

FILED **COPY**
MAY 18 2017
Kimberly A. Stahl
CLERK OF THE CIRCUIT COURT
OGLE COUNTY

STATE OF ILLINOIS
IN THE CIRCUIT COURT OF THE FIFTEENTH JUDICIAL CIRCUIT
OGLE COUNTY, ILLINOIS

PEOPLE OF THE STATE OF ILLINOIS,)	
)	
Plaintiff,)	
)	
vs.)	Case No. 2016-CV-52
)	2016-CV-53
MARC MONGAN,)	
)	
Defendant)	

SUPPLEMENTAL MOTION TO APPOINT SPECIAL PROSECUTORS,
PURSUANT TO 55 ILCS 5/3-9008(a-10)

NOW COMES, DAVID and ROBIN SWAZIEK, by and through their attorneys, KOROLL LITIGATION GROUP, LTD., and for their Supplemental Motion to Appoint Special Prosecutors, seeking this Court to appoint a Special Prosecutors in the above cases to prosecute Marc Mongan and in addition to appoint a Special Prosecutor to investigate and prosecute charges against States Attorney Eric Morrow for allegations of Obstruction of Justice and other charges that may be determined, state as follows:

1. Pursuant to 55 ILCS 5/3-9008(a-10) : *The court on its own motion, or an interested person in a cause or proceeding, civil or criminal, may file a petition alleging that the State's Attorney has an actual conflict of interest in the cause or proceeding. The court shall consider the petition, any documents filed in response, and if necessary, grant a hearing to determine whether the State's Attorney has an actual conflict of interest in the cause or proceeding. If the court finds that the petitioner has proven by sufficient facts and evidence that the State's Attorney has an actual conflict of interest in a specific case, the*

court may appoint some competent attorney to prosecute or defend the cause or proceeding.

2. David and Robin Swaziek are parents of Megan Wells, the victim in the above criminal cases. They seek a Special Prosecutor to be appointed for two tasks:

- a. To investigate and prosecute a case personally against States Attorney Morrow for his obstruction of justice in this case by failing to act within the authority of his office and to obtain the warrant requested by the Illinois Department of Natural Resources when said action was reasonable and prudent and justified under the facts provided.
- b. To prosecute the case against Marc Mongan for his conduct that caused the death of Megan Wells.

3. The victim's parents are victims as defined in Section 3(a) of the Rights of Crime Victims and Witnesses Act. 725 ILCS 120/3(a). The State's Attorney has agreed in this case that they are proper parties to this case under the Act and as such they have the standing to bring this motion. (See Exhibit A, e-mail Morrow)

4. Defendant, Marc Mongan, recklessly and willfully drove his boat into a boat upon which Megan was a passenger. Megan's boat was docked. Passengers on Megan's boat saw Mongan approaching at a high rate of speed and attempted to wave him off. Mongan took no action to avoid the boat and instead ran right up onto it. Megan, a 31 year old mother of three, was struck by Mongan's boat, was fatally injured and was thrown into the water. Her Uncle and other persons recovered her body. A coroner's inquest and autopsy revealed the cause of death to be Reckless Homicide.

5. The Illinois Department of Natural Resources (IDNR) was called to the scene. Officer Beltran, an experienced IDNR officer contacted State's Attorney Morrow and requested by phone that he obtain a warrant for a forcible blood draw as Mongan refused chemical testing. State's Attorney Morrow refused the request to obtain the warrant.
6. States Attorney Morrow has had personal dealings with Mongan and his family members, has represented Mongan's brother and nephew, has been on the Board of at least one organization where Mongan has contractual relationships, has associated with Mongan's daughter, son-in-law and his daughter's mother-in-law who also hosted campaign events for Morrow, and has fraternal ties and other relationships with Marc Mongan.
7. The facts and circumstances reported to Mr. Morrow by the Officer from the scene of the fatality regarding failed sobriety testing, evidence of empty beer cans, staggering behavior of Mongan, Mongan's admitted use of alcohol before the crash, Mongan's refusal of chemical testing, reports of bystanders, overwhelming odor of alcohol and Mongan's denial of knowledge of any crash provided Mr. Morrow with more than an adequate basis upon which to seek a warrant for a forcible blood draw.
8. States Attorney Morrow refused the IDNR officer's request and no warrant was obtained.
9. An affidavit has been provided by Leigh Daily in which she reports her conversation with Officer Beltran. Officer Beltran reported to her that Mr. Morrow denied the Officer's request stating: **" I know Marc. I know the Mongan family. He is not going anywhere."** (See Exhibit B, Affidavit of Leigh Daily)

