

**STATE OF WISCONSIN****CIRCUIT COURT****DUNN COUNTY**

STATE OF WISCONSIN

Plaintiff,

vs.

DA Case No.: 2016DN002749

Assigned DA/ADA: Andrea Amidon Nodolf

Agency Case No.: MPD 16-10851

Court Case No.: 2017CF000

ATN:

CULLEN M OSBURN

**CRIMINAL COMPLAINT**

Minneapolis, MN

DOB: 10/12/1989

Sex/Race: M/W

Eye Color: Hazel

Hair Color: Brown

Height: 5 ft 11 in

Weight: 180 lbs

Alias:

Defendant.

Marcia Finder, Legal Secretary to the District Attorney, Andrea Amidon Nodolf, Dunn County, Wisconsin, upon information and belief, being first duly sworn, states that:

**Count 1: FELONY MURDER, REPEATER**

The above-named defendant on or about October 30, 2016, in the City of Menomonie, Dunn County, Wisconsin, did cause the death of Hussain Saeed Alnahdi, while committing or attempting to commit battery (940.19(4)), contrary to sec. 940.03, 939.62(1)(c) Wis. Stats., a 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. And furthermore, because the defendant caused the death of another while committing this crime, the defendant may be imprisoned for not more than 15 years in excess of the maximum term of imprisonment provided by law for this crime.

And further, invoking the provisions of sec. 939.62(1)(c) Wis. Stats., because the defendant is a repeater, having been convicted of Violation of No Contact Order-Within 10 Years of the first of two or more convictions in Anoka County, Minnesota under case #02CR14-4518, which conviction(s) remain of record and unreversed, the maximum term of imprisonment for the underlying crime may be increased by not more than 2 years if the prior convictions were for misdemeanors and by not more than 6 years if the prior conviction was for a felony.

**Count 2: BATTERY - BODILY HARM, REPEATER**

The above-named defendant on or about October 30, 2016, in the City of Menomonie, Dunn County, Wisconsin, did cause great bodily harm to Hussain Saeed Alnahdi, by an act done with intent to cause bodily harm to that person, contrary to sec. 940.19(4), 939.62(1)(b) 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.

And further, invoking the provisions of sec. 939.62(1)(b) Wis. Stats., because the defendant is a repeater, having been convicted of Violation of No Contact Order-Within 10 Years of the first of two or more convictions in Anoka County, Minnesota under case #02CR14-4518, which conviction(s) remain of record and unreversed, the maximum term of imprisonment for the

underlying crime may be increased by not more than 2 years if the prior convictions were for misdemeanors and by not more than 4 years if the prior conviction was for a felony.

**PROBABLE CAUSE:**

Your complainant bases this complaint on the reports of Officer James Gates, Investigators Kelly Pollock, Daniel Westlund, and Maloree Switlick of the Menomonie Police Department, said reports having been prepared, filed and maintained in the normal and ordinary course of that business, the report of Michael Stier, M.D., and the written statement of Witness #1.

Officer James Gates advised your complainant in his written report that on October 30, 2016 at 2:11 a.m., Cody F. Dorn called 911 to report that a male subject was involved in a fight in front of Toppers and was bleeding from the nose. Upon arrival at Toppers Pizza located at 406 Main Street East, located in the City of Menomonie, Dunn County, Wisconsin, Officer Gates observed an unconscious male subject bleeding from the nose and mouth. Evan Walters and William Hall were holding the male subject, later identified as Hussain Saeed Alnahdi, in a seated position on the ground while supporting his neck and keeping pressure on his wound with napkins. EMS subsequently arrived and initially transported Alnahdi first to Mayo Menomonie for emergency medical treatment. Alnahdi was later air lifted to Mayo Eau Claire for further medical treatment.

On October 30, 2016, Inv. Kelly Pollock spoke with Alnahdi's roommates who informed her that they were drinking with Alnahdi at their residence around 1:00 a.m. that morning when he decided to leave the residence and go to the local bars. After speaking with his roommates, Inv. Pollock arrived at Mayo Eau Claire and attempted to speak with Alnahdi regarding what happened, but was unable to due to his injuries.

The next day, on October 31, 2016, Inv. Pollock was informed that due to the head injury that was sustained, Alnahdi underwent surgery to attempt to alleviate some of the swelling on his brain. However, Alnahdi's condition continued to deteriorate and he passed away later on October 31, 2016. An autopsy was completed on November 1, 2016 at the University of Wisconsin Anatomic Pathology Laboratory by Michael Stier M.D. The preliminary findings and diagnosis concluded that Alnahdi's cause of death was a traumatic brain injury.

