

STATE OF WISCONSIN CIRCUIT COURT LA CROSSE COUNTY

STATE OF WISCONSIN
Plaintiff,

vs.

Todd Allen Kendhammer
N6617 Scotch Coulee Road E
West Salem, WI 54669
DOB: 03/16/1970
Sex/Race: M/W
Eye Color: Brown
Hair Color: Brown
Height: 5 ft 10 in
Weight: 200 lbs
Alias:

Defendant.

DA Case No.: 2016LC003517
Assigned DA/ADA: Tim Gruenke
Agency Case No.: 00-16-19180
Court Case No.: 16CF909
ATN: 32000000331951

CRIMINAL COMPLAINT

Deputy Cody Bernhardt, La Crosse County Sheriff's Department, being first duly sworn on oath says that on information and belief:

Count 1: FIRST DEGREE INTENTIONAL HOMICIDE

The above-named defendant on or about Friday, September 16, 2016, at Bergum Coulee Road / County Road M, in the Town of Hamilton, La Crosse County, Wisconsin, did cause the death of Barbara C Kendhammer, with intent to kill that person or another, contrary to sec. 940.01(1)(a), 939.50(3)(a) Wis. Stats., a Class A Felony, and upon conviction shall be sentenced to imprisonment for life.

and prays that the defendant be dealt with according to law; that the basis for complainant's charge of such offense is:

Factual Basis

Deputy Kachel of the La Crosse County Sheriff Department (LCSD) states that on September 16, 2016, at 8:09 AM, he was dispatched to an accident at Bergum Coulee Road and County Road M in the Town of Hamilton in the County of La Crosse, WI. Upon arrival he spoke to the driver Todd Kendhammer who stated that he was travelling northbound on County Road M and there was a flatbed truck traveling southbound, when the truck lost a 53 inch metal pipe from his load. The pipe bounced off the roadway and impaled the front windshield on the passenger side of his car. Todd then pulled onto Bergum Coulee Road He placed the car in reverse instead of park and the car backed into the tall grass in the ditch by the side of the road. Only the front two tires were still on the roadway.

Officer Loeffelholz of the West Salem Police Department states that he also spoke with Todd who stated that he saw a pipe come through the windshield and he tried to deflect or block the pipe but he hit the windshield instead. Officer Loeffelholz observed blood or cuts on both of Todd's knuckles and he thought that was from hitting the windshield trying to deflect the pipe. Officer Loeffelholz observed the windshield and saw a hole in the passenger side with blood around it and an area in the center that looked punched out from the inside that would correlate with Todd saying he tried to stop the pipe.

Sergeant Yehle of the LCSD, spoke to Todd as he drove him to the hospital where his wife was taken. Todd stated that he was driving his vehicle and his wife, Barbara, was the passenger. They were traveling from their home to a house in Holmen to pick up a truck so that he could replace the windshield in it. He said that they left their home between 7:30 and 7:45 that morning and the two of them, while traveling, were just drinking water and "bullshitting." He said that he was just south of Bergum Coulee Road, traveling north on County Road M, when a pipe came off of a truck traveling southbound on County Road M. Sergeant Yehle asked him to describe the truck and he said that it was a pick-up style cab and guessed it was a $\frac{3}{4}$ ton and that it had a "makeshift" steel flatbed on it with stake pocket sides. Todd said it had 18 inch to 2 foot high metal sides on the truck and believed it to be around a 2000 model although he was unable to describe who might be the manufacturer. He said it was dark in color; he believed it to be either dark blue or dark green, but possibly black. He said it had no remarkable damage or signage on it and he could not describe the driver at all, not even if it was a male or female.

Todd said as they approached Bergum Coulee Road the pipe came off the truck, did not strike the ground, and passed through the windshield hitting his wife. He said he did not know what to do. She immediately began flailing around. Todd stated that initially he thought it was just an object like a bird flying at the vehicle and as it got to the side, he realized it was pipe. Todd said that he reached out, not really thinking of what he was doing, and struck the windshield in an attempt to prevent the pipe from hitting his wife. He said that he then turned onto Bergum Coulee Road while trying to pull the pipe from her. He said that at some point he must have hit the gear shifter and put the vehicle in reverse which caused him to go off of the road. Todd said that he went around to the passenger side of the vehicle and that he pulled the pipe out of the car from outside of his car, through the windshield. Sergeant Yehle states this was consistent with the damage that he saw in the windshield in that the edge around the hole was protruding from the inside to the outside, as though the pipe had been pulled out of the windshield from outside of the car.

