

FILED  
05-18-2021  
Clerk of Circuit Court  
Kenosha County  
2021CF000596  
Honorable Larisa Benitez-  
Morgan  
Branch 1

STATE OF WISCONSIN      CIRCUIT COURT      KENOSHA COUNTY

STATE OF Wisconsin      **CRIMINAL COMPLAINT**  
Plaintiff,

vs.

DA Case #: 2020KN005800

MITCHEL H. SMITH  
[REDACTED]

Agency Case #: ksd 2020-00344015

Kenosha, WI 53140  
DOB: 02/08/1977  
Sex/Race: M/B  
Eye Color: Brown  
Hair Color: Black  
Height: 6 ft 0 in  
Weight: 195 lbs  
Alias: Also Known As Mitchell  
Howard Smith  
Also Known As Mitchell H. Smith  
Defendant.

For Official Use

The undersigned, being first duly sworn, states that:

**Count 1: SEXUAL ASSAULT OF A CHILD UNDER 16 YEARS OF AGE, LIFETIME SUPERVISION OF SERIOUS SEX OFFENDERS**

The above-named defendant on or about Friday, September 27, 2019, in the Village of Somers, Kenosha County, Wisconsin, did have sexual intercourse with a child under the age of sixteen, MMF, DOB 09/28/2005, contrary to sec. 948.02(2), 939.50(3)(c), 939.615(2)(a) 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.

And further, invoking the provisions of sec. 939.615(2)(a) Wis. Stats., because this charge is a serious sex offense, pursuant to Section 939.615(1)(b)1, Wisconsin statutes, upon conviction, the State will seek to place the defendant on lifetime supervision.

**Count 2: CHILD ENTICEMENT, LIFETIME SUPERVISION OF SERIOUS SEX OFFENDERS**

The above-named defendant on or about Friday, September 27, 2019, in the Village of Somers, Kenosha County, Wisconsin, with intent to have sexual intercourse with the child in violation of Section 948.02, Wis. Stats., did cause a child, MMF, DOB 09/28/2005, who had not attained the age of 18 years to go into a room, contrary to sec. 948.07(1), 939.50(3)(d), 939.615(2)(a) Wis. Stats., a Class D Felony, and upon conviction may be fined not more than One Hundred Thousand Dollars (\$100,000), or imprisoned not more than twenty five (25) years, or both.

And further, invoking the provisions of sec. 939.615(2)(a) Wis. Stats., because this charge is a serious sex offense, pursuant to Section 939.615(1)(b)1, Wisconsin statutes, upon conviction, the State will seek to place the defendant on lifetime supervision.

**Count 3: EXPOSING GENITALS**

The above-named defendant on or about Friday, September 27, 2019, in the Village of Somers, Kenosha County, Wisconsin, for purposes of sexual arousal or gratification, did cause a child to expose their genitals, contrary to sec. 948.10(1) and (1)(a), 939.50(3)(i) Wis. Stats., a Class I Felony, and upon conviction may be fined not more than Ten Thousand Dollars (\$10,000), or imprisoned not more than three (3) years and six (6) months, or both.

#### **Count 4: DISORDERLY CONDUCT**

The above-named defendant on or about Friday, September 27, 2019, in the Village of Somers, Kenosha County, Wisconsin, while in a public or private place, did engage in violent, abusive, indecent, profane, boisterous, unreasonably loud or otherwise disorderly conduct, under circumstances in which such conduct tended to cause or provoke a disturbance, contrary to sec. 947.01(1), 939.51(3)(b) Wis. Stats., a Class B Misdemeanor, and upon conviction may be fined not more than One Thousand Dollars (\$1,000), or imprisoned not more than ninety (90) days, or both.

#### **Count 5: CONTRIBUTING TO THE DELINQUENCY OF A CHILD**

The above-named defendant on or about Friday, September 27, 2019, in the Village of Somers, Kenosha County, Wisconsin, being a person who is responsible for the child's welfare, by disregard of the welfare of the child, contribute to the delinquency of the child, contrary to sec. 948.40(2), 939.51(3)(a) Wis. Stats., a Class A Misdemeanor, and upon conviction may be fined not more than Ten Thousand Dollars (\$10,000), or imprisoned not more than nine (9) months, or both.

#### **Count 6: CHILD ENTICEMENT**

The above-named defendant on or about Friday, September 27, 2019, in the Village of Somers, Kenosha County, Wisconsin, with intent to deliver a controlled substance, did cause a child under the age of 18, MMF, DOB 09/28/2005, to go into a building, contrary to sec. 948.07(6), 939.50(3)(d) Wis. Stats., a Class D Felony, and upon conviction may be fined not more than One Hundred Thousand Dollars (\$100,000), or imprisoned not more than twenty five (25) years, or both.

