

STATE OF WISCONSIN	CIRCUIT COURT	FOND DU LAC COUNTY
STATE OF WISCONSIN	Plaintiff,	DA Case No.: 2023FL000158 Court Case No.: 2023CF000060
vs.		
BRIAN A SIPPEL DOB: 12/20/1966	Defendant.	AMENDED CRIMINAL COMPLAINT
		<i>For Official Use</i>

The undersigned law enforcement officer of the Fond du Lac Sheriff, being first duly sworn, states that:

Count 1: HOMICIDE BY INTOXICATED USE OF A VEHICLE WHILE HAVING PRIOR INTOXICANT-RELATED CONVICTION/REVOCAION

The above-named defendant on or about Saturday, January 14, 2023, in the Town of Fond du Lac, Fond du Lac County, Wisconsin, did cause the death of VICTIM 1, by the operation of a vehicle while under the influence of an intoxicant, and has one or more prior convictions, suspensions, or revocations, as counted under s. 343.307 (2)., contrary to sec. 940.09(1)(a) and (1c)(b), 939.50(3)(c) Wis. Stats., a Class C Felony, and upon conviction may be fined not more than One Hundred Thousand Dollars (\$100,000), or imprisoned not more than forty (40) years, or both.

And furthermore, invoking the provisions of Wisconsin Statute 343.31(3)(c), upon conviction, the department shall revoke the defendant's operating privilege for five (5) years.

And furthermore, invoking the provisions of Wisconsin Statute 940.09(1c)(b), upon conviction, the court shall impose a bifurcated sentence under s. 973.01 and the term of confinement in prison portion of the bifurcated sentence shall be at least 5 years except that a court may impose a term of confinement that is less than 5 years if the court finds a compelling reason and places its reason on the record.

Count 2: HOMICIDE BY INTOXICATED USE OF A VEHICLE WITH PAC WHILE HAVING PRIOR INTOXICANT-RELATED CONVICTION

The above-named defendant on or about Saturday, January 14, 2023, in the Town of Fond du Lac, Fond du Lac County, Wisconsin, did cause the death of VICTIM 1, by the operation of a vehicle while having a prohibited alcohol concentration of more than 0.08% by weight in the blood, and in addition has one or more prior convictions, suspensions, or revocations, as counted under s. 343.307 (2)., contrary to sec. 940.09(1)(b) and (1c)(b), 939.50(3)(c) Wis. Stats., a Class C Felony, and upon conviction may be fined not more than One Hundred Thousand Dollars (\$100,000), or imprisoned not more than forty (40) years, or both.

And furthermore, invoking the provisions of Wisconsin Statute 343.31(3)(c), upon conviction, the department shall revoke the defendant's operating privilege for five (5) years.

And furthermore, invoking the provisions of Wisconsin Statute 940.09(1c)(b), upon conviction, the court shall impose a bifurcated sentence under s. 973.01 and the term of confinement in prison portion of the bifurcated sentence shall be at least 5 years except that a court may impose a term of confinement that is less than 5 years if the court finds a compelling reason and places its reason on the record.

Count 3: INJURY BY INTOXICATED USE OF A VEHICLE

The above-named defendant on or about Saturday, January 14, 2023, in the Town of Fond du Lac, Fond du Lac County, Wisconsin, did cause great bodily harm to VICTIM 2, by the operation of a vehicle while under the influence of an intoxicant, contrary to sec. 940.25(1)(a), 939.50(3)(f) 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 Saturday, January 14, 2023, in the Town of Fond du Lac, Fond du Lac County, Wisconsin, did cause great bodily harm to VICTIM 2, by the operation of a vehicle while having a prohibited alcohol concentration, to-wit: did have a (blood alcohol level of 0.167 g/100mL percent), contrary to sec. 940.25(1)(b), 939.50(3)(f) 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: FIRST DEGREE RECKLESSLY ENDANGERING SAFETY

The above-named defendant on or about Saturday, January 14, 2023, in the Town of Fond du Lac, Fond du Lac County, Wisconsin, did recklessly endanger the safety of VICTIM 3, under circumstances which show utter disregard for human life, contrary to sec. 941.30(1), 939.50(3)(f) 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 6: FIRST DEGREE RECKLESSLY ENDANGERING SAFETY

The above-named defendant on or about Saturday, January 14, 2023, in the Town of Fond du Lac, Fond du Lac County, Wisconsin, did recklessly endanger the safety of VICTIM 4, under circumstances which show utter disregard for human life, contrary to sec. 941.30(1), 939.50(3)(f) 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: FIRST DEGREE RECKLESSLY ENDANGERING SAFETY

The above-named defendant on or about Saturday, January 14, 2023, in the Town of Fond du Lac, Fond du Lac County, Wisconsin, did recklessly endanger the safety of VICTIM 5, under circumstances which show utter disregard for human life, contrary to sec. 941.30(1), 939.50(3)(f) 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:

Complainant is a Sergeant with the Fond du Lac County Sheriff's Office and basis this complaint upon the report and investigation of Deputies of the same agency with whom your complainant has worked with and knows to be competent and reliable.

