

STATE OF WISCONSIN CIRCUIT COURT MILWAUKEE COUNTY

STATE OF WISCONSIN

Plaintiff,

DA Case No.: 2020ML009555

Court Case No.:

vs.

CRIMINAL COMPLAINT

MATTIOLI, MICHAEL A
4502 WEST CLEVELAND AVENUE
MILWAUKEE, WI 53219
DOB: 09/15/1987

Defendant(s).

For Official Use

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

Count 1: FIRST DEGREE RECKLESS HOMICIDE

The above-named defendant on or about Sunday, April 19, 2020, at 4502 West Cleveland Avenue, in the City of Milwaukee, Milwaukee County, Wisconsin, did recklessly cause the death of Joel A, another human being, under circumstances which showed utter disregard for human life, contrary to sec. 940.02(1), 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:

At 7:28 a.m., on Sunday April 19, 2020, Milwaukee Police 911 dispatch received a call requesting police at 4502 W. Cleveland Ave., City and County of Milwaukee. During the call it was reported that a male at that location had attacked two people.

In response to that call, Milwaukee Police Officer Robert Roach and Mark Sheremeta were dispatched, at 7:34 a.m., to 4502 W. Cleveland Ave., and they were the first officers to arrive there. They arrived at the location, a single family residence, at 7:38 a.m.

Officer Roach then entered the residence, being the first officer to do so. At that time Officer Roach's body camera was recording the events. Milwaukee County District Attorney's Office Investigator Sarah Blomme did view Officer Roach's body camera recording and reports that the following events are recorded:

1. Upon the officers' arrival at 4502 W. Cleveland Ave., a male, subsequently identified as CP, is standing on the sidewalk slightly east of the residence.
2. After getting out of their squad car, Officer Roach asks CP "Where's Joel?"
3. In response to that question, CP answered "He's subdued right now. They've got him in there." CP then told the officers to follow him and he led them to the side door on the east side of the house.
4. While standing outside of side door, Officer Roach asked CP if there were any dogs inside and CP replied that there was a little dog who would not hurt anyone.
5. Officer Roach opened the screen door and entered the kitchen. The interior door was already opened.

6. Based upon the body camera recording, 58 seconds elapsed between the time the officers pulled up and stopped in front of 4502 W. Cleveland and the time Officer Roach opened the screen door. During that time, no noise could be heard coming from inside the residence.
7. Officer Roach entered the residence and a person, subsequently identified as Michael Mattioli (defendant), is observed straddling Joel A who is on his stomach. Upon entering, there was no visible struggle involving Joel A and Mattioli. Joel A was not making any movement nor saying anything at that time.
8. Officer Roach approached the head area of Joel A and Mattioli is observed straddling Joel A with Mattioli's full body above the waist of Joel A and Mattioli's upper body is wrapped around the head area of Joel A.
9. Mattioli's left arm is parallel with the left side of Joel A's head and neck, and Mattioli's left hand is holding Joel A's head and Joel A's face is down.
10. Officer Roach asks Mattioli if Joel A is breathing and Mattioli responds "I don't know."
11. Officer Roach then says to Mattioli "I'm making sure you don't have your arm around his neck." Mattioli can then be heard saying "Oh yeah."
12. Mattioli then pulls his right arm out from underneath the neck area of Joel A, releasing Joel A and Joel A's head rolls to the side. Joel A showed no signs of movement and his eyes were closed.
13. Based upon the body camera recording, 22 seconds elapsed between the time Officer Roach entered the residence and the time Mattioli disengaged from holding Joel R.
14. Officers Roach and Sheremeta rolled Joel A. onto his back and bubbles are around the mouth area of Joel A. Officer Sheremeta started chest compressions.

Investigator Sarah Blomme subsequently interviewed Officer Roach and during that interview he provided the following information about the events at 4502 W. Cleveland Ave.:

1. He and his partner, Officer Mark Sheremeta, were dispatched at 7:34 a.m. and arrived at the scene at 7:38 a.m.
2. When they arrived there was a male standing outside. This male, who had a cut under his eye, told them they had a guy subdued in the kitchen.
3. He entered the residence and saw the victim (a male subsequently identified as Joel A) lying on his stomach.
4. He saw another male, subsequently identified as AJ, lying on the victim's legs.
5. He saw another male, subsequently identified as Michael Mattioli, straddling the victim and Mattioli was on the victim's back and Mattioli's body was above the victim's waist.
6. It appeared that Mattioli had the victim in a rear naked choke hold. He described this as Mattioli having his left arm parallel with the left side of the victim's neck and head and Mattioli's left hand was holding the victim's head. Mattioli's right arm was underneath the victim and around the victim's neck. Mattioli had his body weight on the victim's upper body and it appeared Mattioli may have been compressing the victim's neck.
7. He did not observe any movement by the victim.
8. He asked Mattioli if the victim was breathing and Mattioli responded "I don't know."
9. He directed Mattioli to get off of the victim, which Mattioli did.
10. He then checked the victim for vitals and found that the victim was not breathing and did not have a pulse. He requested that medical respond. He and Officer Sheremeta rolled the victim onto his back and Officer Sheremeta started chest compressions.
11. Other squads arrived and he directed one of the arriving officers, Officer Bouzek, to take Mattioli to his squad.
12. Paramedics from the Milwaukee Fire Department then arrived on the scene.

