

FILED  
08-23-2022  
Clerk of Circuit Court  
Kenosha County  
2022CF001159  
Honorable Jason A.  
Rossell  
Branch 2

STATE OF WISCONSIN

CIRCUIT COURT

KENOSHA COUNTY

STATE OF Wisconsin

Plaintiff,

**CRIMINAL COMPLAINT**

vs.

DA Case #: 2022KN003979

JOSHUA TIMOTHY SYLVESTER

Agency Case #: KSD 2022-00334709

Kenosha, WI 53144

DOB: 08/08/1995

Sex/Race: M/B

Eye Color: Brown

Hair Color: Black

Height: 5 ft 10 in

Weight: 205 lbs

Defendant.

For Official Use

The undersigned, being first duly sworn, states that:

**Count 1: 2ND DEGREE SEXUAL ASSAULT BY LAW ENFORCEMENT OFFICER**

The above-named defendant on or about Thursday, August 18, 2022, in the City of Kenosha, Kenosha County, Wisconsin, did, as a law enforcement officer, have sexual intercourse with ADD, DOB: 04/28/1998 who was in the custody of any law enforcement officer and/or was being detained by any law enforcement officer as provided under s. 968.24, contrary to sec. 940.225(2)(k), 939.50(3)(c) 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.

**Count 2: MISCONDUCT IN PUBLIC OFFICE**

The above-named defendant on or about Thursday, August 18, 2022, in the City of Kenosha, Kenosha County, Wisconsin, in the officer's capacity as an officer did an act which the officer knows is in excess of the officer's lawful authority or which the officer knows the officer is forbidden by law to do in the officer's official capacity, contrary to sec. 946.12(2), 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.

**PROBABLE CAUSE:**

Kenosha County Sheriff's Department (KSD) Detective Justin McCoy reports that on August 22, 2022 at approximately 3:00 PM, he was assigned a sexual assault investigation made against a Kenosha Police Department (KPD) Officer. Det. McCoy reports that he met with KPD Lt. Joseph Nosalik to receive reports from KPD.

Det. McCoy reports that Lt. Nosalik advised that he met with ADD, DOB: 04/28/1988, on August 19, 2022, at 11:00 AM. ADD advised that on Thursday, August 18, 2022, she was sexually



assaulted while in the custody of Kenosha Police Department Officer / defendant Joshua T. Sylvester, DOB: 08/08/1995 during an operating while intoxicated (OWI) investigation. Due to KPD's conflict of interest, KSD took over the investigation and KSD Detectives Justin McCoy, Daniel Bella and Timothy Hackbarth assigned the investigation.

Det. Hackbarth reports that they were provided with the reports that the defendant completed reference the OWI investigation. Detectives learned that the call was initiated reference a traffic crash in which ADD was found breathing but unconscious at the time. Det. Hackbarth reports that the crash was located in front of 9621 64<sup>th</sup> Street in the City and County of Kenosha, State of Wisconsin and ADD had struck a tree. Det. Hackbarth reports that the defendant arrived on scene and located a 2012 Honda Civic owned by ADD. Det. Hackbarth reports that the defendant spoke with ADD who said that she did not know where she was or what had happened but, she did say that she was coming from a bar. ADD was transported to Aurora Hospital located at 10400 75<sup>th</sup> Street in the City and County of Kenosha, State of Wisconsin.

Det. Hackbarth reports that the defendant's report stated that while at the hospital, ADD was acting up by yelling and swearing a nursing staff as they attempted to treat her. The treating doctor that night, Dr. Michael Jones, asked ADD if he could draw blood and obtain a CT scan but, ADD refused. The defendant's report indicates that to do this refusal, Dr. Jones advised that ADD would have to stay at the hospital for four hours for an observation period.

Det. Hackbarth reports that ADD claims that during this time period, the defendant sexually assaulted her while she was in the emergency room. ADD stated that when she arrived at the hospital, ER staff removed her clothing and she was completely nude other than the gown that they gave her, including having no underwear on. ADD stated that while waiting to be released from the ER, the defendant put his fingers inside of her vagina on several separate occasions while in the room. ADD also stated that at one point, the defendant walked up to the bed she was lying in and pulled his penis out of his pants and told her to touch it. ADD stated that she did not want to touch it but, the defendant grabbed her arm and made her touch it.

Det. Hackbarth reports that ADD also said that the defendant took her cell phone and asked her how to get into it. Once the defendant was on her phone, he began to go through her pictures of which she said had numerous nude photos on her phone and the defendant texted several of them to his own phone. ADD advised that she did not know this was done until later in the day when it showed up on her iPad that a text was sent from her phone to the defendant's phone.