10. States Attorney Morrow, in recent IDNR meetings, now denies any recollection of a request for a warrant or forcible blood draw which would have provided the basis for felony charges. (See Exhibit C, Affidavit of Cynthia Koroll)
11. Based on Morrow's denial of the warrant and a failed presentation by Morrow to the grand jury which obviously did not include blood test results, only misdemeanor charges were filed against Marc Mongan.
12. Recently, Eric Morrow contacted Megan Wells family to report that Mongan's counsel had filed a Motion to Dismiss and that the State had no adequate basis upon which to object and the misdemeanor charges would be dismissed by the Court. (See Exhibit D, letter to family)
13. Morrow's office filed a brief reply to the Motion with no legal authority upon which the Court could rely to deny the Motion.
14. At the last Court hearing Mr. Morrow, in contravention of the email and discussions with family in which he had advised that the defense would win and the case would be dismissed, Mr. Morrow proffered to the Court that his office was in fact opposing the motion and that they had discovered "recent case law that will be dispositive of the motion."
15. Mr. Morrow has yet failed to file any case law or additional authority upon which this Court can rely to deny the Motion to Dismiss.
16. In a surprising turn of events Mr. Morrow now asserts the Defendant will voluntarily withdraw his Motion to Dismiss but cites no basis for how he obtained this knowledge or why he never produced the "new case law dispositive of the motion"

before the Court. Obviously, this withdrawal of the motion to dismiss is the only device by which Mr. Morrow now is released from any obligation to provide the case law he referenced (See Exhibit A, e-mail from Morrow)

17. Megan Wells family asserts that Mr. Morrow has an actual conflict of interest in this case, has shown distinct and favorable treatment to the Defendant and has failed to conduct a proper prosecution to date and will fail in the future. As such, they request that this Court conduct a hearing and permit witnesses to be called to testify to the preferential treatment offered to Marc Mongan by Eric Morrow and to determine that a Special Prosecutor should be appointed for further prosecution which may include a renewed and complete presentation of the facts and circumstances of this crime to the grand jury to obtain the proper felony charges recommended by the Illinois Department of Natural Resources and supported by local law enforcement authorities. Further, they seek this Court to appoint a Special Prosecutor to proceed against Mr. Morrow for his actions in obstructing this case and giving special treatment to Marc Mongan.

18. Fairness in the criminal justice process includes a prosecutor who is unbiased. Illinois recognizes the importance of a an unbiased prosecuting attorney in Section 3-9008 of the Counties Code, which authorizes the court to appoint a special prosecutor whenever the State's Attorney "is interested in any cause or proceeding, civil or criminal, which it is or may be his duty to prosecute or defend[.]" 55 ILCS 5/3-9008] The intent of this statutory provision is to "prevent any influence upon the discharge of the duties of the State's Attorney by reason of personal influence upon the discharge of the duties of the State's Attorney by reason of personal interest." *In re Appointment of a Special*

Prosecutor, 388 Ill.App.3d 220, 223, 902 N.E.2d 730, 735 (2009). A private citizen has standing to petition for appointment of a special prosecutor, even though the citizen may not be a party to the case. *In re Appointment of a Special State's Attorney*, 305 Ill.App.3d 749, 758, 713 N.E.2d 168 (1999). A victim in a criminal case, although not having party status, has standing as a private citizen to invoke section 3-9008 of the Counties Code.

19. Article I, Section 8.1(a) of the Illinois Constitution guarantees a victim of a violent crime 12 specifically enumerated rights. One of those rights is the "right to be treated with fairness and respect for their dignity and privacy and to be free from harassment, intimidation, and abuse throughout the criminal justice process [.]" IL. Const., Art. I, Sec. 8.1 (a) (1). Crime victims have standing to assert this right. IL. Const., Art.I, Sec. 8.1(b).

Allegations of Obstruction of Justice

20. Eric Morrow, in contravention of all of the evidence provided to him by the IDNR officer elected not to seek a warrant to obtain a forcible blood draw. Though the State's Attorney does admittedly have discretion to act, an abuse of discretion is clear from the facts and circumstances in this case. (Exhibit E, Report of Officer Beltran) A Special Prosecutor is required to analyze the actions of Mr. Morrow, his abuse of the authority of his office and his obstruction of justice in this case.

21. This case involved an obvious brutal and tragic fatality. The clear and unequivocal report of Officer Beltran provides a solid basis upon which Mr. Morrow could have sought a warrant for the forcible blood draw. The only conclusion that can be reached in light of the evidence in this case is that Mr.Morrow failed to act due to his

relationship and deference to Marc Mongan and his family.