Todd then said that he took his wife out of the vehicle and because he is trained in CPR and AED at work he began CPR on her first before calling 911. He estimated it was between 3 and 5 minutes that had passed between the time the pipe had come through the window and the time he called 911. He said he was not sure whether CPR was the right thing to do but that the Dispatcher told him to continue. A review of cell phone records would later confirm the 911 call was made at 8:06 a.m.

Sergeant Yehle states that Todd said that he was going to replace the windshield in Holmen for a guy by the name of Justin Heim and that the keys for that vehicle were supposed to be in the truck and he was just going to pick it up. He said he attempted to pick the same vehicle up the night before.

Dr. Kathleen McCubbin of the Dane County Medical Examiner's Office states that on September 20, 2016, she performed an autopsy on Barbara Kendhammer and made the following conclusions:

- She found that Barbara Kendhammer died as the result of complications of blunt force trauma injuries of the head and neck, with skull fractures, traumatic subdural and subarachnoid hemorrhage, marked brain swelling, cricoid cartilage fractures, neck muscle hemorrhage, diffuse anoxic-ischemic encephalopathy and myelopathy, and ultimate brain death.
- Dr. McCubbin states the pattern of injuries is inconsistent with the reported account of a pipe coming through the windshield because there were multi-planar injuries of the head including a laceration of the forehead, three lacerations of back of the head with a left occipital skull fracture, abrasions on bilateral cheeks, midline lip contusions, nasal fractures, and several other scattered contusions.

- Dr. McCubbin further states there are also multiple injuries of the neck, with a large cluster of multiple small linear abrasions over the anterior neck, concerning for possible fingernail scratches. A cricoid cartilage fracture is present, along with multiple fascial and muscular hemorrhages in the anterior and posterior neck musculature consistent with possible compression of the neck. Finally there were multiple contusions and abrasion on the extremities, with notable healing abrasions and contusions on bilateral hands and irregular torn fingernail margins on two fingers, suggesting a possible physical struggle.

On the day of the incident, Investigator Amundsen spoke with Todd in the entrance way of Gundersen Lutheran. He asked Todd if he would allow photographs of his injuries as part of the investigation and he gave consent to take numerous photographs of his entire body, including his overall stature, his hands, chest, face, and neck. Investigator Amundsen noticed that Todd had multiple scratches on both sides of his neck and chest and asked Todd how he had gotten them. Investigator Amundsen also photographed injuries to Todd's knuckles on his left hand. Todd stated that he "works with glass all of the time and gets scratched up."

On September 22, 2016, Investigator Leinfelder and Sergeant Yehle of the LCSD spoke with Todd Kendhammer and he stated that he and his wife left home at about 7:30 or 7:45 AM. When the pipe came through the windshield he tried to reach out for it causing the injury to the knuckles of his left hand.

When asked about the time Barbara had to be at work he said it as either 8:00 or 8:30 AM. He stated on Friday she could go in late.

He stated the night before the incident he was driving with Barb out through Holmen and over the hill to Mindoro looking for the truck he was going to fix the windshield for his friend. He said his friend always leaves the keys in his truck. Thursday night they did not find his house, so Friday morning they were driving north on Hwy M again to look for the truck. He then clarified it was not Justin Heim's truck but a truck that belonged to a friend of Justin's.

Investigator Leinfelder states that he interviewed Justin Heim and asked Justin if Todd had ever done any work for him such as windshield work. Justin said that he did have a conversation, he believed it was back in May of 2016, regarding a friend's windshield. The friend had a super duty pick-up truck with a cracked windshield. He told this friend that Todd works on windshields and he could check to see how much it would cost. Todd advised Justin that he actually was in possession of a super duty windshield at the time. The friend with the cracked windshield was a farmer and very busy so he did not get back to him about fixing the windshield for a period of time. When the friend did contact Justin, Justin was told by Todd that he was no longer in possession of the windshield. The friend was eventually identified as Ben Pfaff.

Heim stated that he has not talked to or seen Todd Kendhammer since August 23, 2016. He was certain of this because he went on vacation that date for 12 days, came back to work for 4 days, and then took another 12 day vacation. He confirmed that September 20, 2016, was his first day back to work.

Investigator Leinfelder made contact with Benjamin Pfaff about Pfaff having a broken windshield and that Justin Heim knew of a guy who replaces them.

Investigator Leinfelder asked Pfaff if he remembered this conversation and he stated that he did although he never had any intentions of fixing or replacing the windshield on the pick-up truck since it was a farm vehicle that he used for plowing.

