

STATE OF WISCONSIN

CIRCUIT COURT

OUTAGAMIE COUNTY

STATE OF WISCONSIN,

Plaintiff,

Incident No. 95-0105-252

-vs-

CRIMINAL COMPLAINT

GREG G. KORTZ, DOB; 4/2/78
c/o Outagamie County Jail

Defendant.

Sgt. Richard J. Schaeffer, being first duly sworn, on oath, on information and belief, states that on or about November 25, 1995 in the Town of Freedom, Outagamie County, Wisconsin, Greg G. Kortz, male/juvenile, d/o/b: 4/2/78, did: by use of a dangerous weapon (a baseball bat), recklessly cause the death of another human being, Kevin J. Nechodom, m/w, d/o/b: 10/29/75, by acts committed on November 22, 1995 under circumstances which show utter disregard for human life, contrary to §940.02(1) and §939.63(1)(a)2 of the Wisconsin Statutes. For this Class B Felony offense, the court may impose the penalty of imprisonment not to exceed 45 years, pursuant to §939.50(3)(b) of the Wisconsin Statutes. Under §939.63(2) of the Wisconsin Statutes, upon conviction, the defendant shall be sentenced to not less than three years imprisonment.

COUNT 2: That on or about November 22, 1995 in the Town of Freedom, Outagamie County, Wisconsin, Greg G. Kortz, male/juvenile, d/o/b: 4/2/78, did: while using a dangerous weapon (a baseball bat), did cause great bodily harm to another, Kevin J. Nechodom, m/w, d/o/b: 10/29/75, by an act done with intent to cause substantial bodily harm to that person, contrary to §940.19(5) and §939.63(1)(a)2 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 15 years, or both, pursuant to §939.50(3)(c) of the Wisconsin Statutes. Under §939.63(2) of the Wisconsin Statutes, upon conviction, the defendant shall be sentenced to not less than three years imprisonment.

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:

Your complainant, being first duly sworn on oath, complains as follows: Your complainant states that he is a law enforcement officer with the Outagamie County Sheriff's Department and, in that capacity, has knowledge of the following:

Your complainant is informed from reports of the Outagamie County Sheriff's Department kept in the normal and ordinary course of business which your complainant believes to be truthful and reliable and have proven so on numerous occasions in the past that on Wednesday, November 22, 1995 at approximately 11:07 p.m., Officer James Schaut of the Outagamie County Sheriff's Department was dispatched to W2260 Greiner Road in the Town

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of Freedom, Outagamie County, Wisconsin for a request to assist an ambulance at that location. The officer reports that dispatchers advised him that there was a male subject at that location who was hit in the head by a baseball bat.

Officer Schaut reports that upon arrival at the scene, he observed a male subject laying on his back and located in a gravel driveway at that location. The officer reports that the male individual had friends at that location who had placed jackets and other materials over him to try and keep him warm. Officer Schaut reports that he observed a very large amount of blood on the ground underneath the male subject's head. The officer also reports that he could see a large contusion to the back of the male subject's head. The officer reports that he asked the male subject his name, and the victim identified himself as Kevin Nechodom. The officer reports that the male subject was later completely identified as Kevin J. Nechodom, m/w, d/o/b: 10/29/75. The officer reports that he asked Kevin how he was feeling, and Kevin stated that he was very cold. The officer reports that first responders then provided medical attention to Kevin.

