

STATE OF WISCONSIN CIRCUIT COURT MILWAUKEE COUNTY

STATE OF WISCONSIN

Plaintiff,

DA Case No.: 2018ML016811

Court Case No.:

vs.

CRIMINAL COMPLAINT

WELTON, KEVIN D
9134 WATERSIDE STREET
MIDDLETON, WI 53562
DOB: 02/06/1960

Defendant(s).

For Official Use

THE BELOW NAMED COMPLAINANT BEING DULY SWORN, ON INFORMATION AND BELIEF STATES THAT:

COUNT ONE: FIRST DEGREE CHILD SEXUAL ASSAULT - CONTACT WITH A CHILD UNDER AGE 13

The above-named defendant on or about Sunday, December 20, 2010, at 2529 Allen Boulevard, in the City of Middleton, Dane County, Wisconsin, did have sexual contact with a person who has not attained the age of thirteen, AS, DOB 09/04/2004, contrary to sec. 948.02(1)(e), 939.50(3)(b) Wis. Stats.

Upon conviction for this offense, a Class B Felony, the defendant may be sentenced to a term of imprisonment not to exceed sixty (60) years.

COUNT TWO: FIRST DEGREE CHILD SEXUAL ASSAULT - SEXUAL CONTACT WITH A CHILD UNDER AGE 13

The above-named defendant on or about Saturday, June 09, 2018, at 2529 Allen Boulevard, in the City of Middleton, Dane County, Wisconsin, did have sexual contact with a person who has not attained the age of thirteen, ES, DOB 11/16/2010, contrary to sec. 948.02(1)(e), 939.50(3)(b) Wis. Stats.

Upon conviction for this offense, a Class B Felony, the defendant may be sentenced to a term of imprisonment not to exceed sixty (60) years.

Probable Cause:

This complaint is supported by the written reports of City of Middleton law enforcement officers whose written reports were prepared through the normal course of police business and which your complaining witness has relied upon in the past and found to be truthful and accurate. Based on a review of the reports pertaining to the investigation of this matter, your complaining witness believes that:

AS TO COUNT ONE:

On December 22, 2010, City of Middleton Police Officer Dan Jones responded Harbor Athletic Club, 2529 Allen Boulevard, in the City of Middleton, County of Dane, to investigate a sexual assault complaint. Upon arriving on scene, Officer Jones met with Mary Peterson, a swimming instructor at Harbor Athletic Club, who provided the following information to Officer Jones.

On December 20, 2010, Mary Peterson was providing swimming lessons to six-year-old AS 9/4/2004 DOB at Harbor Athletic Club. The defendant, Kevin Welton (whom Mary Peterson knew), was also swimming in the pool at the time of AS's lesson. During the lesson, Mary Peterson noticed that the defendant appeared to be staring at her. After the swimming lesson was over, Mary Peterson exited the pool and went to the shower area. AS remained in the pool to swim.

Approximately five minutes later, Mary Peterson was approached by AS and AS's mother. AS disclosed that the defendant touched AS's private area. AS identified the defendant to AS's mother, who was outside of the pool.

City of Middleton Police Detective Kim Wood conducted an interview of AS, who provided the following information to Detective Wood. AS disclosed that a "scary man" touched AS's private area in the swimming pool on the above date, at the above location. AS pointed to the vaginal area on an anatomical drawing and said the man put one hand on her "private part" and his second hand on her butt and then squeezed hard causing pain. The man's actions made AS feel sad and mad. AS immediately disclosed to her mother and then told the swimming teacher.

On December 29, 2010, Detective Wood made phone contact with the defendant and asked the defendant to come in for an interview. The defendant admitted knowing what the interview was about and arranged to meet with police the following day. The defendant denied touching AS's vagina or buttocks, but admitted AS may have "brushed me" as AS passed the defendant in the pool.

Detective Wood asked the defendant if he ever placed his hands on a child's vaginal area or buttocks while in the pool at Harbor Athletic Club. The defendant responded, "not that I can remember."

AS TO COUNT TWO:

On June 9, 2018, citizen witness BK dropped her seven-year-old daughter, identified hereinafter with initials ES 11/16/2010 DOB, off at a child birthday party located at Harbor Athletic Club, 2529 Allen Boulevard, in the City of Middleton, County of Dane.

Upon picking ES up later that day, BK noticed that ES immediately became upset. ES asked BK if ES could tell BK about something scary that happened at the birthday party involving a "scary man." ES disclosed that a scary man touched her front private parts twice while ES was swimming at the birthday party. Based on ES's disclosure, BK contacted the Middleton Police.

Officer Kathleen Riffenburg interviewed ES. During the interview ES disclosed playing with friends in the outdoor swimming pool on the above date, at the above location, when ES accidentally bumped into a man in the pool. The man put his hand under the water and touched ES's front private part (ES demonstrated how the man touched her by touching her vagina area with her hand). ES said the man's finger may have gone in ES's vagina a little. ES backed away from the man slowly in order to get the man to stop.