#### **Count 7: 1ST DEGREE SEXUAL ASSAULT OF A CHILD UNDER AGE 16 BY USE OR THREAT OF FORCE OR VIOLENCE, LIFETIME SUPERVISION OF SERIOUS SEX OFFENDERS**

The above-named defendant on or about Sunday, September 29, 2019, in the Village of Somers, Kenosha County, Wisconsin, did have sexual intercourse with a person who has not attained the age of sixteen, MMF, DOB 09/28/2005, by use or threat of force or violence, contrary to sec. 948.02(1)(c), 939.50(3)(b), 939.615(2)(a) Wis. Stats., a Class B Felony, and upon conviction may be sentenced to a term of imprisonment not to exceed sixty (60) years.

And further, invoking the provisions of sec. 939.615(2)(a) Wis. Stats., because this charge is a serious sex offense, pursuant to Section 939.615(1)(b)1, Wisconsin statutes, upon conviction, the State will seek to place the defendant on lifetime supervision.

And furthermore, invoking the provisions of Wisconsin Statutes 939.616(1r) and (3), the defendant being 18 years of age or older at the time of the offense, the court shall impose a bifurcated sentence under s. 973.01. The term of the confinement in prison portion of the bifurcated sentence

shall be at least 25 years. Otherwise the penalties for the crime apply, subject to any applicable penalty enhancement.

#### **Count 8: CHILD ENTICEMENT, LIFETIME SUPERVISION OF SERIOUS SEX OFFENDERS**

The above-named defendant on or about Sunday, September 29, 2019, in the Village of Somers, Kenosha County, Wisconsin, with intent to have sexual intercourse with the child in violation of Section 948.02, Wis. Stats., did cause a child, MMF, DOB 09/28/2005, who had not attained the age of 18 years to go into a room, contrary to sec. 948.07(1), 939.50(3)(d), 939.615(2)(a) Wis. Stats., a Class D Felony, and upon conviction may be fined not more than One Hundred Thousand Dollars (\$100,000), or imprisoned not more than twenty five (25) years, or both.

And further, invoking the provisions of sec. 939.615(2)(a) Wis. Stats., because this charge is a serious sex offense, pursuant to Section 939.615(1)(b)1, Wisconsin statutes, upon conviction, the State will seek to place the defendant on lifetime supervision.

#### **Count 9: EXPOSING GENITALS**

The above-named defendant on or about Sunday, September 29, 2019, in the Village of Somers, Kenosha County, Wisconsin, for purposes of sexual arousal or gratification, did expose his genitals to a child, contrary to sec. 948.10(1) and (1)(a), 939.50(3)(i) Wis. Stats., a Class I Felony, and upon conviction may be fined not more than Ten Thousand Dollars (\$10,000), or imprisoned not more than three (3) years and six (6) months, or both.

#### **Count 10: SEXUAL ASSAULT OF A CHILD UNDER 16 YEARS OF AGE, LIFETIME SUPERVISION OF SERIOUS SEX OFFENDERS**

The above-named defendant on or about Monday, September 30, 2019, in the Village of Somers, Kenosha County, Wisconsin, did have sexual contact with a child under the age of sixteen, MMF, DOB 09/28/2005, contrary to sec. 948.02(2), 939.50(3)(c), 939.615(2)(a) 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.

And further, invoking the provisions of sec. 939.615(2)(a) Wis. Stats., because this charge is a serious sex offense, pursuant to Section 939.615(1)(b)1, Wisconsin statutes, upon conviction, the State will seek to place the defendant on lifetime supervision.

#### **Count 11: 1ST DEGREE SEXUAL ASSAULT OF A CHILD UNDER AGE 16 BY USE OR THREAT OF FORCE OR VIOLENCE, LIFETIME SUPERVISION OF SERIOUS SEX OFFENDERS**

The above-named defendant on or about Saturday, October 5, 2019, in the Village of Somers, Kenosha County, Wisconsin, did have sexual intercourse with a person who has not attained the age of sixteen, MMF, DOB 09/28/2005, by use or threat of force or violence, contrary to sec. 948.02(1)(c), 939.50(3)(b), 939.615(2)(a) Wis. Stats., a Class B Felony, and upon conviction may be sentenced to a term of imprisonment not to exceed sixty (60) years.

