

CIRCUIT COURT
STATE OF WISCONSIN CRIMINAL DIVISION MILWAUKEE COUNTY

STATE OF WISCONSIN

Plaintiff

CRIMINAL COMPLAINT

vs.

Boland, Kathleen R.
2325 North Humboldt Blvd.
Milwaukee, Wisconsin 53212
(D.O.B.: November 14, 1946)

Complaining Witness:

PO Scott Beaver

DA Case Number: 08XF6079

Defendant(s)

Circuit Court Case Number:

THE ABOVE NAMED COMPLAINING WITNESS BEING DULY SWORN SAYS THAT THE ABOVE NAMED DEFENDANT(S) IN THE COUNTY OF MILWAUKEE, STATE OF WISCONSIN.

COUNT 01: HOMICIDE BY INTOXICATED USE OF VEHICLE

On August 29, 2008, at or about 1025 East North Avenue, City of Milwaukee, did cause the death of Michael V. Fleming, by the operation of a vehicle while under the influence of an intoxicant, contrary to Wisconsin Statutes section 940.09(1)(a) & (1)(c).

COUNT 02: HOMICIDE BY USE OF A VEHICLE WHILE OPERATING WITH PROHIBITED BLOOD ALCOHOL CONCENTRATION

On August 29, 2008, at or about 1025 East North Avenue, City of Milwaukee, did cause the death of Michael V. Fleming by the operation of a vehicle while she had a prohibited alcohol concentration, as defined in section 340.01(46m), contrary to Wisconsin Statutes section 940.09(1)(b) & (1)(c).

AS TO COUNT 01:

Upon conviction of this charge, a Class D Felony, the maximum possible penalty is a fine of not more than \$100,000, or imprisonment for not more than 25 years, or both.

AS TO COUNT 02:

Upon conviction of this charge, a Class D Felony, the maximum possible penalty is a fine of not more than \$100,000, or imprisonment for not more than 25 years, or both.

Complainant states that he is a City of Milwaukee police officer and that this complaint is based upon his personal observations, information and belief, and upon his personal reading of official City of Milwaukee Police Department and Milwaukee County Medical Examiner's Office reports, all of which your complainant has used in the past and found the information contained therein to be truthful and reliable and which reports complainant knows to be kept in the course of regularly conducted activities of each respective agency, with said reports prepared and filed by fellow City of Milwaukee police officers and employees of the Milwaukee County Medical Examiner's Office, with knowledge of said events at or near the time to which said reports relate and which persons complainant believes to be truthful and reliable, and upon the following:

Fellow City of Milwaukee Police Detective Ricky Burems reports that on August 29, 2008, at 2:55pm he responded to 1025 East North Avenue, City and County of Milwaukee, State of Wisconsin, regarding a fatal accident. While at the scene, Burems took a statement from an adult citizen witness informant whom complainant believes to be truthful and reliable who identified himself as William M. Stein, who stated regarding the above incident that, Dan, Marlene, Mike, whom complainant states was later identified as Michael V. Fleming, the above named victim, and Ron came to Milwaukee for the Harley Davidson festival on August 27, 2008. On August 29, 2008, at approximately 11:00am, they went to a Harley Davidson dealer on Moorland Road. After leaving, they were intending to ride their bikes along the lakefront and were taking Hwy 794 back towards the lake. The highway was crowded so they got

off and decided to take the streets. They were riding eastbound on Humboldt Avenue and North Avenue. Stein had the lead bike, Don and Marlene were behind him, Ron was next and Mike was the fourth and last bike. They were stopped for a red light at Humboldt and North a few car lengths west of the intersection. When the light turned green, they started to proceed east on North Avenue. Stein observed a white car with a black roof drive southbound on Humboldt through the red light at North Avenue and then veer right to head westbound on East North Avenue up onto the south sidewalk. The car passed to within 5 to 10 feet of him. The car continued west on East North Avenue and struck Mike. After striking Mike, the car continued west for a short distance and then stopped.