Det. Hackbarth reports that all of ADD's allegations are supported by the body camera footage that was located in the Kenosha Police Department's camera storage system. Det. Hackbarth reports that KSD was advised that the defendant had turned off the recording function of his body camera at times during his contact with ADD but, KPD administration was able obtain full video footage of the entire contact. Det. McCoy reports that some of the recovered footage contained video with no audio.

Det. McCoy reports that the body camera video footage of the incident shows the following:

"0157 Hrs. – Sylvester carries on conversation with ADD with no audio recording on his body camera.



0158 Hrs. - ADD adjusted her blanket exposing her left leg while lying on the bed talking to Sylvester. ADD fondled her own breasts over her clothes while talking to Sylvester.

0159 Hrs. - ADD appeared to laugh at something said by Sylvester and lifted up her hospital gown further exposing her left leg all the way up to her crotch.

0201 Hrs. - ADD adjusted her hospital gown exposing her crotch and stomach to Sylvester.

0203 Hrs. - Medical staff enter the room to check a machine and then exit.

0204 Hrs. - ADD sits up at on the hospital bed and talks to Sylvester from a seated position.

0207 Hrs. - 0255 Hrs. Sylvester is positioned near the hospital room door while ADD sits on the bed. They appear to be having conversation.

0255 Hrs. - Sylvester reached into ADD's purse and obtained her iPhone.

0256 Hrs. - Sylvester sits down in a chair facing ADD. Sylvester's hands enter view and he is no longer wearing the wedding band he was earlier. Sylvester bounces his legs and appears to nervously fidget with his hands.

0257 Hrs. - Sylvester picked up ADD's phone and is manipulating her phone with his right hand.

0258 Hrs. - 0301 Hrs. - Sylvester manipulates ADD's phone in plain view of the camera and begins to add himself as a contact in ADD's phone under the name "Officer Josh." Sylvester saved [his phone number] as "Officer Josh" in her phone. Sylvester viewed ADD's camera roll and scrolled for a few minutes looking at her photos.

0301 Hrs. - 0303 Hrs. - Sylvester looked outside the sidelight window by the door and then stood outside the room's entrance for a moment.

0305 Hrs. - Sylvester showed ADD the screen of his phone with his PSB ID Badge visible on the back of the phone. ADD smiled and laughed after viewing what he showed her on his phone.

0308 Hrs. - Sylvester looked at ADD's phone again while sitting in a chair facing her. Sylvester showed ADD the screen on her phone it appeared the photo thumbnails were not loading. It appeared she encouraged Sylvester to look at her photos.

0310 Hrs. - ADD laid down on her back but kept her feet flat on the bed and her knees up effectively exposing her vagina and buttocks to Sylvester.

0311 Hrs. - Sylvester got up from the chair and checked the sidelight window.

0312 Hrs. - 0316 Hrs. - Sylvester continued looking through ADD's phone scrolling through her photos.

0316 Hrs. - Sylvester pulled up a photo on ADD's phone and it was a picture of a naked female consistent ADD but her face was not visible in the picture.

0317 Hrs. - Sylvester selected photos from the camera roll and appeared to send them to himself at the "Officer Josh" contact he saved in ADD's phone earlier that morning. While Sylvester did this ADD was lying on her back with her arms above her head, her hospital gown pulled above her waist, moving her legs around in a manner that appeared designed to elicit a sexual response.



0317 Hrs. – After Sylvester sent himself the photos from ADD's phone he deleted the text thread on ADD's phone. Sylvester took out his phone and for a moment on camera held his phone in his left hand his ADD's phone in his right hand.

0322 Hrs. – Sylvester stood at the side of ADD's bed as she had her gown pulled up even higher exposing her body below the waist.

0323 Hrs. - 0325 Hrs. Sylvester used his left hand to cover his body camera and I could see that his right hand was placed over his left hand. It appeared by looking at a few small areas that were covered that Sylvester moved throughout the room with the camera covered.

0325 Hrs. – Sylvester took his right hand off his left hand and reached down toward ADD. ADD's face was visible despite Sylvester's attempt to cover the camera. It is apparent by the placement of Sylvester's forearm in the camera in relationship to ADD's position that his hand was extended toward ADD's vaginal area. ADD's left hand is visible above her head just as it had been previously.

0326 Hrs. – Sylvester returned his right hand over his left hand which was still attempting to cover the body camera. Sylvester moved around the room some more and then he returned to ADD again and extended his right hand down toward ADD again. In this instance there was actually a brief moment where his finger is visibly touching ADD on what appeared to be her pubic mound. Sylvester's arm visibly thrust back and forth while extended down toward ADD. When Sylvester returned his right hand there was what appeared to be vaginal secretions on his right hand which he wiped onto his left hand and it remained visible on his hands until he wiped it off on a hospital linen. Immediately after his body camera captured ADD in a position with her legs spread open as she was laying on the hospital bed.

