective Jere Gardner stated in a report, “The garbage in the area had been gone through and the murder weapon was not located.”

City of Wisconsin Rapids garbage disposal employee, Witness 2, told Det. David Bailey on October 14, 2019, that he was responsible for garbage disposal at the Pioneer Village Trailer Park around 1985. It was his normal habit and practice to pick up the garbage there on Wednesdays beginning at approximately 11:00 a.m. and would have picked up the garbage on the road Benny Scruggs lived on at approximately 11:15 a.m.

On July 20, 1985, Officer R. Bates, now deceased, interviewed Beverly Polansky, now deceased, who was living in trailer #242, the second trailer north of the Scruggs trailer on Travis Drive. Beverly stated that the Defendant, Don Maier, lived with her and was a friend of the Scruggs. She said he worked at Del Monte in Plover. She said that the Defendant bought a car from the Scruggs and sold a motorcycle to Benny Scruggs. She said that on the night of Tuesday, July 17, 1985, the Defendant went to bed early as he was having trouble with an abscessed tooth. She believed him to be in considerable pain. The next time she saw him, she said, was when she went into the Defendant's room at around 3:30 a.m. when she heard noises and saw flashing lights outside in the trailer park. The Defendant appeared to be sound asleep when she woke him, she said. She said her son and a friend were sleeping on the floor in the living room and that although she thought the Defendant could have gotten out of the trailer, she felt the boys would awaken. She did recall that around 3:00 a.m. her dog barked once, then another dog outside started barking.

On July 30, 1985, Bev Polansky told Detective Bates that she was first alerted to the squad cars by the Scruggs' trailer at around 5:30 or 6:00 a.m. and it was then

that she woke the Defendant up for him to get to work, telling him about the squad cars and the yellow police tape, to which the Defendant responded, “someone must have gotten killed.” On July 30, 1985, Bev’s son, Witness 3, who was ten years old at the time, told Detective Bates that he and his friend were watching TV when the Defendant got up sometime after midnight, looked outside, went to the refrigerator, made himself a sandwich and watched TV with them. The Defendant went back into his bedroom before the boys went to sleep after which they did not hear him get up again. On March 14, 2013, Special Agent David Forsythe and Detective Andy Dewitt asked the Defendant if it was possible that he could have gotten out of the trailer without anyone noticing, to which the Defendant responded, “Yeah, hell yeah. But I didn’t do it.”

Bev Polansky told Officer Bates that Yvonne Scruggs used to hang around her trailer a lot talking to the Defendant. She would come over with her son Victim 1 and Victim 1 would run in and out of Bev’s trailer. Bev was afraid Victim 1 might break things, so she asked Yvonne not to come by so often. Bev said that Yvonne was a person whose normal way of acting would appear to someone watching and listening to her as if she were a flirtatious person.

The Defendant told Bev Polansky that Yvonne had spoken with him about being a pallbearer at Benny’s funeral, but the Defendant told Bev he refused because he did not want to get involved as he felt that possibly Yvonne could be the one responsible for Benny’s murder. Bev claimed the Defendant got up early in the

morning to go to work, that he had to be at work by 7:00 a.m. and usually works late into the night.

On July 26, 1985, Detective Bates interviewed the Defendant at his trailer. The Defendant said he worked at Del Monte and had worked there for the past four seasons. The Defendant said that his work starts at 9:30 a.m. and runs until 8:00 p.m., but that he gets to work before 8:00 a.m. because he gives a friend a ride to work. He said he usually sleeps in his car until it is time for him to start work.

He said he had known Benny since April when he and Bev moved into their trailer. He talked about the car and motorcycle and said there had been no controversies regarding those and that he never had any problems with Benny. The Defendant told Detective Bates that he had known Yvonne Scruggs since they were in high school and that they had worked together at the Woolco department store in Wisconsin Rapids.