Detective Burems also interviewed Marlene Consiglio, and adult citizen witness informant whom complainant believes to be truthful and reliable, regarding the above incident and she said she was in the group that included her husband, William, Ron, and Mike. On August 29, 2008, Mike, the victim, met them for breakfast at their hotel at approximately 9:00am. After eating breakfast, they went to Hal's Harley Davidson and after leaving Hal's they were trying to get to the lakefront so they could ride along the lake but the traffic was heavy on the freeway. They got off the freeway and decided to take the side streets. Just prior to the accident, they had been stopped in traffic on East North Avenue a few lengths west of the intersection on Humboldt and North. Bill was in front, Marlene and Don were second, Ron was third and Mike was the fourth and last bike. As the light turned green for them to continue east on North Avenue, she heard the sound of screeching tires and saw a white car with a black top westbound on the south sidewalk on East North Avenue. She could see out of her rear view mirror that as the car continued westbound, it veered back out into the roadway and it struck Mike's bike, knocking it down.

Fellow Milwaukee Police Officer Leonard Hodkiewicz reports that on August 29, 2008, at 2:23pm, he was dispatched to an accident at 1000 East North Avenue. At the scene, he spoke to the above named Stein who stated he was eastbound on East North Avenue approaching Humboldt Boulevard. Stein had a green light. Stein had just passed the near crosswalk entering into the intersection when he heard squealing tires from his left side. He saw a white car turning behind him westbound onto East North Avenue. Stein stated he could see in his rear view mirror that a bike was down. He immediately turned around and drove up to where his friend, Michael Fleming, was lying on the ground.

Fellow City of Milwaukee Police Detective John Reesman reports that on August 29, 2008, at 2:53pm, he was dispatched to an accident investigation at 1050 East North Avenue and while at said location, he met with City of Milwaukee Police Department Lieutenant of Detectives William Jessup who identified the deceased victim as Michael V. Fleming, D.O.B. 06-27-1953. Detective Reesman also interviewed an adult citizen witness informant whom complainant believes to be truthful and reliable who identified himself as Donald Consiglio who stated he rides a 2004 Harley Davidson Road Glide and was in Milwaukee, Wisconsin for the Harley Fest Reunion. He rode to Milwaukee on his motorcycle with his wife, Marlene Consiglio, who was his passenger. He stated he came to Milwaukee with another group of motorcycle friends Bill Stein and Ronald Betz. He stated he was the only motorcyclist in his group with a passenger on his bike. He stated that on August 29, 2008, he along with his group were eastbound on East North Avenue with Bill Stein first, Donald Consiglio second to the right of Mr. Stein, Ron Betz third to the left of him and Michael Fleming, the victim, who is herein after referred to as the victim, fourth. He stated that while driving eastbound on East North Avenue, they had the green light and as they were approaching the intersection of East North Avenue and North Humboldt, approximately 30 feet west of the west side north/south crosswalk, he observed a white car that passed in front of them travelling southbound. He stated he had slowed down prior to entering the intersection. He stated this white car that crossed in front of him southbound on Humboldt then drove up on the curb on East North Avenue. The car then continued to drive westbound behind him. He stated he continued eastbound and did not see the collision. He heard a crashing sound and his wife

looked back and she said she thought Michael Fleming got hit. He then stopped and proceeded to where Michael was. He stated the white car then had pulled over to the curb.

Fellow City of Milwaukee Police Officer Chris Kaine reports that on August 29, 2008, at 2:32pm, he responded to the report of a personal injury accident at 1025 East North Avenue, City and County of Milwaukee, State of Wisconsin. Upon arrival, he spoke to an adult citizen witness informant whom complainant believes to be truthful and reliable who identified himself and Renwick Roylo who stated he was standing in the lot at the gas station at 1030 East North Avenue. Roylo delivers gas to the station and had his truck/trailer parked to the west of the gas station. Roylo observed a white vehicle crossing the yellow center line of East North Avenue heading in a southerly direction. The vehicle struck the curb on the south side of East North Avenue, went half a car length onto the sidewalk. The vehicle then began heading in a northwesterly direction towards the correct side of East North Avenue, which would be the westbound lanes. While doing so the vehicle nearly struck two motorcycles that had been eastbound on East North Avenue. Roylo stated he observed the third cyclist, the victim, appear to purposely dump his motorcycle. The victim then appeared to be struck in the head by the vehicle.