22. Given the facts and circumstances of the call made by the Officer to Mr. Morrow the reasonable and prudent approach would have been for Mr. Morrow to seek the warrant. There is no good basis whatsoever for Mr. Morrow to have concluded that alcohol and impairment were not factors in this case. The logical step would be to use the newly passed law and to obtain the warrant and thus the sample.

23. IDNR has been unequivocal in their position that Mr. Morrow should have obtained a warrant based on the facts presented and that he should have gathered the blood sample under the warrant in order to provide a basis for felony charges. This was the basis stated in the first meeting with IDNR days after the accident and the basis in the most recent meeting initiated by Morrow's concern about the recent press.

24. This case has also resulted in a civil proceeding for Wrongful Death. Officer Beltran is scheduled for deposition tomorrow in that matter. If the deposition proceeds and he is queried on his interactions with Mr. Morrow and he testifies consistent with his statement to family : " I know Marc. I know the Mongan family. He is not going anywhere." , the Court will be asked to take notice of this testimony in addition to the affidavit provided.

25. Mr. Morrow's recent denial of any recollection of a request for a warrant begs the question of his veracity in this matter. Many law enforcement officials were present for the conversation and can attest to the request made by the Officer and his report of Morrow's denial.

26. It is also problematic that Mr. Morrow, on his own initiative, when provided with

the facts and circumstances of the fatality would have determined that a warrant for a forcible blood draw was required. There is no basis upon which Mr. Morrow could argue that this case did not require chemical testing and did not warrant enhanced charges.

27. The only plausible explanation for Mr. Morrow's failure to take any action to obtain a warrant is a conflict of interest. There is simply no other basis.

28. The family has made requests with the Attorney General's Office seeking an investigation of Eric Morrow and his refusal to obtain the requested warrant. They have been advised that the AG cannot act without the authority of the Court and as such are requesting that this Court not only appoint a Special Prosecutor in the cases against Marc Mongan but that an additional Special Prosecutor be brought in to examine the evidence of the misconduct of Mr. Morrow and for further prosecution. The family is aware that an AG could be brought in at request of the State's Attorney's office which will not occur in this case.

Family Relationships

29. State's Attorney Morrow has met with the parents on several occasions. He asserted he lacked any special relationship with Marc Mongan and had no affiliation with the Defendant. The parents queried Mr. Morrow on many of the issues in this case and asked if Mr. Morrow was familiar with the Defendant, the Defendant's Home Health Company and whether the Defendant's stature in the community would impact further decisions in this case.

30. Mr. Morrow advised the victim's parents that he "might recognize him on the street" but asserted "we do not run in the same social circles." This statement is false.

Marc Mongan's step daughter Monica and son-in-law Jason are members of the Benesh family. Monica's mother-in-law is Lori Benesh the benefactor of a fundraiser held for Mr. Morrow. The family held a fundraiser for Mr. Morrow's election and Marc Mongan's daughter and her family members participated. (See Exhibits F,G, affidavits and Exhibit H, Political fundraiser flyer)

31. Mr. Morrow's recent reply to the ARDC complaint filed by Megan's family also indicates his representation of Marc Mongan's brother and his nephew in their criminal cases.. (See Exhibit I, ARDC response)

32. It is evasive of Mr. Morrow to advise Megan's family that he does not run in the same social circles as the Mongan family when there are clearly ties that connect him to many of Mongan's "circle".

33. Whether or not the familial and community ties would create a conflict for Morrow is a question that must be considered in the light of his refusal to seek a warrant based on his knowledge of Marc Mongan and the Mongan family.

Serenity Hospice Affiliation/County Contracts

34. States Attorney Eric Morrow was the former Board President of Ogle County Hospice Association/Serenity Hospice and Home. State's Attorney Morrow served on that Board for ten years. Marc Mongan's pharmacy company has held contracts to supply medications to the hospice affiliates and obtains monetary gain from those contracts.

35. On January 9, 2017, weeks after the Grand Jury did not return the Bill of Indictment, Marc Mongan made a "generous donation" to Serenity Hospice and Home. (See Exhibit J, press release)

36. In his recent reply to the ARDC Mr. Morrow asserts that he had no day to day responsibilities for decision making of Serenity Hospice as the Board President.

37. Mr. Morrow neglects to mention that he also served on the Foundation's Board which is believed to hold the authority to decide on vendors contracts.. On information and belief Marc Mongan has a lucrative contract with the Hospice Organization to provide pharmacy services for monetary gain.

