

CIRCUIT COURT
STATE OF WISCONSIN CRIMINAL DIVISION MILWAUKEE COUNTY

STATE OF WISCONSIN	Plaintiff	AMENDED CRIMINAL COMPLAINT
	vs.	
Dabney, Bobby R. Waupun Correctional Institution (D.O.B.: March 16, 1963)		Complaining Witness: Detective Lori Gaglione DA Case Number: 00XF8921 Circuit Court Case Number:
	Defendant(s)	

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

COUNT 01: KIDNAPPING (CARRIES FORCIBLY)

On December 7, 1994, beginning in the 4300 block of North 60th Street and continuing to two locations in between North 60th Street and the corner of 91st Street and Appleton Avenue, City of Milwaukee, by threat of imminent force did carry the victim from one place to another without consent and with intent to cause her to be held to service against her will contrary to Wisconsin Statutes section 940.31(1)(a).

COUNT 02: SEXUAL ASSAULT, FIRST DEGREE (ARMED)

On December 7, 1994, beginning in the 4300 block of North 60th Street and continuing to two locations in between North 60th Street and the corner of 91st Street and Appleton Avenue, City of Milwaukee, did have sexual contact (hand to breast) with the victim without consent by threat of use of a dangerous weapon contrary to Wisconsin Statutes Section 940.225(1)(b).

COUNT 03: SEXUAL ASSAULT, FIRST DEGREE (ARMED)

On December 7, 1994, beginning in the 4300 block of North 60th Street and continuing to two locations in between North 60th Street and 91st and Appleton Avenue, City of Milwaukee, did have sexual intercourse (penis to mouth) with the victim without consent by threat of use of a dangerous weapon contrary to Wisconsin Statutes Section 940.225(1)(b).

COUNT 04: SEXUAL ASSAULT, FIRST DEGREE (ARMED)

On December 7, 1994, beginning in the 4300 block of North 60th Street and continuing to two locations in between North 60th Street and the corner of 91st Street and Appleton Avenue, City of Milwaukee, did have sexual contact (hand to breast) with the victim without consent by threat of use of a dangerous weapon contrary to Wisconsin Statutes Section 940.225(1)(b).

COUNT 05: SEXUAL ASSAULT, FIRST DEGREE (ARMED)

On December 7, 1994, beginning in the 4300 North 60th Street and continuing to two locations in between North 60th Street and the corner of 91st Street and Appleton Avenue, City of

Milwaukee, did have sexual intercourse (penis to mouth) with the victim without consent by threat of use of a dangerous weapon contrary to Wisconsin Statutes Section 940.225(1)(b).

AS TO COUNT 01:

Upon conviction of this charge, a Class B Felony, the maximum possible penalty is imprisonment for not more than 40 years

AS TO COUNT 02:

Upon conviction of this charge, a Class B Felony, the maximum possible penalty is imprisonment for not more than 40 years

AS TO COUNT 03:

Upon conviction of this charge, a Class B Felony, the maximum possible penalty is imprisonment for not more than 40 years

AS TO COUNT 04:

Upon conviction of this charge, a Class B Felony, the maximum possible penalty is imprisonment for not more than 40 years

AS TO COUNT 05:

Upon conviction of this charge, a Class B Felony, the maximum possible penalty is imprisonment for not more than 40 years

Complainant states that she is a City of Milwaukee Police Detective and bases this complaint upon various reports from fellow City of Milwaukee Police Officers and Detectives, from her own investigation, from medical records from the Women's Assessment Center at Mount Sinai-Samaritan Hospital, and reports from the Wisconsin State Crime Laboratory, all of which she has used in the past and found them to be truthful and reliable.