Officer Kaine reports that he spoke to a second witness, Rick Peterson, an adult citizen witness informant whom the complainant believes to be truthful and reliable, regarding the above incident and Peterson said he was in the parking lot of the gas station when he heard a screeching tire. He then heard an impact, which he believes was the vehicle striking the curb on the south side of East North Avenue. Peterson turned around and saw one eastbound motorcyclist just miss being struck by a white vehicle. The vehicle then struck the victim as he was still on his motorcycle.

The above named Officer Leonard Hodkiewicz further reports he took a statement from Carl Borzyck, an adult citizen witness informant whom complainant believes to be truthful and reliable who stated, regarding the above stated incident, that he was eastbound on East North Avenue following several motorcycles. As they were approaching North Humboldt Boulevard, he observed a white car turning westbound onto East North Avenue. He saw the car go up the curb, onto the sidewalk, on the south side of North Avenue. He then pulled his car to the curb to avoid a collision. The white car passed him and continued westbound on North Avenue. As the car passed, he could see in front of him that a motorcycle was down. He parked his car and ran up to the motorcycle and lifted it off the rider.

Fellow Milwaukee Police Officer Gary Cole reports that on August 29, 2008, at 2:19pm, he was dispatched to back up the above named Officer Hodkiewicz to a personal injury accident motorcycle struck at 1025 East North Avenue, the above location. Upon arrival, he took a statement from an adult citizen witness informant who identified himself as Kelly Hickman, who stated he was in the gas station parking lot standing by his motorcycle located at the northwest corner of North Humboldt Boulevard and East North Avenue, City and County of Milwaukee, State of Wisconsin. He heard skidding tires and when he turned to look he saw a white auto (Grand Marquis, 4-door, white with blue cloth top, bearing Wisconsin license plate #821-LLR) travelling in a southwest direction crossing into eastbound (on-coming) traffic. Hickman stated this white auto jumped the curb across from him almost striking the building located on the southwest corner of North Humboldt and East North Avenue. This auto continued west on North Avenue attempting to get back into the westbound lanes making a large half circle. He further stated that it appeared this white auto accelerated towards a group of motorcycles travelling eastbound on East North Avenue at about 1025 East North Avenue. Hickman stated it appeared one motorcycle swerved away from this auto but another looked as if he was trying to dump his motorcycle in an attempt to avoid being struck. Hickman said the white auto struck the driver of the motorcycle and continued westbound. The auto stopped at the northeast corner of East North Avenue and North Weil Street. Hickman then went to the aid of the driver with the Milwaukee Fire Department responding shortly afterwards.

Officer Cole also reports at the same time he interviewed Christina Kowalske, an adult citizen witness informant who complainant believes to be truthful and reliable, who stated she was standing right next to Hickman and recalled all the events as he stated above.

Complainant took a further statement from the above named Kowalske who stated that she arrived at the gas station at approximately 2:00pm and purchased some Powerball tickets and estimates that the above stated crash occurred approximately 2:19pm or 2:20pm.

Officer Cole further reports he took a statement from an adult citizen witness informant whom he believes to be truthful and reliable, who identified himself as Jose Contreras regarding the above stated incidents and that Contreras stated he was driving east on East North Avenue (1009 East North Avenue) when everyone ahead of him began to apply their brakes hard. That's when he saw a white auto with a blue top (Wisconsin plates 821-LLR) heading in his direction jumping the curb onto the sidewalk. He stated this auto then turned off the curb into the oncoming traffic. Contreras said his view was obstructed by a white van stopped in front of him where he was not able to see where or who was struck. He then saw this auto drive past him slowly and park at the end of the block. He stated that as this operator (older white female) drove passed him, he could see her holding the sides of her head mouthing the words, "Oh my God."