And further, invoking the provisions of sec. 939.615(2)(a) Wis. Stats., because this charge is a serious sex offense, pursuant to Section 939.615(1)(b)1, Wisconsin statutes, upon conviction, the State will seek to place the defendant on lifetime supervision.

And furthermore, invoking the provisions of Wisconsin Statutes 939.616(1r) and (3), the defendant being 18 years of age or older at the time of the offense, the court shall impose a bifurcated sentence under s. 973.01. The term of the confinement in prison portion of the bifurcated sentence shall be at least 25 years. Otherwise the penalties for the crime apply, subject to any applicable penalty enhancement.

### **Count 12: CHILD ENTICEMENT, LIFETIME SUPERVISION OF SERIOUS SEX OFFENDERS**

The above-named defendant on or about Saturday, October 5, 2019, in the Village of Somers, Kenosha County, Wisconsin, with intent to have sexual intercourse with the child in violation of Section 948.02, Wis. Stats., did cause a child, MMF, DOB 09/28/2005, who had not attained the age of 18 years to go into a room, contrary to sec. 948.07(1), 939.50(3)(d), 939.615(2)(a) Wis. Stats., a Class D Felony, and upon conviction may be fined not more than One Hundred Thousand Dollars (\$100,000), or imprisoned not more than twenty five (25) years, or both.

And further, invoking the provisions of sec. 939.615(2)(a) Wis. Stats., because this charge is a serious sex offense, pursuant to Section 939.615(1)(b)1, Wisconsin statutes, upon conviction, the State will seek to place the defendant on lifetime supervision.

### **Count 13: EXPOSING GENITALS**

The above-named defendant on or about Saturday, October 5, 2019, in the Village of Somers, Kenosha County, Wisconsin, for purposes of sexual arousal or gratification, did cause a child to expose their genitals, contrary to sec. 948.10(1) and (1)(a), 939.50(3)(i) Wis. Stats., a Class I Felony, and upon conviction may be fined not more than Ten Thousand Dollars (\$10,000), or imprisoned not more than three (3) years and six (6) months, or both.

### **Count 14: CAUSE MENTAL HARM TO CHILD**

The above-named defendant on or about Saturday, October 5, 2019, in the Village of Somers, Kenosha County, Wisconsin, did, while exercising temporary or permanent control of a child, cause mental harm to that child by conduct which demonstrates substantial disregard for the mental well-being of the child, contrary to sec. 948.04(1), 939.50(3)(f) Wis. Stats., a Class F Felony, and upon conviction may be fined not more than Twenty Five Thousand Dollars (\$25,000), or imprisoned not more than twelve (12) years and six (6) months, or both.

### **Count 15: SEXUAL ASSAULT OF A CHILD UNDER 16 YEARS OF AGE, LIFETIME SUPERVISION OF SERIOUS SEX OFFENDERS**

The above-named defendant on or about Friday, November 15, 2019, in the Village of Somers, Kenosha County, Wisconsin, did have sexual intercourse with a child under the age of sixteen, MMF, DOB 09/28/2005, contrary to sec. 948.02(2), 939.50(3)(c), 939.615(2)(a) 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.

And further, invoking the provisions of sec. 939.615(2)(a) Wis. Stats., because this charge is a serious sex offense, pursuant to Section 939.615(1)(b)1, Wisconsin statutes, upon conviction, the State will seek to place the defendant on lifetime supervision.

#### **Count 16: CHILD ENTICEMENT, LIFETIME SUPERVISION OF SERIOUS SEX OFFENDERS**

The above-named defendant on or about Friday, November 15, 2019, in the Village of Somers, Kenosha County, Wisconsin, with intent to have sexual intercourse with the child in violation of Section 948.02, Wis. Stats., did cause a child, MMF, DOB 09/28/2005, who had not attained the age of 18 years to go into a room, contrary to sec. 948.07(1), 939.50(3)(d), 939.615(2)(a) Wis. Stats., a Class D Felony, and upon conviction may be fined not more than One Hundred Thousand Dollars (\$100,000), or imprisoned not more than twenty five (25) years, or both.

And further, invoking the provisions of sec. 939.615(2)(a) Wis. Stats., because this charge is a serious sex offense, pursuant to Section 939.615(1)(b)1, Wisconsin statutes, upon conviction, the State will seek to place the defendant on lifetime supervision.