39. Mr. Morrow asserts in his ARDC response to have limited ties to the Ogle County community but his relationship with Serenity dates back to its early organization and establishment at a time that contracted services such as pharmacy contracts were awarded. As such, on information and belief, Mr. Morrow was a party to decision making that would have awarded the hospice contracts to Marc Mongan's company. This creates an obvious bias and conflict.

40. Advertising materials provided by Mongan's company also report that he holds contracts with other Ogle County government entities.

41. Marc Mongan, on information and belief, is the sole contractor providing pharmacy services to the Ogle County Sheriff and the Ogle County jail. The State's Attorney may or may not have any involvement regarding these contracts but an appearance of impropriety is evident.

Fraternal Organizations

42. Mr. Morrow is a member of the Oregon Masonic Lodge. On information and belief Marc Mongan is also a member of the Oregon Masonic Lodge.

43. Mr. Morrow is a member of the Tebala Shriners. On information and belief, Marc

Mongan is also a member.

44. Mason's and Shriners are required to take a sealed oath to promote their brotherhood and to protect the persons in their organizations. This is a duty that Mongan owes to Morrow and it is reciprocal.

Friendship with Officer Beltran

45. Officer Beltran advised the family that he has a personal friendship with State's Attorney Morrow.

46. The Defense can utilize the personal relationship to attempt to impeach the credibility of the officer who is a key witness in this case.


Witness in the Wrongful Death Case

47. Given the refusal of Mr. Morrow to obtain the warrant and his failed recollection of those events, he is a potential witness in the Wrongful Death case and this creates a further conflict

WHEREFORE, DAVID and ROBIN SWAZIEK, respectfully request this Court to

1. Examine the evidence provided in the form of exhibits and to conduct a hearing in which Officer Beltran, Captain Petreikis, Sheriff Van Vickle and others can be called to testify to the conflicts apparent in Mr. Morrow's role as prosecutor in this case and to appoint an unbiased prosecutor to advance the process against Marc Mongan and to promote the justice they deserve as victims of Marc Mongan's actions.
2. To appoint an additional Special Prosecutor to investigate and proceed against States Attorney Morrow for his obstruction of justice in this case and his preferential and

unwarranted treatment of Marc Mongan by refusing to seek a warrant as indicated was required by IDNR based on the facts in this case.

BY: 
Cynthia Koroll

Cynthia Koroll
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Cynthia Koroll <cindi@klg-law.net>

Case law

Eric Morrow <emorrow@oglecounty.org>
To: Cynthia Koroll <Cindi@klg-law.net>

Wed, May 10, 2017 at 6:38 PM

Attorney Koroll-

The Defendant's attorney has indicated to me that he intends to withdraw the Motion to Dismiss and proceed toward trial in this matter. I hope to confirm this with him by the end of this week.

I have no objection to your clients' motion to be included under the Crime Victims' Act.

Do you intend to file an amended Motion for Special Prosecutor?

Eric D. Morrow

Ogle County State's Attorney

106 S. 5th Street

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Oregon, Illinois 61061

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www.oglecounty.org



From: Cynthia Koroll [mailto:Cindi@klg-law.net]

Sent: Wednesday, May 10, 2017 7:40 AM

To: Eric Morrow <emorrow@Oglecounty.org>; Robin <RobinSwaz@hotmail.com>; Swaziek, David

STATE OF ILLINOIS)
)
COUNTY OF WINNEBAGO) SS

AFFIDAVIT

Now comes the Affiant, Leigh Renee Daily, first being fully sworn states as follows:

1. My name is Leigh Renee Daily.
2. I am the aunt of Megan Wells, deceased.
3. On or about March 31, 2017 I had a phone conference with Officer Beltran to discuss the events surrounding the death of my niece. The Officer informed me on that date that he had a personal relationship with State's Attorney Morrow and that they were friends.
4. On or about May 15, 2017 I called Officer Beltran on his cell phone from my cell phone. We discussed his upcoming deposition that my attorney will be attending. The remainder of this affidavit contains information gathered in that conversation.
5. Officer Beltran and I discussed the video tapes and he began to refresh my recollection of our prior conversation about his discussion with State's Attorney Morrow on the day of Megan's death. I asked him specifically to tell me about why the "forcible blood draw" was not obtained on Marc Mongan that night.
6. Officer Beltran told me that Eric Morrow denied his request to get a warrant for the blood draw. He stated he had called State's Attorney Morrow that night. This call was made in the presence of the Ogle County Sheriff and the



Oregon Chief Deputy and many other law enforcement personnel. I asked the Officer if he believed that these persons heard the conversation and he stated that they did.