Fellow Milwaukee Police Officer Clifton Stephens reports that on August 29, 2008, at 2:41pm, he was dispatched to a personal injury accident at East North Avenue and North Humboldt Boulevard, the above location, for traffic control. Upon arrival, he interviewed the following adult citizen witness informants all whom complainant believes to be truthful and reliable: Garrett Walsh, who stated he was driving his car westbound on East North Avenue approaching North Humboldt Boulevard. He had the solid green traffic signal when he observed a white car (speeding) travelling southbound on Humboldt coming through the intersection. He stated the white car swerved to the right to avoid hitting him, jumped the curb on the south side of the street, came off the sidewalk into the oncoming traffic lane and sideswiped a motorcycle. He stated the white car stopped on the north side of the street and a female exited the auto. She walked about 5 feet from her car towards the cyclist, then turned and went back into the car. Officer Stephens reports Michael Brault stated he was sitting on his motorcycle in the BP gas station lot at 1030 East North Avenue. He heard the screeching tires, looked and saw a white car went on the curb on the south side of the street, missing the first three motorcycles. He stated the car picked up speed as it exited the sidewalk into the eastbound traffic lane. He observed the last motorcycle lock his brakes and the car hit the rider as he was going down. He said the car hit him at an angle and stopped on the north side of the street. Kenneth Woodard stated he was driving westbound on East North Avenue, passing the BP gas station when he observed a group of motorcyclists riding eastbound on East North Avenue. As he passed them he suddenly heard chirping tires and looked through his rear view mirror and saw a white car came into the eastbound lane and hit the motorcycle.

Complainant further reports he reviewed and read the detailed history for police call #082420911 as of August 29, 2008 at 21:29:51, which is a report kept in the course of the regularly conducted activities of the City of Milwaukee Police Department upon which complainant has relied upon in the past and found the information contained therein to be truthful and reliable and that said report reflects that the first 911 call relating to the above described accident occurring on East North Avenue and North Humboldt Boulevard on August 29, 2008, was created or initiated at 14:19:53 hours, which is approximately 2:20pm from a caller and location at 1000 East North Avenue and that said call was a 911 call requesting an ambulance be sent to a motorcycle accident at said location.

Fellow Milwaukee Police Officer William Hanney reports that on Friday, August 29, 2008 at 2:35pm, he responded to a personal injury accident involving a motorcyclist at East North Avenue and North Humboldt Boulevard. Upon arrival, the victim, subsequently identified as Michael V. Fleming, D.O.B. 06-27-1953, herein after referred to as the victim, was being attended to by Milwaukee Fire Department paramedics in the back of a med unit, which then left the scene. Officer Hanney observed the victims motorcycle, which was upright on its kickstand in the eastbound lanes of East North Avenue near a large pool of blood. Officer Hanney then went to the striking auto which was parked in the westbound parking lane near the intersection of East North Avenue and North Weil Street, approximately 1000 East North Avenue. The driver and registered owner of the automobile, the above named defendant, a white female with a D.O.B. of 11-14-1946, was seated in the driver's seat. He reports that the defendant appeared intoxicated and had a very strong odor of alcohol on her breath. The defendant stated that she had been drinking. The defendant was then placed into a patrol wagon by Officer Whiteley. Officer Hanney then inspected the defendant's automobile, a 1997 Mercury Grand Marquis, 4-door, bearing Wisconsin plates #821-LLR, VIN # 2MELM75W6VX682218. The automobile had moderate damage on the driver's side body panels and the driver's side mirror was broken off. Pieces of debris from the mirror were in the passenger compartment. There was also damage to the front driver's side wheel that appeared as if the vehicle had struck a curb. Officer Hanney then went to a parking lot on the southeast corner of the intersection of East North Avenue at North Humboldt Boulevard where Officer Whiteley had taken the defendant to perform standard field sobriety tests. The defendant was not able to perform the one leg stand or the walk and turn test due to the fact that she walks with a cane and had some sort of leg brace on her right leg. The defendant was sat on the rear step of the patrol wagon where Whiteley administered the HGN Test to the defendant.

