

STATE OF WISCONSIN CIRCUIT COURT MILWAUKEE COUNTY

STATE OF WISCONSIN
Plaintiff,

DA Case No.: 2021ML021252
Court Case No.:

vs.

CRIMINAL COMPLAINT

MARTINA, ANDREZ DANIELLE
4630 NORTH 46TH STREET
MILWAUKEE, WI 53218
DOB: 05/14/1968

Defendant(s).

For Official Use

THE BELOW NAMED COMPLAINANT BEING DULY SWORN, ON INFORMATION AND BELIEF STATES THAT:

COUNT ONE: FIRST DEGREE INTENTIONAL HOMICIDE

The above-named defendant on or about Sunday, August 29, 2021, at 4630 North 46th Street, in the City of Milwaukee, Milwaukee County, Wisconsin, did cause the death of ARS 7/21/2009 DOB, another human being, with intent to kill that person, contrary to sec. 940.01(1)(a), 939.50(3)(a) Wis. Stats.

Upon conviction for this offense, a Class A Felony, the defendant shall be sentenced to imprisonment for life.

COUNT TWO: PHYSICAL ABUSE OF A CHILD, REPEATED ACTS CAUSING DEATH¹

The above-named defendant on or about Sunday, August 29, 2021, at 4630 North 46th Street, in the City of Milwaukee, Milwaukee County, Wisconsin, did commit repeated acts of physical abuse involving the same child, ARS, DOB 07/21/2009, where at least three of the acts were violations of sec. 948.03(2), sec. 948.03(3), or sec. 948.03(4) of Wis. Stats. and at least one violation caused the death of the child, contrary to sec. 948.03(5)(a)1, 939.50(3)(a) Wis. Stats.

Upon conviction for this offense, a Class A Felony, the defendant shall be sentenced to imprisonment for life.

COUNT THREE: NEGLECTING A CHILD - CONSEQUENCE IS DEATH

The above-named defendant on or about Sunday, August 29, 2021, at 4630 North 46th Street, in the City of Milwaukee, Milwaukee County, Wisconsin, being a person responsible for the welfare of a child, ARS, DOB 07/21/2009, through his failure to take action, for reasons other than poverty, did negligently fail to provide necessary medical care so as to seriously endanger the physical, mental, or emotional health of the child, and the child suffered death as a consequence, contrary to sec. 948.21(2) and (3)(a), 939.50(3)(d) Wis. Stats.

Upon conviction for this offense, a Class D Felony, the defendant may be fined not more than One Hundred Thousand Dollars (\$100,000), or imprisoned not more than twenty five (25) years, or both.

¹ Under *State v. Eisch*, 96 Wis.2d 25, 291 N.W.2d 800, the Wisconsin Supreme Court found that four different types of sexual assault that occurred at the same location during the same time period each constituted a separate and distinct offense. In this case, the defendant is alleged to have engaged in numerous different acts of physical abuse employing numerous different objects to inflict harm, all of which could be charged as stand-alone offenses or as repeated acts of abuse.

COUNT FOUR: PHYSICAL ABUSE OF A CHILD, REPEATED ACTS WITH HIGH PROBABILITY OF GREAT BODILY HARM

The above-named defendant on or about Sunday, August 29, 2021, at 4630 North 46th Street, in the City of Milwaukee, Milwaukee County, Wisconsin, did commit repeated acts of physical abuse involving the same child, ATS, DOB 06/25/2013, where at least three of the acts were violations of sec. 948.03(2), sec. 948.03(3), or sec. 948.03(4) of Wis. Stats. and at least one violation created a high probability of great bodily harm to the child, contrary to sec. 948.03(5)(a)4, 939.50(3)(d) Wis. Stats.

Upon conviction for this offense, a Class D Felony, the defendant may be fined not more than One Hundred Thousand Dollars (\$100,000), or imprisoned not more than twenty five (25) years, or both.

COUNT FIVE: POSSESSION OF A FIREARM BY A FELON

The above-named defendant on or about Sunday, August 29, 2021, at 4630 North 46th Street, in the City of Milwaukee, Milwaukee County, Wisconsin, did possess a firearm, having been convicted of a felony in this state, contrary to sec. 941.29(1m)(a), 939.50(3)(g) Wis. Stats.

Upon conviction for this offense, a Class G Felony, the defendant may be fined not more than Twenty Five Thousand Dollars (\$25,000), or imprisoned not more than ten (10) years, or both.