7. Officer Beltran told me that the purpose of the call was to ask the State's Attorney for a subpoena to obtain a blood draw in order to support felony charges against Mongan for causing Megan's death.
8. Officer Beltran reiterated that when he called for the blood draw he was standing in front of the Sheriff Van Vickle and others. He stated to Mr. Morrow: "We need forcible blood draw. If there ever was a case that that law was passed for it is this one."
9. Officer Beltran stated that he told Mr. Morrow, "If there was ever a favor you could do for me we need a warrant for this blood draw."
10. Officer Beltran stated that Mr. Morrow responded to Beltran: "I know Marc." "I know the Mongan family and he is not going anywhere."
11. Officer Beltran told me that Mr. Morrow specifically denied his request for a warrant to obtain blood from Marc Mongan even after the officer related all of the results of the sobriety testing, the facts surrounding the crash and that Marc Mongan had admitted to alcohol use and had many empty beer cans in his boat. He had advised Mr. Morrow that Marc Mongan had the obvious signs of intoxication and that he believed that a charge of Operating a Watercraft While Intoxicated was clear and that Officer Beltran asked for the warrant for the forcible blood draw in order to provide evidence for a felony

charge for causing Megan's death. Mr. Morrow still refused to take any action to obtain a warrant.

12. Officer Beltran told me that he had a recent email and a call from Mr. Morrow shortly after the time of the last court appearance. I inquired about the purpose of the call and if I could obtain a copy of the email. I was told that I would have to issue a FOIA request and that there are documents regarding the meeting. My brother in law has issued a FOIA request for these materials.
13. I reminded Officer Beltran that we had previously discussed that he had asked the State's Attorney for the warrant and had recommended felony charges. He had told me in a previous call, which I confirmed with his captain, that approximately ten days after Megan's death Captain Petriekis had a meeting with State's Attorney Morrow and an Assistant State's Attorney in which she stated the IDNR position that felony charges should have been pursued and a forcible blood draw obtained. Captain Petriekis asked Mr. Morrow why he had refused to obtain a warrant in light of the clear circumstances and evidence in the case.
14. Officer Beltran advised me in our conversation and in our previous conversation that he believed that a warrant should have been obtained and that IDNR was in support of felony charges. The only reason a forcible blood draw was not obtained was solely because Mr. Morrow personally denied the request.

FURTHER AFFLIANT SAYETH NAUGHT

Dated: 5/16/17

Leigh Renee Daily
Leigh Renee Daily

Subscribed and sworn to before me

this 16 day of May, 2017.

[Signature]
Notary Public



STATE OF ILLINOIS)
) SS
COUNTY OF WINNEBAGO)

AFFIDAVIT

Now comes the Affiant, Cynthia Koroll, first being fully sworn states as follows:

1. My name is Cynthia Koroll.
2. I am the attorney for the family of Megan Wells, deceased.
3. On May 15, 2017, I contacted Captain Petreikis of IDNR by phone to discuss
the details of Marc Mongan's charges in this case.
4. The Captain informed me that she along with Sgt Petreikis and Officer Beltran
recently attended a meeting convened by State's Attorney Eric Morrow.
5. Captain Petreikis stated that the meeting was convened after Mr. Morrow
contacted Officer Beltran by phone and email about the recent press coverage
regarding the case.
6. The Captain indicated that IDNR had always opposed any motions to dismiss
the case and had clearly communicated to Eric Morrow from the onset of the
case that the Department believed that the case merited felony charges.
7. Captain Petreikis informed me that there had been prior meetings with Eric
Morrow regarding this case and that her department had "fought for this case
from the beginning".
8. Captain Petreikis advised me that "IDNR had recommended elevated charges"
and that Mr. Morrow "refused to grant the felony."
9. Captain Petreikis stated that the discussion in the recent meeting was



memorialized in an internal memo that she filed with IDNR shortly after the meeting. She directed me in the process to obtain a FOIA request from the Springfield office.

10. The Captain advised me that Officer Beltran is a highly respected officer with significant experience investigating and charging cases in which boaters are accused of Operating Watercraft while Intoxicated.
11. I advised her of the commentary repeated to me by Megan's family in which States Attorney Morrow criticized the evidence collection and failure to videotape certain parts of his investigation of Marc Mongan. She advised me that Officer Beltran observed all proper procedures and was not required to videotape all of the elements of the investigation.
12. Captain Petreikis advised me that Officer Beltran contacted State's Attorney Eric Morrow and sought his guidance at the scene of the accident. Officer Beltran specifically requested that Mr. Morrow obtain a warrant to require a blood draw and State's Attorney Morrow refused the request.
13. I questioned whether any other law enforcement were present for the conversation. The Captain advised me that to her knowledge there were witnesses to the conversation.
14. Captain Petreikis advised me that the recent meeting included a discussion of the request for the warrant and Mr. Morrow's refusal.
15. Captain Petreikis advised me that she believed the Officer had explicitly requested the blood draw and there was no doubt that the request was made to

Mr. Morrow.