Jennifer Wayd of the Milwaukee County Medical Examiner's Office, whom complainant knows to be employed as a forensic investigator for said office, reports that on August 29, 2008, at 3:15pm, Dr. Cady of Froedtert Memorial Lutheran Hospital emergency room, who was the attending physician, called to report the death of the above named victim. Dr. Cady stated the decedent was the driver of a motorcycle who apparently was involved in an accident with a car at the intersection of Humboldt and North Avenue. Dr. Cady stated that the decedent victim, was given IV, IO, EPI, CPR, was performed and needles were placed on his chest and heart. Dr. Cady stated he was also intubated. Dr. Cady stated that decedent victim Fleming died in route to the emergency room and death was pronounced at the hospital by Dr. Cady at 15:05 hours in the emergency room. Said records of the Medical Examiner's Office further reflect that the body of the deceased victim was conveyed from Froedtert Hospital to the Milwaukee County Medical Examiner's Office on August 29, 2008 arriving at 19:50 hours by Patton Transfer Service with S. Stevens conveying the corpse to the Medical Examiner's facility.

Genevieve Penn of the said Medical Examiner's Office whom complainant knows to be employed by as an investigator further reports that on August 30, 2008 at 10:30am, the victims friends Ron Betz and Don came to the Medical Examiner's Office and made a positive identification of the decedent, Michael V. Fleming, D.O.B. 06-27-1953 by viewing a photograph.

Officer Cole further reports he took a statement from Joseph McClure, an adult citizen witness informant whom complainant believes to be truthful and reliable, who stated regarding the above stated accident that and when interviewed by Cole on August 29, 2008, that he did not see the accident occur but did see the motorcyclist lying face down on the street as he was driving by in his delivery truck. He stated he is a trained EMT and stopped to see if he could help render aid. He stated that when he turned over the subject victim, there was a large amount of blood coming from his nose and mouth. McClure stated that when he checked for a pulse and breathing he could not find any signs so he began CPR until Milwaukee Fire Department responded for about 3 minutes.

Upon the statements to your complainant by Dr. Christopher Happy, an adult citizen witness informant whom complainant believes to be truthful and reliable, who stated that he is a medical doctor licensed to practice medicine in the State of Wisconsin with special training and experience in the area of forensic pathology and that on August 30, 2008, he performed an autopsy postmortem examination on the body of the above named deceased victim and that based on his training and experience and observations made during the course of the autopsy he concluded to a reasonable degree of medical certainty that the cause of death of said victim was blunt impact of the head and torso. Dr. Happy stated that said victim suffered injuries consistent with blunt impact of the head with contusions, sub scalp hemorrhage, skull fracture, subdural and subarachnoid hemorrhage. Dr. Happy stated said victim also suffered from blunt impact of the torso including multiple rib fractures consisting of the right 4 through 6 lateral ribs, the 1st through 7th left posterior ribs, and the 2nd through 10th left lateral ribs. Dr. Happy further stated that said victim also suffered a left hemothorax (100ml) and left lung multiple lacerations along with abrasions to the torso. Dr. Happy also said victim suffered blunt injuries of the left upper extremities with abrasions. Dr. Happy further stated that the victim's injuries and cause of death were not inconsistent with victim being struck while on the motorcycle by a motor vehicle.