On November 2, 2016 and November 3, 2016, Inv. Daniel Westlund met with Mariah Hughes who had purchased a pizza from Toppers Pizza on the date in question. Mariah stated that she was with Joshua Sims, William Hall, and her brother Deonte Hughes in Toppers waiting for the pizza to be made. Mariah subsequently heard something hit the window and exited Toppers realizing a fight had occurred. Mariah learned that her brother Cullen Osburn ("Defendant" herein) had been arguing with Alnahdi. While Mariah didn't witness the altercation, once outside, Mariah's brother Deonte told her that he, along with Hall and Sims, had tried to stop the altercation. Deonte told Mariah that the Defendant hit him (Deonte), on accident, while he was trying to break up the altercation.

Further, Mariah informed Inv. Westlund that the Defendant had contacted her trying to find out what she had told the police. Mariah stated that the Defendant told her that Alnahdi had grabbed the Defendant's chain around his neck, at which point the Defendant possibly pushed Alnahdi backwards.

On November 2, 2016, Inv. Westlund was contacted by William Hall who stated that he was willing to speak with him regarding the incident that occurred on October 31, 2016. Inv. Westlund met with Hall in Minneapolis, Minnesota later that same day. Hall stated that he was in Toppers Pizza on October 30, 2016 when he turned around and saw a male (later determined to be Alnahdi) falling to the ground outside of Toppers Pizza. Hall then exited Toppers and realized that one of his friends, the Defendant, was involved in the altercation and rendered aid to Alnahdi. Hall advised that the Defendant did not push Alnahdi but "two pieced" him from what he heard from Deonte Hughes. Hall described "two piece" as being punched twice in the face without a break, in rapid succession. Deonte pulled the Defendant off and the Defendant ran westbound.

Inv. Westlund also met with Deonte Hughes in Minneapolis with his father present during the interview. Deonte stated that he was inside Toppers Pizza with Mariah, William Hall, and Joshua Sims on October 30, 2016. As they were waiting, Deonte saw the Defendant (his brother) being grabbed by two males outside, so they all went to see what was occurring. Deonte stated he saw Alnahdi and a man in green pushing the Defendant. Deonte said he saw the Defendant swinging his fists towards Alnahdi after Alnahdi ripped the Defendant's chain off of his neck. Deonte stated he saw Alnahdi fall and then saw the Defendant leave the scene towards the west.

Inv. Westlund also met with Joshua Sims in Minneapolis. Sims advised that he was also at Toppers Pizza with Mariah, Hall, and Deonte on October 30, 2016. Sims stated that he saw Alnahdi hold the Defendant's collar and was with another male who was also pushing the Defendant. While Sims did not see a punch occur, he saw Alnahdi on the ground once he exited Toppers. He then pushed the Defendant away from Alnahdi and checked on Alnahdi with Hall.

During the interviews with Hall, Deonte, and Sims, all three witnesses identified a picture of the Defendant as the person who was involved in an altercation outside Toppers Pizza on October 30, 2016.

On November 2, 2016, Inv. Pollock met with Evan Walters at the Menomonie Police Department for further information regarding the investigation. Walters stated that he was a friend of Alnahdi's but he had not been out with him at the bars. While Walters was walking to Toppers just prior to the incident, he noticed Alnahdi outside smoking a cigarette and stopped to talk to him. While speaking with Alnahdi, they were approached by a white male who began to argue with Alnahdi. Walters stated that the tone toward Alnahdi was aggressive and the unknown male appeared to be yelling at Alnahdi, but he was not sure what precipitated the confrontation. Alnahdi began to yell back at the male and both the unknown male and Alnahdi were in each other's faces yelling. Walters then attempted to separate the unknown male and Alnahdi but the unknown male pushed him away. While Walters did not observe Alnahdi get hit, he observed Alnahdi fall to the ground. Walters stated that he then began to throw several punches at the unknown male, but he was unsure whether he made contact with the subject.

Walters then went to check on Alnahdi who was lying flat on his back on the ground. Alnahdi's eyes were open but he was not responsive. Walters said that blood began to come from Alnahdi's mouth and nose. Walters did not see any external wounds on Alnahdi but sat him up, with the assistance of another male (later determined to be William Hall), because Alnahdi began making a coughing sound and appeared to be having difficulty breathing.

Walters could not explain what the verbal exchange between Alnahdi and the male subject was about. At some point, Alnahdi was yelling back at the subject, but he could not understand what Alnahdi was saying.