PROBABLE CAUSE:

This complaint is supported by the written reports of City of Milwaukee law enforcement officers whose written reports were prepared through the normal course of police business and which your complaining witness has relied upon in the past and found to be truthful and accurate. Based on a review of the reports pertaining to the investigation of this matter, your complaining witness believes that:

At 9:35 AM on August 29, 2021, City of Milwaukee Police Officer Thomas Delaney responded to Children's Hospital of Wisconsin to investigate a child abuse complaint. Upon arriving on scene, Officer Delaney observed a child, later identified as ARS 7/21/2009 DOB, being removed from an ambulance and rushed into the emergency department. ARS's head was wrapped in white gauze that was soaked through with blood. There was a large gash underneath ARS's right eye. ARS was unresponsive. Upon being admitted to the ER, medical staff worked to save ARS's life. Dr. Vidhay Heffner MD diagnosed ARS as sustaining severe blunt force traumatic injuries to the head. Despite the best efforts of medical providers, at 10:15 AM ARS was pronounced deceased.

At 9:59 AM, City of Milwaukee Police Officer Debora Stacey responded to Children's Hospital of Wisconsin and conducted an interview of Anthony Anderson, who provided the following information to police. Anthony Anderson has been dating Nia Moore, who lives with her mother, Illysha McCroy. Illysha McCroy is the grandmother and legal guardian of ARS 7/21/2009 DOB and ATS 6/25/2013 DOB. On August 28, 2021, Illysha McCroy allowed ARS and ATS to sleep over at Andrez Martina's residence. Andrez Martina is the grandfather of ARS and ATS.²

On August 29, 2021, Nia's mother, Illysha McCroy, woke up Nia and Anthony. Illysha was frantic, telling Nia that Nia needed to go and get ARS and ATS immediately. Anthony and Nia drove to the

² A person legally responsible for the welfare of a child under Wisconsin State Statute § 948.01(3) includes "a person employed by one legally responsible for the child's welfare to exercise temporary control or care for the child." In this case the legal guardian of the children, Illysha McCroy, used or employed the defendant to exercise temporary control over ARS and ATS.

defendant's residence. Upon arriving at the above address, Nia knocked on the door. ATS opened the door and immediately ran out to the car. Nia walked into the house, looking for ARS.

Anthony Anderson observed the defendant come to the front door followed by Nia yelling, "Oh my God, you are going to jail for this." Nia ran to the car and instructed Anthony to go inside the residence. As Anthony walked inside, he observed the defendant dragging ARS's body from the bathroom into the kitchen. There was a large amount of blood and what appeared to be brain matter on the kitchen floor and walls. The defendant's entire body was covered in blood. ARS appeared unconscious. ARS's head looked ripped open with the skull exposed. Anthony took his shirt off and wrapped it around ARS's head. Anthony carried ARS out to his car and then rushed ARS to Saint Joseph's Hospital. Once at Saint Joseph's Hospital, ARS admitted to the emergency department, stabilized, and then transferred to Children's Hospital of Wisconsin due to the severity of ARS's condition. ATS was also admitted to Saint Joseph's Hospital.

City of Milwaukee Police Detective Timothy Keller conducted an interview of Illysha McCroy, the legal guardian of ARS and ATS. Illysha McCroy confirmed that the defendant asked that ARS and ATS sleep over at his house during the evening of August 28, 2021. ARS and ATS were in good health prior to going with the defendant. At 8:24 AM on August 29, 2021, the defendant sent Illysha a text message accusing ARS of stealing the defendant's money. Illysha asked where ARS was, to which the defendant responded, "he's bleeding." Illysha McCroy panicked and woke up her daughter, Nia and asked her to go to the defendant's residence and check on ARS and ATS.

On August 29, 2021, City of Milwaukee Police Detective Steve Wells conducted an interview of Cassandra Martina, the great grandmother of ARS and ATS. Cassandra Martina lives with the defendant at 4630 N. 46th Street, in the City of Milwaukee, County of Milwaukee. On August 28, 2021, the defendant had ARS and ATS sleep over at the residence.

Sometime during the morning hours of August 29, 2021, Cassandra was awakened by the defendant yelling at ARS. Cassandra looked up and saw the defendant striking ARS with a hammer all over ARS's body, including the head and back. The defendant put the hammer down and used Cassandra's wood cane to strike ARS repeatedly. ARS fled the room and went into the kitchen. The defendant followed ARS into the kitchen and continued to repeatedly strike ARS. Though Cassandra could not see past the living room into the other rooms of the residence, Cassandra could hear the defendant continue to beat ARS. Cassandra believed the defendant beat ARS for an hour to an hour and a half. (It should be noted that the great grandmother is disabled, making it difficult for her to intervene).