#### **Count 17: EXPOSING GENITALS**

The above-named defendant on or about Friday, November 15, 2019, in the Village of Somers, Kenosha County, Wisconsin, for purposes of sexual arousal or gratification, did cause a child to expose their genitals, contrary to sec. 948.10(1) and (1)(a), 939.50(3)(i) Wis. Stats., a Class I Felony, and upon conviction may be fined not more than Ten Thousand Dollars (\$10,000), or imprisoned not more than three (3) years and six (6) months, or both.

#### **Count 18: SEXUAL ASSAULT OF A CHILD UNDER 16 YEARS OF AGE, LIFETIME SUPERVISION OF SERIOUS SEX OFFENDERS**

The above-named defendant on or about Sunday, December 8, 2019, in the Village of Somers, Kenosha County, Wisconsin, did have sexual intercourse with a child under the age of sixteen, MMF, DOB 09/28/2005, contrary to sec. 948.02(2), 939.50(3)(c), 939.615(2)(a) 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.

And further, invoking the provisions of sec. 939.615(2)(a) Wis. Stats., because this charge is a serious sex offense, pursuant to Section 939.615(1)(b)1, Wisconsin statutes, upon conviction, the State will seek to place the defendant on lifetime supervision.

#### **Count 19: CHILD ENTICEMENT, LIFETIME SUPERVISION OF SERIOUS SEX OFFENDERS**

The above-named defendant on or about Sunday, December 8, 2019, in the Village of Somers, Kenosha County, Wisconsin, with intent to have sexual intercourse with the child in violation of Section 948.02, Wis. Stats., did cause a child, MMF, DOB 09/28/2005, who had not attained the age of 18 years to go into a room, contrary to sec. 948.07(1), 939.50(3)(d), 939.615(2)(a) Wis. Stats., a Class D Felony, and upon conviction may be fined not more than One Hundred Thousand Dollars (\$100,000), or imprisoned not more than twenty five (25) years, or both.

And further, invoking the provisions of sec. 939.615(2)(a) Wis. Stats., because this charge is a serious sex offense, pursuant to Section 939.615(1)(b)1, Wisconsin statutes, upon conviction, the State will seek to place the defendant on lifetime supervision.

### **Count 20: FALSE IMPRISONMENT**

The above-named defendant on or about Sunday, December 8, 2019, in the Village of Somers, Kenosha County, Wisconsin, did intentionally confine MMF, without that person's consent, and with the knowledge that he had no lawful authority to do so, contrary to sec. 940.30, 939.50(3)(h) Wis. Stats., a Class H Felony, and upon conviction may be fined not more than Ten Thousand Dollars (\$10,000), or imprisoned not more than six (6) years, or both.

### **PROBABLE CAUSE:**

Kenosha County Sheriff's Department Deputy Nicholas Moro prepared a report regarding allegations which took place in the Village of Somers, County of Kenosha, and State of Wisconsin, excerpts of which are below:

On 11/29/20 at approximately 1750 hours I, Deputy Moro #319, was dispatched to a sexual assault. Dispatch advised the caller, BMM (D.O.B 3/1/1984), would speak with me but the incident occurred at 1413 Sheridan Rd Kenosha, WI. Dispatch advised that the incident was involving her ex-boyfriend and her daughter and it happened last September.

BMM stated that since 2008 she was seeing Mitchel H. Smith (2-8-77). BMM stated that her and her daughter, MMF (D.O.B. 9/28/2005), lived with Mitchel until they broke up. BMM advised that they lived at numerous different address' throughout Kenosha. BMM stated that they remained in contact after they broke up and would still see each other. She stated on 9-29-2018, they had a child together, who she has full custody of. BMM stated that MMF, the new child, and her moved on 9-11-19 and that's when the incidents began taking place.

BMM stated that in approximately mid-September 2019 (start of 2019 school year), MMF began having issues in her school in Racine and wanted to go back to Kenosha schools. BMM advised due to her schedule and MMF wanting to switch school districts, Mitchel would begin having MMF stay over at his house and he would help get her enrolled in Washington Middle School. BMM stated that by doing this they could use Mitchel's address for the school's paperwork and she could be enrolled there.

BMM stated that Mitchel began picking up MMF at her house of 1703 Geneva St and would bring her to his house of 1413 Sheridan Rd in Kenosha to stay for a few days to a week at a time. Mitchel would keep MMF for days at a time because he would tell BMM that they had a lot more things to do and that he needed more time with her and the schools to get her enrolled. BMM stated this went on for a little while before MMF began asking to go shopping and hang out with Mitchel for reasons other than school. BMM stated that it got to a point where there was no progress being made getting MMF into a school and she stopped going to Mitchel's.