ES went back to playing with her friends at the party. A while later, ES went to get a squirt gun to use with her friends. As ES was in the process of getting the squirt gun, the same man reached out his hand a second time and touched ES on her front private part.

ES described the man as older, having a goatee style beard with curly hair, and wearing underwear style swimming trunks that were dark blue. The man's actions, touching ES on her privates twice, made ES feel scared and mad.

After interviewing ES, Officer Riffenburg went to Harbor Athletic Club and made contact with Brian Kuehn, an employee of the club that assisted Officer Riffenburg in reviewing surveillance video.

Upon reviewing the surveillance video, Officer Riffenburg located a male subject that matched the description provided by ES. ES accidentally bumps into the man as the man is swimming. The man comes out of the water and is face-to-face with ES. The man's right hand is not visible. ES slowly begins to back away from the man as the man looks back and forth. ES then swims to the south end of the pool.

Approximately sixteen minutes later, the man is observed looking in ES's direction and swimming over to ES. The man's right arm moves in ES's direction and ES reacts immediately. ES moves away from the man, gets out of the pool, retrieves a squirt gun, and gets back into the pool. As ES gets back into the pool, ES looks at the man and immediately moves away from the man.

Within two minutes of ES getting out of the swimming pool with her friends, the man also leaves the pool.

Brian Kuehn reviewed the surveillance video, watched when the male subject originally checked into the club and then reviewed club records to verify that the male subject was the above defendant, Kevin Welton. Brian Kuehn verified knowing the defendant for several years as the defendant has been a long term patron of the Harbor Athletic Club.

After reviewing the surveillance video, Officer Riffenburg reports that the defendant appeared to track ES's location in the swimming pool so that the defendant could place himself in close proximity to ES numerous times.

**NOTICE OF INTENT TO INTRODUCE THE VIDEORECORDED STATEMENTS OF ES AT TRIAL
UNDER WISCONSIN STATE STATUTE § 908.08**

On June 18, 2018, Allison Flatow, a person with specialized training and experience in conducting forensic interviews of children following the Wisconsin Forensic Interview Guidelines, conducted a recorded forensic interview of ES at the Child Advocacy Center, 619 W. Walnut Avenue, in the City of Milwaukee. Allison Flatow operated the recording equipment.

During the forensic interview, ES demonstrated an understanding of the difference between a truth and a lie, that there were negative consequences to telling a lie, and that it was important to tell the truth. ES promised to tell the truth.

ES disclosed being at a friend's birthday party when a man touched ES's front private part while ES and the man were in a swimming pool. ES demonstrated that the man was rubbing ES's vagina. ES disclosed that the man touched ES's vagina a second time with the man's hand while at the birthday party.

On June 22, 2018, Detective Dave Haselow of the Middleton Police Department conducted an interview of the defendant, during which the defendant made the following statements.

The defendant was asked if he worked out at Harbor Athletic Club, to which the defendant responded that he cancelled his membership because he could not work out as he wanted to. (Actually, the defendant was prohibited from Harbor Athletic Club after the second sexual assault occurred).

With regards to the events of June 9, 2018, the defendant claimed that the pool was filled with children and "there is going to be contact" because "people were flailing around".

The defendant was confronted with ES's disclosure and the fact that there was surveillance video from the pool. In response, the defendant said, "I must have had contact with her" and "I really wouldn't have

meant to do that, but if it happened, it happened.” When confronted with the evidence, the defendant eventually admitted that he “groped her [ES].”

The defendant was confronted with the 2010 incident and claimed that AS “was launched” at the defendant while the defendant was in the pool.

****End of Complaint****

Electronic Filing Notice:

This case was electronically filed with the Milwaukee County Clerk of Circuit Court office. The electronic filing system is designed to allow for fast, reliable exchange of documents in court cases. Parties who register as electronic parties can file, receive and view documents online through the court electronic filing website. A document filed electronically has the same legal effect as a document filed by traditional means. You may also register as an electronic party by following the instructions found at <http://efiling.wicourts.gov> and may withdraw as an electronic party at any time. There is a \$ 20.00 fee to register as an electronic party. If you are not represented by an attorney and would like to register an electronic party, you will need to contact the Clerk of Circuit Court office at 414-278-4120. Unless you register as an electronic party, you will be served with traditional paper documents by other parties and by the court. You must file and serve traditional paper documents.

Criminal Complaint prepared by Matthew J. Torbenson.

Subscribed and sworn to before me on 08/02/18

Electronically Signed By:

Matthew J. Torbenson

Deputy District Attorney

State Bar #: 1049925

Electronically Signed By:

Dave Haselow

Complainant