The Defendant told Detective Bates that during the day on Tuesday, July 16, 1985, the day before the night Benny was murdered, the Defendant had left work early to go to the dentist to have his tooth pulled. He was on medication because of that and had to go back and get a second type of medication as the first was not strong enough and would not kill the pain. The Defendant claimed he got this medication before the tooth got pulled. He stated he went to bed around 9:00 p.m. He said he slept in the front bedroom and did not even hear the dog bark, if it had. He said that Bev woke him up at about 5:30 a.m. to go to work.

The Defendant told Detective Bates that at about 10:00 p.m. on Friday, July 19, 1985, Yvonne had telephoned him and told him that the police would not tell her anything about what was going on. The Defendant also told Detective Bates that he had told Yvonne that he did not want to be a pallbearer because he did not have a good suit or good shoes to wear and that he did not know Benny or Yvonne well enough for her to call him to be a pallbearer. Also, he said he felt that Yvonne could be the one who killed Benny as no one else would be able to go into the trailer and do this with her in the trailer. He stated that Yvonne does have a temper and that he had seen it when they were in high school and she was disappointed with some auto repairs he had done for her.

On or about August 10, 1985, the Defendant told Witness 4 that he had known the victim, Benny Scruggs, for only a few months, and became acquainted with him primarily as a result of purchasing a car from Scruggs and selling a motorcycle to Scruggs. However, the Defendant also said that he had known Benny Scruggs' wife, Yvonne Scruggs, since high school. The Defendant and Yvonne had been fellow employees at a Woolco store four or five years earlier. He said they had been sexually involved with each other at that time, but he had not seen her after that until January or February of 1985 when he moved into his present residence. He said Yvonne had been paying a great deal of attention to him after he moved into the area. He said that about six weeks prior to Benny's stabbing, the Defendant went over to the Scruggs' trailer around 10:30 p.m. at Yvonne's invitation. Benny was not at home at the time. The Defendant and Yvonne engaged in an act of sexual intercourse in the

living room of the Scruggs home. About a week after Benny's stabbing, Yvonne telephoned him and asked him to tell her what he knew about the police investigation. She told him that she told the police that she and the Defendant were simply friends and she expected him to tell the police the same thing if he were questioned about his relations with her. Later that day the Defendant told Detective Bates that after they had had sex Yvonne had told the Defendant that if the Defendant wanted her, she knew how to get rid of Benny.

On August 27, 1985, Yvonne Scruggs admitted to Detectives Gardner and Bates that she had not told them of her sexual encounter with the Defendant because she did not think it was that important and because she was embarrassed to tell anyone that it had happened. She claimed it was her only sexual contact with the Defendant and denied saying that if the Defendant wanted her, she would get rid of Benny.

In September 1985 the Defendant moved out of Bev Polansky's trailer. In approximately November of 1985, the Defendant left Wisconsin Rapids for Glenmore, Louisiana where his family lived. After a short time there, he moved to Bradenton, Florida, then to Tallahassee, Florida.

On October 23, 1987, Detective Bruce Smolarek, now deceased, spoke with Witness 5 who was a friend of Yvonne Scruggs at and around the time Benny was murdered. Witness 5 told Detective Smolarek that for a couple years after Benny's murder, on several occasions, Yvonne made the statement to her, "Do you think I

could have killed Benny?” to which Witness 5 would respond, “I don’t know, did you?” and then Yvonne would not answer. They had little to no contact after 1986.

On August 20, 1987, Detective Smolarek and Detective Exner spoke to Cynthia A. Reas, now deceased, who stated that she and Yvonne had been close friends through high school. Approximately two months prior to Benny’s murder, Cindy and Yvonne were at the Wood County Courthouse for a WIC program social services function and Benny, Yvonne, and Victim 1 came into the room. Yvonne came over to Cindy, bent her face towards Cindy’s ear, spewed profanities about Benny and then stated that Benny had found out about her boyfriend, but it does not matter because she and Benny will not be together much longer. Then about two months after Benny’s murder, Yvonne called Cindy and asked her if she had heard about Benny’s murder, which Cindy had. Then Yvonne said, “everyone in town thinks I did it, what do you think?” to which Cindy replied, “Well, did you?” Yvonne did not answer.