BMM stated she had no idea of the things going on between MMF and Mitchel until 11-28-20 when she picked MMF up from a friend's house at approximately 2200 hours. When she picked up MMF, they began talking and forgiveness was brought up. MMF informed BMM that

she could never forgive Mitchel. When asked why and what happened, MMF informed her that Mitchel had raped her. MMF stated this happened in 2019 when she was trying to transfer to Kenosha schools and staying at Mitchel's.

MMF informed BMM that Mitchell would give her alcohol and pills causing her to pass out at his house (1413 Sheridan Rd) and she would remember waking up during the black outs to him pulling off her clothing and inserting his penis into her vagina. MMF also informed her that Mitchel would put his penis in her mouth for oral sex. MMF informed BMM that Mitchel told her if she didn't have sex with him that BMM would send her to a mental hospital.

MMF told her mother she didn't tell her sooner due to being scared and not knowing how to tell anyone about it. MMF told her mother that the memories come back here and there.

I proceeded to speak to MMF about the incident with her mother present in the room. MMF stated she would be willing to speak with me about it. MMF informed me that she did not remember all of the exact dates but that she would tell me the things that occurred and the general time frame in order of occurrence. MMF advised me she was 14 years old when it happened.

MMF informed me that she has known Mitchel almost her whole life since her mom (BMM) has dated him for so long and that she looks at him as a step-dad to her. MMF advised that they all lived together for a while before her mother broke up with him and they moved to Racine while he stayed in Kenosha. MMF explained how when BMM and Mitchel had the new child, Mitchel began telling MMF how he wanted to get closer to her. MMF explained that they then began seeing each other more often.

MMF stated that they moved on (9-11-2019) and that's when she started seeing Mitchel more. MMF stated that Mitchel would come to their house and pick her up to stay the night at his residence of 1413 Sheridan Rd. MMF stated the first few nights she would stay there with him, they would play video games, watch movies, eat, and go to sleep in different beds/rooms. MMF stated he would drop her off back at home and pick her up for a few days at a time to stay with him. MMF advised that when she was with him, she would tell Mitchel how she was depressed and Mitchel would tell me my mom wants to take me to a mental health facility due to my depression. Mitchel then brought her home.

When MMF returned back to his residence to stay with him (Sept. 2019), Mitchel told her of another girl who was coming to the house to stay with them. Mitchel advised MMF that this other girl would use MMF's bed and that if she wanted to keep the room, she would have to have sex with him. MMF stated she was confused by this and felt uncomfortable and wanted to go home by this comment but didn't know how to respond.

Mitchel would tell MMF that other girls were willing to do it and that they were around her age (14). MMF asked Mitchel if she could go home and Mitchel advised that she was staying the night and that BMM would call the mental hospital if she goes home. MMF stated she stayed the night and slept in his bed while Mitchel stayed on the couch because she believed him.

MMF explained that the next morning, everything between them both was normal and nothing was mentioned about sex and they had a normal day together. That night, MMF stayed the night again and stayed in Mitchel's bed. MMF stated they watched a movie in his bed together and he fell asleep in the same bed as her overnight. MMF stated nothing physical happened

between them. MMF stated she proceeded to stay multiple other nights in a row where Mitchel would stay in the same bed and nothing physical would happen.

MMF advised me that after staying there a few nights, Mitchel began bringing up drinking alcohol with other people her age at his house. MMF stated they discussed drinking and she later went home to her mother's house for a few days before Mitchel picked her up again to stay at his house.

#### **Counts 4-6:**

MMF advised when Mitchel picked her up this time, he showed her a bottle of alcohol on the car ride to his residence. Mitchel told MMF to drink the alcohol. When MMF said no, Mitchel got mad and began to peer pressure MMF into drinking it with soda. MMF stated she was nervous and afraid and that's why she drank it because she didn't want him mad at her. MMF stated that she drank the alcohol and soda all the way to his residence where she started feeling sick and tired. MMF was unsure what the alcohol was.

MMF stated that when they got into his house, she wanted to go to bed but Mitchel told her she couldn't. Mitchel told MMF that she could go to sleep when she took a pill. Mitchel then handed MMF a pill and told her it was Adderall but told her they call it "orange." MMF described the pill as small, round and orange in color.

Mitchel informed MMF that it was for a party they were having later and that this would keep her up for it. MMF stated that she proceeded to take the pill and began feeling more tired and Mitchel kept giving her shots of alcohol to take. MMF did not know the alcohol he was giving her at this time and told him that she didn't want to take them. Mitchel began yelling at MMF to do it and then she took the shots because she became scared and didn't want him yelling at her. MMF stated that he then brought out a bottle of Crown Royal and he forced her to drink that as well by peer pressuring her.

