

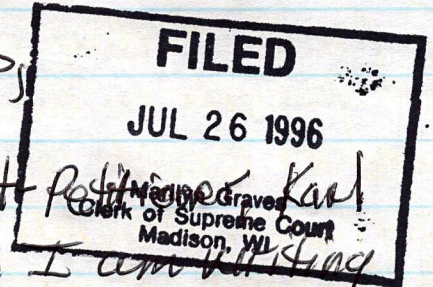
IN THE SUPREME COURT OF WISCONSIN

July 20, 1996

STATE OF WISCONSIN
KARL JULIUS JAMES, JR.
Plaintiff-Respondent
vs.
Defendant-Appellant-Appellee
94-0641-CR
94-1321

TO: SUPREME COURT OF WISCONSIN

FEDM: Karl Julius James,



I am the Defendant-Appellant Karl Julius James, in the above matter, I am writing to inform the court today that I have enclosed my Petition for Review pertaining to this matter to the best of ability, one was stolen in an sense or throw away by prison officials at Waupun Corr. Inst. I was give an conduct report for ~~trying~~ trying my petition for review in this matter. I have attached part of my Petition for Review that I type and made copies of. I unable to provide Attorney General with a copy of this Petition for Review, I ask that the Clerk inform that office that I filed this petition for Review with this court I will attempt to do so, and ask that office to get a copy for the Clerk of this court. In this prison officials at Waupun Corr. Inst. have taken transcripts of mine, threats me in this matter, refuse to give me legal materials of mine use such word as too to kept from showing all of there habits. I pray for relief in this matter.

Given this 20th day July 1996, Karl Julius James
P.O. Box 357
Waupun, WI. 53983-0357

Attachment 5

I am missing legal pad
and police report transcripts.

INTERVIEW / INFORMATION REQUEST

I am going the federal court.

I Request This Interview ☒Information ☐

Reason:

My legal materials has
been censored I need my
Georgetown book both of
them. I need documents for
my hearing. I need request slip
and receipt to show of service.
I got motions still pending at the

Disposition of Request

☐Call this Inmate In
Information Given

(DO NOT WRITE IN THIS SPACE)

Name Kan JamesNumber 26060Assignment NAHousing AC

Exhibit 1

DO NOT WRITE BELOW THIS LINE

Name

No.

Date

Information Requested

f o o

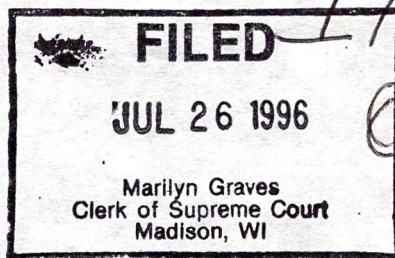
You will be interviewed ☐
Will not be interviewed ☐Signed _____
Dept. _____

Call
of
Apple
District
I
need
all
of
my
legal
document

The defendant-appellant, is before this court on direct appeal pursuant to Wis. Stats. 808.02. He assert to this court that he was denied Due Process of the Law. In *Tucker v. State*, 267 N.W.2d 630, 635, the prosecution has an affirmative duty in some situations to provide exculpatory material even if the defense does not request it, *United States v. Agurs*, 427 U.S. 97, 96 S.Ct. 2392, 49 L.Ed.2d 342 (1976). Sec. 971.24(1). Stats. (1975).

In *United States v. Agurs*, 96 S.Ct. 2392, 2397, In the first situation, typified by *Mooney v. Hologn*, 294 U.S. 55 S.Ct. 340, 79 L.Ed. 791 the undisclosed evidence demonstrates that the undisclosed evidence demonstrates that the prosecution case includes perjured testimony and that prosecution knew or should have known, of the perjury. In *Mooney* it was alleged that the petitioners conviction was based on perjured testimony "which was knowingly obtain that conviction also that these authorites deliberately suppressed evidence which would have impeached and refuted the testimony, thus given against him! 294 U.S. at 110, 55 S.Ct. at 341. The Court held that such allegations if true, would establish such fundamental unfairness as to justify a collateral attack on petitioner's conviction.

"It is a requirement that cannot be deemed to be satisfied by mere notice and hearing if a state has contrived a conviction through the pretense of a trial which in truth is but used as a means of depriving



IN SUPREME COURT
OF WISCONSIN

STATE OF WISCONSIN

VS.

Plaintiff-Respondent

Appeal Nos. 94-064-CR

KARL JULIUS JAMES 94-1321

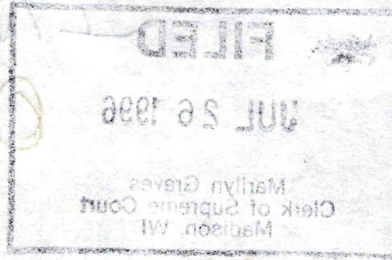
Defendant-Appellant-Petitioner

Appearing
PRO SE

PETITION FOR REVIEW
pursuant to Wis. Stats. 809.62(2)(4),

Karl Julius James
P. O. Box 351
Waupun, WI
53963-0351

RECEIVED
JUL 26 1996



STATE OF WISCONSIN
COUNTY OF MADISON

STATE OF WISCONSIN

Plaintiff - Respondent
Appeal Nos. 94-00408
94-1351
KARL JAMES STANLEY
Respondent - Appellant - Petitioner

FILED
JUL 26 1996

PETITION FOR REVIEW
SUBMITTED TO THE COURT OF APPEALS

KARL JAMES STANLEY
P.O. Box 321
Madison, WI
53703-0321

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(A) A statement of the issues presented for review, the method or manner of raising the issues in the court of appeals and how the court of appeals decided the issues.

The Defendant-Appellant-Petitioner, Karl Julius James raise the following issues before the Court of Appeals, District I, State of Wisconsin list below.

(AD) Is a prosecutor relieved of his legal and ethical obligation to correct testimony he and defense counsel know to be false whenever defense counsel inexcusable fails to correct the error himself? With a motion to correct the record and extension of time to file brief.

(B) Did the trial court abuse its discretion in adjourn the Preliminary Hearing?

(C) Did the Defendant-Appellant, receive ineffective assistance of counsel when counsel withdrew motion to suppress statements at a January 25, 1993, motion hearing?

(D) Did the Defendant-Appellant, receive ineffective assistance of counsel, because of trial counsel conflict of interests?

(E) Did the prosecutor suppress material evidence favorable to the Defendant-Appellant?

(F) Was the Defendant-Appellant, denied witnesses in his favor?

(G) Did the Defendant-Appellant waive his right to appeal?

CH) Did the trial court abuse its discretion in admitting photographs and other alleged crimes into evidence?

(I) Was the defendant-appellant, Sixth Amendment Right to confrontation to witnesses violated?

These were all subsections of the issue the evidence against Karl Julius James is insufficient to support the conviction for each and every element of the alleged crime First Degree Intentional Homicide While Arm. This issue was first as number one in the Defendant-Appellant-Petitioner, Karl Julius James, before the Court of Appeals, District I, State of Wisconsin with a subsection, A list for standard of review on appeal? Setting out the finding in *In re Winship* 397 U.S. 358, 364 also, the finding in *Patterson v. New York*, 432 U.S. 197, 210-11 (1977).

The ~~Defendant~~ Defendant-Appellant-Petitioner, Karl Julius James raise these issues under subsections pertaining to the issue of the evidence against Karl Julius James is insufficient to support the conviction for each and every element of the alleged crime First Degree Intentional Homicide While Arm. Under the Fifth Amendment of the United States of America Article II, Clause (2), Citing the finding in *re Winship* that it is the prosecutor's duty to prove every element of crime charge beyond a reasonable doubt.

The Court of Appeals, District I, State of Wisconsin decide the subsections issues per curiam and affirmed the Defendant-Appellant-Petitioner, Karl Julius James for First Degree Intentional Homicide While Arm. Further stating in a footnote James also raises numerous other issues

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that the Defendant-Appellant-Petitioner, Karl Julius James have pertaining to this matter.

As for the Ineffective assistance of counsel the Court of Appeals, District I, State of Wisconsin issue an opinion decide the issue with the findings in *State v. Machner*, 92 2d 797, 804, 285 N.W. 2d 905, 908-09 C Ct. App. 1979), stating when a postconviction motion of ineffective assistance of counsel is raised, a hearing must be conducted to determine whether trial counsel's action were the result of incompetence or deliberate trial strategies. Further stating Because we cannot find facts and no Machner Hearing was requested, we do not address the merits of this claim.

As for the conflict of interest the court of appeals, District I, State of Wisconsin decide this issue but stated, A claim of a conflicting interest need not undergo the analysis established in *Strickland v. Washington*, 466 U.S. 668 (1984) *State v. Dadas*, 190 Wis. 2d 340, 343, 526 N.W. 2d 818, 820 C Ct. App. 1994). The burden is on the defendant to show by "clear and convincing evidence that trial counsel actively represented a conflicting interest," *Id.* at 339, 526 N.W. 2d at 820. James has not met this burden.

As for Prosecutor's statements, the Court of Appeals, District I, State of Wisconsin stated that this was a non-issue. The Court of Appeals, District I, State of Wisconsin, stated James points to the pretrial motion hearing where the prosecutor stated that James

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on appeal that were waived. He claims four errors at the preliminary hearing, but without appealing to this court before trial, his claims are waived. *State v. Wolverton*, 193 Wis. 2d 234, 254, 533 N.W.2d 167, 174 (1995) (defendant who claims error at his preliminary hearing must obtain relief before trial by seeking immediate review in the court of appeals). James's additional ~~claims~~ claims that his statements to police were hearsay; that the trial court erred in admitting crime scene photographs and also evidence of a prior altercation between the defendant and victim and that the state failed to call certain witnesses were also waived. *State v. Peters*, 166 Wis. 2d 168, 174, 479 N.W.2d 198, 200 (Ct. App. 1991) (a party must specify grounds for an objection at trial to preserve the issue for review).

The Court of Appeals, District I, State of Wisconsin, reframed the Defendant-Appellant-Petitioner, Karl Julius James questions on appeal and only decide the following issues; I. Background, II. Analysis, A. Ineffective assistance of counsel, B. Conflict of Interest, C. Prosecutor's statements and Prosecutor's duty to disclose. In sum, the Court of Appeals, District I, State of Wisconsin reject all of the Defendant-Appellant-Petitioner, Karl Julius James's arguments and affirm.

In the issues that the Court of Appeals, District I, State of Wisconsin issue an opinion on it's finding are clearly error. The Court of Appeals, District I, State of Wisconsin decide the Background issue per curiam it's finding can't be found in the record

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caught up with the victim before she reached the telephone booth. At trial, several months later, the prosecutor stated that James caught up with the victim at the telephone booth. It should be noted that a detective testified that James told him that he caught up with the victim just before or at the telephone booth. James does not explain why this difference is significant or, more importantly, why it deprived him of a fair trial. This is a non-issue.

As for Prosecutor's duty to disclose, the Court of Appeals, District I, State of Wisconsin decide this issue, but stated: James claims that due process was violated by the prosecution's failure to identify the names of three inmates who were present when James confessed to Corey Williams. He contends that the names of the other inmates would have given him the opportunity to impeach Williams. James also claims that the prosecutor withheld the names of the three boys who found the murder weapon. He argues that without these names, he could not impeach Ollie Davis, who discovered the three boys pointing at the gun.

Further stated, that suppression of evidence violates due process if it is material to either guilt or punishment. State v. Pettit, 171 Wis.2d 627, 644.