Statements to your complainant by fellow City of Milwaukee Police Officer Jerry Whiteley, whom your complainant believes to be truthful and reliable, who states that August 29, 2008, at approximately 2:31pm, he was in a marked City of Milwaukee police van and responded to the vicinity of East North Avenue and North Humboldt Boulevard, City and County of Milwaukee, State of Wisconsin. Upon arriving at said scene at said time, he observed two firemen doing what appeared to be chest compressions on a male victim that was lying in the street in the eastbound lane of East North Avenue at approximately 1025 East North Avenue. Officer Whiteley also observed a motorcycle also in traffic near the victim being worked on in the street. Fellow City of Milwaukee Police Officer Pettke who was the only other officer that Whiteley observed on the scene at that time told Whiteley to block traffic on the other side of the fire trucks whereupon Whiteley proceeded to drive his van westbound on East North Avenue to North Weil Street, which is located at approximately 1000 East North Avenue. Whiteley states after Pettke told Whiteley what to do, Whiteley states that while he was still parked in the vicinity of the intersection where he arrived, a male citizen approached his van and pointed to a white 1997 Mercury Grand Marquis that Whiteley observed parked in front of 1000 East North Avenue facing westbound along the curb whereupon said male citizen stated as he pointed to said vehicle, "That's her, she hit the motorcycle, she might try to leave, you might want to go over by her." Whiteley then proceeded to said location where he observed said white 4-door Grand Marquis also had a dark blue top and bore Wisconsin license plate #821-LLR. Whiteley observed that there was only one occupant in said vehicle, the defendant, and he observed the defendant was getting in and out of her car and walking back looking toward the person in the street who was being worked on by the fire department personnel as described above. Whiteley observed that when the defendant would get out of her car and was standing outside of her car she would steady herself by grabbing the car and using the car as a brace as she walked to the rear of her vehicle to look back toward the person in the street whom Whiteley states he knows was subsequently identified as the above named victim. Whiteley then drove his van and parked in the center of the street, facing north and south blocking eastbound traffic on East North Avenue at Weil Street. Whiteley observed that the defendant had what appeared to be a brace on her right foot and Whiteley observed a cane in her vehicle. Whiteley observed no evidence of alcohol, liquor or beer containers in and around the defendant's car or the entire scene. He observed that the defendant was a white female and obtained her driver's license which gave her description which included a height of 5'4" and weight of 110 lbs and that Whiteley states that based on his observations of the defendant on August 29, 2008, that she was that approximate weight and height. He observed that the defendant had what appeared to be fresh blood on her hands and face. As Whiteley asked the defendant for her driver's license, he asked her if she was ok, if she was hurt, and

the defendant said no that she was fine. Whiteley had the defendant to sit in her car due to the fact that he was concerned about her apparent injuries. At that time, Whiteley states as he was speaking to the defendant, he smelled a strong odor of alcohol/intoxicants emanating from her person and observed that her eyes were blood shot and her speech was slurred. He also observed what appeared to be fresh damage to the above described vehicle that the defendant was in, namely the driver's side mirror was broken and hanging down and Whiteley observed what appeared to be the mirror/glass that had been broken some of which was inside the passenger compartment of the vehicle the defendant was seated in. Whiteley asked the defendant where she was coming from and the defendant said she was coming from a bar that she named. When asked if she had anything to drink, the defendant replied that she had 2 or 3 beers. Whiteley said the defendant kept asking if he was ok, referring to the victim in the roadway and that she kept repeating this numerous times. Whiteley then states the defendant stated that she made a right turn and a motorcycle driven by the victim did try and pass a vehicle and she collided with the motorcycle. Whiteley states that based upon his training and experience as a police officer as well as in his private life, that based upon his arrest of persons he has observed and whom he believed to be under the influence of an intoxicant/alcohol in the past who later proved to be so based on chemical or breath testing, which confirmed his observations as well as his experience in private life seeing persons he knows to be under the influence of alcohol, he believed the defendant was intoxicated and under the influence of an intoxicant and her ability to operate a motor vehicle being materially impaired thereby, Whiteley states that when he was first informed by the male citizen that the person in the white car which Whiteley observed to be the defendant was the person who had struck the motorcycle as described above. Whiteley observed other citizens that were standing in the vicinity also pointing toward the defendant's vehicle and Whiteley observed that was the only vehicle at that location or that vicinity. Whiteley states that approximately 3:01pm, he was advised by Sergeant Cross to place the defendant in custody. Whiteley states the defendant was cuffed at approximately 3:03pm and taken in Whiteley's van to approximately 1101 to 1103 East North Avenue to get away from the news reporters and cameras that were hovering within very close distance of couple of feet as well as a crowd of approximately 35-50 people that had gathered, to do standard field sobriety tests. At said location, Whiteley performed the Horizontal Gaze Nystagmus Test. Whiteley states he has received training and experience in said test, which he knows to be a standard field sobriety test. Whiteley states he knows that is a test that is commonly relied upon in law enforcement as a reliable test to determine whether a person is under the influence of an intoxicant including a blood alcohol content of greater than 0.10 and that Whiteley states when he performed said test on the defendant, both eyes did not pursue smoothly and had distinct jerkyness at maximum deviation. The defendant was ordered not to move her head and just follow his pen cap with her eyes. The defendant did turn her head three times while tracing the path of his pen cap. The defendant was incapable of doing other tests due to medical problems. The defendant was wearing a leg brace and had a cane and complained of a slipped disk in her back. Based on Whiteley's training and experience and the use of said test and the results he obtained from the defendant, it was Whiteley's opinion the defendant at that point had a blood alcohol concentration of 0.10 or greater, based on the results of the test. He states he has performed said tests in the past and his opinion regarding the results of said test was subsequently confirmed by other chemical testing, including the Intoximeter Machine. Whiteley states the defendant was then conveyed to St. Mary's Hospital at 2323 North Lake Drive arriving at 3:35pm. At approximately 3:36pm, the defendant asked Whiteley how the victim was doing and Whiteley advised the defendant that the victim didn't make it whereupon the defendant became visually upset and emotional stating words to the effect, "Oh God, No, What did I do?" "No, no, no." Whiteley states the defendant did consent to a blood draw after informing the accused form was read to her by fellow City of Milwaukee Police Officer Perenboom. Whiteley states that he observed and at said hospital Anthony Linn, who indicated he was an individual working under the direction of a physician, draw blood samples from the person of the defendant in Whiteley's presence and said vials of blood of the defendant which Whiteley observed drawn from her person were labeled and sealed by Whiteley and