She advised me that she started to feel as if she was about to fall asleep and he told her that she could go lay down. MMF went and laid down in Mitchel's bed and fell asleep fully clothed in her own clothing. MMF stated she remembered going to sleep when there was still daylight out and woke up to it still being daytime. MMF stated she remembered waking up and she was no longer wearing pants, but had underwear on, and had a different shirt on. She stated it was one of Mitchel's shirts. She proceeded to the kitchen where Mitchel told her that it was the next day and he handed MMF her phone from his pocket. MMF stated she observed it to be the next day and questioned him about the change of clothes. Mitchel informed her that she asked him for a shirt to sleep in last night.

MMF stated she did not remember doing that.

Mitchel informed MMF that they were going to go shopping and to get changed into normal clothes. MMF stated they went shopping and came back to his residence.

At Mitchel's he gave MMF another pill that was different from the Adderall. MMF was unsure what it was and asked what the pill would do to her. Mitchel told her that he wouldn't give her any bad pills and to not question it. MMF stated she took the pill because she was scared. Mitchel told her to sit on the couch after taking the pill and MMF stated that she blacked out on the couch.

#### **Counts 1-3:**



MMF stated she woke up in Mitchel's bed to Mitchel taking off her pants. MMF proceeded to black out again and wake up to Mitchel on top of her, naked. MMF stated at this time she could feel Mitchel's penis inside of her vagina and that she looked around the room but could not say anything. MMF stated that she blacked out again at this time. MMF stated that she would come in and out of consciousness to Mitchel being on top of her having vaginal intercourse with his penis inside of her. MMF stated the next thing she remembered was waking up in Mitchel's bed in the morning. MMF did not remember if she was clothed or not.

MMF stated she laid in bed until Mitchel came in the room and she asked to go home. MMF stated that Mitchel took her home later that day and nothing was discussed about what happened.

#### **Counts 7-9:**

MMF stated a few days later, she believed the date to be Sept 29, 2019, she went back to Mitchel's house because he kept asking her to hang out and come over again. MMF stated it was a normal day together until night came. MMF stated that Mitchel took MMF to his cousin, Raymond Hamilton [further investigation determined this man's actual name to be Henry Hammond], house.

I was informed the address of Raymond's residence was 6546 94<sup>th</sup> Ct, Kenosha, by BMM.

MMF informed me that they went downstairs to Raymond's basement where he began telling her how Mitchel was upset that she was not performing sexual acts with him when asked. MMF stated she explained to Raymond that she didn't want to. Raymond told her that she knows that with Mitchel at his house that, "whatever happens at his house stays at his house. The same goes here." Raymond continued telling her about all of the things Mitchel does for BMM and her and how she don't appreciate or trust Mitchel by not doing what he asks in return. Raymond then began asking her if she ever watched porn or have had sex before. MMF stated that his actions made her feel uncomfortable and scared and she wanted to go home. Ray proceeded to tell her to sit on the couch and he began talking to Mitchel away from her. MMF stated Mitchel saw her on her phone and told her to put it away. MMF explained that Mitchel was always trying to keep her off her phone around him.

MMF explained that Raymond then approached her and gave her a green Jell-O textured cube and told her to take it. Raymond told her it would make her feel like cats on catnip. MMF explained she took it because she was scared and that it tasted bad and made her throat burn.

MMF stated her and Mitchel then left and she began crying. On the drive to Mitchel's, he started asking her if she thought he was a pervert and why she wouldn't do anything sexual with him. MMF told Mitchel that she was 14 and it was illegal. Mitchel stated that age doesn't matter about anything.

Mitchel then pulled into a parking lot and he talked with her about when he was 18 years old and his mother got murdered. He claimed that this caused him to be stuck in a 18 year old state of mind and he still acts that way. Mitchel then began talking about age of consent around the world and she informed him that she didn't care about that. Mitchel started explaining how she has to stop thinking of him as a step-father to her and that's what is preventing her from performing sexual acts with him.

MMF stated they both stepped out of the car and they went for a walk. At the end of the walk, Mitchel asked MMF to kiss him and he grabbed her by the arms and kissed her before she could act. MMF stated that she was uncomfortable and afraid and that it lasted approximately six seconds. After he kissed her they got back into the car and went to Mitchel's. MMF stated she did not want to kiss him or from him to kiss her.