IV

492 N.W.2d 633, 641 (Ct. App. 1992). Exculpatory evidence is material if there is a reasonable probability, that, had the evidence been disclosed to the defense, the result of the proceeding would have been different. *Id.* at 644-45, 492 N.W.2d at 639. It is not apparent from the record that the three inmates that James makes reference to, even exist. Even so, it is unclear what their testimony would have been. There is nothing on the record that demonstrates the state possessed information favorable to the defense and that would have impacted the trial's outcome. Similarly, as to the three boys who discovered the gun, James has shown no evidence that the state knew of any relevant information of their identity. Without such information on the record, we the defendant's argument.

The issue at hand before the Court of Appeals, District I, State of Wisconsin, was the evidence against Karl Julius James is insufficient to support the conviction for each and every element of the alleged crime First Degree Intentional Homicide While Arm.

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(c) A concise statement of the criteria of sub. (1) relied upon to support the petition, or in the absence of any of the criteria, a concise statement of other substantial and compelling reasons for review.

This court should grant the Defendant-Appellant-Petitioner for Review in this matter based on the facts that the Court of Appeals, District I, State of Wisconsin finding can't be found in the record in this matter, it's findings are clearly error. The Court of Appeals, District I, issue an Per-Curiam decision in this matter.

The Court of Appeals, District I, State of Wisconsin decision is ~~in~~ in conflict with controlling opinions of the United States Supreme Court, the State of Wisconsin Supreme Court and other Court of Appeals decisions.

The controlling case in this matter is *Tome, vs.*, 415 U.S. 115 S.Ct. at 705, concerning prior consistent statement pursuant Federal Rule of Evidence 801(d)(1)(B).

The facts here are that the Defendant-Appellant-Petitioner, Karl Julius James was without knowledge of committing the allege charge First Degree Intentional Homicide While Arm from statement taking from him from the Milwaukee Police Department Detectives. The Defendant-Appellant-Petitioner, ~~Karl Julius James~~ Karl Julius James denied shooting anybody in this matter.

VII

After Linda Smith disappears, the prosecutor in this matter misrepresent the Defendant - Appellant - Petitioner, Karl Julius James statements that were take by Milwaukee Police Department Detectives in the criminal complaint and through-out other proceedings in this matter.

In *U.S. v. Forrester* 60 F.3d 52 at 64. A prior consistent statement cannot refute a change of prior fabrication unless it "was made before the source of the bias, interest, influence or capacity originated." *Tome*, ____ U.S. at ____, 115 S.Ct. at 700 (quoting *E. Cleary McCormick on Evidence* § 49, p. 105 (2d ed. 1972)). A statement made after an improper motive exists is not within the scope of Federal Rule of Evidence 801(d)(1)(B). *Id.* Despite Bagley's child like demeanor, of which the district court took judicial notice, her motive to fabricate clearly existed before the statement was made. See *Tome*, ____ U.S. at ____, 115 S.Ct. at 705 (applying Rule 801(d)(1)(B)'s temporal requirement to a four year old declarant? Although *Tome* had not been decided at the statement on re-trial to rebut the inference that Bagley was "making things up").

The Defendant - Appellant - Petitioner, defense at trial in this was the Fifth Amendment the right against self-incrimination. Only evidence in this matter that was use by the Prosecutor were alleged statements, which depend on the ~~credibility~~ credibility and there was an evidentiary on the voluntary of the Defendant - Appellant - Petitioner statements.

In *U.S. v. Kimberly* cite as 60 F.3d 281 at 286, though the district court may have erred in an evidentiary ruling, this court will not reverse if the error

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was harmless. *United States v. Saunders*, 973 F.2d 354, 1359 (7th Cir. 1992) cert. denied. — U.S. —, 113 S.Ct. 1026, 122 L.Ed.2d 17 (1993). Instead, this court will only overturn a conviction on evidentiary grounds if the error had a "substantial influence over the jury" or "over the jury." *United States v. Nelson*, 5 F.3d 254, 256 (7th Cir. 1993) (quoting *United States v. Fairman*, 707 F.2d 936, 941 n.5, (7th Cir. 1983). If the harmlessness of the error is in grave doubt relief must be granted. *O'Neal v. McAninch, Warden*, — U.S. —, —, 115 S.Ct. 992, 996, 130 L.Ed.2d 947, (1995). When the error precludes or impairs the presentation of a defendant's sole means of defense.

This Court should also ~~grant~~ ^{granted} review of the Petitioner's Petition for Review in this matter for manifest injustice. I stated to this court that I raise subject matter jurisdiction before this court. In *State Ex Rel. Skinkis v. Treffert* cite as, Wis. App., 280 N.W.2d 316. Issue of subject matter jurisdiction cannot be waived by inaction or by deliberate failure to raise it at trial court level and such issue can always be raised as matter of right for first time on appeal or review by higher court.

The Petitioner, Karl Julius James also, stated that this court should grant review of this matter based on the findings in *U.S. vs. Fitzhugh* cite as 78 F.3d 1326 (8th Cir. 1996) An guilty plea waives all but "jurisdictional" defects. See e.g., *Camp v. United States* 587 F.2d 397, 399, (8th Cir. 1978). One type

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of Jurisdictional defect arises when it appears on the face of the record that the government lacked power to prosecute the defendant for example, because the charge is barred by the Double Jeopardy Clause. See *Vaughan*, 13 F.3d at 1188, construing *Blackledge v. Perry*, 417 U.S. 21, 94 S.Ct. 2098, 42 L.Ed. 2d 638 (1974), and *United State v. Bruce*, 488 U.S. 563, 575, 109 S.Ct. 757, 765, 102 L.Ed. 2d 927 (1989).

Another type of jurisdictional defect occurs when the indictment on its face fails to state an offense. *O'Leary v. United States*, 856 F.2d 1142, 1143 (8th Cir. 1988). See *United States v. Canerelli*, 938 F.2d 975, 977-78 (9th Cir. 1991).

This court should also grant review to review for unwaived legal error. In *U.S. v. Winstead*, 74 F.3d 1313 at 1319. Because Winstead's counsel did not object to the judge's questions at trial, the plain-error standard applies to our review. *United v. Olano*, 507 U.S. 725, 113 S.Ct. 1770, 1778, 123 L.Ed. 2d 508 (1993). Thus the court is to determine " (1) whether there is unwaived legal error, (2) whether the error is 'plain or obvious' under current law and (3) whether the error was prejudicial. " *United States v. Warren* 42 F.2d 647, 657 (D.C. Cir. 1994) (quoting *United States v. Menos*, 8 F.3d 48, 50 (D.C. Cir. 1993), cert. denied U.S. —, 114 S.Ct. 1635, 128 L.Ed. 2d 358 (1994). A prejudicial error is one that "seriously affects the fairness, integrity or public reputation of" the trial. *Olano*, 507 U.S. at —, 113 S.Ct. at 1779 (internal quotation and alternation omitted).

This court should also granted review to review this matter with the findings in state v. Bangert 389 N.W.2d 12, 20, 66 971, 08 Pleas of guilty and

no contest; withdrawal thereof (1) Before the court accepts a plea of guilty or no contest it shall:

(a) Address the defendant personally and determine that the plea is made voluntarily with understanding of the nature of the charge and the potential punishment if convicted.

66 (b) make such inquiry as satisfies it that the defendant in fact committed the crime charged. 71

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(e) An argument amplifying the reasons relied on to support the petition arranged in the order of the statement of issues presented. All contentions in support of the petition must be set forth in the petition.

(A1) Is a Prosecutor relieved of his legal and ethical obligation to correct testimony he and defense counsel to correct the error himself?

Here the Prosecutor fabricate the Criminal Complaint in this matter. Withheld Photographs and misrepresent the Defendant-Appellant-Petitioner, Karl Julius James statement throughout to violate the Defendant-Appellant-Petitioner, Karl Julius James, Fifth Amendment Right, in all proceedings. App. C-1 will show this. App. C-2 is the criminal complaint in this matter will show on page 2 Karl James stated that he was inside the house at 3105 North 24th Street on November 19th, 1992 and that Michelle Davis got mad at him because he would not give her any cocaine. This is different from the statement in App. C-1, stated that while inside at 3015 N 24th St Michelle got mad at him because he would not give her any cocaine. Both statements in App. C-1 and App. C-2 both have stated the Defendant-Appellant-Petitioner, Karl Julius James, received Miranda Warnings.

The statement in the criminal complaint violate the Defendant-Appellant-Petitioner, Karl Julius James, Fifth Amendment Right. In Oregon v. Elstad 105 S.Ct. 1285, 1291, 1293. Failure to administer Miranda Warnings creates a presumption of compulsion. Consequently, must nevertheless be exclude from evidence under Miranda preventive medicine provides a remedy.

even to the defendant who has suffered no identifiable Constitutional harm. See *New York v. Quarles*, supra, 467 U.S. at 654, 104 S.Ct. at 2630, *Michigan v. Tucker*, 417 U.S. 433, 444, 94 S.Ct. 2357, 2363, 41 L.Ed. 2d 182 (1974).

The prosecutor withheld photographs and encourage the use of perjury testimonies throughout the proceedings in the matter. In this matter there was never an confession in the matter. The Prosecutor use testimony that he knew was perjury throughout the proceedings here there was never a confession in this matter.

The prosecutor withheld this materials. *Kyles v. Whitley*, 115 S.Ct. 1555, 1565. Four aspects of materiality under Bagley bear emphasis. Although the Constitutional duty is triggered by the potential impact of favorable but undisclosed evidence a showing of materiality does not require demonstration by a preponderance that disclosure of the suppressed evidence would have resulted ultimately in the defendant's acquittal (whether based on the presence of reasonable doubt or acceptance of an explanation for the crime that does not inculpate the defendant). *Id.*, at 682, 105 S.Ct. at 3383-3384 (opinion of Blackmun, J.) (adopting formulation announced in *Strickland v. Washington*, 466 U.S. 668, 694. The entire ~~record~~ record in the matter will show that perjury testimony was use.

On Dec. 8, 1992, Detective Schaler testify at an Preliminary Hearing observation in the area 24th and Burleigh right in the med unit Michelle Davis, see App. C-3 App. C-4, show that the Detective Schaler again testify the body was in relation to the phone booth, she was in the med unit.

App. C5 show that Detective Schuler told the truth in the matter that he saw no victim at 24th and Burleigh at trial.

The Defendant - Appellant - Petitioner, Karl Julius James, stated the findings in *Kyles v. Whitley* 15 S.Ct. 1335, 1365. Fair aspects of materiality under Bagley bear emphasis. Although under ~~Bagley~~ the constitutional duty is triggered by the potential impact of favorable but undisclosed evidence a showing of materiality does not require demonstration by a preponderance that disclosure of the suppressed evidence would have resulted ultimately in the defendant's acquittal.

App. C-6 will show that an guilty plea was entry in this matter before the Preliminary Hearing was over contrary to Wisconsin Statutes 970.03 (3) without the Defendant - Appellant - Petitioner, Karl Julius James consent to this. The Defendant - Appellant - Petitioner Karl Julius James stated this is plain error unwaived error.

The court should grant an Petitioner for Review to review this matter. In *Boykin v. Alabama* 89 S.Ct. 1709 at 1711. It was error plain on the face of the record for the trial judge to accept petitioner's guilty plea

(3)

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an affirmative showing that
the ~~was~~ intelligent and voluntary.
In Wisconsin an Plea shall not be accepted
in any case in which an preliminary examination
is required until the defendant has been bound
over following preliminary examination or waiver
thereof.

Under Wisconsin Law, no defendant may
be tried on a felony charge unless the
State at a preliminary hearing establishes
to a reasonable that a crime has been
committed by the defendant. State v. Berby,
81 Wis. 2d 677, 683, 260 N.W. 2d 798, 801 (1978).
See App. C-6. No parties can stipulation to
creat facts that don't exist.

See App. C-21. This person name is
Melissa Davis that the Defendant-Appellant-
Petitioner is accuse of Killing, ~~not~~ not
Michelle Davis.