0327 Hrs. – 0328 Hrs. - Sylvester stood positioned by door and appeared to be having conversation with ADD.

0338 Hrs. – 0340 Hrs. - Sylvester moved toward ADD and then used his hand to cover the body camera. The camera remained covered but when Sylvester moved his hand out of the way ADD was sitting with her legs spread apart again.

0341 Hrs. – Hospital staff entered the room to check on ADD for a moment and then exited.

0341 Hrs. – 0405 Hrs. - Sylvester looked at the photos on ADD's phone and sat on a chair facing her.

0411 Hrs. – Sylvester exited the hospital and escorted ADD to his squad car where Officer Jasmine Sanders assisted."

Det. Hackbarth reports that after viewing reports obtained from KPD, ADD came into KSD on August 22, 2022, to give a formal statement. Det. McCoy obtained the statement and summarizes it as follows:

"ADD was at home and started drinking White Claw Surge and had about four of them. At about 11:00 P.M. she decided to go to Rivals Sports Bar near the interstate in Kenosha. She remembered sitting down and getting her first drink which was a double shot of Vodka. After that she blacked out and didn't remember leaving the bar or paying for drinks.



ADD did remember coming back into consciousness while she was driving her car around her neighborhood. She was pretty much doing laps around her neighborhood. The next thing she remembered was she woke up in a hospital room with a Police Officer. He was sitting in a chair by the hospital room door. He was about 6'1" and he had Milk Duds chocolate shade skin.

The hospital had taken her clothes off and she was only wearing a hospital gown on the bed. She was tossing and turning in the bed with no underwear on and then the Officer said "Now why would you show me that?" From that point on the Officer acted like he was turned on and couldn't control himself because he had seen her vagina.

ADD thought she probably had some sexually charged conversation, but she was very intoxicated, and she didn't remember what was said. ADD remembered after some time passed, he came up to the hospital bed and put his fingers inside her vagina.

After some more time passed the officer eventually took his penis out and asked ADD, "Do you want to touch it?" ADD said "no" and she didn't think she touched it but she saw it and it was completely soft.

A little while after that he started asking questions about her phone. He asked ADD how to get into her phone and the next thing she knew he was going through her phone and scrolling. She could tell by the way he was scrolling through her phone really fast that he was probably looking at her photos. ADD had nude photos of herself on her phone.

The next thing she remembered was she woke up in a different room and she was with a female Police Officer. She was having her blood drawn by the hospital staff. ADD was scared of the blood draw needle and she squeezed the female officer's hand for support.

The female Officer escorted ADD outside to the squad car and the male Officer was waiting by the squad car. At this time she was in handcuffs about to get put in the backseat of the male Officer's squad car and to go to jail. The female Officer handed her over to the male Officer and then she walked away. When [the female Officer] was away the male Officer said, "We can't have a conversation about any of that in the car." ADD understood that to mean that he didn't want ADD to talk about what happened in the hospital room because it would be recorded in the car or he would have to turn his body camera on.

After leaving the hospital the male Officer kept it completely quiet and professional. ADD got released from jail about 12:30 P.M. on 08/18/2022. ADD got picked up from jail by her dad and her brother and they took her home. ADD didn't tell them what happened to her with the male Officer because at that point she was thinking she wasn't going to tell anybody. ADD thought that if she just let it go that would be easier than having to go to the Police again to talk about it.

When ADD got home, she charged her phone and waited for it to turn on. After it turned on, she checked for any evidence that the male Officer from the hospital had been in her phone. ADD figured he probably texted himself her nudes while he had her phone. However, when she looked, she did not see any messages. For a moment she thought perhaps he just looked through her phone and didn't send anything. Then ADD saw her iPad charging on her bed. ADD looked at her messages on her iPad and saw that he had sent three of her



nude pictures from her phone to his phone number. It was a 262 number, but she did not remember exactly what it was. At that time, ADD was disgusted and embarrassed that she put herself into that situation, and she was still thinking she wouldn't tell anyone, so she deleted the messages off her iPad.

At about 8:44 P.M. A called her friend and she told her all about what happened to her in the Hospital with the male Officer. Her friend convinced her to tell her dad about what happened and go to the Police. Her friend told ADD if she didn't go to the Police that she would go herself.

The next morning 08/19/2022 ADD's dad took her to the Kenosha Public Safety Building to make report about what happened. On the way there ADD decided to check the citation she was issued for the name of the Officer. ADD checked and saw that his name was J. Sylvester. ADD then searched his name on Google and found the Kenosha Police Department's Facebook page and a picture of the male Officer. After seeing his picture on the Facebook Page ADD was certain that the male officer from the hospital room was Kenosha Police Officer Joshua Sylvester.

ADD went inside the PSB and talked to Kenosha Police Dept. Lt. Nosalik and made an official complaint about what happened."