INITIAL SCENE RESPONSE

- 1) On Saturday January 14, 2023 Fond du Lac County Sheriff's Deputies were dispatched to the intersection of Highways 151 and 41 in Fond du Lac County, Wisconsin for a multi vehicle crash with injuries. Deputy Birkholz was the first to arrive on scene and observed on Highway 151 over Interstate 41 that a white vehicle had heavy rear end damage and was located in the grassy median as well as a black sedan in the middle of the intersection with disabling heavy rear-end damage. Deputy Birkholz also observed a grey Ford F-150 pickup truck in the grassy area near the on-ramp to Interstate 41.

DEPUTY VOLM INITIAL SCENE RECONSTRUCTION OBSERVATIONS

- 2) Deputy Alex Volm responded to the scene to assist with crash reconstruction, photos, and aerial drone imagery. Deputy Volm observed that the crash occurred at the intersection of Highway 151 southbound at Interstate 41 northbound exit/ramp. Deputy Volm noted this intersection is controlled by traffic lights and for traffic traveling southbound on Highway 151 there are 3 lanes of travel at that spot. Two lanes are designated for traveling southbound and one lane is for traffic turning right to travel northbound onto Interstate 41. Deputy Volm observed the traffic lights and they appeared illuminated and working properly.
- 3) Deputy Volm observed three vehicles that appeared to have been involved in the crash in some manner. West of the intersection in the center of the median was black Honda sedan that was upright and facing primarily in the northeast direction. Volm observed major disabling damage to the vehicle and major intrusion into the trunk and rear passenger area with several airbags deployed.
- 4) Further west of the Honda Deputy Volm observed Toyota SUV in the median which was parked facing primarily in the northwest direction. The SUV had minor body damage to the rear and rear passenger side of the vehicle.
- 5) Deputy Volm observed a grey Ford F-150 upright and facing primarily in the northeast direction with major disabling damage to the front engine compartment of the vehicle. Deputy Volm noted the front license plate of the Ford was missing. Volm later learned from Deputy Henning that the Ford's license plate was located in the passenger area of the Honda.
- 6) Deputy Volm observed fresh gouges and scuffs present in the roadway as well as tire marks. In reviewing this information Deputy Volm in consultation with Sergeant Zitlow believed the crash occurred in the right "slow" lane of traffic, not the turn lane.

DEPUTY BIRKHOLZ AND LIFE SAVING EFFORTS

- 7) Deputy Birkholz observed several bystanders attempting to make contact with the driver and passenger of the black sedan. VICTIM 1, the male driver appeared unconscious, not breathing, and Deputy Birkholz was unable to obtain a pulse from the wrist or neck of VICTIM 1.
- 8) Deputy Birkholz noted VICTIM 2, the female passenger, appeared conscious but not completely alert and a large laceration to the back of her head. Deputy Birkholz and a male bystander attempted to open the driver's side door but were unable to do so based on the damage to the vehicle. Bystanders removed Victim 2 from the vehicle and she was moved to the grassy median. Victim 2 stated she had severe neck, head, chest, and leg pain. Deputy Birkholz instructed a bystander to place pressure on the laceration to the back of Victim 2's head until EMS personnel arrived.
- 9) Deputy Birkholz requested that the northbound and southbound lanes of Highway 151 be closed based on the lane blockage from the crash space needed for EMS, Fire, and law enforcement to operate.
- 10) Victim 1 was able to be removed from the vehicle and Deputy Birkholz was again unable to obtain a pulse. Deputy Birkholz and bystanders performed CPR on Victim 1 until EMS personnel arrived and care was then turned over to them.

CONTACT WITH WITNESSES AND VICTIMS

- 11) Deputy Breister arrived to the scene and made contact with the defendant, Brian Sippel. The defendant was seated in the driver's seat of the Ford F-150 pickup truck. The defendant stated he was OK.
- 12) Deputy Breister also made contact with the occupants of a Toyota SUV, another vehicle involved in the crash. The Toyota SUV was being driven by VICTIM 3, who advised that the truck came out of nowhere. VICTIM 4 stated she heard screeching prior to the crash and heard two bangs, which we believed was the truck rear ending another vehicle and pushing that vehicle into their SUV.
- 13) Sergeant Kohlmann then advised Deputy Birkholz that Deputy Schossler was obtaining scene photographs and Deputies Galligan, Breister, and Henning were obtaining witness statements from those involved in the crash.
- 14) Deputy Birkholz learned through the investigation that traffic was at standstill on Highway 151 over Interstate 41 near the traffic lights. The traffic light was green at the time but that traffic was backed up, overflowing into the intersections.

VICTIMS 3, 4 AND 5

- 15) The defendant, Brian Sippel, was operating a grey pickup truck and struck the back of the vehicle operated by Victim 1 with Victim as a passenger. This impact caused the Victim 1's vehicle to be pushed into the back of a white SUV with three occupants, VICTIM 3, VICTIM 4, and VICTIM 5.