On or about November 20, 2012, Detectives Andy Dewitt and Casey Labarre spoke to Witness 6 who had called the police after seeing an article in the local newspaper regarding the Benny Scruggs cold case homicide. Witness 6 told the detectives that between approximately 1989 and 1990 her son, Witness 7, who was also present for this police interview, was dating Yvonne, whom he had met at work, while Yvonne was married to Kevin Neukirchen, now deceased. During the time they were dating, Yvonne was visiting at Witness 6’s home and Yvonne told Witness 6 that she loved both men. Witness 6 told her she cannot have it both ways. Yvonne replied, “I killed one husband. I can kill another one.” Witness 6 told the officers those were

Yvonne's exact words. And Yvonne told Witness 6, "Oh, they'll never get me for it anyway."

Witness 7 told the detectives that he had been in the service in 1985 and knew nothing about Benny's murder until Yvonne told him while they were dating. He asked her where Victim 1's dad was, and Yvonne responded, "He's not with us anymore." When he asked her how it happened, she said, "Well, I killed him." He asked her how it happened. Yvonne said that she was in Victim 1's room, she came into their bedroom and there was a knife in his chest. Witness 7 asked her how that happened, and she said, "Well, I put it there." He asked her what happened to the knife and she said, "I don't remember. I was drunk." During their relationship, Yvonne did tell Witness 7 that she had not been happy being married to Benny, but never said why Benny was killed.

On January 14, 2013, Detective Dewitt spoke to Witness 8 who lived in the Pioneer Village on Travis Drive in July of 1985. Witness 8 remembered the night of the murder because it was a night her sister from Colorado was visiting. Witness 8 was awakened by the commotion of the police radios. Back then she and her husband had identified the shovel found in the Scruggs' trailer home on the night of the murder as belonging to them and last seen by her before the murder lying against her trailer by their front steps. In any event, Witness 8 told Detective Dewitt that about a week or so following the murder, Yvonne told her that she knew who had killed Benny. She and Yvonne were outside talking when Yvonne told her that. Witness 8 said to Yvonne, "Well why don't you say something then?" Yvonne reiterated that she knows

who did it, but that she cannot turn him in. Witness 8 asked Yvonne who it was, but Yvonne would not tell her, and did not explain why she could not tell her. Witness 7 had been interviewed by police on July 22, 1985, 5 days after Scruggs was murdered, so there was no mention of this information that day.

The Wisconsin Rapids police investigation into this matter remained dormant from approximately 1992 until March of 2012. The resurrection of this cold case was initiated by the Defendant. During the last week in February and the first couple weeks of March, 2012, pleadings were filed, and hearings held regarding the Defendant's upcoming jury trial in Wood County on ten counts of stalking jurors who had sat on his jury which, in 2006, had convicted him of two counts of threatening a judge. The Defendant knew he was looking at additional prison time. During the pendency of the stalking case, the Defendant contacted the Wisconsin Rapids Police Department and asked for a meeting with the police chief to discuss the 1985 Benny Scruggs murder case. On March 20, 2012, he was found guilty by a Wood County jury of six counts of stalking persons who had been jurors in his 2006 trial for threatening a judge.

On March 23, 2012, three days after his conviction, and while facing a potential sentence of up to 45 years in prison, for six counts of stalking as a habitual offender, the Defendant agreed to be interviewed by Wisconsin Rapids Police Detective Andy Dewitt and Wisconsin Department of Justice – Division of Criminal Investigation (DCI) Special Agent Dave Forsythe regarding the murder of Benny Scruggs. As the recording of the interview reflects, as soon as the Defendant entered the interview

room, Detective Dewitt said, "I understand you wanted to talk to somebody." The Defendant responded, "You bet I do." Detective Dewitt said, "I know you asked for the Chief but he's on vacation in Florida." In the course of the interview, the Defendant denied committing the murder, but declared that he believed he was the "missing key." At the beginning of the interview, the Defendant asserted, "I have nightmares over this and have blood curdling screams and then people would be afraid to wake me up, and then I would tell them what I did, and they would want to dial 9-1-1 on me."

