

STATE OF WISCONSIN

CIRCUIT COURT

WINNEBAGO COUNTY

RECEIVED

STATE OF WISCONSIN,

Plaintiff,

FEB 7 1995

-vs-

AMENDED

CRIMINAL COMPLAINT, CRT. BR. IV

Case No. 94 CF 285

MARK H. PRICE, DOB; 11/13/58
C/O WAUPUN CORRECTIONAL INSTITUTE,
Defendant.

Roger Price, being first duly sworn, on oath, on information and belief, states that on or about May 26, 1994, in the City of Oshkosh, Winnebago County, Wisconsin, Mark H. Price, d/o/b: 11/13/58, did: while party to the crime, intentionally deliver a controlled substance, to-wit: THC, a controlled substance in Schedule I of the Wisconsin Controlled Substance Act (§161.14(4)(t) of the Wisconsin Statutes), contrary to §161.41(1)(h)1 of the Wisconsin Statutes. For this Felony offense the Court may impose a fine not less than \$500 nor more than \$25,000 or imprisonment not to exceed 9 years, or both.

REPEATER PROVISION: It is alleged that the defendant is a repeater as defined in §939.62 of the Wisconsin Statutes in that he has been convicted of at least one felony in the last five year period, to-wit:

<u>OFFENSE</u>	<u>DATE OF CONVICTION</u>	<u>MISDEMEANOR/FELONY</u>
PTC First Degree Intentional Homicide	February 20, 1991	Class A Felony

and that the above convictions remain on record and unreversed, and therefore the defendant is a repeater under the provision of §939.62, and subject to an increased six year prison term to the maximum possible penalty.

COUNT 2: That on or about May 26, 1994 in the City of Oshkosh, Winnebago County, Wisconsin, Mark H. Price, d/o/b: 11/13/58, did: while party to the crime, as a dealer, intentionally possess marijuana that did not bear any indicia that a controlled substance tax required by §139.88 of the Wisconsin Statutes had been paid, to-wit: did possess as a party to the crime 453 grams of marijuana that did not bear a controlled substance tax stamp or any evidence or indicia that a controlled substance tax had been paid, contrary to §139.88, 139.55, and 939.05 of the Wisconsin Statutes. For this felony offense the court may impose a penalty of a fine not more than \$10,000 or imprisonment not more than 11 years, or both. Additionally, the person shall pay a penalty equal to the tax owed on 453 grams of marijuana.

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REPEATER PROVISION: It is alleged that the defendant is a repeater as defined in §939.62 of the Wisconsin Statutes in that he has been convicted of at least one felony in the last five year period, to-wit:

<u>OFFENSE</u>	<u>DATE OF CONVICTION</u>	<u>MISDEMEANOR/FELONY</u>
PTC First Degree Intentional Homicide	February 20, 1991	Class A Felony

and that the above convictions remain on record and unreversed, and therefore the defendant is a repeater under the provision of §939.62, and subject to an increased six year prison term to the maximum possible penalty.

COUNT 3: That on or about May 19, 1994, Winnebago County, Wisconsin, Mark H. Price, d/o/b: 11/13/58, did: with intent that a felony be committed in Winnebago County, advise another to commit a crime under circumstances that indicate unequivocally that he had the intent for that felony to be committed, to-wit: solicited Darin Beverly to arrange the first degree intentional homicide of Joseph Paulus, a resident of Winnebago County, Wisconsin, contrary to §939.30(1)(2) and §940.01 of the Wisconsin Statutes. For this Class C Felony offense, the court may impose the penalty of a fine not to exceed \$10,000 or imprisonment not to exceed 16 years, or both, pursuant to Wis. Stats. s.939.50(3)(c).

REPEATER PROVISION: It is alleged that the defendant is a repeater as defined in §939.62 of the Wisconsin Statutes in that he has been convicted of at least one felony in the last five year period, to-wit:

<u>OFFENSE</u>	<u>DATE OF CONVICTION</u>	<u>MISDEMEANOR/FELONY</u>
PTC First Degree Intentional Homicide	February 20, 1991	Class A Felony

and that the above convictions remain on record and unreversed, and therefore the defendant is a repeater under the provision of §939.62, and subject to an increased six year prison term to the maximum possible penalty.