16. Captain Petreikis stated that "Mr. Morrow's recollection differed." "Mr. Morrow did not recall the Officer requesting the requests by the Officer.
17. Captain Petreikis advised me that IDNR had implemented a new policy that now requires Officers to document any requests for warrants or blood draws and to also document refusals. This was not department policy at the time that Officer Beltran made the request of Mr. Morrow.

FURTHER AFFIANT SAYETH NAUGHT

Dated: 5.16.17


Cynthia Koroll

Subscribed and sworn to before me

this 16 day of May, 2017.



Notary Public





ERIC D. MORROW
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April 10, 2017

David and Robin Swaziek
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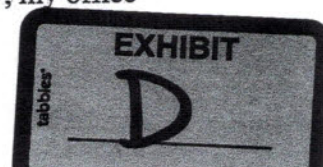
RE: People vs. Marc W. Mongan, 2016 CV 52 & 53

Dear Mr. and Mrs. Swaziek and Mr. Wells:

The purpose of this letter is to follow up on the previous meetings and email conversations that you have had with my office in regard to the above-referenced case. Although I believe that most of the information addressed in this letter has been discussed either in person or by email, I am reducing it to writing in hopes that it will allow you to have a clear understanding of the status of the case.

On or about June 24, 2016 the Defendant, Marc Mongan, was arrested by the Illinois Conservation police for the misdemeanor offenses of Operating a Watercraft Under the Influence of Alcohol and Reckless Operation of a Watercraft. Additional investigation was completed by the Illinois Conservation Police, which included a boat crash reconstruction, and two separate search warrants for the Defendant's cell phone and information from his boat motor. Additionally, my office requested some follow up investigation regarding possible additional witnesses. After the completion of the investigation, the case was presented to the Ogle County Grand Jury for the consideration of the felony charges of Operating a Watercraft Under the Influence of Alcohol and Reckless Operation of a Watercraft. The felony charges presented to the Grand Jury contained the same elements as the misdemeanor charges with the additional element which alleged that the Defendant caused the death of Megan Wells.

During the extensive presentation to the Grand Jury, which took an entire day, my office



presented the live testimony of the arresting officer regarding his observations of the Defendant, the Defendant's performance on field sobriety tests and his opinion that the Defendant was under the influence of alcohol. The arresting officer also presented the findings of the boat crash reconstruction prepared by the Illinois Department of Natural Resources. The Grand Jury also heard the live testimony of some occurrence witnesses along with video statements of others. A lengthy video statement taken from the Defendant the night of the incident was also presented.. As a result of this fact, the Grand Jury was able to observe the Defendant's actions, demeanor and speech as close as possible to the relevant time. In addition, the Grand Jury had the opportunity to consider other evidence such as photographs.

It is important to note that due to the legal nature of the Grand Jury process, the case was presented without the Defendant having the opportunity to present evidence on his behalf. Likewise, the Defendant's attorney was not present to cross examine witnesses or attempt to otherwise cast doubt on the evidence presented by my office. Despite this, the Grand Jury found that there was no probable cause to proceed with felony charges against the Defendant.

Under Illinois law, there must be a finding of probable cause to proceed with a felony charge. Since the Grand Jury has found that there is no probable cause to proceed with felony charges my office is not legally able to move forward with any felony prosecution against Mr. Mongan in regard to this matter.

During our early meetings, both First Assistant State's Attorney Robert Schuman and I expressed to you our concerns regarding the strength of the evidence in this case. Specifically, we discussed the difficulty of proving the intoxication of the Defendant beyond a reasonable doubt without any chemical testing showing the Defendant's blood alcohol concentration. I believe that we also spoke about issues with the field sobriety testing. Specifically, the fact that according to the arresting officer the Defendant failed the field sobriety tests, but he also completed some of the field sobriety tests with little difficulty. For example, during the "alphabet test" the Defendant is reported to have recited the alphabet correctly, with the infractions of singing the alphabet and adding the word "and" between the letters "y" and "z." In performing the "finger count test" the Defendant did not touch the exact tips of his fingers together. In addition, the field sobriety tests were not video recorded. It was also noted that the Defendant did not have difficulty walking the approximately 100 yards from the riverside to the location where field sobriety tests were administered. It could also be argued that the video recording of the Defendant's statement on the night in question is inconclusive as to the issue of his intoxication.