A search of 4630 N. 46th Street was conducted by the City of Milwaukee Police Department. In a top right dresser drawer of a bedroom in the residence, law enforcement located 27.8 grams of suspected marijuana in a clear plastic baggie. 32 suspected methamphetamine pills were located in a second clear plastic baggie in the bedroom. A glass jar of suspected marijuana was located in the bedroom nightstand. The recovered suspected marijuana in the jar weighed 5.6 grams. City of Milwaukee Police Detective Stephanie Seitz subjected the suspected marijuana to a Nark II 05 field test which returned a positive result for the presence of THC. Detective Seitz tested the suspected methamphetamine pills using a Nark II 01 field test, which returned a positive result for methamphetamine. A black and silver .32 caliber F & S cobra firearm was also located in the residence and recovered by police.

City of Milwaukee Police Officer Trisha Klauser responded to Children's Hospital where she was briefed by one of the original responding officers, City of Milwaukee Police Officer Jesse Benitez. At 9:02 AM on August 29, 2021, Officer Benitez was dispatched to Saint Joseph's Hospital, where ARS and ATS were admitted. ARS was in severe condition, and was transported to Children's Hospital of Wisconsin. ATS was treated by physician assistant Therese Johnson for a laceration to the top of the head and a

fractured finger. ATS had bruising to his body consistent with child physical abuse. After being discharged from Saint Joseph's, ATS was transported to Children's Hospital of Wisconsin with family.

After being briefed by Officer Benitez, Officer Klauser conducted a minimal facts interview of ATS. ATS disclosed that his grandfather, the defendant was angry about missing money and beat ARS and ATS. Based on the disclosure, Officer Klauser, a trained forensic interviewer, set up a forensic interview of ATS at the Child Protection Center.

Officer Trisha Klauser transported ATS to Child Protection Center and conducted a video recorded forensic interview of ATS 6/25/2013 DOB. During the forensic interview, ATS demonstrated an understanding of the difference between a truth and a lie, that there are negative consequences to telling a lie, and to the importance of telling the truth. ATS promised to tell the truth.

ATS disclosed that on the above date at the above location ATS's grandfather, the above defendant, was missing money and became upset. The defendant woke up ARS and ATS to look for the money. When the defendant could not find the money, the defendant became even more upset. The defendant started to strike ARS and ATS in the head with a mallet, a sledge hammer, and a coat rack. The defendant picked ARS up, choked ARS with a belt, and then threw ARS into the wall, causing ARS to bleed a lot. The defendant took a cane and began to strike ATS and ARS in the head with the cane.

According to ATS, his great grandmother was sitting on the couch and saw everything.

The defendant struck ARS with a mallet to every part of ARS's body. ARS was bleeding on the ground from the defendant's actions, when the defendant stomped on ARS's stomach. The defendant also used a sledgehammer to strike ARS.

After beating ARS incessantly, the defendant carried ARS's body into the bathroom and attempted to rinse the blood off in the shower. ARS's body would not stop bleeding.

ATS confirmed that he and ARS just went over to the defendant's residence yesterday to sleep over, and that all of the above events happened at the defendant's residence, the above listed address.

On August 30, 2021, Dr. Brian Peterson MD, a forensic pathologist and the Medical Examiner for Milwaukee County, conducted an autopsy on the body of ARS 7/21/2009 DOB. Dr. Peterson found that the skull of ARS was severely fractured, consistent with multiple blunt force blows to the head. ARS also suffered severe injury to the brain. ARS suffered trauma to the back, including hemorrhaging around the kidneys. The cause of ARS's death was the result of multiple blunt force injuries to the head and the manner of ARS's death was ruled a homicide.

On August 30, 2021, City of Milwaukee Police Detectives Timothy Keller and Jeremiah Jacks conducted an in custody interview of the defendant, during which the defendant made the following admissions against the defendant's interests.

In May of 2021 the defendant returned to the Milwaukee area from Indiana, where the defendant was taking care of his mother. Upon returning to Milwaukee, the defendant wanted to reconnect with his grandchildren. The defendant learned that ARS had a problem stealing. The defendant recalled telling his grandchildren in the past, "if you lie, if you mess up in school, if you steal, I'm going to kill you."

During the evening of August 28, 2021, the defendant confirmed picking up ARS and ATS and bringing them back to his residence, 4630 N. 46th Street. The defendant intended to take ARS and ATS shopping for school supplies the next day.