AND PRAYS SAID DEFENDANT BE DEALT WITH ACCORDING TO LAW; AND THAT THE BASIS FOR THE COMPLAINANT'S CHARGE OF SUCH OFFENSE IS AS FOLLOWS:

Roger Price, being first duly sworn on oath, complains as follows: Your affiant states that he is Coordinator of the Lake Winnebago Area Metropolitan Drug Enforcement Group,

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(hereinafter referred to as the MEG Unit), and in that capacity has knowledge of the following:

Your affiant is informed from the reports of the MEG Unit kept in the normal and ordinary course of business which your affiant believes to be truthful and reliable and have proven so on numerous occasions in the past that on or about May 19, 1994, Investigator Steve Wichman of the MEG Unit spoke with Detective Durrant of the Winnebago County Sheriff's Department. Detective Durrant informed Investigator Wichman that he was contacted by Darin L. Beverly, an inmate of Waupun Correctional Institute, in Waupun, Wisconsin. Detective Durrant reports that Darin Beverly had contacted him and told him that he had some recent contacts with another inmate identified as Mark H. Price, d/o/b: 11/13/58. Beverly reported that Mark Price claimed that he could arrange for marijuana transactions outside the prison. Beverly also indicated that Mark Price wanted to arrange marijuana transactions with Beverly so Beverly's friends would kill Winnebago County District Attorney Joe Paulus. Paulus prosecuted the murder case that resulted in Mark Price being sentenced to life in prison.

Investigator Wichman subsequently made contact with Lt. Dittmann, the criminal investigator for Waupun Correctional Institute. As a result, Investigator Wichman interviewed Darin Beverly at Waupun Correctional Institute on May 23, 1994. Beverly indicated to Investigator Wichman that he first met Mark Price in 1993 at the prison. He indicated that they were eventually assigned to the same workshop in the prison in April of 1994. Beverly stated that he and Price worked in the metal furniture shop at the prison. At that shop, Beverly indicated that he and Price developed a friendly relationship. Beverly stated that Price informed Beverly about the case that put him in prison. Beverly stated that the case had to do with "ice" and a person being shot in the head. He also stated that Price talked about the prosecutor who placed him in prison. He stated that Price showed him some legal paperwork and articles from newspapers that referred to Winnebago County District Attorney Joseph Paulus. Beverly reports that he was shown this paperwork on May 20, 1994. He also stated that Price indicated to him that he had connections to drugs on the outside of the prison and also stated that he would like Beverly's friends to kill the prosecutor that placed him in the prison system.

According to Beverly, Mark Price stated that Price wanted Joseph Paulus dead. He also stated that Price is very upset with the length of his sentence. Beverly further stated that approximately two weeks earlier, Price informed him that he had 11 pounds of marijuana that he was controlling outside the prison. He also indicated that he had a friend named "Dave" who helps transport the marijuana. Beverly also indicated that Price had talked about a female, identified as Terry Magnum, who was involved in transporting marijuana for Price. Investigator Wichman reports that Terry Magnum is currently residing at 1016 Western Avenue, in the City of Mosinee, Portage County, Wisconsin.

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Darin Beverly explained that Price had a plan that he would sell marijuana to Beverly's friends for money. Price indicated to Beverly that he would then use the money from drug deals to place a "hit" on Paulus. Price told Beverly he would sell marijuana to some of Beverly's friends on the outside. Price said he is willing to pay thousands of dollars to kill Paulus. Beverly indicated that this type of conversation occurred several times. Beverly further stated that Price had a list of people he wanted to kill, including a person named "Richy" who is in Green Bay. However, Beverly added that Paulus was at the top of Price's list.

Investigator Wichman reports that in order to confirm Beverly's story, he made arrangements with Beverly to attempt a marijuana purchase from Mark Price. Investigator Wichman reports that he recruited the services of Deputy Michael Woods of the Winnebago County Sheriff's Department to work in an undercover capacity as a potential purchaser of marijuana outside the prison system. Investigator Wichman reports that Deputy Michael Woods posed as a person named "Sean" who was alleging to be a friend of Darin Beverly outside the prison. Investigator Wichman reports that Beverly eventually had conversations with Price and Price indicated that he had arranged for Beverly's friend "Sean" to purchase one pound of marijuana from Terry Magnum. He also provided Beverly with a phone number for his friend "Sean" to call Terry Magnum to arrange the transaction.