Linn whereupon Whiteley took possession of said sealed viles of blood and conveyed them to City of Milwaukee Police Department District #1 where he turned them over to fellow City of Milwaukee Police Officer John Fredericks to be placed on City of Milwaukee Police Department property inventory, which was later determined to be #440377 and that Whiteley states from the time he observed the blood drawn from the defendant as set forth above until such time as he gave said sealed blood samples to Fredericks to place on inventory he did not contaminate or alter said blood in any respect. Complainant states pursuant to Milwaukee Police Department property inventory #440377, which he knows is a unique number for only one item of evidence that the above named Officer Fredericks placed the blood obtained by Whiteley from the defendant as set forth above on property inventory where said sealed blood samples were resealed and assigned Milwaukee Police Department seal #56766.

Complainant further states he knows that on September 2, 2008, fellow City of Milwaukee Police Officer Thomas Canzoneri whom complainant knows to be employed by the property control section of said police department conveyed the sealed blood samples of the defendant to the State Crime Laboratory – Milwaukee for testing and analysis based upon complainant's personal reading and review of the receipt of physical evidence from said State Crime Laboratory – Milwaukee regarding their case number R08-2893 in which records complainant has used in the past and found the information contained therein to be truthful and reliable and knows to be kept in the course of the regularly conducted activities of the State Crime Laboratory – Milwaukee.

Upon statements to your complainant by Sara Schreiber, an adult citizen witness informant whom complainant knows to be truthful and reliable, and that Schreiber states to complainant that she is employed to a laboratory analyst with special training and experience in the area of toxicology with the State of Wisconsin Crime Laboratory – Milwaukee, and that she analyzed the above stated sealed blood samples taken from her person as set forth above on September 2, 2008, and determined to a reasonable degree of scientific certainty that the blood alcohol concentration was 0.182 grams per 100ml by weight of alcohol in the blood, which is equivalent to an alcohol concentration of 0.182 percent. Schreiber further states that based upon her training and experience at the time of the above stated crash at approximately 2:18 – 2:19pm on August 29, 2008, and to a reasonable degree of scientific certainty assuming full absorption, the defendant's blood would have contained an alcohol concentration of 0.202 to 0.232 which would be the equivalent of a blood alcohol (ethanol) concentration of 0.202 to 0.232 grams per 100ml, or, in other words, the defendant's blood would have contained 0.202 to 0.232 percent weight of alcohol. Schreiber further states that based upon her training and experience, that at approximately 2:18 – 2:19pm on August 29, 2008, the defendant would have been, while operating her vehicle as set forth above and at the time she collided with the victim's motorcycle as set forth above, under the influence of an intoxicant with her ability to operate a motor vehicle materially impaired thereby.