Officer Matthew Bouzek did respond to 4502 W. Cleveland Ave. and did have contact with Mattioli. During that contact, Officer Bouzek's body camera was recording and Investigator Blomme did review that recording. Investigator Blomme reports that the following events are recorded:

1. Upon walking outside with Mattioli, Mattioli identified himself as a police officer and said "I'll just tell the whole thing ... This guy, Joel, he's the guy they're doing compressions on ... I met him doing overtime at Northwestern Mutual Life"
2. Mattioli was then placed in Bouzek's squad car.
3. While in the car, Mattioli said "there's no funny business Joel might tell you something else ... I have nothing to hide. I was just going to sleep. I held him on the ground in my kitchen for quite a while before the police showed up. I told him to get out of my house. Once he started punching my friend I held him on the ground, we called 911 ... I know it's ridiculous, I'm sorry."
4. Mattioli also said the following while in the squad car: "So for the record I'm going to say this I held him down on the ground and I started to call ... I called 911 first, but then I handed the phone to Chris and told him to continue to call and I held Joel down but I didn't ... I had him around his neck, but I didn't squeeze as hard as I could because I know, I'm not stupid. I know what it is you know ... I know what's deadly force and what's not, but I held him there to make sure he didn't get away ... until the ... you guys showed up ... look, I wasn't holding him to make his air cut off you know I'm not stupid.."
5. Mattioli said that he held Joel down because Joel had punched his friend Chris.

Shortly after noon, Milwaukee District Attorney Investigator David Dalland met with Michael Mattioli. Mattioli was, at that time, seated in a squad car in the general area of his house. Investigator Dalland met with Mattioli for the purpose of telling him that the investigators wanted to obtain Mattioli's blood, since alcohol was involved, and he, Dalland, wanted to get Mattioli's account of what happened. While speaking with Mattioli, the following exchange occurred:

Mattioli: "In this fucker dead?"

Dalland: "No."

Mattioli: "What the fuck is this all about?"

Dalland: "Listen, he's not in good shape."

Mattioli: "Well fuck him. He stole from me. I don't give a fuck what shape he is in."

Later, the following exchange occurred:

Mattioli: "And what bad happened? What bad happened?"

Dalland: "Right now the guy's not in good shape at the hospital."

Mattioli: "Was he in good shape before all this happened? No"

One of the paramedics who responded to the scene was Matthew Ziems. Ziems was interviewed on April 22, 2020, by Milwaukee County District Attorney Investigator Andre Antreassian. During that interview he provided the following information about the events on April 19 at 4502 W. Cleveland Ave.:

1. He was a paramedic assigned on Med 14. Med 14 responded to 4502 W. Cleveland and he saw that four or five squad cars were already there.
2. He went to the side door of the residence and saw that two guys from Milwaukee Fire Department Engine 33 had taken over CPR from two police officers.
3. He entered the residence and saw that the patient's shirt was cut and pads were put on. There was no electrical activity in the heart. They started CPR and at one point an intraosseous infusion was administered. After four cycles of CPR it appeared that the medication that was

administered was working and they were making progress. A pulse was obtained and they then moved the patient to the ambulance.

4. In the ambulance, on the way to St. Luke's Hospital, they continued to provide treatment and once at the hospital care was transferred to the emergency department.
5. During the time he was with the patient he did not see any marks on the patient's neck or anything out of the ordinary on the patient's body.

Joel A was admitted to St. Luke's Hospital at 8:14 a.m. He was listed in critical condition and was unresponsive to outside stimuli and was on a ventilator.