Your complainant states that the victim reported that in the early morning hours of December 7, 1994, she was waiting for a bus in the shelter on the corner of 60th Street and Congress Street, city and county of Milwaukee, Wisconsin, when an unknown male individual approached her and engaged her in small talk. At some point, this unknown male individual asked her "Did you ever see a.38 before?" The victim stated that this unknown male individual then pulled a black revolver out of his right jacket pocket and showed it to her. The victim stated that this unknown male individual also asked her if she had ever been robbed before. The victim stated that all of a sudden, this unknown male individual came up from behind her, put the gun in her lower back area, told her not to turn around, told her not to say anything, and grabbed her arm and then hit her with his fist in her head and told her to "shut up." The victim stated that this unknown male individual then walked her westbound on Congress Street to a car lot at 4357 North 60th Street, whereupon this unknown male individual took off her scarf

and proceeded to tie her hands behind her back with her scarf. The victim stated that this individual also took her ear warmers and placed them over her eyes and then pulled down her knit cap over the ear warmers. The victim stated that this unknown male individual then guided her down an alley to a car and that she was pushed into the car, told to slide over whereupon the unknown male individual also got in the car and started it up. The victim stated that this unknown male individual told her "Don't put your hat up or your head 'cause I'll shoot you." The victim stated that the car began moving and that she believed they drove around for approximately 5-10 minutes when the car stopped. The victim states that this unknown male individual untied her hands and took off her coat and then began unbuttoning her dress. The victim stated that this unknown male individual did take off her dress and then reached under her shirt and bra and began fondling her breasts telling her that she had a pretty body and chest. The victim stated that this unknown male individual then pulled his pants down and pulled out his penis and then took one of his hands and pushed her head down onto his penis and forced his penis into her mouth and made her suck it. The victim stated that he kept his hand on her head and directed her head up and down and told her that if she "did that good", that he would take her home and would not kill her. The victim stated that this unknown male individual ejaculated in her mouth. The victim stated that the unknown male then pulled his pants up, told her to get dressed, and then started to drive the car again. The victim stated that he kept asking her questions about her life and after driving around for approximately 5 minutes, this unknown male pulled the car over and again turned off the car. The victim stated that this unknown male individual told her that if she wanted to get home alive, that she would have to make him "cum" again. The victim stated that he again pulled his pants down and pushed her head down with his hand and forced his penis into her mouth. The victim stated that he also fondled her breasts while he was doing this and that he again ejaculated in her mouth. The victim stated that he then dropped her off at the corner of 91st Street and Appleton Avenue, city and county of Milwaukee, Wisconsin, whereupon she ran to the Sentry store where she saw her mother. The victim stated that she was 15 years old at the time of the assaults and that she had a date of birth of April 14, 1979. The victim further stated that she did not give this unknown male individual permission to touch her breasts or put his penis into her mouth. The victim stated that once she got to the Sentry store, she told her mother what happened and that the police were summoned to the scene.

Your complainant states that the victim was subsequently transported to the Women's Assessment Center for examination and for the gathering of evidence. Your complainant further bases this complaint upon the reports of Nurse Lorie Marshall from the Sexual Assault Treatment Center at Sinai-Samaritan Medical Center who reported that she examined the victim on December 7, 1994, and that she took oral swabs and saliva samples from the victim and secured these samples as evidence. Marshall also reported that she took a blood standard from the victim and also secured that blood standard as evidence. Your complainant further states that on February 9, 1995, City of Milwaukee Police Officer Loree Rapp retrieved the evidence taken by Nurse Marshall and placed the oral swabs and saliva sample and blood standard from the victim on Milwaukee Police Property Inventory number 1511683. Your complainant further states that on February 9, 1995, City of Milwaukee Police Officer Jack Champion transported the oral swabs and saliva sample and blood standard from the victim to the Wisconsin State Crime Laboratory and turned those items over to Dirk Janssen, serologist at the Wisconsin State Crime Laboratory.