Despite these issues, the decision was made to present this matter to the Grand Jury to determine if there was probable cause for felony charges of Operating a Watercraft Under the Influence of Alcohol and Aggravated Reckless Operation of a Watercraft to proceed. The Grand Jury was presented with the evidence outlined above, the proposed felony charges, and the legal definitions of "under the influence of alcohol" and "reckless operation." After thorough consideration, the Grand Jury found that there was no probable cause to move forward with these felony charges.

The totality of the evidence indicates that the Defendant did consume alcohol on the night in question. As we have discussed, however, the proof of mere consumption of alcohol is not enough to sustain a charge of Operating a Watercraft Under the Influence of Alcohol. For a defendant to be found guilty of either the felony or misdemeanor charge of Operating a

Watercraft Under the Influence of Alcohol the State must prove, beyond a reasonable doubt, that the defendant was legally under the influence of alcohol in that "his mental or physical faculties are so impaired as to reduce his ability to think and act with ordinary care." Likewise, the State would need to prove, beyond a reasonable doubt, that the Defendant operated a watercraft "with willful or wanton disregard for the safety of persons or property" to sustain either the misdemeanor or felony charges of Reckless Operation of a Watercraft. Based upon the determination of the grand jury that there was no probable cause to proceed with the felony versions of these charges, it is a legal impossibility that the charges could be proven beyond a reasonable doubt with the same evidence.

The Defendant, through his attorney, has filed a "Motion to Dismiss and Other Relief" which is set for hearing before Judge Redington on April 25, 2017 at 1:30 p.m. In response I have filed a document entitled "People's Answer and Motion to Strike Portions of Defendant's Motion to Dismiss an Other Relief." Copies of both of these documents are enclosed for your review. The Defendant's motion contains two arguments.

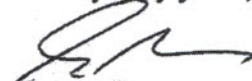
The first argument is that the finding of the grand jury that there was no probable cause to proceed with the felony charges legally bars the State from proceeding with the misdemeanor versions of the charges. Unfortunately, for the reason addressed above, I believe that the this argument may be well taken by the Court and the charges could be dismissed. If the misdemeanor charges are dismissed by the Court, we will be left in a situation where we are not legally able to proceed with either the felony or misdemeanor versions of the offenses.

The second argument in the Defendant's motion is that the suspension of the Defendant's driving privileges should be rescinded or removed by the Court because of a lack of probable cause. As stated in our response, the relevant statute indicates that the sole remedy for the Defendant in this situation is a request for administrative review by the Illinois Secretary of State and not relief through the circuit court. This request should be denied by the Court.

Mr. Swaziek had previously requested to view the police reports, photographs and video recordings at my office. After reviewing this issue, I believe that the under the Freedom of Information Act, he can be provided copies of certain items. I would ask that he complete the enclosed Request for Public Records and return it to my office for the file. We will then process the request. I would note that it will be necessary to redact certain identification information from these items.

After you have had the opportunity to review the information contained in this letter, please contact me with any questions or concerns that you may have. As always, my staff and I are available to discuss this matter with you and address any questions.

Very truly yours,



Eric D. Morrow

EDM/cke
Enclosures



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SYNOPSIS

MONGAN was arrested for operating under the influence after crashing his boat into DAILY's boat fatally wounding WELLS.

NARRATIVE

SUBJECT #11 is a witness

WESSLING THOMAS E

SEX/M DOB/ [REDACTED] HGT/5'10" WGT/240 HAI/GRY EYE/HAZ
OLN/ [REDACTED]

On Friday June 24th, 2016 at approximately 8:33 P.M. I, CPO Steven Beltran #364, was dispatched to a boating accident on the Rock River near Oregon Illinois. I was in Savanna Illinois and my en route time was approximately 50 minutes. I was advised there was a person in the river and two boats had collided (a jon boat and a pontoon boat). During my travel time I was given updates on the status of the missing person(s) and was advised one person was recovered from the river and life saving efforts were being made to resuscitate an unresponsive person. I was also notified that one person in the jon boat was taken to the hospital [REDACTED]

I was advised to travel to the 3400 block of River Road where a deputy would meet me and bring me to the scene.

I arrived at approximately 9:45 P.M. and was instructed one of the boats was at the shore line and the other was a short distance away on a neighboring property shore line. Upon my arrival I discovered all persons were checked medically and those who required it were transported to a hospital. The Ogle County Sheriff's police secured the scene and advised me the operator of the offending vessel had not consumed anything since the accident.