MMF stated they went back to Mitchel's residence where he gave her another pill that she did not know and he pressured me into taking it. Mitchel then grabbed her by her arm and took her to his room. MMF stated she was tired and feeling out of it after the pill and began blacking out. MMF stated she remembered laying on his bed and Mitchel grabbing her and pulling her off her bed.

MMF stated Mitchel told her to get on her knees and then forced her onto them. MMF stated that Mitchel then took his penis out of his pants and forced it into her mouth. MMF stated after a brief moment she blacked out and woke up to her being on his bed. MMF advised me that Mitchel was laying on the bed and she still had his penis in her mouth. MMF stated she was unsure of the position she was in at the time. MMF then blacked out and woke up again to Mitchel still having his penis in her mouth. MMF stated she blacked out again and woke up the next day laying in his bed fully clothed in her original clothing.

Mitchel was not in the bed when she woke up and she went into the living room where he was on the couch. MMF stated that Mitchel looked at her and said, "That was really good." Mitchel made MMF sit down and told her, "You are not allowed to tell anyone and if you do he had friends and ray had friends." MMF stated this statement scared her and he did not elaborate on what he meant by that. MMF stated she believed they would do something to her or her family.

MMF asked Mitchel when she could go home and he advised that she couldn't because BMM would send her to the mental health hospital. MMF stated she believed this and they later went to bed in Mitchel's bed. Nothing physical happened.

#### **Count 10:**

MMF stated she stayed the next night as well. MMF informed me that she is not sure what night it was between those two, but that she and Mitchel were playing video games together one of them. During that time Mitchel grabbed her by the waist and put her on top of his lap. MMF stated that he began grabbing and rubbing her breasts and vagina/crotch area over her clothing. MMF stated when she started crying, Mitchel pushed her off and she went home the next day.

MMF stated she went home for a few nights and would end up crying in her room. MMF stated she would receive texts from Mitchel stating BMM was texting him about her crying and that if she didn't stop she would be sent to a mental hospital. MMF believed him and he asked her if she wanted him to pick her up. MMF stated she told him to pick her up.

#### **Counts 11-14:**

MMF stated that most of that day with Mitchel he ignored her before she was taken to his room forcefully by him grabbing her arm and pulling her in there. Mitchel told her that, "This will make you feel better."

MMF explained that Mitchel put her on the bed and she began crying and telling him no. Mitchel began forcing her clothing off her until she was naked and MMF kept saying no and

crying. MMF stated that Mitchel pinned her to the bed and told me to stop crying. MMF stated that she kept saying no and Mitchel forced his penis into her vagina. Mitchel kept having vaginal intercourse with her as she kept telling him no. MMF stated he continued until he pulled his penis out of her and ejaculated onto the bed.

MMF stated she immediately put on her clothes and went to the bathroom and cried. Mitchel began screaming at her and caused her to go into a panic attack. MMF stated while she had a panic attack, Mitchel went into the living room to play video games.

When her panic attack was over, MMF asked Mitchel to go home and he told her she couldn't and he would not give MMF her phone. MMF stated she ended up staying the night in his bed with him but nothing sexual happened.

MMF stated she went home the next day and did not see Mitchel for a long period of time. She stated the next time she saw him, Mitchel confessed his love for her and kissed her again in the same manner as before. MMF stated nothing further happened.

### **Counts 15-17:**

MMF proceeded to tell me that sometime in the middle of November 2019 was when she saw Mitchel again and stayed at his house. MMF advised that Mitchel forced/peer pressured her into drinking again and taking more Adderall. MMF informed me that Mitchel once again took her to his room and forcefully took off her clothes and proceeded to have vaginal intercourse with her. MMF stated his penis was inside her vagina and that she was unable to say or do anything due to the drugs and alcohol making her feel paralyzed. MMF stated he once again ejaculated on the bed and they went to sleep in the same bed. MMF stated that he took her home the next day.

### **Counts 18-20:**

MMF informed me that the next time, and the last time, her and Mitchel had any sexual contact was on Dec. 8, 2019. She advised me that she stayed at Mitchel's house and at approximately 1800 hours she received a call from her mother about it being her brother's birthday. MMF stated she told Mitchel that she wanted to go home.

MMF stated that Mitchel informed her that it's been a while since they have done anything sexual and asked if she would. MMF told Mitchel that maybe they could another time. Mitchel then told her she could not leave unless she performs sexual acts to him. He told her he would give her another pill if it would help.