Your complainant further base this complaint upon the reports of Sharon Tagg, serologist with the Wisconsin State Crime Laboratory, who reported on March 24, 1995, that she examined the oral swabs and saliva standard which were taken from the victim at the Sexual Assault Treatment Center and reported that she detected semen on the saliva standard. Your complainant further bases this complaint on the report of Laura Kwart, serology/DNA analyst, dated November 17, 2000 in which Kwart reported that the saliva standard which was taken by Nurse Marshall from the victim which contained semen was analyzed for Deoxyribonucleic Acid using the Polymerase Chain Reaction (PCR) Technique as well as a blood standard from the victim. Kwart reported that she developed a DNA profile that was foreign to the victim for the genetic locations D3S1358, vWA, FGA, D8S1179, D21S11, D18S51, D5S818, D13S317, D7S820, D16S539, THO1, TPOX, CSF1PO from the semen on the saliva standard which was taken by Nurse Marshall from the victim. Kwart reported that this foreign DNA profile would be maintained in the Wisconsin DNA databank for searching against other databank profiles. Your complainant further bases this complaint upon the further statements of Laura Kwart who reported that using the FBI Population database, the probability of randomly selecting an unrelated individual who would have a DNA profile that matches these 13 genetic locations is approximately 1 in 750 million in the Caucasian population, 1 in 630 million in the Black population, and 1 in 1.5 billion in the Hispanic population.

Your complainant further bases this complaint upon the statements of Dirk Janssen, forensic science supervisor, Wisconsin State Crime Laboratory, in which he stated that the Wisconsin State Crime Laboratory in Milwaukee operates and maintains a DNA database case index. That this index is comprised of DNA profiles from unsolved sexual assault cases. Janssen stated that the case index of the Wisconsin DNA databank is used for searching for matching profiles from unsolved or nonsuspect sexual assault cases that have genetic profiles foreign to the victim. Janssen further stated that the case index of the Wisconsin DNA databank is used for searching against the convicted offender index of the Wisconsin DNA databank to determine whether any convicted felons who have submitted DNA samples could match any of the unsolved or nonsuspect cases in the casework index. Janssen stated that the foreign DNA profile from the semen from the saliva standard of the victim was run against the convicted offender index of the Wisconsin DNA databank on December 18, 2000 and that no matches to the profile from the known offenders were obtained. Janssen stated that this unknown person involved in the sexual assault of the victim can be expected to have a profile that matches the foreign DNA profile from the semen recovered from the saliva standard of the victim. Janssen further stated that he intends to run this foreign DNA profile against the Wisconsin convicted offender databank on a monthly basis and further states that this DNA profile has been uploaded into the National Indexing System, operated by the FBI, and that routine searches of convicted offender databanks nationally are run every month.

Your complainant further bases this complaint upon the statements of Daniel Haase, serologist/DNA analyst at the Wisconsin State Crime Laboratory, who reported that on February 27, 2001, Haase examined data generated by the Wisconsin DNA Databank system and determined that there was a match between a convicted offender DNA profile with the foreign DNA profile from the saliva standard which was obtained from the victim by Nurse Lorie Marshall at the Sexual Assault Treatment Center and subsequently analyzed by Sharon Tagg

