

CRIMINAL COMPLAINT

STATE OF WISCONSIN

DA Case No.:2009ML028920

Plaintiff,
vs.

Complaining Witness:

PO Scott Beaver

Shallcross, Scott R
321 Jewell Street
Oak Creek, WI 53154
DOB: 07/24/1983

Court Case No.:

Defendant,

THE ABOVE NAMED COMPLAINING WITNESS BEING DULY SWORN, ON INFORMATION AND BELIEF STATES THAT:

Count 1: HOMICIDE BY INTOXICATED USE OF A VEHICLE

The above-named defendant on or about Friday, November 27, 2009, at or near 4200 S. Howell Avenue, in the City of Milwaukee, Milwaukee County, Wisconsin, did cause the death of Thomas Ballman, by the operation of a vehicle while under the influence of an intoxicant, contrary to sec. 940.09(1)(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.

And the department shall revoke the defendant's operating privilege for five (5) years.

Count 2: HOMICIDE BY INTOXICATED USE OF A VEHICLE (PROHIBITED ALCOHOL CONCENTRATION)

The above-named defendant on or about Friday, November 27, 2009, at or near 4200 S. Howell Avenue, in the City of Milwaukee, Milwaukee County, Wisconsin, did cause the death of Thomas Ballman, by the operation of a vehicle while having a prohibited alcohol concentration as defined in section 340.01(46m), contrary to sec. 940.09(1)(b), 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.

And the department shall revoke the defendant's operating privilege for five (5) years.

Count 3: HOMICIDE BY INTOXICATED USE OF A VEHICLE

The above-named defendant on or about Friday, November 27, 2009, at or near 4200 S. Howell Avenue, in the City of Milwaukee, Milwaukee County, Wisconsin, did cause the death of Jeremy Neuenfeldt, by the operation of a vehicle while under the influence of an intoxicant, contrary to sec. 940.09(1)(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.

And the department shall revoke the defendant's operating privilege for five (5) years.

Count 4: HOMICIDE BY INTOXICATED USE OF A VEHICLE (PROHIBITED ALCOHOL CONCENTRATION)

The above-named defendant on or about Friday, November 27, 2009, at or near 4200 S. Howell Avenue, in the City of Milwaukee, Milwaukee County, Wisconsin, did cause the death of Jeremy Neuenfeldt, by the operation of a vehicle while having a prohibited alcohol concentration as defined in section 340.01(46m), contrary to sec. 940.09(1)(b), 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.

And the department shall revoke the defendant's operating privilege for five (5) years.

Count 5: OPERATE MOTOR VEHICLE AFTER REVOCATION - CAUSE DEATH

The above-named defendant on or about Friday, November 27, 2009, at or near 4200 S. Howell Avenue, in the City of Milwaukee, Milwaukee County, Wisconsin, did knowingly operate a motor vehicle upon any highway in this state during the period of revocation or in violation of any restriction on an occupational license issued to the person during the period of revocation and in the course of this violation caused the death of another person, contrary to sec. 343.44(1)(b) and (2)(h), 939.51(3)(a) Wis. Stats.

Upon conviction for this offense, a Class A Misdemeanor, the defendant may be fined not more than Ten Thousand Dollars (\$10,000), or imprisoned not more than nine (9) months, or both.

And the Court may suspend the defendant's operating privilege not more than six (6) months.

The basis for complainant's charge of such offense is upon information and belief upon a reading of the written reports of the City of Milwaukee Police Department which complainant believes reliable because those reports have proved reliable in the past and are used in the ordinary and regular course of business of the City of Milwaukee Police Department.

Complainant alleges that on the date of November 28, 2009, Detective Shelondia Tarver interviewed a woman by the name of Dawn Wojtysiak. Ms. Wojtysiak stated that she is a bartender at the City Lounge which is located at 3455 E. Layton Avenue in the City of Cudahy. Ms. Wojtysiak stated that on Thanksgiving, November 26, 2009, she was the bartender at the City Lounge. She stated at approximately 9:00 p.m. the defendant Scott Shallcross and a man by the name of Daniel Gorectke entered the bar. Ms. Wojtysiak stated that Mr. Shallcross and Mr. Gorectke were in the bar for about an hour and that they each had approximately 3 drinks. They then left for an hour and came back and again began drinking. Ms. Wojtysiak stated that she doesn't know how many drinks they had the second time they came back. Mr. Shallcross told Ms. Wojtysiak that they had drunk, that being Mr. Shallcross and Mr. Gorectke, two bottles of wine before coming to the bar the first time. Ms. Wojtysiak stated that Mr. Shallcross and Mr. Gorectke left the bar sometime shortly after midnight on Friday, November 27, 2009.