On May 26, 1994, Deputy Michael Woods reports that he contacted Terry Magnum at her residence in Mosinee, Wisconsin. He reports that during the phone conversation, Terry Magnum offered to sell Deputy Woods one pound of marijuana for \$1,200. Deputy Woods reports that the two of them eventually agreed to meet at the parking lot at the Kentucky Fried Chicken Restaurant, located on 9th Street, in the City of Oshkosh, Winnebago County, Wisconsin.

Investigator Wichman reports that at approximately 6:41 p.m. on May 26, 1994, a silver colored Toyota Camry arrived in the Kentucky Fried Chicken parking lot and parked near a vehicle being operated by Deputy Michael Woods. Deputy Woods reports that a white female, approximately 5'3" tall and 170-180 lbs. was in the Toyota Camry and began a conversation with Deputy Woods out the window of her vehicle. Deputy Woods reports that he asked her if she was Terry and she indicated "yes". She then asked if he was "Sean" and he said "yes". Deputy Woods reports that the two of them then talked for a short time and Magnum eventually provided him with clear ziplock bags containing what appeared to be marijuana. In exchange, Deputy Woods gave Terry \$1,200 in U.S. currency.

Investigator Wichman reports that he eventually talked to Terry Magnum in August of 1994 and she admitted that she did provide one pound of marijuana to Deputy Woods.

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Deputy Woods reports that he kept custody of the purported bag of marijuana until he turned it over to Investigator Wichman. Investigator Wichman reports that he eventually weighed the bag of marijuana and its weight was approximately 453 grams. Investigator Wichman further reports that he conducted a Duquenois-Levine Field Test on a portion of the purported marijuana and received a positive indication for the presence of THC. Investigator Wichman also reports that the bag of marijuana did not contain any Wisconsin State Controlled Substance Tax Stamp or any indication that a Controlled Substance Tax had been paid on the marijuana.

On August 24, 1994, Investigator Wichman interviewed Terry L. Magnum, female/white, d/o/b: 7/11/62, regarding her contacts with Mark Price. Magnum admitted to the investigator that she has known Mark Price for 9 years. She also indicated that she would visit Mark Price while he was in the State Prison System in Waupun. She stated that while on the visits, Mark Price told her that he could get great prices on good marijuana outside the prison system. She also indicated that Mark Price had people outside the prison handling the marijuana and she identified them as "Dave" and "Tammy".

Terry Magnum reports that Mark Price eventually had some problems with Dave and Tammy. Price had a conversation with Terry Magnum and stated she should get the marijuana from Tammy. She reports that she eventually went to Tammy's house and obtained five clear plastic bags of marijuana. She stated one of the plastic bags was sold to a person named "Sean". She indicated that she distributed marijuana to one other male individual.

Terry Magnum indicated to Investigator Wichman that she was directed by Mark Price how to disburse the money obtained by the marijuana transaction. She reports that she was instructed to distribute some of the proceeds to individuals located in Texas, Sheboygan, Wisconsin, and Beaver Dam, Wisconsin.

In regard to the transaction with "Sean", Magnum stated that Price told her that she could trust "Sean". Magnum further stated that Mark Price often talked about wanting Joe Paulus killed. She also stated that Price talked about Paulus' wife and two kids. Magnum stated that the only reason she was involved in these transactions for Price was she was hoping to make \$500 from all the sales.