Officer Schaut reports that at the same location, he encountered a friend of Kevin's identified as Jamie J. Newhouse, m/w, d/o/b: 3/12/76. Officer Schaut reports that Sgt. Schuh of the Outagamie County Sheriff's Department was assigned to interview Jamie Newhouse. Jamie informed Sgt. Schuh that he, Kevin Nechodom, and another male individual identified as Christopher A. Dragosh were riding together in Chris' black pickup truck northbound on Hwy 55 leaving Kaukauna on the evening of November 22, 1995. Newhouse explained that Dragosh was driving the pickup truck with Jamie and Kevin as passengers. Jamie explained that as the truck was approaching Hwy 41, a Buick Skylark vehicle approached the truck and followed it very closely. Jamie stated that Chris tapped the brakes on the truck to try and get the Buick vehicle to stop following so closely. Jamie stated that the Buick then tried to pass Chris' truck but was not able to do so because Chris had increased the speed of the truck and did not allow the Buick Skylark to pass. Jamie stated that just before Hwy 41, the Buick passed Chris' truck and a passenger in the Buick Skylark "gave us the finger", indicating an obscene gesture.

Jamie indicated that Chris then followed the Buick Skylark vehicle continuing northbound on Hwy 55. Jamie Newhouse stated that Chris then followed the vehicle on to Greiner Road and into a driveway of a house on Greiner Road. Jamie stated that once at the house, he saw an individual get out of the passenger side of the Skylark and run into the house. He reports that other individuals stayed in the Skylark vehicle. Jamie stated that Kevin and Chris walked up to the Skylark and asked why they were following so close and they also asked who "flipped them the finger." Jamie stated that as Chris and Kevin were talking to the people in the Skylark vehicle, a yellow Buick Regal pulled in behind the truck. Jamie reports that around that point, Chris had re-entered the truck and Jamie entered the passenger side. He also reports that Kevin came back to the truck and had one foot in the vehicle and

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one foot on the ground. Jamie reports that at that point, a male subject who had exited the yellow Buick Regal approached Kevin. He reports that the male subject who exited the Buick Regal had a pipe in his hand. Jamie reports that he saw the male subject with the pipe walk up to Kevin and started asking him questions about "gang stuff." Jamie reports that he heard Kevin tell the male subject that he didn't know what he was talking about and also made the comment that they weren't affiliated with any gang. Jamie reports that while Kevin was talking to the male subject with the pipe, the male subject who had run into the house had returned to the scene and had a baseball bat. Jamie reports that he saw the male subject holding the baseball bat in his left hand and hitting into his own right hand with the bat. Jamie reports that he then saw the male subject with the bat walk over to the driver's side of the truck and then towards the back of the truck. Jamie indicated that he kept an eye on the male subject with the bat to see if he was going to do any damage to the truck.

Jamie reports that eventually some pushing and shoving started between Kevin and the male subject with the pipe while the two of them were on the passenger side of the truck near the rear tire on the passenger side. Jamie reports that the next thing he knew, Kevin and the male subject who had the pipe were on the ground and someone yelled, "Holy shit, you cracked him with the bat." Jamie reports that at that point, he saw several individuals run to the other vehicles and flee the area. Jamie reports that he then got out of the truck and started tending to Kevin. Jamie reports that he then attempted to go into the residence at that location to call 911, but there was a big dog inside and he didn't want to try and enter the residence. He reports that he then ran back towards Kevin's location and noticed that the yellow Buick Regal was coming back to that location. Jamie reports that at that point he picked up the bat and waived it in the air and yelled at the people in the yellow car to call 911. He reports that the people in the yellow car backed out of the driveway and left the scene. He stated that he then decided to run to a neighbor's house and have them call 911. Jamie reports that a neighbor did assist him in calling 911. He further reports that Chris Dragosh got into his pickup truck and followed the vehicles that fled the scene. Officer Schaut reports that Dragosh was able to obtain a license plate off the Buick Skylark vehicle and identified it as having Wisconsin license plate BXF-242. Officer Schaut further reports that Christopher Dragosh identified the male subject with the bat as being approximately 5'9" tall, 16-19 years of age, and wearing a blue and white starter jacket with a white cap.