On April 19, 2020, Michael Mattioli made a statement to Milwaukee County District Attorney Investigator David Dalland. In that statement Mattioli provided the following information regarding the events at his house:

1. He knew Joel from working overtime downtown. Joel used to be a security guard and that is how he met him.
2. The previous night he had some friends over, including Joel.
3. They had a fire in the back yard and drank.
4. He went to bed and woke up to Joel literally going through the pockets of the pants he, Mattioli, was wearing.
5. He confronted Joel and Joel said that he was not stealing. He told Joel to get out of his house and Joel walked downstairs.
6. One of the people who had been sleeping downstairs (CP) came upstairs. He, Mattioli, did not know exactly what was said, but suddenly Joel punched CP.
7. When Joel punched CP, Joel fell to the ground and he, Mattioli, then got on top of him and called 911.
8. Mattioli stated "I didn't suffocate the guy. I had my arms around his neck yes, and I held him there but I didn't suffocate the guy, I didn't press hard enough."
9. He said that if wanted to choke the guy, Joel, he would have but he didn't.
10. He held him there until the police arrived.

During the interview Investigator Dalland, who previously was employed by the Milwaukee Police Department as a police officer and detective, told Mattioli that in regard to use of force, one of the things they are taught is to try to avoid choke holds and things like that. In response, Mattioli said "trained technique, it's not a trained technique."

Joel A. remained at St. Luke's Hospital until April 25, 2020, when he was pronounced deceased. His body was subsequently conveyed to the office of the Milwaukee County Medical Examiner, and on April 28, 2020, Dr. Brian Peterson, Chief Medical Examiner, performed an autopsy on the body of Joel A. During that autopsy, Dr. Peterson observed and reported the following of significance regarding the cause of death:

1. Marked cerebral edema with encephalomalacia was observed.
2. Fine petechial hemorrhages were observed above each eye, on the undersurface of each supraorbital ridge.
3. Dr. Peterson noted that he had been provided, on April 22, 2020, photographs of Joel A. and in those photographs there was more robust petechial hemorrhages above the eyes, on the cheeks, and on the neck.
4. Acute bronchopneumonia.
5. Acute hemorrhagic pancreatitis.
6. Obesity.

Based upon the information available to Dr. Peterson, he reached a conclusion that the cause of death was "Anoxic Encephalopathy due to Traumatic Asphyxia." Dr. Peterson ruled the manner of death to the "Homicide."

The 911 call, described above, was recorded. Investigator Blomme has listened to that call and she reports the following regarding the call:

1. The length of the call is 3 minutes and 35 seconds.
2. At the start of the call a struggle can be heard and then a voice, believed to be Joel A., is heard saying "let me go home ... my scores not woke ... I'm going home."
3. The 911 operator asks what is your emergency.
4. Mattioli is then heard saying that he is an off-duty police officer and needs help at his house.
5. The voice of Joel A. is heard saying "I swear I'll go home. I swear ... fucking."
6. Mattioli is heard to say "Put it on speaker" and shortly thereafter he says "Oh year, Oh yeah, fuck me fucking so bad."
7. The operator says Hello and a struggle can be heard.
8. Distressed breathing, gasping noises, and a struggle can be heard. No one responds to the operator.
9. Mattioli can be heard saying "Fuck you mother fucker."
10. The operator again says Hello, and a different voice, believed to be AJ, can be heard saying "what the fuck is going on."
11. Distressed breathing and gasping can be heard.
12. Mattioli can be heard saying "Hey Hey ... 4502 W. Cleveland Ave."
13. The operator repeatedly asks what is going on, and Mattioli can be heard saying "Fuck you man."
14. Distressed breathing, gasping and a struggle can be heard.
15. A different voice, believed to be CP, then talks to the operator and tells the operator that a man is attacking us.
16. Distressed breathing is heard in the background.
17. In response to the operator's question, CP identifies the man who attacked them as Joel.
18. Loud desperate sounding gasping can be heard in the background.
19. CP tells the operator that Mattioli is a police officer.
20. Gasping and a sound similar to loud snorting can be heard.
21. Mattioli can be heard saying "Just fucking lay down mother fucker."
22. CP says "just please come as soon as possible."
23. Mattioli can be heard saying "Fucking lay down ... alright you asshole you fucking did this okay."
24. A voice, believed to be AJ, can be heard saying "we got him Michael, don't worry."
25. The sound of gasping and snorting can be heard.
26. Mattioli can be heard saying "yeah mother fucker, you're a fucking asshole ... you were my friend."
27. The operator says "We got help on the way." CP responds "Thank you very much." Mattioli can be heard saying "you're an asshole."

****End of Complaint****

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 Paul L. Tiffin.
Subscribed and sworn to before me on 05/13/20

Electronically Signed By:

Paul L. Tiffin

Assistant District Attorney

State Bar #: 1017260

Electronically Signed By:

Deputy Chief Investigator Robert G. Stelter

Complainant