Investigator Leinfelder asked Pfaff if he knew the name Todd Kendhammer and he said that he did not know the name but possibly the face. He said that he never had any conversations with Todd Kendhammer regarding this vehicle and the cracked windshield at any time. He did tell me that Heim told him that the person who he knew that fixes windshield worked with him at Crown Cork & Seal, again Pfaff stated that he never had any conversations with Todd Kendhammer either in person or by phone and that he never made any arrangements with anyone to fix the windshield. He only had conversations with Heim regarding the windshield.

Sergeant Williams of the LCSD states that he spoke with Joyce Adams, Barbara Kendhammer's mother, who stated that her daughter had called her every day before leaving for work and could not believe her daughter did not call her the day of the accident. She was only notified because her daughter's boss had contacted her and asked where she was as she had not shown up for work. She was very concerned with this information and immediately contacted her son telling him there must be something wrong. A short while later her grandson came to the house and told her to get ready and he was taking her to the hospital.

Investigator Sergeant Siegel of the LCSD states that he met with Laura Lusk, Cynthia Larson, and Carrie Niedfeldt at the West Salem Middle School. All three women have worked with Barbara Kendhammer for many years and stated that she was always in a good mood, very responsible, and easy to get along with. None of the women remember a time that she was not at work without being on the schedule or having talked with her supervisor, Cheri, ahead of time. They also stated that she was always on time for her 8:00 a.m. shift.

Investigator Sergeant Siegel states that Cynthia Larson stated that on 09/16/2016 at approximately 8:05 a.m. she received a call from her supervisor stating that Barb had not shown up for work and asking her how fast she could get to West Salem Middle School to help with duties. All three co-workers stated this was very unusual and that it made a little more sense when they subsequently heard she was involved in an accident.

Investigator Sergeant Siegel spoke with Cheri Elliot who has been Barb's food service supervisor for six years at West Salem Middle School. Prior to that they worked together at West Salem High School for many years. She cannot remember a time that Barb ever called in sick.

Cheri stated when Barb did not show up at work on Friday, 09/16/2016, she checked her phone records and found that she had called Barb at 8:02 a.m. to find out where she was and then called another employee to come in. She also called Barb's mother at approximately 8:10 a.m. and also stated that she tried Todd Kendhammer from the School District phone around the same time.

Cheri stated that Barb has not flexed her hours to 8:30 a.m. in the past or have people covered for her. Barb is always into work by 8:00 a.m. and it was highly unusual when she was not there on time.

Investigator Leinfelder states that he spoke with Gary Fossum about driving on Bergum Coulee Road on the day of the incident which he stated he remembered, stating it was September 16th. Gary said that he knows he received a phone call from Randy Erler, who he was working with as a drywaller, at 7:47 a.m. Gary opened up his phone and showed me the phone call he received on that date and time from Randy Erler. It also showed the call lasted 44 seconds.

Gary stated he believed when he got the call he was still driving on County Road M but he was very close to turning right onto Bergum Coulee Road. He then drove right to the work site where he was met by Patrick Skaar in the driveway on Bergum Coulee Road. They were talking about bear hunting while standing in the driveway.

Approximately 10 minutes later or so, his partner Randy pulled into the driveway. Approximately five minutes after Randy pulled into the driveway they could hear the sirens.

Investigator Leinfelder asked Gary if he had seen any vehicles on the street, either coming or going on Bergum Coulee Road when he was driving in. He said he saw no cars going in or passing him on their way out while going to the Skaar residence.

Investigator Leinfelder showed Gary a picture of the Kendhammer vehicle and he stated that was not there and he had not seen that on Bergum Coulee Road at all.

Investigator Leinfelder spoke with Randy Eler who stated that he had been working at the Skaar residence on Bergum Coulee Road. When he turned onto Bergum Coulee he noted a vehicle he said looked like it was attempting to do a Y-turn and went off of the road. The back tires were down in the ditch. He drove slowly by this vehicle and did not notice anyone near it. He said that the passenger door was open but again, saw no one. He then continued on to the job site. He arrived at the job site at approximately 8:02 or 8:04 a.m. He said he looked at the clock in his vehicle when he pulled into the driveway and that is how he remembered that.

Investigator Leinfelder asked Randy if he had observed anything unusual about the vehicle and he said he did not. I asked if he had noted any damage to the front of the vehicle and he also said no. Investigator Leinfelder asked if he noted any damage to the windshield and he stated, "No." Investigator Leinfelder asked if he would have noted or seen if there was an object sticking out of the windshield and he said, "Yes," and that he had not seen anything sticking out of the windshield.