VICTIM 1 DECEASED

- 16) Deputy Birkholz stood with EMS personnel as they performed life saving measures on Victim 1 but they were unable to obtain a pulse or detect any heart rhythm. Victim 1 was declared deceased at 6:13 p.m. EMS personnel informed Deputy Birkholz that they believed Victim 1 suffered extreme head trauma as a result of the crash.

VICTIM 2 INJURIES

- 17) Deputy Birkholz then went to speak with Victim 2 located in an ambulance on scene. Deputy Birkholz was advised that Victim 2 was in critical condition and would be transported by lights and siren to the hospital. Deputy Birkholz cleared the scene and responded to St. Agnes Hospital in the city of Fond du Lac. Medical staff advised Deputy Birkholz that Victim 2 suffered several broken ribs, a collapsed lung, severe head trauma, a large laceration to the back of her head, a large laceration to her right elbow. Victim 2 also had a chest tube inserted to assist with breathing related to the collapsed lung.
- 18) Victim 2 stated she recalled being on their way home from helping a family member move into a new house. Traffic was backed up but she did not recall collision but could remember trying to assist Victim 1.
- 19) Deputy Lucas Olson responded to St. Agnes Hospital and met with Deputy Galligan and the defendant in the waiting room. The defendant stated he felt like he was hit by a truck and was sitting in a wheelchair Deputy Olson detected the odor of intoxicants as he was following the defendant and Deputy Galligan and there were no other individuals around at that time.

CONTACT WITH THE DEFENDANT

- 20) Deputy Olson attempted to gather information from the Defendant about the crash. The defendant stated he was finished with work around 6:30 p.m., which Deputy Olson knew was not correct because the crash occurred approximately 45 minutes prior to 6:30 p.m. leading Deputy Olson to believe the Defendant's perception of time was skewed. The defendant stated he had one Blood Mary in St. Cloud on his way home. The defendant did not recall which bar he was at but stated he arrived between 6:00 and 6:30 p.m.
- 21) Deputy Olson detected a strong odor of alcohol coming from the defendant. Deputy Olson noted that the defendant's speech was talkative but thick and slurred. Deputy Olson also observed the defendant's eyes to be bloodshot and watery. Deputy Olson also observed the defendant's lips to be dry and could hear what sounded like thick saliva, which Deputy Olson is aware to be common with individuals who have consumed intoxicants.
- 22) Deputy Olson asked the defendant what he recalled leading up to the crash and the defendant stated he recalled "leaving St. Cloud and that' it." The defendant stated he didn't recall anything to the point where he was pulled out of his truck, however the defendant confirmed he was the loan occupant of the pickup truck, which would make him the driver the truck. Deputy Olson asked the defendant if he was the one operating the vehicle, and the defendant stated, "Yes."

FIELD SOBRIETY TESTS, PBT & CHEMICAL TESTING

- 23) Deputy Olson asked the defendant if he would perform Field Sobriety Tests, and the defendant said he could not do the tests at all. Deputy Olson discussed possibly performing tests that did not involve balancing or standing, specifically mentioning checking his eyes and performing other tests. The defendant would not agree to take any of the tests.
- 24) Deputy Olson asked the defendant if he would provide a sample of his breath using a Preliminary Breath Test, and the defendant refused.
- 25) The defendant then told Deputy Olson that he had a Bloody Mary and a Bud Light beer as a chaser with the Bloody Mary.
- 26) The defendant told Deputy Olson that he took several medications for high blood pressure and diabetes.
- 27) Deputy Galligan read the defendant the Informing the Accused form, the defendant asked to have it read again, and ultimately the defendant refused the chemical test.

DEFENDANT PRIOR DRUNK DRIVING CONVICTIONS

- 28) Deputy Galligan became aware that the Defendant's Department of Transportation driving reflected two prior convictions, suspensions, or revocations, as counted under s. 343.307 (2)., which were for operating under the influence or prohibited alcohol concentration convictions from August 25, 2004 and May 17, 2016 which remain of record and unreversed.

SEARCH WARRANTS FOR DEFENDANT'S BLOOD

- 29) A search warrant was obtained for a sample of the defendant's blood and Deputy Galligan observed Lab Tech Kalen retrieve two samples of the defendant's blood. Those blood samples were then

submitted to the lab for testing. A second search warrant was later executed to obtain the blood sample taken by the hospital for treatment purposes.

LAB TEST RESULTS ON BAC

30) A sample of the defendant's blood was taken within 3 hours of the defendant's operating by phlebotomist Kalen M. McCorbe of Consultant's Laboratory, and analysis of that sample by Lab Analyst Cassidy L. Scheppa shows an alcohol concentration of 0.167 g/100mL.

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

Subscribed and sworn to before me on 03/09/23

Electronically Signed By:

Catherine Block

Assistant District Attorney

State Bar #: 1053966

Electronically Signed By:

Lt. Chris Randall

Complainant