Complainant further states that he took part of the investigation of the above stated offenses on August 29, 2008 arriving at the vicinity of 1025 East North Avenue at 2:59pm at that complainant states he has special training and experience in the area of accident reconstruction and he observed what complainant believes to be the skid mark of the motorcycle tire, the victim was operating at the time of the crash, in the eastbound lane of East North Avenue at approximately 1025 East North Avenue along with what appeared to be fresh scrapes in the road surface at said location as well as a large amount of blood and what appeared to be bits of glass or mirror that would have been consistent with the damage to the driver's side mirror on the defendant's above described motor vehicle at said location. Complainant also observed what appeared to be a fresh tire mark in the roadway commencing in a southwesterly to westerly direction that would have begun in the westbound lane of East North Avenue just west of North Humboldt Boulevard continuing in a southwesterly direction across the eastbound lane of East North Avenue up over the curb and onto the sidewalk then continuing westbound to just

before 1025 East North Avenue where the tire mark then ended. Complainant further states that he observed the above described 1997 Mercury Grand Marquis vehicle white in color with a blue top with the above described license plate and VIN number at the scene of where it was parked and observed by Whiteley, namely approximately 1000 East North Avenue and observed what appeared to be fresh damage and broken driver's side exterior mirror to said vehicle as well as what appeared to be rub mark or material transfer onto the driver's side front quarter panel and driver's door area of said vehicle as well as what appeared to be damage to the outside driver's side wheels which, in complainant's opinion, would have been consistent with the defendant striking the curb as she turned the corner from Humboldt on East North Avenue and went up on the sidewalk as described above. Complainant also observed what appeared to be a broken left front turn signal assembly of said motor vehicle. Complainant also observed the victim's 2004 red Harley Davidson heritage motorcycle at or about 1025 E. North Avenue that sustained damage including what appeared to be a white colored scuff or paint transfer on the front red faring of said motorcycle that appeared consistent to the white paint color of the defendant's above described vehicle.

Complainant states that all of the above events occurred in the City and County of Milwaukee, State of Wisconsin.

******End of Complaint******

**Subscribed and sworn to before me
and approved for filing on this _____
day of September 2008.**

**ASSISTANT DISTRICT ATTORNEY
William J. Molitor\KK**

Complaining Witness

-- FELONY COMPLAINT --

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~BOLAND,KATHLEEN~~08XF6079.DOC
TYPIST: KK

CIRCUIT COURT
STATE OF WISCONSIN CRIMINAL DIVISION MILWAUKEE COUNTY

STATE OF WISCONSIN

Plaintiff

INFORMATION

vs.

Boland, Kathleen R.
2325 North Humboldt Blvd.
Milwaukee, Wisconsin 53212
(D.O.B.: November 14, 1946)

Complaining Witness:

PO Scott Beaver

DA Case Number: 08XF6079

Circuit Court Number

Defendant(s)

I, JOHN T. CHISHOLM, DISTRICT ATTORNEY FOR MILWAUKEE COUNTY, WISCONSIN, HEREBY INFORM THE COURT THAT THE ABOVE NAMED DEFENDANT (S) IN THE COUNTY OF MILWAUKEE, STATE OF WISCONSIN.

COUNT 01: HOMICIDE BY INTOXICATED USE OF VEHICLE

On August 29, 2008, at or about 1025 East North Avenue, City of Milwaukee, did cause the death of Michael V. Fleming, by the operation of a vehicle while under the influence of an intoxicant, contrary to Wisconsin Statutes section 940.09(1)(a) & (1)(c).

COUNT 02: HOMICIDE BY USE OF A VEHICLE WHILE OPERATING WITH PROHIBITED BLOOD ALCOHOL CONCENTRATION

On August 29, 2008, at or about 1025 East North Avenue, City of Milwaukee, did cause the death of Michael V. Fleming by the operation of a vehicle while she had a prohibited alcohol concentration, as defined in section 340.01(46m), contrary to Wisconsin Statutes section 940.09(1)(b) & (1)(c).

DATED:

John T. Chisholm
District Attorney

ASSISTANT DISTRICT ATTORNEY

KK

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