At 3:00 AM on August 29, 2021, the defendant woke up to use the bathroom. The defendant noticed that his wallet was open and money was missing. The defendant walked into the living room and confronted ARS, accusing ARS of taking the defendant's money. ARS turned his pockets inside out to show the defendant ARS did not take his money. The defendant smacked ARS repeatedly, demanding that ARS get the defendant's money.

In response, ARS went into a cousin's bedroom to retrieve the money. When ARS came out of the room without the money, the defendant started striking ARS again. The defendant recalled, "I'm not killing him, I'm just bopping his ass."

The defendant told ARS, "Okay, you want to play" and grabbed two belts and looped the belts together. The defendant attempted to hit ARS with the belts, but ARS grabbed the belts, causing the defendant to get angrier. The defendant grabbed his mother's wood cane and began to beat ARS with the cane. As the defendant beat ARS with the cane, ARS claimed the money was outside. ARS ran outside, followed by the defendant who chased ARS down and dragged ARS back into the house.

At that point, the defendant said that ARS knew the defendant was going to "kill his ass". The defendant caught what he said to the detectives, and then changed it to, "he knew I was going to beat his ass." The defendant claimed to not know what else to do in order to get his money back. The defendant slapped ARS around, struck ARS with a belt, and beat ARS with a cane.

ARS ran into the bathroom and locked himself inside in an attempt to protect himself from the defendant. The defendant picked the lock open and "lost it" on ARS. The defendant recalled shoving ARS with enough force that ARS's head left a large hole in the wall.

The defendant flashed forward in time to when the defendant stopped beating ARS. The defendant recalled seeing a large amount of blood on ARS and putting ARS's body into the bathtub to wash the blood away. Though the defendant did not recall using a sledge hammer to strike ARS, he was told by his mother that he did. The defendant admitted to losing control, claiming that he "will have to deal with this shit for the rest of my life."

During the interview, the defendant admitted to killing a boy in 1989 and said he wanted to talk with police as the defendant has nothing to hide. The defendant believed the entire incident lasted from 3:00 AM until well after 8:00 AM.

Detectives Keller and Jacks asked the defendant whether the defendant knew that ARS needed medical care at any point during the above incident. The defendant confirmed knowing that ARS needed emergency medical treatment when the defendant put ARS in the bathtub. ARS kept "wanting to go to sleep" and there was a large flap of skin coming off of ARS's head. The defendant kept ARS awake and washed as much blood away as possible, but did not seek medical care.

The defendant admitted to also striking ATS during the above incident, causing ATS's broken finger and the bruising to ATS's body.

Finally, the defendant confirmed that firearm located in the above residence, a black and silver .32 caliber F & S cobra, belonged to the defendant and that the defendant is a convicted felon and cannot possess firearms.

A review of CCAP establishes that the defendant has the following felony convictions which remain of record and unreversed:

- Milwaukee County 2006CF001740 – Possession with Intent to Deliver THC (> 2,500 – 10,000 grams) contrary to Wisconsin State Statute § 961.41(1m)(h)4;
- Milwaukee County 1999CF005258 – Possession of THC, Second or Subsequent Offense, contrary to Wisconsin State Statute § 961.41(3g)(e);
- Racine County 1994CF000132 – Delivery of THC (> 500 grams), as a Habitual Criminal, contrary to Wisconsin State Statute § 961.41(1)(h)(1).
- Milwaukee County 1989CF891767 – Felony converted case;
- Milwaukee County 1986CF005300 – Substantial Battery, contrary to Wisconsin State Statute § 940.19(2);

****End of Complaint****

Electronic Filing Notice:

This case was electronically filed with the Milwaukee County Clerk of Circuit Court office. The electronic filing system is designed to allow for fast, reliable exchange of documents in court cases. Parties who register as electronic parties can file, receive and view documents online through the court electronic filing website. A document filed electronically has the same legal effect as a document filed by traditional means. You may also register as an electronic party by following the instructions found at <http://efiling.wicourts.gov> and may withdraw as an electronic party at any time. There is a \$ 20.00 fee to register as an electronic party. If you are not represented by an attorney and would like to register an electronic party, you will need to contact the Clerk of Circuit Court office at 414-278-4120. Unless you register as an electronic party, you will be served with traditional paper documents by other parties and by the court. You must file and serve traditional paper documents.

Criminal Complaint prepared by Matthew J. Torbenson.

Subscribed and sworn to before me on 08/31/21

Electronically Signed By:

Matthew J. Torbenson

Deputy District Attorney

State Bar #: 1049925

Electronically Signed By:

Detective Jeremiah Jacks

Complainant