

STATE OF WISCONSIN - VS - Fidel Martinez-Cruz

The above-named defendant on or about Wednesday, August 7, 2024, in the City of Green Bay, Brown County, Wisconsin, did have sexual intercourse with Victim 2, who the defendant knew was unconscious, contrary to sec. 940.225(2)(d) Wis. Stats., a Class C Felony, and upon conviction may be fined not more than One Hundred Thousand Dollars (\$100,000), or imprisoned not more than forty (40) years, or both.

Complainant is an Assistant District Attorney with the Brown County District Attorney's Office and knows of the above offense(s) on information and belief based upon:

PROBABLE CAUSE:

The complainant, being duly sworn on oath, swears that he has had the opportunity to review the police reports from officers of the Green Bay Police Department, and other documents supporting this complaint referenced herein, which are the types of reports and documents kept in the ordinary course of business, which complainant believes to be truthful and reliable because they have proven to be truthful and reliable on numerous occasions in the past.

The complainant further asserts that based upon his review of the referenced reports and/or supporting documents, the incidents alleged occurred in Green Bay, Brown County, Wisconsin.

1. Complainant has reviewed the report of Ofc. Enli, which states, in part:

"On August 19th, 2024, at approximately 2330 hours, I Officer Enli, was on patrol as training unit 4F3 in the City of Green Bay in Brown County when a call went out for a reported sexual assault at the Hyatt Hotel at 333 Main St in Green Bay. I alerted dispatch to put me on that call and made my way to the Hyatt Hotel. When I arrived at the Hyatt Hotel, Field Training Officer O'Donnell and I entered the lobby where we saw the victim, Victim 1 (a 23 year old female), standing with her friend, ME (a 20 year old male), and the hotel staff at the front desk. Officer O'Donnell asked Victim 1 to step over to the other side of the lobby to talk to us about what happened. Victim 1 was visibly upset with tears running down her face.

Victim 1 told us that she was in the sauna at the hotel when a male that she did not know started touching her vagina and put his penis on her lips. Victim 1 told us that she did not know where the male went afterwards and could not remember any details about the male's description besides the fact that he was Hispanic. The basic information was relayed to other responding officers. While speaking with Victim 1, she was only wearing a swimsuit so Officer O'Donnell asked Victim 1's friend ME if he could go to their room and get her some clothes to put on. During this time, other officers arrived on scene and began searching for the Hispanic male.

Officer O'Donnell then explained to Victim 1 that we would transport her to St. Vincent Hospital to complete the SANE exam. Officer O'Donnell and I walked into the family room off the emergency room waiting area and spoke with Victim 1 there. Officer O'Donnell explained to Victim 1 that we would need to collect a statement from her and how that process would

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work. We then began the process of collecting Victim 1's statement with Officer O'Donnell and I asking Victim 1 questions as I recorded Victim 1's answers on paper. Victim 1 told us that she was in the sauna when a Hispanic male started touching her vagina, first over her swimsuit and then later moving her swimsuit to the side to penetrate her vagina with his fingers. The Hispanic male also placed his erect penis on Victim 1's lips before Victim 1 was able to run out of the room and find ME. While Victim 1 was running out of the sauna, she open hand slapped the Hispanic male across the face.

Officer O'Donnell and I then went out to our squad car with ME to collect a statement from him. ME told me that he was in the pool area when Victim 1 ran out of the sauna and told him that someone had just touched her. ME said that he then went to the bathroom where the Hispanic male was and confronted him by first yelling at him through the door. When the Hispanic male opened the bathroom door, ME said that he pushed the Hispanic male to the ground. ME also told me that the Hispanic male did not speak English, so the Hispanic male tried to use his phone to translate between himself and ME. ME told the Hispanic male to get out of there because he did not want to see the man anymore and the police were already on the way."

2. Complainant has reviewed the report of Ofc. Wicklund, which states, in part:

"On Monday August 19, 2024, I was patrolling as 3E1K (Public Spaces Patrol) in the City of Green Bay. At approximately 2333 I heard Officers get dispatched to the Hyatt (333 Main Street) for a sexual assault complaint. The notes in the call said that a female complainant was reporting that an unknown male tried to put his genitals in her mouth. I was on another call, but eventually responded to see if I could assist. When I arrived, I met with Sergeant Peterson, and the other Officers on the call. I asked where they were at in their investigation, and was told that they were waiting for surveillance footage. Apparently, the security officer was on his way, back to the hotel, to assist with accessing surveillance footage. Since the suspect was more than likely a guest, Sergeant Peterson asked that Officers set up containment around the hotel. I agreed to assist, and left.

I parked on Main Street and monitored the south side of the building. I also monitored the skywalk, which I believe connects the 3rd floor of the hotel to the parking ramp. While I was monitoring the area I learned that the suspect was a Hispanic male. Eventually Officer Johnson sent an email with surveillance photos of the suspect and another male. Since we now had a photo of the suspect, I decided to go back to the Hyatt parking lot to run license plates. (Officers Fox and Delsart replaced me) I could not find any registered owners who seemed to match the description of the males whom we were trying to ID. As soon as I finished running license plates, I learned that the suspect may be in room 606. Sergeant Peterson agreed to go with me, and we went up to the room to make contact. Sergeant Peterson knocked on the door and a male, later identified as Fidel NMI Martinez-Cruz 07-10-99, opened the door. (Fidel matched the suspect's description, that the victim provided, and also looked like the person in the surveillance photo) It appeared that Fidel didn't speak English, so I asked him to come out into the hallway. I asked him to do so in Spanish. Fidel agreed to do so.