Complainant further alleges that the reports of Milwaukee County Deputy Sheriff Karl Turek reveal that on November 26, 2009, and November 27, 2009, he was working the 7:00 p.m. to 3:00 a.m. shift. He stated that he had made a traffic stop on E. Layton Avenue at about 12:26 a.m. He stated at that time he observed a small dark colored vehicle traveling westbound on E. Layton Avenue. He estimated the speed to be between 80 and 100 miles per hour, the speed limit is 40 miles per hour. Deputy Turek pulled out into traffic to follow this vehicle and attempted to catch up to it as it approached S. Howell Avenue. As Deputy Turek got closer to Howell Avenue he activated his red lights and he went northbound on Howell Avenue. He continued going north on S. Howell Avenue approximately 2 or 3 blocks when he heard a very loud crash. He then came upon the accident scene at S. Howell Avenue and E. Plainfield Avenue. He then observed a red pick-up truck in the parking lot of a strip mall on the east side of Howell Avenue just north of Plainfield. The bed of the pick-up truck was engulfed in flames. He entered the cab of the truck to try to save whoever was in the burning vehicle. He yelled several times into the truck. He then noticed a second vehicle on the north side of the lot against an electric pole. He ran to the other side of the vehicle and he recognized this as the vehicle that was traveling 80 to 100 miles an hour westbound on E. Layton Avenue a few minutes before. Deputy Turek then ran to this vehicle and noticed that it was against the electric pole. He stated that the driver's door was closed when he approached but he lifted up the side airbag and observed the defendant, Scott Shallcross, in the vehicle along with Daniel Gorectke. Deputy Turek then looked at the pick-up truck which was on fire and he observed a victim sitting up against the passenger side door of the exterior of the burning vehicle and that his body was on fire. He then attempted to get the victim who was on fire outside the pick-up truck but the fire was too hot and it appeared as if this person was dead. Deputy Turek then ran back to the squad to get his fire extinguisher and that the fire department had just arrived thereafter. The person lying outside the pick-up truck on fire who was deceased was identified as Thomas Ballman.

Complainant further alleges that the reports of Police Officer Michael Krohn reveal that on the date of November 27, 2009, at approximately 12:36 a.m., he was working as a City of Milwaukee police officer. He stated that he was dispatched to an auto accident at Plainfield Avenue and S. Howell Avenue in the City of Milwaukee. On arriving there he observed the fire department at the scene. In front of the location of 4170 S. Howell Avenue, Officer Krohn observed two vehicle that were involved in an accident. Officer Krohn spoke to Fire Battalion Chief Slowey who stated that there were two injured people in one vehicle and two dead people in the other vehicle. The first vehicle being a black Honda where the two people were alive. These two people were later identified as Scott Shallcross and Daniel Gorectke and they were being worked on by fire department paramedics. Mr. Shallcross and Mr. Gorectke were transferred to Froedtert Hospital. Officer Krohn then went to the second vehicle, a red GMC pick-up truck, and he observed the vehicle to have been burned and almost split in half. He observed the body lying outside the vehicle, that being the victim Thomas Ballman. He also observed that Jeremy Neuenfeldt was inside of the vehicle and was deceased and badly burned. Both Mr. Neuenfeldt and Mr. Ballman were pronounced deceased at the scene by Genevieve Penn, an investigator for the Milwaukee County Medical Examiner's Office and there bodies were then transported to the Milwaukee County Medical Examiner's Office for autopsy purposes.

The autopsy on Jeremy Neuenfeldt occurred on November 30, 2009, by Dr. Agnieszka Rogalska who is an assistant medical examiner at the Milwaukee County Medical Examiner's Office. The results of that autopsy revealed that Jeremy Neuenfeldt died of complications from fire injuries. He had suffered subdural bleeding, contusion fractures of the wrist and knees and extensive thermal injuries from the fire. The opinion of Dr. Rogalska to a reasonable degree of medical certainty was that Jeremy Neuenfeldt died of complications of thermal injuries and the

products of the combustion of the fire and that this opinion is to a reasonable degree of medical certainty.

Complainant further alleges that an autopsy was done on Thomas Ballman by Dr. Brian Peterson who is the Deputy Medical Examiner for Milwaukee County. This autopsy was done on November 30, 2009. The results of that autopsy revealed that Thomas Ballman had suffered pulmonary contusions, a ruptured of stomach, extensive lacerations to his liver and spleen an avulsion of the kidney, thermal injuries and that 90% of his body was burned. The cause of death, to a reasonable degree of medical certainty as found by Dr. Peterson, was multiple blunt force injuries, secondary to an auto accident.

Complainant further alleges that the reports of Detective Donald Ours of the City of Milwaukee Police Department reveal that Scott Shallcross was taken to Froedtert Memorial Hospital. At 3:25 a.m. nurse Dustin Sontag took a blood draw from Scott Shallcross and it was placed on inventory #498480 by Police Officer Jackson. This blood draw was then transferred to the Wisconsin Regional Crime Laboratory where a toxicology test to determine blood alcohol content in Mr. Shallcross' blood at 3:25 a.m. was done by Sara Schreiber who is a certified toxicologist at the State of Wisconsin Regional Crime Laboratory in Milwaukee. The results of that test revealed that the defendant, Scott Shallcross, had a blood alcohol level of .158 blood alcohol concentration at 3:25 a.m. on November 27, 2009.