C40

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(B.) Did the trial court abuse its discretion in adjourn the Preliminary Hearing?

On December 2, 1992, Court Commissioner Audrey Brooks adjourned the Dec. 2, 1992 for no reason at all.

See Records 46-2, lines, 18 through 21. App. C-

18 THE COURT: This is a homicide court case. I
19 can't adjourn it. It has to be held within ten days, or
20 started. You are going to have to start it today, and
then

a) it will be adjourned.

In State v. Selders 472 N.W.2d 526, 529, In this case of first impression, we conclude that whether to adjourn a preliminary examination for cause is within the trial court's discretion. This determination is significant because it defines the scope of appellate review.

For purposes of standard of review decisions by judges are traditionally divided into three categories, denominated questions of Law (reviewable de novo) and matters of discretion (reviewable for "abuse of discretion").

Here there has been an abuse of discretion there is no record of why the trial court adjourned the Dec. 2, 1992, Preliminary Hearing. (5)

Pierce v. Underwood, 487 U.S. 552, 558, 108 S.Ct. 2541, 2546, 101 L.Ed. 2d 490 (1988) matters that involve what can be broadly labeled supervision of litigation are generally within the trial courts discretion. Id., 487 U.S. at 558 n.1, 108 S.Ct. at 2546 n.1; see also *Salvo Regina College v. Russell*, 499 U.S. -- 111 S.Ct. 1217, 1222, 113 L.Ed. 2d 190, 199 (1991). The authority granted by section 970.03 (2) to adjourn preliminary examinations for cause clearly implicates the *Missions, Inc. v. Redevelopment Auth. of Milwaukee* 161 Wis. 2d 472, 468 N.W.2d 663, 671 (1991) (trial court did not abuse its discretion by preventing party from calling expert witness not timely disclosed when it considered the prejudice of the opposing party and the probative value of the witness testimony was limited).

Here the trial court made no record of why the preliminary hearing examination should be adjourned on Dec. 2, 1992.

A trial court's discretionary determination will be upheld on appeal if it is "consistent with the facts of record and established legal principles," *Lievroune v. Roth* Wis. 2d 332, 358-359, 459 N.W. 2d 850, 859-860 (Ct. App. 1990).

C. Did the Defendant-Appellant, received ineffective assistant of counsel when counsel withdraw motion to suppress statements at an January 25, 1993, motion hearing?

STANDARD FOR REVIEW

Generally a claim for ineffective assistance must be made in the first instance to the district court in order that there be a full factual record on review. *United States v. Cruz*, 785 F.2d 399, 404 (2d Cir. 1986); *Aulet*, 618 F.2d at 186. However this court may decide such a claim, even when it is raised for the first time on appeal.

Here the Record establish why the Defendant-Appellant-Petitioner, court-appointed Attorney Michael Fitzgerald motion to suppress statements at the January 25, 1993 motion Hearing in this matter. See App.C-8 and App.C-9. Court-appointed Attorney Fitzgerald stated, Since the time that I filed the motion, I have done some additional facts. And at this time I will withdraw that the part of the argument. See App.C-8. The court ask the defendant-appellant, then court-appointed Attorney, Allright, for the record's sake, why did you choose to withdraw that aspect.

See App.C-8 through App.C-9, the Defendant-Appellant-Petitioner, Karl Julius James, Attorney

then stated, why It is clear from the record that Linda Smith consented to the police entering her premises — and arresting Mr. James there. State v. Smith I believe is the name of the case. That talks about warrantless entrance and I believe consent is a valid exception to that, I believe that that is what happened here. I talked to the officer this morning.

At trial, the officer that arrest the defendant-appellant-petitioner, Karl Julius James, testify that nobody give him permission to entry the basement and arrest the Defendant-Appellant-Petitioner, Karl Julius James, ~~and~~

The entire record will show that wasn't probable cause to arrest the Defendant-Appellant-Petitioner, Karl Julius James, and The Prosecutor has refuse to turn over any 911 calls pertaining to this matter.

The Defendant-Appellant-Petitioner, Karl Julius James, assert the issue at hand on January 25, 1993, was the Wong Sun issue in which counsel withdrew. In State v. Anderson 477 N.W.2d 277, 286.

See App. C-10 The Defendant-Appellant-Petitioner, Karl Julius James, is 6'4" tall. Police Report shows that at 23:00:15 the victim called stated that she was shot inside of the Drug store. 23:06:19 Witness saw person running away, no description, 23:10:44; B/M, Short in height. See App. C-

App. C-12 will that the suspect in this matter was 5'8"-9"11, with medium build, Milwaukee Police Report shows this. There was no probable cause here to arrest the Defendant - Appellant - Petitioner, Karl Julius James in this matter, Milwaukee Police Report shows this.

See App. C-22 will that the Defendant - Appellant - Petitioner, Karl Julius James during interviews only admitted that he shot the victim in this matter in any fashion.

App. C-1 will show that the gun ~~was~~ was unloaded in this alleged matter.

App. C-23 will that Corey William stated at trial, He just said he shot her, As the court know it impossible and incredibility and physically impossible for to even happen, With an unloaded weapon, In U.S. v. Sautter, 60 F.3d 270, Court of Appeals will overturn conviction based on credibility determination only when witness credible as matter of law if it is physically impossible for witness to observe that which he claims occurrence to have taken place at all.

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(a) Did the Defendant-Appellant, received ineffective assistance of counsel, because of trial counsel conflict of interest?

U.S. CONST. amend. VI

In Gideon v. Wainwright, 372, U.S. 335, 342 (1963) (Sixth Amendment right to counsel in felony proceedings applies to state through Fourteenth Amendment). The Due Process Clause may require appointment of counsel when the Sixth Amendment does not.

See Walker v. Martin, 768 F.2d 1181, 1183 (10th Cir. 1985) (due process requires appointment of counsel for indigent defendant in civil contempt proceeding when result may be deprivation of liberty).

The Defendant-Appellant, Petitioner, assert to this court that the Cuyler tests apply here. Cuyler v. Sullivan cite as 100 S.Ct. 1708 at 1719, unless the trial court know or reasonably should know that a particular conflict exists, the court need not initiate an inquiry. Cuyler v. Sullivan cite as 100 S.Ct. 1708 at 1718, But unless the trial court fails to afford such an opportunity a reviewing court cannot presume that the possibility for conflict has resulted in ineffective assistance of counsel. Such a

presumption would preclude multiple representation even in cases where, "Last common defense" gives strength against a common attack, "Id.", at 482-483, 98 S.Ct. at 1178, quoting *Glasser v. Frankfurter*, 315 U.S. 60,

Here the record indicated that the Defendant-Appellant-Petitioner, Karl Julius James then court-appointed Attorney stated that because of the Defendant-Appellant-Petitioner, Karl Julius James clothes that he had a red flag, because of his clothes, see App.C-13. The clothes in which the defendant-appellant-petitioner, Karl Julius James, had on were jail clothes because of rashes on his body. The record will show that the trial court never ask the defendant-appellant-petitioner, attorney would this effect his represent of the defendant-appellant-petitioner, App.C-14 will show that the defendant-appellant-petitioner had this rash that was on his skin prior to an Feb. 4, 1993, mental competent examiner also, leading all way up to trial and during because of the lack of medical treatment. The defendant-appellant, then court-appointed Attorney knew about this, The record clear show that the trial court didn't inquiry into the defendant-appellant-petitioner, Karl Julius James, Attorney conflict of interest in which he stated that an red flag for me. The trial court

rule that Mr. Anderson, and based upon my colloquy with the defendant and the prior report of February 4, 1993 that determines defendant's competency, except for these factors that you discussed,

The rule show that the trial court never made an inquiry into the defendant-appellant-petitioner, Karl Julius James, court-appointed Attorney Mrs. Anderson conflict of interest.

In *Buenoano v. Singletary*, 963 F.2d 1433, 1439 (11th Cir. 1992) (failure of court to hold full evidentiary hearing into potential conflict presented by defense counsel's book and movie rights in capital case violated defendant's right to effective assistance of counsel)

In *Holloway*, 435 U.S. at 484 (violation of right to assistance of counsel when trial judge failed to investigate claim of conflict of interest on part of defendant's attorney)

In *Hamilton v. Ford*, 969 F.2d 1006, 1011, (11th Cir. 1992) (violation of right to effective assistance of counsel when, on first day of trial, court failed to inquire adequately into basis of objection to joint representation). cert. denied, 61 U.S. L.W. 3537.

the court has held that the
burden of proof is on the
prosecution to show that the
defendant is guilty beyond a
reasonable doubt. The court
has also held that the
prosecution must show that
the defendant is guilty of the
crime charged. The court has
also held that the
prosecution must show that
the defendant is guilty of the
crime charged.

The court has also held that
the prosecution must show that
the defendant is guilty of the
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crime charged.

LEGAL 260160

(E) Did the prosecutor suppress material evidence favorable to the Defendant - Appellant?

Standard of Review

In *U.S. v. Jackson*, 780 F.2d 1305, 1308, Under *Brady* and its progeny, the prosecution suppression of material evidence favorable to the defendant, even if such evidence is not requested by the accused is a violation of due process, *United States v. Allain*, 671 F.2d 248, 255 (7th Cir, 1982) (citing *United States v. Agurs*, 427 U.S. 97, 96 S.Ct. 2392, 49 L.Ed. 2d 342 (1976)). To make a successful claim under *Brady*, the defendant must establish (1) the prosecutor suppressed evidence; (2) that such evidence was favorable to the defense; and (3) that the suppressed evidence was material, *E.g.*, *United States v. Sink*, 586 F.2d 1041, 1051 (5th Cir, 1978) cert. denied, 443, U.S. 912, 99 S.Ct. 3102, 61 L.Ed. 2d 876 (1979).

Here the prosecutor turn over an allege report from Corey Williams allege that the defendant-appellant while in jail had stated to him, and three other inmates that he kill his girlfriend, see App. C-16. The Prosecutor never turn over the name of the other inmates that were suppose present at the time of these allege statement was made and material to show that no conversation ever exist. At trial the Prosecutor in an effort to suppress the fact that Corey Williams had allege that there were three other inmate

(13)

present at the time of these alleged statement was made are material to show that no conversation ever exists. At trial the prosecutor in an effort to suppress the fact that Corey Williams had alleged that there were three other inmates present when the defendant-appellant, alleged made this statement, the prosecutor ask Corey Williams on the witness stand was there a conversation that you overheard pertaining to Mr. James in a day room sometime in December of 1992? See App. C-17

It was also learn at an motion in limine hearing on April 20, 1993, at trial that Corey Williams had alleged that another inmate had confession to him. See App. C-18. The defendant-appellant, stated to the court in State v. Lona-Whick, 247 N.W.2d 80, 91, when one party has given a conversation in evidence, or a part thereof which is material in the case, the other ~~one~~ party has the right to give his version of the same conversation by other witnesses who were present and heard it. (p. 277-78)

This is why the alleged three inmates that were supposed present at the time of the alleged statements were needed.

The Sixth Amendment provides that "In all criminal prosecutions, the accused shall enjoy the right... to have compulsory process for obtaining witnesses in his favor." U.S. CONST. amend. VI. This right was held applicable to the states through the Fourteenth Amendment in Washington v. Texas, 388 U.S. 14 (1967). By the Prosecutor without these reports the Defendant Appellant was denied in his Sixth Amendment for witnesses in his favor,

C-14

(F) Was the Defendant - Appellant denial witnesses in his favor?

The Sixth Amendment provides that "In all criminal prosecutions, the accused shall enjoy the right... to have compulsory process for obtaining witnesses in his favor," U.S. CONST. amend. VI. This right was held applicable to the States through the Fourteenth Amendment in *Washington v. Texas*, 388 U.S. 14, 19 (1967).