Officer Schaut reports that at approximately 12:15 a.m. he was still at the residence on Greiner Road. He reports that at that time, he noticed a gray Buick Skylark vehicle enter the driveway. He further reports that a male subject, wearing a blue and white Dallas Cowboys starter jacket exited the vehicle. He reports that the male individual eventually identified himself as Greg G. Kortz, male/juvenile, d/o/b: 4/2/78, with a home residence of W2260 Greiner Road in the Town of Freedom, Outagamie County, Wisconsin. Schaut reports that he asked Kortz what had happened and Kortz responded, "What are you talking about?" Schaut reports that he then told Kortz that he wanted to know about the fight that occurred.

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In response, Kortz stated, "Oh it wasn't anything big, we just pushed each other and we left." Schaut reports that he then asked Kortz about the bat. Kortz responded, "What bat?" Schaut reports that he then told Kortz that there were witnesses that reported seeing him hit a male subject with a bat. Schaut reports that Kortz then responded by saying, "Yes, OK, I hit him with the bat." The officer reports that Kortz also identified Joseph A. Derivan, male/juvenile, d/o/b: 8/6/78, as the other individual who had fought with the male subject that was hit with the baseball bat.

Officer Schaut reports that Greg Kortz was taken to the Outagamie County Sheriff's Department for further questioning. Kortz told the officer that on the evening of November 22, 1995, he was riding in a Buick Skylark vehicle which was driven by a friend of his named Michael Tyson. Kortz stated that he was in the front passenger seat and that some other friends were in the back seats. He stated that as they were driving northbound on Hwy 55, they were eventually followed by a truck. He reports that Tyson eventually drove to Kortz's house at W2260 Greiner Road. Kortz reports that he observed the truck pull in behind the Skylark vehicle in the driveway. He also told the officer that he observed a yellow Buick Regal being driven by another friend of his, Brian Weber, pull in behind the pickup truck. Kortz stated that as soon as the car stopped, he exited the car and ran inside the house and noticed that no one was home. He reports that he then came out to the garage of the house and grabbed three baseball bats and gave two of them to other people and kept one for himself. Kortz told Officer Schaut that when he exited the house, he saw the victim (Kevin Nechodom) up against the truck and Kortz's friend, Joseph Derivan, standing in front of Kevin and Joseph had a pipe in his hand. Kortz reports that he observed Derivan swinging the pipe around Kevin's head as if he was trying to scare him. Kortz reports that at one point he heard Kevin make the comment, "I'll fight you, but you gotta get rid of the pipe first." Kortz reports that he eventually saw Joe Derivan throw the pipe to the ground and Derivan and Kevin Nechodom started pushing each other. Kortz reports that Joe Derivan and Kevin Nechodom wound up on the ground near the truck. Kortz reports that while the two were on the ground, Kevin eventually got on top of Joe Derivan and at that point Kortz hit Kevin twice with the baseball bat. Kortz indicated that Kevin then went limp and Joe pushed him off of him. He stated that he became scared and then left with several other of his friends who left the area in the two vehicles. Schaut reports that he asked Kortz who was getting the best of whom in the fight between Joseph Derivan and Kevin Nechodom. In response, Kortz told Officer Schaut that, "It was about even." Schaut reports that he then asked Kortz why he felt it was necessary to strike Kevin with the bat. In response, Kortz stated that he felt that he was just protecting his friend. Schaut reports that during that interview, Kortz claimed that he hit Nechodom once in the back with the bat and once in the head with the bat. He also told the officer that when he hit Kevin in the head with the bat, he was aiming for his shoulder. Officer Schaut reports that he asked Kortz if he had been consuming beer on that evening and Kortz denied consuming any beer.