and Laura Kwart at the Wisconsin State Crime Laboratory who determined that the saliva standard contained semen and that a DNA profile foreign to the victim was found at the above-described genetic locations. Haase stated that this foreign DNA profile from the semen from the saliva standard taken from the victim matched the DNA profile of a convicted offender. Haase stated that in August of the year 2000 the Wisconsin State Crime Laboratory entered into a contract with The Bode Technology Group in Springfield, Virginia and that The Bode Technology Group agreed to perform PCR analysis on all convicted offender samples that had previously been analyzed under the DNA RFLP procedure. Haase stated that under Wisconsin Law, any individual who was on parole, probation, or in the Wisconsin State Prison on August 12, 1993, had to provide a DNA sample on an oral swab to be subsequently entered into the Convicted Offender Index of the Wisconsin DNA Databank. Haase stated that the convicted offender DNA profile match that he obtained on February 27, 2001, came from data he received from The Bode Technology Group who analyzed the oral swab of the convicted offender pursuant to Wisconsin Law. Haase stated that The Bode Technology Group examines large numbers of oral swabs utilizing DNA-PCR technology and generates DNA profiles from those oral swabs of convicted offenders and then sends that data to the Wisconsin State Crime Laboratory. Haase stated that The Bode Technology Group uses the same genetic markers for analysis as the Wisconsin State Crime Laboratory. Haase stated that he personally reviews all data from The Bode Technology Group and makes a determination whether the DNA profile data generated from the convicted offender oral swabs by The Bode Technology Group meets quality control and quality assurance standards at the Wisconsin State Crime Laboratory. Haase stated that he did examine the data generated by The Bode Technology Group and agreed that the DNA profiles developed by The Bode Technology Group met those standards. Haase further stated that one of the convicted offender oral swabs that was sent to The Bode Technology Group for examination was a convicted offender swab with Wisconsin DNA databank identification number D96-0320, this being the 320th convicted offender DNA sample collected in the year 1996. Haase stated that Wisconsin DNA identification number D96-0320 was collected on February 14, 1996 by Cheryl Schroeder at the Waupun Correctional Institution. Haase stated that the Wisconsin State Crime Laboratory received the convicted offender oral swabs pertaining to Wisconsin DNA Databank identification number D96-0320 on February 15, 1996 and later forwarded this convicted offender DNA sample with a batch of other convicted offender DNA samples to The Bode Technology Group on October 4, 2000 for analysis. Haase stated that on December 29, 2000, The Bode Technology Group returned that batch of samples after analysis and that Wisconsin DNA Databank identification number D96-0320 was contained in that batch of convicted offender profiles and that Haase reviewed this data pertaining to Wisconsin DNA Databank identification number D96-0320 to see if the data generated by The Bode Technology Group met the quality control and quality assurance standards of the Wisconsin State Crime Laboratory. Haase further stated that he reviewed all the data from The Bode Technology Group pertaining to the convicted offender oral swabs of Wisconsin DNA Databank identification number D96-0320 and determined that the DNA profile was an acceptable DNA profile and could be entered into the Convicted Offender Index of the Wisconsin DNA Databank system so that this convicted offender DNA-PCR profile could be searched against the forensic index of the Wisconsin DNA Databank system, which contained DNA profiles from casework samples, many of which are unsolved sexual assault cases. Haase reported that on January 26, 2001, he uploaded the DNA-PCR profile from the

convicted offender oral swabs under Wisconsin DNA Databank identification number D96-0320 which was developed by The Bode Technology Group into the Wisconsin DNA Convicted Offender Databank in order to search statewide against the forensic case index of the Wisconsin DNA Databank system. On February 26, 2001, Haase stated that he began a routine search of the forensic case index against the convicted offender index and that on February 27, 2001 he determined that there was a match between the foreign DNA-PCR profile from the semen on the saliva standard from the victim and the convicted offender oral swabs under Wisconsin DNA Databank identification number D96-0320. Haase stated that he then checked this DNA-PCR profile from the convicted offender databank against the forensic DNA profile developed by Laura Kwart. Haase stated that he pulled the original case folder which contained the DNA-PCR profile developed by Laura Kwart from the saliva standard of the victim and compared that profile with the profile in the forensic case index of the Wisconsin DNA Databank and determined that the profile in the forensic sample matched the DNA profile which was in the forensic case index. Haase further stated that he also pulled out the actual DNA-PCR profile developed by The Bode Technology Group from the convicted offender oral swab under Wisconsin DNA Databank identification number D96-0320 and determined that this profile did match the DNA-PCR profile that was in the convicted offender databank. Haase stated that he was satisfied that the correct DNA-PCR profiles developed from the semen on the saliva standard of the victim and the DNA profile developed from the convicted offender oral swab submitted to The Bode Technology Group were both properly and accurately transferred into the forensic case index and the convicted offender index, respectively, of the Wisconsin DNA Databank system. Haase further reported that on March 1, 2001, Haase examined the DNA databank records which are maintained at the Wisconsin State Crime Laboratory in Milwaukee and retrieved the DNA databank information sheet pertaining to Wisconsin DNA identification number D96-0320. Haase stated that this DNA databank information sheet is generated at the time of collection of oral swabs and that the sheet contains the identifying information about the convicted offender from whom the oral swabs are obtained and that the oral swabs from the convicted offender under Wisconsin DNA identification number D96-0320 were collected on February 14, 1996 at the Waupun Correctional Institution and that these oral swabs were collected from convicted offender Bobby R. Dabney, African-American male, with a date of birth of March 16, 1963. Haase further stated that this DNA databank information sheet pertaining to the collection of the DNA sample from Bobby R. Dabney also contains fingerprints taken from the convicted offender at the time of collection of the oral swabs and that these fingerprints from the convicted offender are affixed to the DNA databank information sheet as well as to each of the oral swabs collected from the convicted offender. Haase stated that he ran the fingerprints contained on the DNA databank information sheet pertaining to the collection of the oral swabs from Bobby R. Dabney through the State of Wisconsin Criminal Identification Records at the Department of Justice in Madison, Wisconsin, and that the fingerprints on the DNA databank information sheet of Bobby R. Dabney matched the fingerprints on file under the same state identification number for Bobby R. Dabney, confirming that Bobby R. Dabney was the source of the fingerprints affixed to the DNA databank information sheet. Haase further stated that the fingerprints contained on the oral swabs themselves which were collected from Bobby R. Dabney were also run through the State of Wisconsin Criminal Identification Records and that those fingerprints also matched Bobby R. Dabney, confirming that Bobby R. Dabney was the source of the DNA sample in Wisconsin DNA identification number D96-0320. Haase further