Here the prosecutor didn't turn over witnesses names that would have been use to impeached Daisy Oliver, at trial. The record will show that Daisy Oliver testify that she seen three little boys bending by a fence and they were trying to pick up something, so I walked toward them, and they were asking, was it a real gun. See App. 2-19. The prosecutor never turn over any names of the three little boys or any statements supposed said by three little boys. In fact, the prosecutor had to call those three little boys to establish foundation for Daisy Oliver allege testimony. Nor, did the three little boys names appear on the state witnesses list.

Also, from Daisy Oliver testimony it appear that she had an conversation with the three little boys. She stated from her

testimony that they were asking, was it a real gun. In *State v. Lenarchick* 247 N.W.2d 80, 91, When one party has given a conversation into evidence or a part thereof, which is material in the case, the other has the right to give his version of the same conversation by other witnesses who were present and heard it?"

The defendant-appellant, assert to the court by prosecutor suppress information about those three little boys he was denied due process of the law.

LEGAL 2011

C162

(c) Did the Defendant-Appellant waived his right to appeal?

STANDARD FOR REVIEW

Unless there is evidence that the trial judge has undertaken a reasonable inquiry and examination of the facts as the basis of his decision, his decision will be disregarded by this court. Such a decision on its face shows an abuse of discretion for failure to exercise discretion. *McKeary v. State*, 49 W.S. 2d 263, 277-78, 182 N.W. 2d 512 (1971).
See App. C-20

On April 23, 1993, the trial court allowed the Prosecutor to withdraw exhibits offered as evidence at trial, App. C-20

6. THE COURT: State moving to withdraw the
7 exhibits to be placed on inventory?

8 MR. WILLIAMS: Yes, And I would ask
9 that they be placed in the custody of Detective
10 Schaker.

11 THE COURT: Any problem with that Mr.
12 Anderson?

MR. ANDERSON: No, Judge

Here the trial court never ask the Defendant-Appellant-Petitioner, Karl Julius James did he want to waive his right to appeal or advise him of anything in this matter, In *State v. Albright*, 210 W.S. 2d 487, 491 similarly, the decisions whether to waive the right to an appeal

the assistance of counsel, or to be tried by a jury, are so fundamental to the concept of fair and impartial decision making, that their relinquishment must meet the standard set forth in *Johnson v. Zerbst*, 304 U.S. 458, 58 S.Ct. 1019, 82 L.Ed. 2d 1461 (1938). That is the waiver must be "an intentional relinquishment or abandonment of a known right or privilege." *Johnson v. Zerbst*, 304 U.S. at 464, 58 S.Ct. at 1023. The duty is on the trial court to ascertain knowing relinquishment,

Right cert. denied, 475 U.S. 1088, 106 S.Ct. 1474, 89 L.Ed.2d 729 (1986); Davis v. Campbell, 608 F.2d 317, 319 (8th Cir. 1979), viewed in the totality of the surrounding circumstances. The admission of these photos did not fatally infect the fairness of the trial.

Here Detective Schuler seen no victim come from the alleged scene, in fact Officer Lane didn't see no. 380 casinos at this scene.

Did the trial court abuse its discretion in admit other alleged crime of the Defendant-Appellant?

66 Unless there is evidence that the trial judge has undertaken a reasonable inquiry and examination of the facts as the basis of his decision, his decision will be disregarded by this court, such a decision on its face shows an abuse of discretion for failure to exercise discretion. *McClellan v. State*, 49 Wis. 2d 263, 277-78.

See App. 4 Records 14-2, show that the defendant-appellant stated in this report that charges were dismissed against for aggravated assault. At trial, the trial court allow Officer Culberson, to testify about this alleged crime. The Record 2-2, will show that the state has alleged that the defendant-appellant is a reliable person. The record clearly show that the trial court use this report on April 19, 1993, to determine the defendant-appellant competent to stand trial. Records 54-5, lines 1 through 3. This alleged charge was dismissed against the defendant-appellant. In *U.S. v. Casas*, 817 F.2d 595, 601 (9th Cir. 1987) (collateral estoppel barred government from trying defendant for same charges under new indictment because dismissal of prior indictment equivalent to adjudication on merits. There is no record here.

(19) (21) (48)

(I) Was the defendant-appellant Sixth Amendment Right to confrontation to witnesses violated?

The Sixth Amendment provides in part: "In all criminal prosecutions, the accused shall enjoy the right ... to be confronted with the witnesses against him." U.S. CONST. amend. VI. This right extends to state prosecutions through the Due Process Clause of the Fourteenth Amendment. *Pointer v. Texas*, 380 U.S. 400, 403 (1965).

At trial the Prosecutor failure to call Linda Smith or even look for her. He also, failure to call Office Lane to establish and allege foundation for the allege charge the defendant-appellant is charge with.

In *United States v. Odonez* 737 F.2d 793, 796 contention that the Government failed to comply with Confrontation Clause involved substantial rights which must be reviewed even in the absence of timely objection.

In *State v. Jenkins* 483 N.W.2d 262, 265. Every defendant in a criminal case has a constitutional right to confront his or her accusers. The Sixth Amendment of the United States Constitution provides "In all criminal prosecutions, the accused shall enjoy the ... to be confronted with witnesses against him."

The prosecutor make no effort to procure these allege witness.

(32) (20)

In State v. Jenkins 483 N.W.2d 961, 962 Every
 defendant in a criminal case has a constitutional
 right to confront his or her accusers. The Sixth
 Amendment of the United States Constitution provides
 that in all criminal prosecutions the accused shall
 have the right to be confronted with the witnesses

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App C-1

PA-45 A

JAMES, KARL V.

1-3-24

NAME: LAST FIRST MIDDLE DOB CIB FILE #

11-20-92 11:15 AM

ARREST DATE AND TIME:

CHARGE: STATUTE NO./ORD.NO.

STATEMENT OF PRISONER CONTINUED:

THE FOLLOWING INTERVIEW TOOK PLACE ON THE 4TH FLOOR OF THE POLICE ADMINISTRATION BUILDING ROOM 413 THE INTERVIEW STARTED AT 2¹⁵ PM 11-21-92. I DET MICHAEL WESOLOWSKI IN THE PRESENCE OF DET GREGORY SCHUER ADVISED THE SUBJ KARL V JAMES BIR 1-3-64 OF HIS CONSTITUTIONAL (MIRANDA) RIGHTS. THE RIGHTS WERE READ FROM A STATE OF WISCONSIN CONSTITUTIONAL RIGHTS CARD. JAMES STATED HE UNDERSTANDS HIS RIGHTS.

STATED THAT WHILE INSIDE AT 3015 N 24TH MICHELLE WAS MAD AT HIM BECAUSE HE WOULD NOT GIVE HER ANY COCAINE. DURING THE ARGUMENT INSIDE THE HOUSE HE HIT HER SLIGHTLY IN THE HEAD WITH HER 380 CHROME HANDGUN. STATED THE GUN WAS UNLOADED AT THE TIME. STATED THAT MICHELLE ALWAYS CARRIED THE GUN ON HER PERSON SINCE THEY CAME TO MILWAUKEE. STATED THAT HE ALSO WAS TELLING AT HER TO TAKE HER JEANS OFF BECAUSE THEY WERE OLD. STATED THAT MICHELLE WAS "STEAMING MAD AT HIM" WHEN SHE LEFT THE HOUSE. STATED THAT SHE WAS NOT WEARING A COAT AND WAS ONLY WEARING SANDLES. STATED THAT IT WAS COLD AND RAINING AT THE TIME. STATED THAT HE DID NOT KNOW IF SHE LEFT THE HOUSE WITH HER GUN. STATES SHE ALWAYS KEEPS THE GUN IN HER WAISTBAND UNDER HER SHIRT BECAUSE SHE DOES NOT HAVE A PURSE. STATED THAT HE (JAMES) FOLLOWED HER OUT WITH THE INTENTION OF BRINGING HER BACK TO THE HOUSE AND GIVING HER A SMALL AMOUNT OF COCAINE TO SETTLE HER DOWN. STATED THAT MICHELLE WAS HEADING FOR THE OUTDOOR PHONE BOOTH AND HE THINKS SHE WAS GOING TO CALL 911 OR HER MOTHER. STATED HE CAUGHT UP TO HER BEFORE SHE REACHED THE PHONE BOOTH. STATED THAT MICHELLE TOLD "IT'S OVER IT'S OVER I'M TIRED OF YOU". WHEN QUESTIONED REGARDING WHAT HAPPENED NEXT AND HOW MICHELLE GOT SHOT JAMES STATED THAT IT WAS FOR

DET Michael Wesołowski
INTERVIEWING OFFICER TO FURNISH: Name, Rank, Payroll Number

48192 11-21-92 6¹⁰ PM - 7⁰⁰ PM
Date and Time of Interview.

App 2 App 2

STATE OF WISCONSIN

COURT COPY
CIRCUIT COURT
CRIMINAL DIVISION
DO NOT REMOVE

MILWAUKEE COUNTY

Page 1

STATE OF WISCONSIN, Plaintiff(s)

CRIMINAL COMPLAINT

vs

CRIME(S) OR VIOLATION(S)

First Degree Intentional Homicide
While ArmedKarl J. James
1000 Montreal Rd.
Clarkston, GA

010364

STATUTE(S) OR ORDINANCE(S) VIOLATED

940.01(1) & 939.63

COMPLAINING WITNESS

Defendant(s)

Detective Greg Schuler

CASE NUMBER

F-924283

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

On November 19, 1992, at 3103 North 24th Street, City of Milwaukee, while armed with a dangerous weapon, did cause the death of another human being, Michelle Davis, with intent to kill that person, contrary to Wisconsin Statutes section 940.01(1) & 939.63.

Upon conviction of this charge, a Class A Felony, the penalty is life imprisonment.

PENALTY ENHANCER - WHILE ARMED WITH A DANGEROUS WEAPON

Should a person commit a crime while threatening, possessing, or using a dangerous weapon, the maximum term of imprisonment may be increased by not more than 5 years.

Complainant states that he is a City of Milwaukee police detective and bases this complaint upon the following:

Complainant alleges that on November 20th, 1992 at 11:00 p.m., Officer Lane of the City of Milwaukee Police Department was dispatched to a shooting at 2400 West Burleigh Street in the City of Milwaukee, County of Milwaukee, State of Wisconsin. Upon arriving there, he observed a black female who was identified as Michelle Davis lying on the sidewalk at 3103 North 24th Street next to a phone booth. There was blood on her back, legs and clothing and she appeared to have several gunshots to her body. She was then transferred to the Milwaukee County Medical Complex at 11:22 p.m. where she was pronounced dead by Dr. Fallen, a licensed physician at the Milwaukee County Medical Complex on November 20th, 1992 at 11:26 p.m.

Complainant further alleges that Detective Borkowski spoke to Linda Smith, an adult citizen witness, who is believed to be a reliable person. That Ms. Smith stated that she knows the defendant, Karl James, and that Karl James and the victim, Michelle Davis, had come up together from Atlanta, Georgia and that Michelle Davis and Karl James stayed in her home in the City of Milwaukee. That her home is 3015 North 24th Street, approximately one-half block away from where the body of Michelle Davis was found. Ms. Smith stated that on November 19th, 1992, Karl James and Michelle Davis got into an argument in her house in front of her. She then observed Karl James put a silver automatic weapon against the head of Michelle Davis and that they were yelling at each other. She then informed Karl James and

Karl J. James - 010364,

Michelle Davis then left the bedroom area and exited the residence and that Karl James followed Michelle Davis out of the residence, still holding the silver weapon in his hand. She then looked out the window and observed Michelle Davis walking toward the phone booth where her body was found. She observed Karl James following Michelle Davis to that phone booth. She states that approximately five minutes later, she was informed that Michelle Davis had been shot at the phone booth. In the area where Michelle Davis was found, there were found four .380 casings at the scene, all within ten feet of the body of Michelle Davis, by Detective Schuler of the Milwaukee Police Department. That Detective Schuler on November 20th, 1992 went to the residence of Daisy L. Arley who lives at 3061 North 28th Street. That they spoke to Daisy Arley who stated that she was walking in front of 2401 West Auer Street and that she found a .380 handgun by a fence at 2401 West Auer Street on November 20th, 1992 at approximately 2:30 p.m. and that she found this handgun in a yard at 2401 West Auer Street. That 2401 West Auer Street is approximately one block from 3103 North 24th Street, where the body of Michelle Davis was found. That this gun was then shown to Linda Smith, who identified this as the gun she observed the defendant, Karl James, walking out of the house with as he followed Michelle Davis from the house. Further, that this weapon being a .380 handgun fires the type of shells which were found in the area of Michelle Davis.