The Defendant told the officers repeatedly that he believed Yvonne had killed Benny, but he also said she set it up so that it would look like he did it. Before Benny's murder, Yvonne was constantly coming over and complaining about Benny to him; she told him she had "lost the fizz," which the defendant took to mean she had lost her feelings for Benny. Three days before Benny died, Benny came by the Defendant and told the Defendant that Yvonne was "always bringing up your name." Benny agreed with the defendant that she was just doing that to "piss" Benny off.

The Defendant said that Yvonne had had a thing for him in high school. When they worked together at the Woolco store, she would give him rides home and would stop on a dirt road to perform oral sex on him. He said that Yvonne told him, "I got her in trouble in high school" and that she was going to get him back. He said that what really got him was that his fingerprints were all over that bedroom and that his fingerprints would prove he did it and he would go down for murder. He explained that his fingerprints were all over because about a week before Benny's murder, he

got drunk. Yvonne telephoned him and wanted him to come over. They had sex on the living room floor and then moved to Yvonne and Benny's bedroom and had sex on the waterbed.

As a result of this encounter, the Defendant knew that the door from the hallway to the bedroom would not open, thus he had to go through the bathroom to another door that led to the bedroom. He also knew that the back door was screwed shut, and he knew where the chopping block the missing knife came from was in relation to the counter and the refrigerator. The Defendant drew a floor plan of the interior of the Scruggs' trailer and told the detectives that, "every time he sees that knife" he thinks of the chopping block the knife came from, and pointed out to the detectives – on the diagram he drew – to where the knife was supposed to be in the middle of the chopping block. His drawing accurately depicts the location of the knife block from which a butcher knife is missing.

The Defendant told the detectives that since he had been housed in the Wood County Jail on the charges for which he had recently been convicted, he spoke with two of his cellmates about "all of his problems" and one cellmate told him he lived on Travis Drive when he was nine years old and another told him he knew who Ben and Yvonne were and that his mom was friends with Yvonne.

Bryant Menger, now deceased, told Detective Dewitt and Agent Forsythe that in spring of 2012 he overheard Don Maier talking to one of the other inmates in the Wood County Jail about Pioneer Village, the trailer park containing Benny and Yvonne Scruggs' trailer. Bryant approached the Defendant and the other inmate and

told them that he grew up in Pioneer Village. He mentioned that he remembered that a person was murdered there. The Defendant told Bryant that he was having sex with the lady who was married to the guy who got murdered. The Defendant told Bryant that he ended up killing the guy and throwing the knife in the garbage can. Bryant responded, "What!?" The Defendant then said he stabbed him in a waterbed. Bryant told the officers, "That's exactly what he said." Bryant told the Defendant that they drained the pond but never found the knife. The Defendant said, "Yeah, I threw it in the garbage. She told me to throw it in the garbage can." Bryant thought this might just be jailhouse talk, but as he asked more questions, the Defendant provided a lot of details. The Defendant told him that the lady he was "fucking" told him to toss it in the morning garbage, that "nobody would ever look there." The Defendant said it all came about because the Defendant got caught having sex with Benny's wife a couple days before he murdered Benny. The Defendant told Bryant that the wife was trying to convince the Defendant to kill her husband. Bryant described the Defendant's demeanor during this conversation as seeming like he was trying to get this off his chest.

On June 8, 2012, Detective Dewitt spoke with Wood County Jail inmate Witness 9 who had previously told jail staff that he wanted to talk to Dewitt about the Defendant and the Benny Scruggs homicide. As Detective Dewitt entered the interview room, Witness 9 stated, "Don told me he killed my cousin's dad. He told me what he did with the clothes and what he did with the knife." Witness 9 said that

Victim 1 was his cousin because Victim 1 had been adopted by his cousin Kevin Neukirchen after Kevin had married Yvonne.