MMF stated she did not take the pill and Mitchel still wouldn't let her leave. MMF stated she began getting scared and told him she would have sex with him if she could go home. MMF stated that she and Mitchel went to his room where she took her clothes off and he put his penis in her vagina. MMF informed me that he had vaginal intercourse with her until he pulled his penis out of her and ejaculated onto the bed. MMF stated that she put her clothing back on and he took her home.

MMF advised me that she slowly stopped talking to Mitchel over a short period of time. MMF stated nothing further happened with Mitchel and she has not talked to him since.

MMF informed me that she did not know how to tell anyone and was scared to report the incident when it was first happening.

### Follow-up Investigation:

On 12-8-20 at approximately 1821 hours, I responded to Mitchel H. Smith's residence of 1413 Sheridan Rd. I made contact with Mitchel, who was verbally identified and would not come outside of his residence or allow me in. Mitchel remained in his three season room as I spoke with him through the glass windows.

I observed there to be multiple bottles of Gray Goose Vodka scattered on the floor of the three season room and in the kitchen window.

I informed Mitchel that I was there to speak with him about MMF and his eyes immediately opened wide and he appeared as if he was caught off guard. Mitchel began asking me if MMF was alright and I advised she was. I informed him that I was at the residence because of the accusations made against him by MMF for sexually assaulting her. Mitchel denied his allegation.

Mitchel began stating how BMM, MMF's mother, put MMF up to this and that she makes up accusations whenever he finds a new girlfriend. Mitchel stated he recently started seeing a 19 year old girl. Mitchel stated that BMM is always trying to cause issues with him and get him in trouble.

Mitchel informed me that he dated BMM for approximately seven years and that they all lived together at one point. He stated during this time, BMM got him into Adderall and that he never use to "mess" with it before her.

MMF's original statement to me regarding the sexual assault stated that Mitchel provided her with Adderall.

Mitchel then began ranting about how BMM is always trying to get him in trouble and that he cannot get away from her. Whenever I tried to ask a question about the case with MMF, Mitchel would switch the conversation to how BMM was a bad mother and would do drugs in front of MMF.

I proceeded to let Mitchel rant without interruptions from me. Mitchel began stating that BMM is only mad at him because MMF always wanted to see him because he would take her shopping. Mitchel then began stating how BMM used him last year (2019) to take MMF to Washington Middle School in order to enroll her in school there by using his address. Mitchel stated he did take MMF in an attempt to enrolling her during the 2019 school year. Mitchel then started switching the conversation again to BMM and their past relationship problems and everything she did to him.

Mitchel's admission to taking MMF shopping and attempting enroll her in Washington Middle School during the 2019 school year correlated with MMF's original statement.

Once Mitchel was finished with his rant, I proceeded to ask him about Henry Hammond. Mitchel squinted his eyes at me and hesitated for a moment before stating that they are cousins. I asked Mitchel if him and MMF were ever at his residence of 6546 94<sup>th</sup> Ct, Kenosha. Mitchel informed me that they were over at their house once for a birthday party but he could not provide me with a date.

Mitchel admission of both him and MMF being at Hammond's residence is accurate with the statement made by MMF.

On 12/17/20 at approximately 1400 hours, I attempted making contact with Mitchel again at his residence. I was able to make contact with him and he spoke with me through the windows of the three season room again.

Mitchel immediately became agitated and stating how every time he is brought down for an interview they trick him or play games into getting charges brought against him. Mitchel began stating how some of the police he has dealt with during these investigations are shady and crooked. Mitchel explained to me how he never hit MMF and that all accusations are false and are because of BMM wanting him in trouble.

I re-informed Mitchel that these were not accusations of battery but of sexual assault. Mitchel then changed his tone and stated he thought they were battery charges against him. I was able to build a rapport with Mitchel who then proceeded to speak with me outside of his three season room in the front yard/driveway.

Your complainant is an attorney with the Kenosha County District Attorney's Office, who bases his knowledge of this complaint on:

- The official law enforcement agency reports of the Kenosha County Sheriff's Department, which reports were prepared in the normal course of law enforcement duties;
- Statements by citizen informant(s); who are eyewitnesses to the facts they relate;
- Statements by the defendant, which were made contrary to his penal interests;
- The official records of: The Circuit Court for Kenosha County; The Department of Transportation; The FBI Triple I Teletype; The Wisconsin Circuit Court Automated Program, which records are maintained in the normal course of business duties.

Subscribed and sworn to before me on 05/14/21

Electronically Signed By:

Electronically Signed By:

James Kraus

Angelina Gabriele

Complainant

Deputy District Attorney

State Bar #: 1025039