Complainant further alleges that Linda Smith stated that approximately ten minutes after she was informed that Michelle Davis had been murdered, that Karl James then came to her door yelling for her to open the door. She states that she was frightened because she thought that Karl James still had the gun and she did not let him in. Linda Smith further stated that the next morning, on November 20th, 1992 at approximately 11:00 a.m., that Karl James again came back to Linda Smith's house and asked her again to allow him to come into the house. That Linda Smith was concerned that Karl James still had the gun and Karl James indicated to her that he had thrown the gun away and did not have the gun anymore. She then asked him if he killed the girl, and he just shrugged his shoulders and said it was an accident.

Complainant further alleges that Detective Wesolowski of the City of Milwaukee Police Department advised Karl James of his Miranda rights and after advising Karl James of his Miranda rights, Karl James gave a statement which is believe to be reliable because it was against his penal interest. Karl James stated that he was inside the house at 3105 North 24th Street on November 19th, 1992 and that Michelle Davis got mad at him because he would not give her any cocaine. That during the argument inside the house, he hit her in the head with her .380 chrome handgun which he stated was unloaded at the time. He stated that he was also yelling at her about wearing his jeans and they were fighting. That Michelle Davis was mad and that she left the house and that he followed her out of the house. That he then told Detective Wesolowski that as he followed her out of the house, he had the intention of bringing her back to the house but before reaching the phone booth, Michelle Davis told him "It's over, it's over. I'm tired of you." He then stated that it was too hard for him to talk about the murder because Michelle was his heart.

Complainant further alleges that the body of Michelle Davis was taken to the Milwaukee County Medical Examiner's Office where an autopsy was performed by Dr. Jeffrey Jentzen, the Medical Examiner for Milwaukee

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Page 3

Karl J. James - 010364,

County on November 21st, 1992. That the result of said autopsy showed that Michelle Davis died of exsanguination secondary to multiple gunshot wounds to the chest and back.

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

****END OF COMPLAINT****

SUBSCRIBED AND SWORN TO BEFORE ME
AND APPROVED FOR FILING November 24, 1992

M. J. James
DEPUTY/ASST. DISTRICT ATTORNEY

G. J. Schler
COMPLAINING WITNESS

-- FELONY COMPLAINT --

MSW/131/cg

(App. C-3)

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1 Wisconsin?

2 A Yes.

3 Q On arriving at that scene, what observations, if
4 any, did you make?

5 A I spoke with the initial officers, reviewed the
6 scene. It's the northwest corner of 24th and
7 Burleigh. There's two phone booths, actually
8 free-standing phones, on that corner. There was a
9 pool of blood right next to the phone booths. This
10 blood was running down the street into the curb.
11 Also, there was blood on the receiver of one of the
12 phones on the ground. Right in that same area of
13 these phone booths were four spent .380 casings,
14 three of these were brass and one looked like
15 aluminum. Also there was a pair of women's sandals,
16 a woman's coat.

17 Q Did you make an observation of a woman in the area
18 that appeared to have a gunshot wound?

19 A It was later in the investigation. She was later
20 identified as Michelle Davis.

21 Q Was she adjacent to 24th and Burleigh?

22 A Right. In the med unit.

23 Q And what observation did you make about Michelle
24 Davis?

25 A She had sustained four gunshot wounds.

App. 4

Page 4

1 you.

2 THE COURT: Any redirect?

3 REDIRECT EXAMINATION

4 BY MR. WILLIAMS:

5 Q When you observed Michelle Davis in that med unit,
6 what condition did she appear to you?

7 A I believe she was deceased at that time.

8 MR. WILLIAMS: I have nothing further.

9 THE COURT: Any recross?

10 MR. FITZGERALD: No.

11 THE COURT: Thank you, detective. You can
12 step down.

13 (Witness excused.)

14 MR. WILLIAMS: Judge, I'd like to call
15 Detective Wesolowski for perhaps two or three
16 questions.

17 THE CLERK: Raise your right hand.

18 MICHAEL WESOLOWSKI, called for examination
19 herein by the Plaintiff, having been first duly
20 sworn on oath, was examined and testified as
21 follows:

22 THE CLERK: Be seated. Would you state
23 your name and spell your last name.

24 THE WITNESS: Michael Wesolowski,
25 W-e-s-o-l-o-w-s-k-i.

App. 5

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1 other things that were there, just a sand box for
2 slippery streets and such. These here are stop and go
3 lights and street lights.

4 When we got to the scene I had been informed
5 the victim, Michelle Davis, had been found lying right
6 here, and I have a "V" indicated.

7 Q And what observations did you make at that scene?

8 A Okay. There was a -- four spent casings from a .380
9 handgun. By spent casings I mean just the -- the bullet
10 consists of a cartridge, a casing and the powder. The
11 bullet was gone, so now all that was left was a brass
12 casing which held the bullet. This is something that is
13 left after a gun is fired.

14 There was four spent casings. The first one
15 that I had marked "A" was an aluminum casing, the other
16 three were brass casings.

17 Also, I noticed a pool of blood next to the
18 phone booth. There was also some blood in front of the
19 phone and some blood running down. There was blood on
20 the receiver on this northern phone and some blood
21 splatterings next to the receiver on the phone area.

22 Also, there was a -- a pair of ladies sandals,
23 there was a blanket, which one of the neighbors had
24 brought out afterwards, and there was a woman's coat, a
25 very light weather coat, and it was like a cream/beige

App-C-b

Page 6

1 multiple feet away so that there wasn't powder
2 tattooing or stippling to the skin area.

3 Q Based on your examination, would you have been able
4 to affix a time of death to the decedant?

5 A Not at this time.

6 MR. FITZGERALD: Nothing further.

7 MR. WILLIAMS: I have nothing further,
8 Your Honor.

9 THE COURT: Is there a stipulation to the
10 identification of the victim and the transport of
11 the body to the medical examiner's office for
12 purposes of autopsy?

13 MR. WILLIAMS: Yes.

14 MR. FITZGERALD: Yes.

15 MR. WILLIAMS: Subject to rebuttal, the
16 State would rest.

17 THE COURT: Any defense testimony?

18 MR. FITZGERALD: No, none.

19 THE COURT: State have a motion?

20 MR. WILLIAMS: I would move for a
21 bind-over.

22 THE COURT: Defense have a motion?

23 MR. FITZGERALD: I object to a bind-over.

24 THE COURT: Based on the testimony on this
25 record and based on the stipulations, I find

App. C-7 Page

1 (The following proceedings were had in open court before
2 her Honor, Court Commissioner Audrey Y. Brooks.)

3 THE BAILIFF: State of Wisconsin verses Karl
4 James, F-924283, 1st Degree Intentional Homicide While
5 Armed.

6 MS. TAXMAN: Karine Taxman on behalf of Mark
7 Williams on behalf of the State.

8 MR. FITZGERALD: Michael Fitzgerald appears on
9 behalf of Mr. James. Mr. James is present in court.

10 MS. TAXMAN: Judge, I have had an opportunity to
11 speak with defense counsel. I would have been in a
12 position to start the preliminary hearing, but we've agreed
13 it would be better to do this all at one time.

14 THE COURT: When was the initial appearance?

15 MS. TAXMAN: November 24th. It's my
16 understanding the defendant is going to be waiving time
17 limits.

18 THE COURT: This is a homicide-court case. I
19 can't adjourn it. It has to be held within ten days, or
20 started. You are going to have to start it today, and then
21 it will be adjourned.

22 MS. TAXMAN: All right, I'll start it today.

23 THE COURT: According to the rules of the
24 specialized courts, I don't have the authority to adjourn
25 this.

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Page 8PROCEEDINGS

1

2

THE CLERK: Case No. F-924283, State of

3

Wisconsin versus Karl James. Appearances.

4

MR. WILLIAMS: State appears by Assistant

5

District Attorney Mark Williams.

6

MR. FITZGERALD: Michael Fitzgerald appears

7

with Karl James.

8

THE COURT: All right, we're set here for

9

some motions. What are your motions, Mr. Fitzgerald?

10

MR. FITZGERALD: A motion to suppress the

11

statements, judge. And in the memorandum I argue in

12

part that there is some statements that Mr. James made

13

should be suppressed because they are the fruit of the

14

illegal arrest.

15

Since the time that I filed the motion, I have

16

done some additional research. I have also learned

17

some additional facts. And at this time I will

18

withdraw that, the part of the argument that which

19

leaves the State or Miranda-Goodchild inquiry on the

20

statements. The other motion is discovery, is not

21

evidentiary.

22

THE COURT: All right, for the record's sake,

23

why did you choose to withdraw that aspect?

24

MR. FITZGERALD: My understanding is that

25

Mr. James was arrested in a home, part of a home that

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1 belonged to a woman by the name of Linda Smith. Linda
2 Smith, I think it's clear, had a superior privacy
3 interest in that residence. Mr. James was an overnight
4 guest there. Although he may have standing to
5 challenge any search or any Fourth Amendment action
6 that took place there, I think it would have been
7 clear. It is clear from the record that Linda Smith
8 consented to the police entering her premises and
9 arresting Mr. James there.

10 State v. Smith I believe is the name of the case.
11 That talks about warrantless entrance, and I believe
12 consent is a valid exception to that. I believe that
13 that's what happened here. I talked to the officer
14 this morning.

15 THE COURT: All right. Let's get on with the
16 Miranda-Goodchild.

17 MR. WILLIAMS: Judge, just to supplement that
18 also, the officers would testify that this defendant
19 was not, he was arrested in a basement. He wasn't even
20 arrested in a room where he was the guest. So the
21 consent by Miss Smith certainly would allow them to go
22 into her basement and make the arrest in the basement.
23 They did not even make the arrest in a place where this
24 defendant claimed he had a right to privacy.

25 THE COURT: Well any standing that he had

App. C10

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T.N.: 3605442-1 Bureau#: 588040

SSN: 419-98-1465

Today's Date: 10/01/92

Name: JAMES, KARL JULIUS

Race: B Sex: M

Last Name (first): NONE

Nationality: USA

Address: 1000 MONTREAL RD SW

City: ATLANTA

State: GA

Occupation: UNEMPLOYED

Employer:

Birthplace: ALABAMA

Birthdate: 010364

Age: 28 Education: 12 Build: MED

Height: 6 04 Weight: 195

Complexion: DARK

Hair: BLK

Hair Type: NATURAL

Eyes: BRN Eye Defect: NONE

Mustach-Beard-Goatee: MUST

Scars: NATURAL

Nose: BROAD

Scars (SRT): NONE

Mile: RIGHT HANDED

Reach: MED

Gait: NORMAL

Clothing: SPORT

Marital Status: SINGLE

Address:

Arrests: DECEASED

Address:

Aliases:

Address:

Arrest: AGGRAVATED ASSAULT

Arrest Number: 92-70349

Arrested: 100192 Complaint: 201JZ144 Officers: CULBERTSON

Arrested Over - Superior: State: Traffic: Date Banded:

Arrested Position:

Arrested:

Arrested's Signature:

Arrested By:

Arrested Photographed By:

Arrested Fingerprinted By:

Date F.P.: 10/01/92

Arrested:

Arrested:

Arrested:

ATLANTA BUREAU OF POLICE SERVICES
IDENTIFICATION UNIT

====(Index)====



22:59:17

23:00:04

23:04:19

23:05

2400 W

BURLINGHAM

SHOOTING

DET.