Witness 9 told Detective Dewitt that the Defendant started talking to him about what he had done on about Monday, May 14, 2012. The Defendant was bragging about it, about how Detective Dewitt and other investigators came and talked to him and about how he's going to get away with it because he's so smart and got rid of everything. The Defendant told Witness 9 that the only person the police think did it is Yvonne and that the police can't prove anything. In fact, the Defendant told him he was writing a book about the murder. Witness 9 told Detective Dewitt that the look of excitement on the Defendant's face as he talked about it just about made him sick.

Witness 9 said the Defendant told him that he and Yvonne were having a sexual relationship while she was married, that she was afraid to leave Victim 1's dad, so she kept staying with him. The Defendant said that he and Yvonne had just got done having sex a week prior to the murder when her son had come out after his nap and crawled up onto the Defendant's back and tugged on the Defendant's shirt, saying "giddy-up, giddy-up." He said he did it because they wanted to be with each other.

Witness 9 said after he let the Defendant go on and talk about it, and after he put the pieces together and realized the Defendant was talking about his cousin Victim 1, Witness 9 said to the Defendant, ". . . that happened in the Pioneer Trailer Park, didn't it? . . . like 27 years ago?" The Defendant said, "yeah," and got all excited

and said, “how’d you know?” Witness 9 told him, “that’s my cousin.” Witness 9 said the Defendant’s face went white and then the Defendant changed his story and said, “well, I’m just coming from the viewpoint of what I would have done,” after telling Witness 9 what he did with the knife.

He said that when he did it, he was waiting outside one night when Yvonne and Benny went out to a bar and he knew that Yvonne would be sleeping in Victim 1’s room. The Defendant said he walked in the house, walked in the bedroom, stabbed Benny once in the chest, could hear him gurgling blood, walked out, went home, took a shower, took off his clothes, showered, got dressed, took the clothes and the knife and went outside and threw them away. The Defendant said he threw his clothes and the knife in his garbage and the garbage truck picked the stuff up at his trailer while the coroner and the police were all over at the victim’s trailer. He said he planned it like that. He told Witness 9 he did it that day because he knew it was garbage pick-up day and consequently the police wouldn’t be able to find the knife or the clothes he was wearing.

Witness 9 said that after he told the Defendant that the Defendant was talking about his family, the Defendant’s story flipped, and the Defendant started claiming that Yvonne did it. Witness 9 said the Defendant claimed that the police came to talk to him after he got charged with stalking jurors because the police wanted to put the murder on him because the police had new evidence, or because the Defendant knew too much and the police couldn’t prove or disprove that he did it.

Detective Dewitt interviewed the Defendant in the Wood County Jail again on June 11, 2012, the day before the Defendant's sentencing for stalking jurors who had convicted him. In a letter to Detective Dewitt from May 22, 2012, the Defendant had requested that Detective Dewitt continue to meet with him. Although the Defendant continued to deny having killed Benny, the Defendant did tell Detective Dewitt on June 11, 2012, that he had talked to Witness 9. The Defendant told Detective Dewitt that his DNA being in the bedroom would prove he did it. The Defendant said he recalled vividly that the door to the bedroom at the end of the hall didn't open, the Pabst Blue Ribbon light was lit up in the hallway on the way to the bedroom, and that there was a nightlight on in the bathroom. The Defendant said that he has had nightmares about this case throughout his life and that it has caused a lot of damage in his life.

On June 12, 2012, Detective Dewitt and Agent Forsythe met with Wood County Jail inmate Witness 10 who Witness 9 had identified to them as another person who may have talked to the Defendant about his killing Benny Scruggs. Witness 10 told the officers he first met the Defendant in the Wood County Jail on about December 29, 2011. Witness 10 said he already knew who the Defendant was from the press coverage of the Defendant's pending case in Wood County. At some point a month or so prior to Witness 10's meeting with the officers, Witness 10 and the Defendant were alone in their unit in the jail and the Defendant started describing what had happened years ago when he was a young man and neighbor of a husband and wife. The Defendant told Witness 10 that he was "bangin'" the wife the night

before he killed her husband which was why his prints were all over the bedroom. They had had sex on the waterbed. The knife went out with the garbage the next day, and the Defendant claimed that he “got acquitted” because they never found the knife. Witness 10 described the Defendant as taking credit for the unsolved murder.