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As part of further investigation, Sgt. Schevers of the Outagamie County Sheriff's Department interviewed Dean Geiger, a friend of Greg Kortz, who was at W2260 Greiner Road at the time that Kevin Nechodom was injured. Geiger indicated that he arrived at that location in the Buick Regal and observed Joey Derivan wrestling on the ground with the person later identified as Kevin Nechodom. Dean informed the officers that the three boys in the truck had talked briefly by Michael Tyson's Buick Skylark and then walked back to the truck and were ready to leave. He reports that at that time, Joey Derivan walked up to the passenger side of the truck with a piece of metal pipe and got into a discussion with Kevin Nechodom. He reports that the two eventually began to wrestle on the ground. Dean indicated that he was near the area where the two were wrestling and he thought he would just go and pull the two guys apart and end the fight. However, he reports that he then saw Greg Kortz walk around the back of the pick up truck and noticed that Kortz had a baseball bat in his hand. He stated that he then saw Kortz strike Kevin Nechodom in the lower back with the baseball bat. Geiger reports that nothing happened and Kortz then swung at least two more times, striking Kevin in the head with the baseball bat. Dean stated that he heard the "cracks" and knew that Kevin was hit in the head. He stated that Kevin then fell limp.

Sgt. Michael Heisler of the Outagamie County Sheriff's Department reports that Kevin Nechodom was transported from the scene on Greiner Road to Appleton Medical Center for treatment of the injuries to his head. Heisler learned from medical personnel that the head injuries prevented Kevin from breathing on his own and also caused dangerous brain swelling. Sgt. Heisler further reports that at approximately 4:00 a.m. on Saturday, November 25, 1995, Kevin Nechodom died from those head injuries. Sgt. Heisler reports that he arranged for Sgt. Sokel of the Outagamie County Sheriff's Department to have Kevin Nechodom transported to Waukesha, Wisconsin for an autopsy to be performed by a pathologist, Dr. Michael J. Chambliss. Heisler reports that he eventually received a preliminary report from Dr. Chambliss indicating that Kevin Nechodom died as a result of craniocerebral injuries due to blunt force. Dr. Chambliss further reports that the injuries included the following:

1. A depressed skull fracture to the right parietal bone.
2. Linear fractures of the right parietal and left parietal bones.
3. Thin subdural membranes - top of brain and left temporal bone and left occipital bone.
4. Focal contusions of brain - left temporal lobe and left parietal lobe.
5. SGH of right frontotemporal/parietal bone, occipital bone, and left post parietal bone.
6. Left temporal muscle hemorrhage.
7. Two lacerations of right side of head.
8. Abrasion of upper left forehead.

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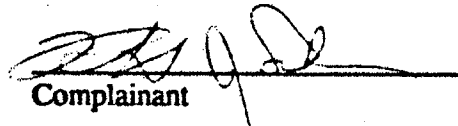
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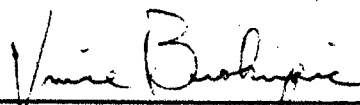
Dr. Chambliss also reported preliminary findings of hepatic congestion, renal congestion, and pulmonary congestion. Chambliss reports that findings on the autopsy of Kevin Nechodom indicate that Kevin received at least two blows to the skull that resulted in cranial cerebral injuries and ultimately his death.

Sgt. Heisler reports that he and Sgt. Schevers of the Outagamie County Sheriff's Department did a follow up interview of Greg Kortz after the death of Kevin Nechodom. Heisler reports that he wanted to clarify some information with Greg Kortz regarding the incident with Kevin Nechodom. Greg told Heisler that he recalled swinging the bat at least two times. He reports that Kortz was asked if he may have swung the bat a third time, but Kortz said he didn't recall that happening. Kortz further told the officers that after he hit Kevin with the bat in the head, everybody began running to their cars and that he threw the bat down and ran into Michael Tyson's car and left with him. Kortz did inform Sgt. Heisler that earlier in the evening on November 22, 1995 he had met up with Michael Tyson and some other friends and did some "cruising." Kortz also reported to Heisler that he and his friends had been drinking beer on that night and that he had four beers prior to the incident on Greiner Road.

All of the above foregoing took place in Outagamie County, Wisconsin.

Subscribed and sworn to before me and
approved for filing this 4th day
of December, 1995.


Complainant


Assistant District Attorney

KORTZ.VRB