reported that on March 7, 2001, he went to the DNA sample storage room at the Wisconsin State Crime Laboratory in Milwaukee and retrieved the remaining oral swab which was collected from Bobby R. Dabney at Waupun Correctional Institution on February 14, 1996 and performed DNA-PCR testing on the swab and confirmed that the DNA-PCR profile contained on the oral swab of Bobby R. Dabney matched the foreign DNA-PCR profile obtained from the semen on the saliva standard that was taken from the victim at the Sexual Assault Treatment Center by Nurse Lorie Marshall at the genetic locations D3S1358, vWA, FGA, D8S1179, D21S11, D18S51, D5S818, D13S317, D7S820, D16S539, THO1, TPOX, CSF1PO.

******End of Complaint******

**Subscribed and sworn to before me
and approved for filing on this**

_____ day of _____,
2001

**DEPUTY / ASSISTANT DISTRICT
ATTORNEY**

Complaining Witness

Norman A. Gahn\CMASK

-- FELONY COMPLAINT --

CIRCUIT COURT
STATE OF WISCONSIN CRIMINAL DIVISION MILWAUKEE COUNTY

STATE OF WISCONSIN

Plaintiff

INFORMATION

Vs.

Complaining Witness:

Dabney, Bobby R.
Waupun Correctional
Institution
(D.O.B.: March 16, 1963)

Detective Lori Gaglione

DA Case Number 00XF8921
Circuit Court Number

Defendant(s)

I, E. MICHAEL MC CANN, DISTRICT ATTORNEY FOR MILWAUKEE COUNTY, WISCONSIN, HEREBY INFORM THE COURT THAT THE ABOVE NAMED DEFENDANT (S) IN THE COUNTY OF MILWAUKEE, STATE OF WISCONSIN.

COUNT 01: KIDNAPPING (CARRIES FORCIBLY)

On December 7, 1994, beginning in the 4300 block of North 60th Street and continuing to two locations in between North 60th Street and the corner of 91st Street and Appleton Avenue, City of Milwaukee, by threat of imminent force did carry the victim from one place to another without consent and with intent to cause her to be held to service against his/her will contrary to Wisconsin Statutes section 940.31(1)(a).

COUNT 02: SEXUAL ASSAULT, FIRST DEGREE (ARMED)

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COUNT 03: SEXUAL ASSAULT, FIRST DEGREE (ARMED)

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DATED:

**E. Michael McCann
District Attorney**

**DEPUTY / ASSISTANT DISTRICT
ATTORNEY**

CMASK