A Vilas County, Wisconsin, coroner’s report of November 16, 2015, sets forth that on November 13, 2015, in Eagle River, Wisconsin, Yvonne Kouba, *née* Scruggs, died of acute ethanol intoxication, an accidental death, and her son, Victim 1, was the next of kin notified of her death by the Wisconsin Rapids Police Department.

Since 2012, the Defendant has authored dozens upon dozens of letters to the Wisconsin Rapids Police Department regarding the murder of Benny Scruggs.

On February 27, 2017, Witness 11 left a voicemail for Detective Dewitt, asking him to come to the prison at the Wisconsin Resource Center to speak with him about the 1985 murder of Benny Scruggs. On March 1, 2017, Detective Dewitt and Lieutenant LaBarre of the Wisconsin Rapids Police Department met with Witness 11. Witness 11 told them he has been in prison for 27 years and at the Wisconsin Resource Center for about a year. He had been talking to the Defendant for the previous nine months or so. They became close friends.

Witness 11 told the officers that the murder of Benny Scruggs came up in their discussions, around February 16, 2017, when the Defendant received a letter from Detective Dewitt regarding a book about Benny’s murder. After the Defendant got that letter, the Defendant told Witness 11 that the police will never find the murder weapon because the victim’s wife is dead, and the Defendant told Witness 11, “I did

it,” referring to murdering Benny. Witness 11 even showed the Defendant a playing card (distributed by law enforcement throughout the prison system depicting basic facts of unsolved homicides) describing Benny’s murder to which the Defendant responded, “that’s the one I committed.” The very next morning, the Defendant wrote Witness 11 a note asking him to continue talking about what had happened. Witness 11 told the officers it seemed talking to him was relieving the Defendant’s guilty conscience and giving him closure as the murder seems to be eating him up inside. The Defendant told Witness 11 that he is playing games with the police, and that he enjoyed playing the game as the police took him out to eat and to visit Benny’s grave, under a tent, which Detective Dewitt had done.

The Defendant told Witness 11 that he was staying in a trailer close to the victim in the same trailer park. The Defendant and the victim’s wife had had a relationship in high school that rekindled once they reconnected living in the same trailer park. They had had sex in high school, and then once or twice in the wife’s trailer, once just a few days before the murder. The Defendant told Witness 11 that the wife told the Defendant that she wanted Benny dead. The Defendant had claimed that a few days before the murder, the Defendant was at a bar and Benny and the wife came in and eventually the husband caught the wife pinching the Defendant’s butt.

On the night Benny was killed, the Defendant had gotten out of bed because he had a toothache. He went to their trailer and the wife let him in, and that’s when the murder took place. The Defendant never said where the knife, as the murder

weapon was described in the playing card, was, just that the police would never find it.

The Defendant told Witness 11 that after he murdered Benny, the lady he was staying with kicked him out of her trailer and he moved out of state, but eventually he came back to Wisconsin because someone was harassing his mother. Witness 11 understood from the Defendant that the victim and the wife had a son who would have been two at the time his father died, so he'd be in his 30s now. The notes Witness 11 took of his conversations with the Defendant reflected that the Defendant told him that the husband had bought a motorcycle from him. The Defendant said that he had moved to Louisiana and Florida to get away from what he considered police harassment and his guilt feelings. The Defendant said that he almost admitted to killing Benny when the police took him to Benny's gravesite. The Defendant said that the wife had always liked him for years and wanted to be with him and would not give him any more sex and wanted her husband dead. Witness 11 wrote that the Defendant told him the police searched for the knife but will not ever find it because he is the only one who knows where it is and now the wife cannot inculcate him because she is dead.