- WESELOWSKI -

of

Signoff complete

H20011 INVALID TRANSACTION IDENTIFICATION - PLEASE RESUBMIT 23 26 45

P S W 3

COMPLAINT HISTORY DETAIL: 4921-1356

11 20 90

C A D

MILWAUKEE POLICE DEPARTMENT

01:01

***** MSG #9232500824

INITIATE 22:59:53 11/19/92 CALL NUMBER: M1398
 ENTRY: 23:00:15 CURRENT STATUS: ONSCENE
 DISPATCH 23:01:14 PRIMARY UNIT: 72RE (DISPATCH EXCEPTION)
 ONSCENE: 23:05:38 JURISDICTION: MP
 CLOSE: DISPOSITION:
 LOCATION 2400 W BURLINGHAM ST, MIL (N 24TH ST & N 24TH PL)
 DAREA: D7
 BEAT: 70 TYPE: 1356 SHOOTING
 RDIST: F266 PRIORITY: 1
 FIRE BOX: 00000139 EMS GRID: UNK

23 00:15 TC10 ENTRY

RE CARTERS DRUGSTORE: SAMEXPH: 447-9098 \TX: VICTIM CALLED
 STATED THAT SHE WAS SHOT INSIDE OF THE DRUG STORE
 SENT

23 00:15 TC10 BOUNDARY

23 00:15 TC10 PRIOR MP 1500P 06.30/92 @ 14:05:58 (1 MORE)

23 01:14 D07C SUGGEST 72E 247E

23 01:14 D07C DISPATCH 72RE

23 01:21 D07C BACKUP 72E

23 05:38 D07C ONSCENE 72E, CONFIRMED SHOOTING

23 05:42 D07C ONSCENE 72RE

23 05:49 D07C BACKUP 7P

23 06:19 TC01 SUPP PH: 414 342-5358 \TX: FEMALE HAS BEEN SHOT IN F/O DRUG
 STORE, WITNESS SAW PERSON RUNNING AWAY, NO DESCRIPTION

23 06:46 D07C BACKUP 717

23 07:17 D07C BACKUP 577

23 10:16 D04C ONSCENE 577

23 10:44 D07C MISC 72RE, B/M SHORT IN HEIGHT

23 30:24 D07C INSRVICE 717

23 47:14 D07C CHGLOC 72E M C H C MIL

11/20/92

00:17:39 D07C CHGLOC 72RE C I B, MIL

00:36:21 D07C INSRVICE 7P

00:36:45 D07C CHGLOC 577 C I B, MIL

OPERATOR ASSIGNMENTS: TC10 050822 COLEMAN, YVETTE
 D07C 053297 DAVIS, HAROLD
 TC01 054993 GLOVER, SHIRLEY A.
 D04C 032892 MALMAROWSKI, DARRELL G.
 AS OF 23:30:24 D07C 028216 CHUBECK, MICHAEL R.

SUSPECT # 1	LAST	FIRST	MID	RACE	SEX	DATE OF BIRTH	AGE	ETHNIC ORIG	
				R	M			O HISP ● NON-HISP	
ADDRESS	CITY			STATE	HEIGHT	WEIGHT	BUILD	HAIR	EYES
					5'8"-9"		Medium		
ALIAS	ID#				SOCIAL SECURITY #				
SCARS, MARKS, MOLES, DEFORMITIES, AMPUTATIONS, TATTOOS, FACIAL HAIR (Describe-i.e. scar L/HAND, mole R/CHEEK, tattoo on CHEST)									
ATTIRE									
Waist length 44" w/units on back									
VEHICLE YEAR	VEHICLE MAKE	VEHICLE MODEL	TYPE	COLOR	LICENSE #	STATE	EXP	TYPE	V.I.N. #
SUSPECT # 2	LAST	FIRST	MID	RACE	SEX	DATE OF BIRTH	AGE	ETHNIC ORIG	
								O HISP O NON-HISP	
ADDRESS	CITY			STATE	HEIGHT	WEIGHT	BUILD	HAIR	EYES
ALIAS	ID#				SOCIAL SECURITY #				
SCARS, MARKS, MOLES, DEFORMITIES, AMPUTATIONS, TATTOOS, FACIAL HAIR (Describe-i.e. scar L/HAND, mole R/CHEEK, tattoo on CHEST)									
ATTIRE									
ADDITIONAL SUSPECTS INFO.									
TOTAL SUSPECTS									
1 2	0 0 ALTERED STOCK	0 0 CHROME/NICKEL	0 0 HANDGUN	0 0 OTHER	0 0 REVOLVER	0 0 SHOTGUN			
0 0 AUTOMATIC	0 0 DOUBLE BARREL	0 0 IMPLIED WEAPON	0 0 OTHER FIREARM	0 0 RIFLE	0 0 SIMULATED WEAPON				
0 0 BOLT ACTION	0 0 DRUG/MARCOTIC	0 0 KNIFE/CUTTING INSTR	0 0 PERSONAL WEAPON	0 0 SAWED OFF	0 0 SINGLE BARREL				
0 0 BLUE STEEL	0 0 EXPLOSIVES	0 0 LIQUID GAS	0 0 POISON	0 0 SEMI AUTO	0 0 THROWN OBJECT				
0 0 BLUNT OBJECT	0 0 FIRE/INCINDIARY	0 0 MOTOR VEHICLE	0 0 PUMP ACTION	0 0 SHORT/SNUB BBL	0 0 UNKNOWN				
WPN SUSP # 1	MAKE	MODEL	CALIBER	SERIAL #	BUTT #	INVENTORY #	REPORTED Y N	STOLEN O O	
ADDED WPN INFO SUSP #1									
WPN SUSP # 2	MAKE	MODEL	CALIBER	SERIAL #	BUTT #	INVENTORY #	REPORTED Y N	STOLEN O O	
ADDED WPN INFO SUSP #2									
VICTIM RELATIONSHIP TO SUSPECT	1 2	N/A	SEXUAL ASSAULTS	1 2	N/A	ASSAULT/HOMICIDE	1 2	N/A	
CHECK 1 ITEM PER SUSPECT	0 0 IL-IN-LAW	0 0 NE-NEIGHBOR	CHECK 1-3 ITEMS	0 0 A-ANAL PENETRATION BY PENIS	0 0 1 ARGUMENT	CHECK 1-3 ITEMS	0 0 1 ARGUMENT	0 0 1 ARGUMENT	
0 0 AQ-AQUAINTANCES	0 0 08-OTHER BUSINESS RELATIONSHIP	0 0 DV-OTHER DV VICTIM	0 0 B-FONDLED BREASTS/GENITALS	0 0 C-FORCED VICTIM TO DISROBE	0 0 2 ASSAULT ON PO	0 0 2 ASSAULT ON PO	0 0 2 ASSAULT ON PO	0 0 2 ASSAULT ON PO	
0 0 BE-BABYSITTEE-BABY/CHILD	0 0 OF-OTHER FAMILY	0 0 OK-OTHERWISE KNOWN	0 0 D-FORCED VICTIM PERFORM ORAL ACTS	0 0 E-FORCED VICT TO SPECIFIC POSITION	0 0 3 DRUG RELATED	0 0 3 DRUG RELATED	0 0 3 DRUG RELATED	0 0 3 DRUG RELATED	
0 0 BR-BABYSITTER	0 0 PA-PARENT	0 0 CP-PROFESSIONAL CARE PROVIDER	0 0 F-PENILE/VAGINAL PENETRATION	0 0 G-PENETRATED W/OTHER THAN PENIS	0 0 4 GANG RELATED	0 0 4 GANG RELATED	0 0 4 GANG RELATED	0 0 4 GANG RELATED	
0 0 BG-BOYFRIEND/GIRLFRIEND	0 0 CR-PROFESSIONAL CARE RECEIVER	0 0 RO-ROOMMATE	0 0 H-PERFORMED ORAL PERVERSION	0 0 J-OTHER	0 0 5 LOVER'S QUARREL	0 0 5 LOVER'S QUARREL	0 0 5 LOVER'S QUARREL	0 0 5 LOVER'S QUARREL	
0 0 CH-CHILD	0 0 SB-SIBLING(BROTHER/SISTER)	0 0 SE-SPOUSE	0 0 CRIMINAL ACTIVITY CODE	0 0 K-BUY DRUGS/STOLEN PROPERTY	0 0 6 MERCY KILLING	0 0 6 MERCY KILLING	0 0 6 MERCY KILLING	0 0 6 MERCY KILLING	
0 0 CF-CHILD OF BOY/GIRLFRIEND	0 0 SC-STEP-CHILD	0 0 SP-STEP-PARENT	CHECK 1-3 ITEMS	0 0 L-CULTIVATE/MANUFACTURE/PUBLISH	0 0 7 DURING FELONY ACT	0 0 7 DURING FELONY ACT	0 0 7 DURING FELONY ACT	0 0 7 DURING FELONY ACT	
0 0 CO-COHABITANT	0 0 SS-STEP-SIBLING	0 0 ST-STRANGER	0 0 K-BUY DRUGS/STOLEN PROPERTY	0 0 M-DISTRIBUTE/SELL	0 0 8 UNKNOWN CIRCUMSTANCE	0 0 8 UNKNOWN CIRCUMSTANCE	0 0 8 UNKNOWN CIRCUMSTANCE	0 0 8 UNKNOWN CIRCUMSTANCE	
0 0 CS-COMMON LAW SPOUSE	0 0 RU-UNKNOWN/OTHER		0 0 L-CULTIVATE/MANUFACTURE/PUBLISH	0 0 N-EXPLOIT CHILDREN	0 0 9 OTHER CIRCUMSTANCE	0 0 9 OTHER CIRCUMSTANCE	0 0 9 OTHER CIRCUMSTANCE	0 0 9 OTHER CIRCUMSTANCE	
0 0 EE-EMPLOYEE			0 0 M-DISTRIBUTE/SELL						
0 0 ER-EMPLOYER			0 0 N-EXPLOIT CHILDREN						
0 0 EX-EX SPOUSE									
0 0 FR-FRIEND									
0 0 GC-GRANDCHILD									
0 0 GP-GRANDPARENT									
0 0 HR-HOMOSEX RELATIONSHIP									
SUSPECT'S ACTIONS	0 0 11-GLOVES WORN	0 0 21-VICT ARGUED	0 0 31-VICT FORCED INTO OWN VEH						
CHECK 1-3 ITEMS	0 0 12-MET VICT AT BAR/PARTY	0 0 22-VICT BOUND/GAGGED	0 0 32-AFTER/WHILE VICT PARKS VEH						
0 0 01-ASSIST VICT W/VEH TRBL	0 0 13-PHONE DISABLED	0 0 23-VICT BURNED	0 0 33-VICT INJ W/HAND, FEET, TEETH						
0 0 02-ATTACKED FROM CONCEALMENT	0 0 14-PRINTS WIPED CLEAN	0 0 24-VICT CHOKED	0 0 34-VICT KIDNAPPED/HOSTAGE TAKEN						
0 0 03-DAMAGE COMMITTED	0 0 15-RANSACKED PREMISES	0 0 25-VICT CUT/STABBED	0 0 35-VICT LURED TO VEHICLE						
0 0 04-DEMAND NOTE USED	0 0 16-USED FACIL-Phone, Food	0 0 26-VICT DROWNED	0 0 36-VICT SHOT						
0 0 05-DEMANDED VALUABLES	0 0 17-VEH TROUBLE FAKED	0 0 27-VICT FOLLOWED ON FOOT	0 0 37-VICT VEH STOPPED ON STREET						
0 0 06-DRUGS DEMANDED	0 0 18-VEH USED IN OFFENSE	0 0 28-VICT FOLLOWED/APPROCHED W/VEH	0 0 38-VICT VEHICLE TAKEN						
0 0 07-ENTERED AFTER KNOCK/RING	0 0 19-VEH USED TO MOVE PROP	0 0 29-VICT FORCED INTO SUSP VEH	0 0 39-WEAPON FIRED						
0 0 08-FIRE SET			0 0 40-OTHER						
TARGET	0 0 54-RESIDENCE	N/A	SUSPECT USED	N/A	VICTIM INFORMED OF CRIME	Y N	CASE STATUS		
CHECK 1 ITEM	0 0 55-SAFE BOX		CHECK 1-3 ITEMS		PREVENTION SERVICES?	Y N	CHECK 1 ITEM		
0 0 50-CASH REGISTER	0 0 56-STORAGE AREA		0 0 A-ALCOHOL		DOES VICTIM REQUEST	Y N	0 0 C-CASE CLEARED		
0 0 51-GARAGE	0 0 57-VENDING MACHINE		0 0 D-DRUGS		ADDITIONAL CRIME	Y N	0 0 W-WARRANT ISSUED		
0 0 52-PERSON	0 0 58-OTHER		0 0 C-COMPUTER		PEVENTION SERVICES?	Y N	0 0 O-CASE ORDERED IN		
0 0 53-PURSE/WALLET			0 0 N-UNKNOWN			Y N	0 0 P-CASE PENDING		