Det. Hackbarth reports that a search warrant was obtained and at approximately 10:00 PM on August 22, 2022, KSD personnel responded to the defendant's residence to execute the search warrant. Contact was made with the defendant at his residence and the defendant came outside holding his infant child. The defendant's wife Jourdan Sylvester was inside and came out to get the child. Det. Hackbarth reports that Det. McCoy began explaining to the defendant why KSD was there. Det. Hackbarth reports that without any solicitation, the defendant asked, "Is this about that girl, my body camera was on the whole time." Det. Hackbarth reports that the defendant's cell phone was located while at the defendant's residence. Det. Hackbarth report Jourdan told them that the defendant has only changed at home once "because he needed to wash blood out of his uniform from a shooting scene". Det. Hackbarth reports that a search of the residence revealed no uniform items.

ADD's friend DMC, DOB: 06/30/1997 reports that ADD talked to her about the incident. DMC reports the following:

"ADD was telling me the story of what happened, and she mentioned that the Police Officer that arrested her was a black male and that he had short hair. ADD told me that the Officer initiated a conversation about how he could see her vagina on the bed. ADD said that he came to her bedside and fingered her vagina while she was on the bed. ADD said while this was happening, she was very drunk. ADD said even though she was very drunk she felt like what was happening was wrong. ADD said that the Officer also tried to have her grab his dick.

ADD said that while she was in the hospital room with the Officer he went through her phone, found her nude pictures of herself, and sent her nude photos to his phone. ADD said that when she got home she saw the messages and panicked and deleted them.



ADD said she was scared to say anything about what happened to her because she didn't think anyone would listen or believe her. I told ADD to tell her dad what happened and make a police report."

Det. McCoy interviewed the defendant following the search warrant. Det. McCoy reports the following:

"I told Sylvester that he was under arrest for Sexual Assault and Misconduct in Public Office. Sylvester stated, 'I haven't. I haven't done anything.' I told Sylvester that was fine and that we could figure it all out by doing an interview at the Sheriff's Department. Sylvester stated, 'Because if it's about the girl I have that on camera of what happened and I haven't done anything because it happened with a partner there and I had officers in the hospital because I haven't haven't done a thing.'

I read Sylvester his rights verbatim from a card that I carry. Sylvester said that he understood his rights and he wanted to answer questions and make a statement. Sylvester also signed a written waiver of his rights.

I told Sylvester that it seemed like he already knew what I wanted to ask him about and I told him to just go ahead and tell his story. Sylvester summarized the car crash and subsequent OWI investigation without indicating that he had done anything wrong. Sylvester mentioned that ADD talked about killing herself and that she exposed herself once which caused his partner to tell him he should turn on his body camera.

I confronted Sylvester with the fact that I observed all of his body camera footage and he maintained that he had not done anything to ADD. I asked Sylvester why he would send ADD's nude photos to his phone and Sylvester claimed he did not send them to his phone.

I explained that the footage was very clear that he did, and he eventually admitted that he looked at ADD's nude photos on her phone. Sylvester maintained that he did not send the photos. I explained digital forensics to Sylvester and I told him that we were going to conduct a forensic extraction on his phone. After being confronted with that, Sylvester admitted to sending the photos to himself from ADD's phone. Sylvester said that he deleted the photos from his phone the same night.

I asked Sylvester about putting his finger's in ADD's vagina and he denied that he did it. I explained that I observed ADD's vaginal secretions on his hands. I explained that items I had collected as evidence such as his body camera were likely to have ADD's DNA on them from her vaginal secretions. Sylvester claimed that he ended up with ADD's vaginal secretions on his hand because he stopped her from masturbating. Sylvester said he pulled on ADD's arm to stop her from masturbating and she wiped her vaginal secretions on his hand. I asked Sylvester to explain why he would cover up his body camera with his hand in order to stop ADD from masturbating. Sylvester claimed that his hand just happened to be in that position because of where he placed his body camera.

I asked Sylvester about removing his penis from his pants. Sylvester denied have ever removed his penis from his pants in the hospital room. I described a part of the video where Sylvester appeared to grab onto ADD's hand, and he moved it off screen toward his crotch.



Sylvester said that he was praying with ADD and holding her hand to pray with her during that part of the video."

Det. McCoy reports that the defendant signed a consent to search form for his cell phone.

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

- The official law enforcement agency reports of the Kenosha County Sheriff's Department prepared by Detective Justin McCoy and Detective Timothy Hackbarth whose reports were prepared in the normal course of law enforcement duties;
- Statements by citizen informant(s) Jourdan Sylvester, ADD, DOB: 04/18/1998 and DMC, DOB: 06/30/1997; 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 08/23/22      Electronically Signed By:

Electronically Signed By:

Rosamaria I. Delgado

Carli A. McNeill

Complainant

Deputy District Attorney

State Bar #: 1081400