Eventually another male came to the door. That male, identified as Jose A Rojas-Vega 11-21-82, spoke English. Jose provided his ID card, and went back into the room to look for Fidel's. When he did so I asked if we could come inside the room. Jose granted us permission to enter

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the room. Once inside the room, I saw that the bathroom door was closed. Since I knew that the incident occurred in the pool area, I suspected that the swimsuit that the suspect was wearing may be inside. I then obtained consent to open the bathroom door, from Jose, and went back inside the room.

When I opened the door, I saw that there were two swimsuits in the sink. One of the swimsuits appeared to match the swimsuit that the suspect was wearing, in the photo, so Officer Johnson asked Fidel when swimsuit was his. Fidel identified the swimsuit of interest as his, so it was seized as evidence.”

Complainant is aware that the defendant gave a statement to Ofc. Gonzalez-Rodriguez in which he denied sexually assaulting Victim 1.

3. Complainant has reviewed the report of Ofc. Fischer, which states, in part:

“On Monday August 19, 2024, I Officer Grant Fischer was in full uniformed patrol in the City of Green Bay as 2F2, training Probationary Officer Rivera. At approximately 18:00 hours, we were dispatched to a sexual assault that was reported by a minor. Dispatch notes indicated the victim was a female named Victim 2 (a 17 year old female) and her last known address was [REDACTED].

Upon arrival, Officers contacted Victim 2, and she came outside on the sidewalk to speak with us. Victim 2 was very reserved at first and was hesitant to speak, however she seemed very emotional about what had happened. Officers explained to her that we wanted to be able to assist her in any way we could, even if it was just finding her someone to talk to. Victim 2 expressed that even her own mother did not know about what had happened. Victim 2 then explained to Officers that on August 7th , 2024, she and her two friends were at Fiesta Latina Restaurant at 1911 University Ave. sometime in the evening. She stated that a group of male Hispanics had paid for their meal and were trying to talk to them. One of Victim 2 's friends really wanted to go visit the males who allegedly had a room at the Hyatt Hotel at 333 Main St. Green Bay, WI 54301. Victim 2 said that since her friend was demanding to visit, she brought her to the hotel to meet up with the guys around 23:00 hours. At first Victim 2 was just going to drop her and her other friend off and leave. However, Victim 2 got worried and followed them inside. Victim 2 stated she can 't remember the room number, but she could point it out if she was there.

When in the hotel, Victim 2 said she was given a beer to drink. After drinking it, Victim 2 said that her memory became spotty. She stated she ended up waking up with a male Hispanic named Jorge on top of her with his penis inside of her vagina. She stated she then pushed him off and got out of the room. Victim 2 then found her friend passed out in a different part of the hotel room. Victim 2 helped pick her up and brought her out of the hotel and to her car. Victim 2 did not know where her other friend ended up going, since she was 18 and did not know her very well.

Victim 2 was adamant that she did not want her mother to know and would not give her friends information at this time. She did however tell us that Jorge has been trying to call her, but she has been ignoring the calls. His phone number was 224-465-0129, which also came with a photo of him. Officer Rivera took a picture of this photo and uploaded it to Axon.”

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4. Complainant has reviewed the report of Det. Beck, which states in part:

"I was assigned this case to investigate. I reviewed the details of the case which describe how the victim, identified as Victim 2 was hanging out with friends on or around the date of August 7, 2024. They met some males at a local restaurant, and they all went to the Hyatt Regency Hotel at 333 Main St, Green Bay, Brown County, Wisconsin. While at the hotel and in a hotel room Victim 2 was given a beer to drink. She drank some of the beer and then blacked out. Victim 2 woke up to a male, she only knew as "Jorge ", having penis to vagina sexual intercourse with her. Victim 2 fought this male off and eventually left. Victim 2 had "Jorge 's " What 's App phone number which was (224)465-0129. Victim 2 provided a photograph she had of "Jorge ".

I conducted a police records search for the above phone number. There was on entry for that number showing it was associated with Fidel (NMI) Martinez-Cruz 07/10/1999 and there was only one entry for Fidel. Fidel was arrested on August 19, 2024, for an extremely similar incident. Fidel was arrested for sexual assault that occurred at the Hyatt Regency Hotel. I viewed Axon body camera footage from this incident and Fidel is the same person that Victim 2 knew as "Jorge ".

5. Complainant has reviewed the report of Det. Harvath, which states, in part:

"On Tuesday, August 20 th , 2024 I, Detective Harvath with the Green Bay Police Department (GBPD), assisted Detective Beck by administering a photo lineup reference this case. I have limited prior knowledge of this case/investigation, which is to say I gathered enough information to provide context for the photo lineup. I administered the photo lineup to Victim 2.

In my administration of the photo lineup I first read the eyewitness identification instructions to VICTIM 2 . The photo lineup pertained to "the person who was seen assaulting VICTIM 2. " I went through the photo lineup twice. On both occasions VICTIM 2 identified photo/folder #3 as the person who was seen assaulting VICTIM 2. I observed a visible change in VICTIM 2 ' demeanor (altered breathing pattern, watery eyes) when she observed photo/folder #3. I asked VICTIM 2 how certain she was photo/folder #3 was of the person who was seen assaulting VICTIM 2, and VICTIM 2 told me her certainty level was 10 on a scale of 1 to 10 with 1 being not certain at all and 10 being completely certain. Conversely, VICTIM 2 was certain none of the other photos/folders were related to the investigation."

Based on the foregoing, the complainant believes this complaint to be true and correct.

Subscribed and sworn to before me on
08/21/24

Electronically Signed By:

Kimberly A Hardtke

Assistant District Attorney

State Bar #: 1087991

Electronically Signed By:

J. Foss Davis

Complainant

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