INCIDENT A:	SS#	DATE	TIME	DAY	DATE	TIME
HOMICIDE-SHOOTING		THURS	11-19-92	2301		
INCIDENT B:	SS#	LOCATION OF INCIDENT (Address)				CITY
		3103 N. 24th Street				CO OF MILWAUKEE
INCIDENT C:	SS#	DATE/TIME OF REPORT	DISTRICT	SQD AREA	REP CON#	
		11-19-92/23:05	7			

Location of Incident ---CHECK 1 ITEM ONLY----

- | | | | | |
|---------------------------|----------------------------|--------------------------|---|------------------------|
| O 01-AIR/BUS/TRAIN TERM | O 08-DEPART/DISCOUNT STORE | O 17-LIQUOR STORE | O 21-RESTAURANT | O 95-SUSP TEMP LODGING |
| O 02-BANK/SAVINGS & LOAN | O 09-DRUG STR/DR OFC/HOSP | O 99-OTHER RESIDENCE | O 22-SCHOOL/COLLEGE/UNIV | O 92-SUSPECT'S VEHICLE |
| O 03-BAR/NIGHT CLUB | O 10-FIELD/WOODS | O 96-OTHER TEMP LODGING | O 23-SERVICE/GAS STATION | O 97-VICT RESIDENCE |
| O 04-CHURCH/SYNAGOGUE/ETC | O 11-GOV'T/PUBLIC BLDG | O 93-OTHER VEHICLE | O 24-SPECIALTY STORE (Fur jewelry, etc) | O 94-VICT TEMP LODGING |
| O 05-COMMERCIAL/OFC BLDG | O 12-GROCERY/SUPERMARKET | O 90-PARK | O 13-STREET/ALLEY/ROAD | O 91-VICT VEHICLE |
| O 06-CONSTRUCTION SITE | O 15-JAIL/PRISON | O 18-PARKING LOT/GARAGE | O 98-SUSP RESIDENCE | O 25-UNKNOWN/OTHER |
| O 07-CONVENIENCE STORE | O 16-LAKE/WATERWAY | O 19-RENTAL STORAGE BLDG | | |

REPORTED FOR (VICT) Last First M.	RACE	SEX	DATE OF BIRTH	ETHNIC ORIG	HOME TELEPHONE #
DAVIS Michelle Lynn	B	F	01/26/70-22	O HISP NON-HISP	
ADDRESS	RACE CODES	TYPE	O G-GOVERNMENT		
3015-A. N. 24th St.	A-ASIAN B-BLK I-INDIAN W-WHI	OF VICTIM	O I-INDIVIDUAL O B-BUSINESS O F-BANK/SAV & LOAN	O R-RELIGIOUS ORG. O S-SOCIETY	
EMPLOYED BY Name Address	BUSINESS PHONE	VICTIM Y N RESIDENT O O OF COUNTY?	VICTIM'S CONSENT? Y N ORDERED TO VIEW PHOTOS? - O O		
REPORTED BY Last First M. Same	RACE	SEX	DATE OF BIRTH	ETHNIC ORIG	HOME TELEPHONE #
				O HISP O NON-HISP	
HOME ADDRESS	CONVEYED TO	None	CONVEYED BY	None	
TYPE O N-NONE OF O M-MINOR INJURY O B-BROKEN BONE	O I-INTERNAL O S-SEVERE CUT/LAC O T-TEETH LOST	O O-OTHER MAJOR INJURY O U-UNCONSCIOUS	EXTENT O N-NONE OF O M-MINOR INJURIES O S-SERIOUS	O C-CRITICAL O F-FATAL O O-OTHER-expln	TYPE O R-REFUSED OF O T-TREATED/REL TREATMENT O H-HOSPITALIZED

Incl. Elements of Crime-

NO SUPP

On above day, date, time and place, victim was shot at least four times by unknown persons, sustaining gunshot wounds to the chest, left arm and back, subsequently causing her death.

Property Codes ---LIST CODE FOR EACH ITEM OF PROPERTY IN "CODE #" COLUMN. IF PROPERTY WAS DAMAGED BEGIN CODE W/ "D" (eg. D-JU)

- | | | | | | |
|-------------------|--------------------|-----------------------|-------------------------|----------------------|-----------------|
| 01-AIRCRAFT | 09-CREDIT CARDS | 15-HEAVY EQUIPMENT | 21-NEGOTIABLE INSTRMENT | 29-STRUCT-SINGLE DWL | 35-STRUCT-OTHER |
| 02-ALCOHOL | 10-DRUGS/NARCOTICS | 16-HOUSEHOLD GOODS | 22-NONNEGOT INSTRMENT | 30-STRUCT-OTHER DWL | 36-TOOLS |
| 04-BICYCLES | 11-DRUG/NARC EQUIP | 17-JEWELRY/PREC METAL | 23-OFFICE EQUIPMENT | 31-STRUCT-OTHER COMM | 38-VEH PART/ACC |
| 06-CLOTHES/FURS | 12-FARM EQUIPMENT | 18-LIVESTOCK | 25-PURSE/BAG/WALLET | 32-STRUCT-INDUST MFG | 39-WATERCRAFT |
| 07-COMPUTER WARES | 13-FIREARMS | 19-MERCHANDISE | 26-RADIO/TV/VCR | 33-STRUCT-PUBLIC | 77-OTHER |
| 08-CONSUMABLES | 14-GAMBLING EQUIP | 20-MONEY | 27-RECORD/AUDIO VISUAL | 34-STRUCT-STORAGE | 99 |

QUAN	TYPE OF PROPERTY	DESCRIPTION	SERIAL #	CODE #	VALUE
PRONOUNCED BY:		DR. PHELAN, MCMC, on 11-19-92 at 11:26 p.m.			
TRANSPORT BY:		Milwaukee Fire Department, Med #5			
TRANSPORT TO:		Milwaukee County Mmedical COMPLEX			
PROPERTY INSURED BY			None	TOTAL STOLEN \$	
RELATED INCIDENT #'s			EVIDENCE INVENTORY #'s	TOTAL DAMAGED \$	
			ADDITIONAL PROPERTY ON ATTACHED PO-15	TOTAL STOLEN/DAMAGED \$	

WARRANT INFO	DATE ENTERED	SYSTEM #	DATE CANCELED	WARRANT ISSUED-NUMBER
TELETYPE INFO	MESSAGE NUMBER MWPD 660	DATE/TIME 11-20-92/1:30 a.m.	DATE CANCELED	CANCELED BY
DETECTIVE	KLABUNDE	I.D. TECH STIER	LATENT CASE #	C.I.B. SUPERVISOR <i>[Signature]</i>
REPORTING OFFICER	DET. DAVID R. KLABUNDE	PAYROLL# 45357	LOC # 92	ASSISTING OFFICER DIST. SUPERVISOR <i>[Signature]</i>

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(Transcript of proceedings.)

BAILIFF: James. F-924283, State of Wisconsin versus Karl Julius James, first degree intentional homicide while armed. Set for jury.

MR. WILLIAMS: The State appears by Assistant District Attorney Mark Williams.

MR. ANDERSON: Good afternoon, Judge. Scott Anderson appears for and with Karl James.

Judge, I'm at this time again raising the competency issue, not on the basis that he doesn't understand the nature of the charge but that I don't believe at this time he's able to rationally confer with me about, about the case.

The issue about the clothes. He wants to maintain that he wants to wear what he has on now, which is the orange jail jumpsuit. He has brand new clothes purchased for him. That's a red flag for me there.

The other is that he, you know, he will not confer regarding strategy or potential plea options here while he would -- he just won't talk to me or allow me to raise those as well. And I, I have again concern about his competency and because of those areas there was a competency report. He was found competent at least as of February 4, 1993

The Honorable Michael D. Guolee
RE: JAMES, Karl Julius
February 4, 1993
Page 2.

Regarding any past psychiatric or psychological history, he states that he saw a psychiatrist or psychologist a few times but reports their recommendation was that he be seen by a neurologist for the problems with his headaches. He denies ever receiving any medications or out-patient treatment from mental health professionals.

Regarding drugs and alcohol, he states he uses absolutely no alcohol or drugs and has never had a problem with them. Prior to his arrest, he states he was unemployed, however in the past had been employed while on active duty in the military, as well as spending some time in the Army Reserve while he was going to school. He gave a legal history, including previous charges of simple battery for which he plea-bargained down," as well as several other charges that were dismissed.

He was quizzed regarding the various players in a court trial, and he showed an above-average and articulate knowledge of the roles of the principal participants. He showed a clear understanding of the pleas guilty, not guilty, as well as that of not guilty by reason of mental disease or defect. He mentioned that the various pleas had been discussed with him by his lawyer. He was fully aware of his charge of First Degree Intentional Homicide, and the maximum penalty of life in prison without parole. At the present time, it is his intention to plead not guilty, as he states that he did not perform the crime. He offered a defense that he was not even present in the area at the time of the crime, and has a witness who could speak in his defense, however is unable to get in touch with her.

I asked him if he felt there was any problems that he thought might interfere with his capacity to understand what was happening to him, and he indicated that the pain from his headaches occasionally causes him difficulty during sustained proceedings.

On formal mental status exam, Karl Julius James is a 29 year old black male who is tall and thin, and appears his stated age. He was oriented in all three spheres. He answered questions in a logical and goal-directed manner. He offered no symptoms of hallucinations, delusions, or paranoia. He denied any suicidal ideation or ever having had any. He states that he had some difficulty with sleep while in the jail, but describes this as secondary to problems with a rash rather than a primary sleep disorder. He remained in good contact with the examiner throughout the interview. He showed adequate attention and concentration. He appeared to understand abstract principles reasonably well. He showed no measureable defects in his memory based on this examination. He was fully aware of when his court date was scheduled, and seemed invested in proceeding to trial.

Overall, based on my psychiatric examination of Karl Julius James, I can offer no diagnosis of psychiatric condition. This is given to a reasonable degree of medical certainty. He showed a clear understanding

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1 Mr. Anderson, and based upon my colloquy with the
2 defendant and the prior report of February 4, 1993
3 that determines defendant's competency, except for
4 those factors that you discussed, the defendant
5 based upon his answers to the colloquy the Court
6 just had with the defendant understands.