On November 3, 2016, Inv. Pollock met with Nina Simonette who was near Toppers at the time of the altercation. Simonette explained that she remembered walking past Toppers and crossing between Alnahdi and another male. At the time, she walked between Alnahdi and the other male, it appeared nothing was going on and Alnahdi and the other male did not appear to be interacting at all. However, after passing by, she heard a disturbance and turned around and looked toward the direction of Toppers. At that time, Simonette said she heard the unknown male ask Alnahdi what he had just said. She saw Alnahdi put his hands up in the air as if to indicate he didn't want a problem with the unknown male. Simonette stated that Alnahdi and the male were then yelling at each other and the unknown male then struck Alnahdi. Simonette believed the unknown male tried to hit Alnahdi a second time and that Alnahdi hit his head on the side of the building when he fell. Simonette then began to walk east in an attempt to further avoid the altercation. She believed the unknown male subject headed west after the altercation.

Simmonette stated that she was wearing a pink, long sleeve shirt, had her hair in pigtails and was carrying a teddy bear on October 30, 2016. Inv. Pollock informed your Complainant that the description provided by Simmonette matches surveillance video from Hero's Welcome showing a woman wearing a long shirt, carrying a teddy bear. Further, Simonette informed Inv. Pollock that she believed the unknown male was a white male with a round face, had some facial hair, light brown shorter hair, wearing blue jeans and was possibly wearing a bluish, grayish or slate colored possible jacket.

Prior to leaving Minneapolis on November 2, 2016, Inv. Westlund received a call from the Defendant who stated that he was very scared and wished to fully cooperate with law enforcement. The Defendant stated that he wished to have an attorney with him when he spoke with Inv. Westlund and would contact him in the next few days. The Defendant was adamant that the altercation was not a result of anybody's race but did not want to say anything else without a lawyer. On November 3, 2016, Inv. Westlund received a telephone call from the Defendant regarding the investigation. The Defendant informed Inv. Westlund that he would be contacting him the following day, November 4, 2016, to schedule an interview with his attorney. On November 4, 2016, Inv. Westlund attempted to contact the Defendant as he had not made contact to schedule an interview but his telephone number was now disconnected. To date, Inv. Westlund and Inv. Pollock have attempted to locate the Defendant but have been unable to locate him.

On November 17, 2016, Investigator Pollock met with Witness #1(DOB 09/24/1999) after she received a voicemail from his mother informing her that her son had information relevant to this case. Witness #1 informed Investigator Pollock that he had travelled to Menomonie with other friends to attend a party at one of the fraternity houses on October 29, 2016 into the early morning hours of October 30, 2016. Witness #1 stated that after he left the fraternity house, he and his friends went to Kwik Trip. When Witness #1 arrived at Kwik Trip he noticed a man charging his phone outside of the Kwik Trip who subsequently approached his vehicle. Witness #1 stated that the man had approached his vehicle stating "he had just punched somebody who was bleeding out." The unknown man then stated that he needed a ride to

campus and Witness #1 informed him that he had no idea where campus was and that he needed to get home. Witness #1 stated that "the man stated that he'd just have to [REDACTED] punch me too." Witness #1 then responded by stating that he could try but that parking lot was full of his friends and that he wouldn't win either way. The unknown man then left to return to charge his phone. Witness #1 stated that the male was six feet to six feet two inches tall, wearing dark clothing, and a red bandana around his neck.

On November 14, 2016, Inv. Maloree Switlick of the Menomonie Police Department reviewed video surveillance from October 30, 2016 from Kwik Trip located at 1213 S. Broadway St, in the City of Menomonie. At approximately 2:16 a.m. a white male wearing a grey sweatshirt, a dark colored hat, and a red bandana tied around his neck is shown walking in front of the doors of Kwik Trip. Inv. Switlick obtained a copy of a receipt showing that the Defendant used his credit or debit card to purchase a pack of New Port cigarettes at 2:24 a.m. At approximately 2:27 a.m., the Defendant is handed back his charging cell phone and exits the doors of Kwik Trip and walk out of camera view.

On December 12, 2016, your Complainant received the forensic autopsy report from Michael Stier, MD, with the University of Wisconsin Anatomic Pathology Laboratory of Hussain S. Alnahdi. Dr. Stier's report provides the following regarding internal evidence of a traumatic injury: "Stripping the ventral dura discloses a vertically oriented liner skull fracture extending from the anterior aspect of the right posterior fossa dorsally towards the occipital region. This fracture terminates in the right posterior occipital skull. The fracture measures approximately 10 cm in linear dimension."

The statements made by the law enforcement officers can be considered truthful, credible, and reliable because of the positions of trust they hold. The statements of the citizen witnesses can be considered truthful, credible, and reliable because they are made by citizen witnesses. The statements of the defendant(s) can be considered truthful, credible, and reliable to the extent to which they are admissions against interests.

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

Subscribed and sworn to before me on Electronically Signed By:

01/12/17

Marcia Finder

Electronically Signed By:

Complainant

Andrea Amidon Nodolf

District Attorney

State Bar #: 1082951