Detective Wichman reports that a John Doe proceeding was held before Winnebago County Circuit Judge William E. Crane in reference to Mark Price arranging to have Joseph Paulus killed. Wichman reports that, during the John Doe proceeding, several inmates of Waupun Correctional Institute indicated that Mark Price wanted their assistance in arranging the death of Joseph Paulus. Wichman specifically reports that inmate Darin Beverly was questioned under oath regarding that topic on November 3, 1994. Wichman reports that the following is

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an excerpt of Beverly's sworn testimony at the John Doe (transcript pages 52-54) proceeding where he was questioned by a prosecutor regarding Beverly's contacts with Price in Waupun Correctional Institute:

- Q: As time went on after your initial meetings with Price in the metal shop, is that when he changed the proposals from instead of drugs for money, drugs for your friends killing Paulus?
- A: Correct, correct.
- Q: And that is when you decided to go to the police?
- A: Correct.
- Q: Did he say why he thought you and maybe your friends would have the ability or be willing to do such a thing? Had you informed him about maybe some of your associates and in general what they were capable of or may be willing to do?
- A: Yeah, yeah.
- Q: In general, without naming names of your friends or anything like that, what was some of the talk about or did he make some inquiries about who you had been hanging around with and what some of the things they were willing to do?
- A: Correct. When he mentioned that he was interested in something like that, well, I told him naturally, just trying to be cool with him and that I told him I was a member of an organization called the Bounty Hunters, and if he was serious about having something like that done, then I could definitely set something up, a situation like that up, on the streets.
- Q: When you first acknowledged that to him what was his reaction? Was he pretty excited about that?
- A: He was excited about that, yes.
- Q: And did you inform him what steps you would have to take in order to make those arrangements with your friends?
- A: Yeah, I told him that -- basically all I mentioned was that he had to come up with the money and it was no problem; that they would go and take care of him.

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Q: Was there also some discussions with your friends in the group, Bounty Hunters, that they would need some information on this particular DA?

A: Correct.

Q: And did he in fact show you some information, maybe pictures of this person, for the newspaper or articles or papers on him?

A: Correct, yes.

Q: Where did that take place?

A: In metal furniture, paint.

Q: He actually brought papers in there?

A: Papers and pictures, yes.

Q: Was that unusual for somebody to maybe bring in file papers or newspapers into an area outside of their cell?

A: Yeah.

Q: Do you recall how he was able to do that?

A: He put them under his shirt, or whatever, in his coat.

Q: Now, did he do that on one day or more than one day?

A: More than one occasion.

Q: And did the thing include stuff such as newspaper articles?

A: Correct.

Q: Do you recall if the newspaper articles also had a picture of what District Attorney Paulus looked like?

A: Correct, it did.

Q: And other than newspaper articles, what kind of papers did he have?

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A: Legal documents.

Q: From like his court case?

A: Yes.

(The following is transcript pages 41-42)

Q: Specifically did he have something in mind that he wanted to see happen to the prosecutor?

A: Yes.

Q: And what did he say to you at least the first couple of times about District Attorney Paulus and his feelings as to what he wanted to see happen there?

A: He discussed his desire to have him executed. He wanted him killed actually. He never talked about having him hurt. It was always talking about having him killed specifically.

Detective Wichman reports that, when he interviewed Beverly, Beverly indicated that Price asked him on May 19, 1994 to have Beverly's friends kill Paulus. Beverly further reported that the one pound marijuana deal was the first step that he required of Price in order to determine if Price's request was legitimate.

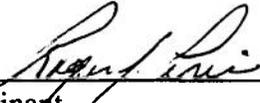
Your affiant reports that the above-referenced drug transaction took place in Winnebago County, Wisconsin. Further, your affiant reports that the target of the solicitation for homicide charge is a resident of Winnebago County, Wisconsin.

Your affiant believes the statements of Darin Beverly and Terry Magnum to be truthful and reliable in that their statements are made against their own penal interests.

Your affiant also reports that Mark H. Price qualifies as a felony repeater under §939.62(1)(b) of the Wisconsin Statutes based on the fact he was convicted of First Degree Intentional Homicide, a felony, in Winnebago County Circuit Court on February 20, 1991. A copy of the Judgment of Conviction is incorporated herein by specific reference.

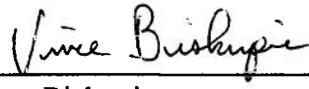
WHEREFORE, as said affiant verily believes and prays that the said MARK H. PRICE might be arrested and dealt with according to law.

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Complainant

Subscribed and sworn to before me this
7th day of February, 1995.



Vince Biskupic
District Attorney

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