Investigator Leinfelder told Randy that he would like to show him some photographs of the vehicle. Investigator Leinfelder showed him a side picture of the vehicle with the rear tires in the ditch and Randy said that was the position the vehicle was in when he went by. He also noted that he remembered the driver's side window was partially rolled down. Investigator Leinfelder showed him a picture of the windshield showing the condition of it with it being shattered. Randy stated that he did not see the shatter and that he did not remember it looking like that. He said if he had seen the windshield shattered like that he definitely would have stopped.

Randy confirmed that the call he made to Gary was at 7:46 a.m. He also stated that the windows on his truck were rolled down when he was slowly driving by the vehicle off of the road. He estimated his speed at approximately 5 mph when he drove by this vehicle and he heard and saw no one.

Analyst Nick Stahlke of the Wisconsin State Crime Lab states that he examined the vehicle involved in the incident and the pipe involved. The pipe is a galvanized steel pipe, 53" long and weighing 10 pounds and 5 ounces. The vehicle had a piece of grass pressed between the trunk and rubber seal of the trunk. There were also blood spots on the rear passenger wheel and numerous locations inside the vehicle. The windshield had 2 areas of damage. He called them "Area 1" and "Area 2."

"Area 1" was located in the upper half of the windshield, centered directly ahead of the front passenger seat. There are extensive fractures surrounding a perforation about 1 ½" by 1 ¾" in size. A flap of the plastic layer of the glass remained attached at the site of the perforation. "Area 2" was also located in the upper half of the windshield and was directly ahead of the space between the two front seats. The glass exhibited extensive fractures and the windshield bulged outward and glass fragments were present on the front seating area.

Analyst Stahlke concluded that the fracture patterns exhibited in the glass of the windshield indicate at least 4 points of impact in the windshield, with at least two points of impact in each Area described. The fracture pattern indicated the sequence to be a non-perforating impact in Area 2 occurred first. A second non-perforating impact in Area 2 occurred subsequent to the first, but unknown to Area 1

sequence. A non-perforating impact to Area 1 occurred subsequent to the first impact of Area 2. Finally, the perforating impact in Area 1 occurred subsequent to the non-perforating impact in Area 1.

Analyst Stahlke also is of the opinion that because of the pattern of glass spread on the passenger seat and inside the car, that nobody was seated in the front passenger seat when the windshield was damaged; and given the absence of glass fragments in the map pocket of the front passenger door, it is likely the front passenger door was open when the windshield was damaged.

Investigator Amundsen states that he reviewed surveillance video from the Union State Bank, Kwik Trip, and the West Salem First Responder's Office in the Village of West Salem to look for the truck identified by Todd Kendhammer as losing the pipe.

Investigator Amundsen reviewed the videos obtained reference the motor vehicle crash involving Todd and Barbara Kendhammer. The vehicle was described as a $\frac{3}{4}$ or 1 ton flatbed truck with approximately 1 foot high metal side rails from the stake pockets. The color and make were unknown. Investigator Amundsen did not observe any motor vehicle matching that description looking at 30 minutes on either side of the time of the motor vehicle crash at 8:06 a.m. on 09/16/2016.

Captain Zimmerman of the LCSD viewed surveillance video obtained from Wild Winds Ranch located at N5624 County Road M in the Town of Hamilton just south of where the incident occurred.

Captain Zimmerman states that at 7:54 a.m. he saw a pick-up truck southbound on County Road M. The truck was white and appeared to have a topper on the bed of truck.

A second vehicle at 7:57 a.m. is believed to be the Kendhammer vehicle, northbound on County Road M. The vehicle looked to be dark gray or dark colored and appeared to be a 4-door sedan.

No other vehicles matching this description were observed northbound during this time frame.

Two other northbound vehicles on County Road M were at exactly 8:00 a.m. and the second at 8:02 a.m. They appear to be trucks as well, not matching the description of the Kendhammer vehicle.

At 8:17 a.m. it is observed that the West Salem First Responder vehicle was northbound on County Road M and at 8:18 a.m. a squad car was northbound on County Road M as well. These were the only vehicles observed throughout a time period of approximately 7:20 a.m. through 8:30 a.m.

Subscribed and sworn to before me on
12/06/16

Electronically Signed By:

Emily E Hynek

Assistant District Attorney

State Bar #: 1072106

Electronically Signed By:

Deputy Cody Bernhardt

Complainant