Complainant further alleges that the reports of Detective Charles Mueller, a detective with the City of Milwaukee Police Department reveal that on the date of November 28, 2009, he spoke with Daniel Gorectke. Daniel Gorectke stated that he had been out on Thanksgiving night with his friend Scott Shallcross. He stated that they had Thanksgiving diner at his mother's house and then went out to a couple taverns. He stated that when they left the last tavern just prior to the accident occurring he was in the front passenger seat in the vehicle and that Scott Shallcross was driving the vehicle. Daniel Gorectke stated that he had been drinking and did not want to drive because he was drinking so he gave the keys to Scott Shallcross to drive. He stated that he was not sure how intoxicated Scott Shallcross at the time. Daniel Gorectke stated that he remembers that Scott Shallcross was driving pretty fast when they struck a car and that after the accident happened he remembers sitting in the front passenger seat of the car. Scott Shallcross was still in the front driver's seat immediately after the crash. He stated that moments later Scott Shallcross crawled from the front driver's seat to the back seat and Scott Shallcross told him to tell police that there was some unknown third person driving the vehicle. Daniel Gorectke stated that there was not a third person driving the vehicle and that Scott Shallcross was the driver of the vehicle at the time of the accident.

Complainant further alleges that the reports of Rudolfo Gomez reveal that on the date of November 29, 2009, at 8:22 p.m., they advised the defendant Scott Shallcross of his Miranda rights. After advising Scott Shallcross of his Miranda rights Scott Shallcross gave a statement which is believed to be reliable because it is against his penal interest. Scott Shallcross stated that he started drinking at his house early on Thanksgiving. Mr. Shallcross stated that he and Daniel Gorectke went to Daniel Gorectke's house for Thanksgiving. They purchased two bottles of wine prior to Thanksgiving dinner. They went to Gorectke's house and drank a couple of beers. Mr. Shallcross stated that he then received a phone call from Daniel Gorectke who picked him up and drove him to Daniel Gorectke's house for Thanksgiving. Mr. Shallcross stated that when he was at Mr. Gorectke's house had already began feeling intoxicated. Mr. Shallcross stated they finished the two bottles of wine and that Daniel Gorectke's parents had orange juice jugs full of house wine. Mr. Shallcross stated that he, Daniel Gorectke, and Daniel Gorectke's grandfather drank the jug of wine. They then ate dinner and continued drinking. Shallcross stated that after dinner he and Gorectke went to a couple of bars and cut loose. They went to the City Lounge and drank and then they went to the Saloon Bar and drank.

When they were leaving the City Lounge Mr. Shallcross drove the vehicle, that being a gray Honda Civic. Mr. Shallcross stated that he was driving on Layton Avenue and Daniel Gorectke began talking about how his friend had topped off with speed his Honda Civic. Mr. Shallcross stated that Daniel Gorectke told him to get on it as there were no other cars on the road. Mr. Shallcross stated that he then began accelerating the Honda Civic that he was driving on Layton Avenue up to approximately 85 miles per hour passing Amelia's and Big Mouth Frog on Layton Avenue. Mr. Shallcross stated that he then turned up Howell Avenue. Mr. Shallcross stated that he was coming up to Howell Avenue near the intersection where the accident happened. He stated that he knows that a flashing light controls the intersection. Mr. Shallcross stated that he then realized that there was a policeman behind him. Mr. Shallcross looked into his rearview mirror and saw cars pulling over. Mr. Shallcross stated that he then saw a red pick-up truck. Mr. Shallcross stated that he tried to maneuver his car away from the door and he hit the truck square in the gas tank. Mr. Shallcross stated that they then spun and spun and that he knew they were in an accident. Mr. Shallcross stated that he looked over at Dan Gorectke and asked if he was ok. Mr. Shallcross stated that Dan Gorectke was leaning over the dashboard. He then realized that the other car was on fire. Mr. Shallcross stated that he then unbuckled his seatbelt and crawled into the back seat and he heard screams and the fire growing bigger and bigger from the other car. He then heard an explosion and he knew that it was the truck. He stated that he then balled up and began crying.

Complainant observed an official record from the Department of Transportation indicating Scott Shallcross' drivers license status was revoked at the time of the above accident. Said revocation was for a violation of driving with a excessive blood alcohol concentration and that this conviction occurred on September 8, 2009.

Complainant alleges all these 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 this ____ day of December, 2009.

Mark S. Williams
Assistant District Attorney
1017937

Complaining Witness

MSW\mh

-- Felony Complaint --