7 MR. ANDERSON: Judge, he hasn't even --
8 I mean about the rash -- I'm trying to, to save him
9 problems and he hasn't even tried on the clothes.
10 He just looks at the clothes and doesn't want to
11 wear them. I don't believe the rash is -- it may
12 not have anything to do with it. He at least
13 should try them on to see whether -- I mean the
14 rash is a problem or not.

15 THE COURT: Why don't you try them on,
16 Mr. James.

17 MR. ANDERSON: He doesn't even want to
18 talk about wearing any different clothes. That's
19 the problem.

20 THE COURT: Why don't you try them on.
21 Why don't you try them on.

22 THE DEFENDANT: I scratch all the time.
23 I itch and it don't make any difference because I'm
24 going to scratch.

25 THE COURT: Well I know but even with

OTS-B 89 SUPPLEMENT REPORT MILWAUKEE POLICE DEPARTMENT		<input checked="" type="checkbox"/> INCIDENT SUPPLEMENT <input type="checkbox"/> ACCIDENT SUPPLEMENT <input type="checkbox"/> JUVENILE SUPPLEMENT		PAGE <u>1</u> of <u>2</u>	DATE OF REPORT 01-23-93	INCIDENT/ACCIDENT # 92-91170/M2676
INCIDENT INFORMATION	INCIDENT HOMICIDE (SHOOTING)			DATE OF INCIDENT/ACCIDENT 11-19-92		REP CON #
	VICTIM DAVIS, Michelle L.			LOCATION OF INCIDENT/ACCIDENT (Address) 3103 N. 24th St.		DIST
JUVENILE LAST NAME		FIRST	MID	DATE OF BIRTH F-92440		<input type="checkbox"/> DETAINED <input type="checkbox"/> ORDERED TO MCCC <input type="checkbox"/> OTHER
QUAN	TYPE OF PROPERTY	DESCRIPTION			SERIAL #	CODE #
VALUE						

On Saturday, 1-23-93, at approximately 6:40 P.M., I, Det. Michael WESOLOWSKI, along with Det's Gregory SCHULER and Clifford HUDLETT, interviewed a prisoner at the Milwaukee County Jail. The prisoner being a Corey D. WILLIAMS, B/M, dob: 2-24-71. We interviewed Mr. WILLIAMS regarding his knowledge of this offense.

Mr. WILLIAMS states he has been in custody since December 1, 1992, and is currently under arrest for "armed robbery". He stated when he first arrived at the County Jail, he stayed in tier 2-north, and another inmate he met, Karl JAMES, was 2-cells away from him. He stated that he had a conversation with JAMES during the first half of December shortly after he (WILLIAMS) arrived at the County Jail. WILLIAMS stated that he and Karl JAMES were in a day room along with several other prisoners, and that everybody was talking about why they were in prison and the crimes they had committed. WILLIAMS stated that when JAMES was talking about what he was in jail for, that there was at least 2-3 other inmates there, including himself. WILLIAMS stated that Karl JAMES stated that he was in jail because he had shot his girlfriend. He further related that JAMES told him that he and his girlfriend were both from Atlanta, and that they had gotten into an argument in a house and that the argument was about her leaving him. WILLIAMS stated that JAMES also stated that he had a 9mm handgun and that he followed his girlfriend out of the house and caught up to her near some outdoor phone booths located near 24th & Burleigh. JAMES also stated that this was next to a drug store. JAMES indicated that he was not very familiar with the area because he had just arrived from Atlanta, Georgia. JAMES further stated that he shot his girlfriend after catching up to her at the phone booth. He did not indicate how many times he shot her, nor what part of the body he shot her in. WILLIAMS states that JAMES said something about selling drugs out of the house, and that he was involved in "dope". WILLIAMS stated that this conversation that JAMES was having with him and the other inmates only took a few minutes, and that during this conversation JAMES m.w. WILLIAMS seemed to be depressed and felt bad about killing his girlfriend.

WILLIAMS stated that this was the only conversation that he had heard JAMES talk about killing his girlfriend, and that several days later when they were again in the day room and someone asked about the case he stated he had talked to his lawyer and his lawyer

1 / SEC / PAGE

REPORTING OFFICER

PAYROLL #

LOC CODE

SUPERVISOR SIGNATURE

Lt. R. M. Meeker

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Q Is Mr. James here today?

A Yes.

Q Could you identify him, please, by what he's wearing and where he's sitting?

A Yes. With the orange or khaki suit on.

MR. WILLIAMS: I would ask that -- the record to reflect Karl James has been identified.

THE COURT: So ordered.

BY MR. WILLIAMS:

Q Was there a conversation that you overheard pertaining to Mr. James in a day room sometime in December of 1992?

A Yes. We were discussing each other cases and --

Q And what did Mr. James say?

A Well, basically he said him and his girlfriend got into an argument. He went into the other room and she ran out the house.

Q After she ran out of the house did he say what happened?

A He didn't -- he didn't say. He just said he ran after her -- I mean, he ran up and caught up with her.

Q Did he say where he caught up with her at?

A Yeah, a phone booth on 24th and Burleigh.

Q And what did he say after he caught up with her on the phone booth at 24th and Burleigh?

A He said -- he just said he shot her.

Q Did he say where they had come from prior to coming up to

App 41

App C-18

1 State's going to put him on to introduce what's
2 been alleged as a jail house confession by Mr.
3 James to Corey Williams.

4 It's my understanding that -- that Mr.
5 Williams had also talked to the police about
6 another inmate in Milwaukee County jail named Taran
7 Taylor. And he was prepared to testify in Mr.
8 Taylor's trial as well. He never did testify
9 because that case ended in a plea. However I am
10 asking that the State turn over any police reports
11 that may be available that contain this alleged
12 statement that Mr. Williams made in that case
13 against Taran Taylor.

14 MR. WILLIAMS: Judge -- I'm sorry.

15 MR. ANDERSON: I mean the relevance is
16 that I want to see, you know, when he talked to Mr.
17 Taylor, what tier he was on at that time and the
18 nature of his statement to the police regarding Mr.
19 Taylor's confession. And it may shed some light on
20 this allegation against Mr. James that Corey
21 Williams has made as well.

22 THE COURT: What is the State's
23 position?

24 MR. WILLIAMS: It's irrelevant. What
25 difference does it make any statements that he made

App 62
App. C-19

Page 19

1 date of November 20th of 1992. At about 3:00 p.m. did
2 you see anything unusual happening at that time?

3 A Um-hum. I was going to pick my son up from school, and
4 as we be coming back I seen three little boys bending by
5 a fence and they were trying to pick up something, so I
6 walked toward them, and they were asking, was it a real
7 gun.

8 Q Okay.

9 Where was -- where were the three little boys
10 at and where was the fence at?

11 A They were on 24th and -- and Auer.

12 Q How far is 24th and Auer and 24th and Burleigh?

13 A About a -- about a good -- about a good two blocks.

14 Q Okay.

15 And what happened when you saw these three
16 little boys asking if it's real?

17 A They were -- they were trying to get it. And so as I
18 approached them, I looked at the gun and I stuck my hand
19 up underneath the fence where it was up underneath the
20 bush and pulled it out and saw it was a real gun and
21 picked it up, took it home. And after, then I called the
22 police and reported that I had found a gun.

23 Q Okay. Let me just stop you for a minute.

24 I'm going to show you what has been marked
25 Exhibit No. 13 and ask you if this appears to be the gun

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1 for a date probably in about 45 days.

2 THE COURT: All right. Court will in
3 fact order a presentence report. Set it over for
4 sentencing. The defendant's remanded to the
5 custody of Sheriff.

6 THE COURT: State moving to withdraw the
7 exhibits to be placed on inventory?

8 MR. WILLIAMS: Yes. And I would ask
9 that they be placed in the custody of Detective
10 Schuler.

11 THE COURT: Any problems with that, Mr.
12 Anderson?

13 MR. ANDERSON: No, Judge.

14 THE COURT: Okay. So ordered then.
15 Where is that weapon?

16 BAILIFF: I got it locked up, Judge.

17 THE COURT: Okay.

18 THE CLERK: Mr. Williams, when's your
19 last available date?

20 MR. WILLIAMS: Can we do it -- any
21 Friday would be okay.

22 THE CLERK: How about June 11?

23 MR. ANDERSON: Not a good date for me.
24 I got some trials that week.

25 THE COURT: June 4. Or how about May

**CITY of ROCK ISLAND**

Police Department

App. C-21

Page 21

October 8, 1993

Karl James
Waupun Correctional Institution
P.O. Box 351
Waupun, WI 53963-0351

Dear Mr. James,

I am unable to send you the information you requested in your letter dated 9/27/93. We will need a release of information form signed by Ms. Melissa Davis in order to process your request.

If you have any questions you may call me at (309) 793-3427.

Sincerely,

ANTHONY R. SCOTT
Chief of Police

By:

Capt. Gene L. Anderson
Bureau Commander
Admin/Tech Services Bureau

ARS/GLA/sko

Appo C-22

Page 22

1 of you."?

2 A That's correct.

3 Q At least, according to Mr. James, that was the last thing
4 that she said in the course of conversation?

5 A That's as far as he would go, as far as the interview.

6 Q And then he said it was too hard for him to continue to
7 talk about it because she meant a lot to him, or words to
8 that effect?

9 A Michelle was his heart.

10 Q In the course of that interview, or any other interview
11 with Mr. James, did he ever indicate that he shot her in
12 any fashion?

13 A No.

14 MR. FITZGERALD: That's all I have.

15 THE COURT: Any redirect?

16 MS. TAXMAN: No, thank you.

17 THE COURT: Thank you, Detective. You may step
18 down.

19 (Witness excused.)

20 MS. TAXMAN: Your Honor, we would need to
21 continue this preliminary hearing. Any day but Monday.

22 THE CLERK: Next court date, December 8th, 8:30,
23 back to this court to continue preliminary hearing.

24 (Proceedings concluded.)

25

* * *

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App C-23

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1 Milwaukee?

2 A Atlanta.

3 Q Now, after he said, after he caught up to her, he shot
4 her, what happened next? Did he say anything else?

5 A No. He stopped talking about his case. He -- he felt
6 kind of depressed.

7 Q What did he -- did he -- what did he say about the -- him
8 killing his girlfriend?

9 A He -- he didn't say anything about killing or nothing.
10 He just said he shot her. You know?

11 Q Did he say how he felt about doing that?

12 A I can tell by his emotions that he felt bad and sorry,
13 but he didn't say how he felt.

14 Q Now, you presently have two cases pending against you; is
15 that correct?

16 A Yes.

17 Q Were there any deals or any other -- anything given to
18 you for this testimony?

19 A No.

20 Q And why are you testifying today?

21 A Because she's deceased and I figure she still could have
22 been here. I mean, I imagine if it was my sister or my
23 mother, auntie, et cetera. You know?

24 MR. WILLIAMS: I have nothing further.

25 THE COURT: Cross.

Karl Jones
 P.O. Box 351
 Waupun, WI
 53466-0351

~~Immediate Account~~
 Legal ~~Account~~
 Request
 Disbursement
 Slip Attached

Petition for Review
 With 94-0641-CR
 Appendix 94-1321
 Police Reports

Please don't
 throw away
 this time
 would like
 to know
 when I'll
 mail my
 other legal
 letters to
 the Supreme
 Court concerning
 this matter
 in Wisconsin I
 am talking about.

Supreme Court
~~Supreme Court~~
 of Wisconsin
 P.O. Box 1688
 Madison, WI
 53703

LEGAL 260160

THIS LETTER HAS BEEN MAILED FROM
THE WISCONSIN PRISON SYSTEM