When Wisconsin Rapids Detectives David Bailey and Andy Dewitt next met with Witness 11 on March 6, 2017, he corrected a couple of his previous statements regarding what the Defendant had told him. The Defendant had told him that the wife had let him into the trailer, not the night of the murder, but the week before when they had sex. She did not want to go all the way, so instead she told him her

husband was coming home and the Defendant then struggled and got out of there. On the night of the crime, Benny and his wife had been out drinking and left the front door either open or unlocked. The Defendant also told Witness 11 that if the garbage had not been emptied an hour earlier, the police would probably have found the knife, but since he had put the knife in the garbage and the garbage went to the landfill, and the police had searched the pond and not the landfill, the police would not find the knife. The Defendant told Witness 11 that the weapon used was a knife in a black-handled set in the house where the murder had occurred and was designed to cut meat.

On March 14, 2017, Witness 11 wrote a letter to Detective Dewitt telling him that that day the Defendant had again admitted to having killed Benny, and then a few minutes later Witness 11 overheard the Defendant on a phone call saying he is glad that Benny and “that bitch” are dead. Detectives were able to confirm from recorded prison telephone conversations that on March 14, 2017, the Defendant did tell his mother that he is glad that Benny and “that bitch” are dead. In talking to the detectives on March 20, 2017, Witness 11 related to them that while he and the Defendant were walking in the hall on March 14, 2017, just before that telephone conversation, the Defendant had told Witness 11, “I’m glad I killed that motherfucker and I’m glad that bitch is dead, too.”

Throughout their conversations, the police continuously told Witness 11 that they were making him no promises of any kind in return for information from him about the Defendant. Witness 11 did ask if there was a reward and did, at one point,

condition obtaining additional information from the Defendant on the police clearing up a \$500 in-house debt he had incurred at WRC. Even though Witness 11 was informed that nothing could be done about that and the only possibility was if there was a reward via Crime Stoppers, and that could not be promised, he continued to provide information. Other times, Witness 11 requested that Detective Dewitt contact the security director of WRC and other DOC personnel regarding Witness 11's movement to another facility. And he requested that Detective Dewitt contact the Innocence Project, who were working on his case, about his involvement in the Scruggs homicide investigation. Detective Dewitt told Witness 11 he could not promise to make calls for him due to the need to maintain confidentiality in the information Witness 11 is providing, to protect him and others. Witness 11 said he understood.

This complaint is based on the information and belief of your complainant who is a police officer for the Wisconsin Rapids Police Department, and upon the police reports of Wisconsin Rapids Police Officers Schuetz, Wetterau, Gardner, Bates, Smolarek, Exner, DeWitt, LaBarre, and DCI Special Agent Dave Forsythe, which reports your complainant believes to be truthful, accurate, and reliable because they were prepared during the course of the officers' official duties.

Further, your complainant believes that the information furnished by Brian Walker, Witness 1, Witness 2, Beverly Polansky, Witness 3, Witness 4, Witness 5, Cynthia Reas, Witness 6, Witness 7, Witness 8, Witness 9, Witness 10, and Witness

11 to be truthful, accurate, and reliable as they are citizens providing information regarding events which they witnessed.

Further, your complainant believes the information provided by Dr. Robert Huntington to be truthful, accurate, and reliable because at the time he performed the autopsy on Benny Scruggs, he was a recognized expert in the field of forensic pathology, having performed hundreds of autopsies and having testified as an expert in Wisconsin courts on many occasions. Indeed, his work and word were regularly relied upon by law enforcement officers throughout the State of Wisconsin to be truthful, accurate, and reliable.

Further, your complainant believes the information contained in records of the Vilas County Coroner and the Wisconsin Department of Corrections to be truthful, accurate, and reliable in that they are made and kept in the regular course of the business of those organizations and regularly relied upon by law enforcement to be truthful, accurate, and reliable.

[Signatures on next page]

COMPLAINANT:



DAVID BAILEY

Detective, Wisconsin Rapids Police Department

Subscribed and sworn to before me and approved for
filing this 2nd day of September, 2022.

s/Robert J. Kaiser, Jr.

ROBERT J. KAISER, JR.

Assistant Attorney General

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