I met the operator of the Jon boat and he identified himself as Marc Mongan (via Illinois ID). I asked MONGAN what had happened and he advised me he was involved in a crash. I asked if he had any injuries and if he required medical attention and he advised me he had some scratches but did not need medical attention and was fine. I asked him to show me his required safety equipment on the boat and asked him if he used any of it during the crash. MONGAN walked slowly around his boat and reached deliberately for the items. He appeared to have consumed some alcohol and was exhibiting signs of impairment. He had red blood shot glassy eyes, thick slurred speech, a stoic appearance and slow movements. I asked him for each item and he pointed to some of their locations rather than provide them to me as requested. I asked him to exit the boat and walk onto the shore line as MONGAN showed distinct signs of alcohol impairment. We stepped away from the water and I looked at his face and person for injuries. I asked again about injuries and he said he was fine and did not have injuries. While looking him over I could see a clear view of his face and eyes. His eyes were red with fibrous lines and a glazed look. I asked him to look at me and follow a pen being held in front of his face. I told him not to move his head but just rather move his eyes. He failed to follow my directions and I asked him again to comply. He failed again by moving his head. I asked him a third time and looked into his eyes. His face was devoid of expression and slow moving. I instructed him to walk up to my police vehicle approximately 50 yards away where he could have a seat.

We spoke about the presence of alcohol in his boat and his alcohol consumption. MONGAN stated he consumed about 6 drinks since approximately 6:00 P.M. I asked him what kind of beer was in the boat and he said Busch Lite.



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Mongan had slurred speech and seemed confused. I told him I felt he may be under the influence and requested testing.

I asked MONGAN to perform field sobriety testing. I asked him the standard questions on the field sobriety test instructions and he answered "NO" to all of the following.

- Do you have any physical defects
- Do you have any defects with your eyes
- Are you sick or injured
- Are you under the care of a doctor or dentist
- Are you taking any medication or drugs

Mongan affirmed "NO" to these questions and stated he had Lasik surgery 2-3 years ago.

FIELD SOBRIETY TEST PERFORMANCE REPORT:

At 9:55 P.M., I started the Field Sobriety Test Performance Report from the preprinted form and began.

HORIZONTAL GAZE NYSTAGMUS:

MONGAN was positioned on the gate of my truck so I could see clearly into his face and eyes. I wanted to give him some time to have his legs settle and relax. I illuminated his face with indirect light I could get a clear view of his eyes. I gave him the instructions. He said "yes" when I asked if he understood the instructions. MONGAN's eyes tracked equally and his pupils were of equal size. Both eyes showed a lack of smooth pursuit. Both eyes showed a distinct and sustained nystagmus at maximum deviation. Both eyes showed onset of nystagmus prior to 45 degrees in which there was some white showing in the corner of the eye and my pen had not passed his shoulder. I checked for vertical nystagmus and none was present.

CLUES: 6 (Evaluation Criteria 4 or more).

ALPHABET TEST:

I asked MONGAN if he knew the English alphabet and he said "yes". I continued with the instructions. When I asked do you understand, he said yes. He began the test. MONGAN recited slowly and then began to sing despite being instructed not to. MONGAN reached the letter W, X, Y and Z, and had slurred speech did not complete this test as instructed.

FINGER COUNT:

MONGAN sat next to me so I could get a clear view of his fingers. I gave him the instructions and demonstrated. He was confused and asked for clarification on the number of sequences and how to perform the test. I asked him if he would like me to read him the instructions again and demonstrate the test again and he said yes. I re read the test and re demonstrated the test and he said "yes" when I asked if he understood the instructions. He performed this test slurred speech and had an improper finger touch by not touching the tip of his finger to the tip of his thumb. MONGAN did not follow the instructions for this test.

PALM PAT:

MONGAN sat next to me so I could get a clear view of his hands. I read the instructions from the preprinted form and demonstrated as noted on the form. He said "yes" when I asked if he understood the instructions. During the instruction phase he was unable to follow instructions and remain in the position as I demonstrated and instructed. During the performance stage he did not count as instructed, rolled his hands, and did not increase speed

CLUES: 4 (Evaluation Criteria 2 or more).



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WALK AND TURN:

MONGAN was comfortable and had on flip flops for footwear. I asked him if he wanted to perform the next test with his flip flops on or off and he chose to take them off. He said he was able to perform this test. MONGAN stood in front of me so I could get a clear view of his feet. The area did not have a visible line so I instructed him to simulate one on the road. It was free from debris and properly lit. I read him the instructions from a preprinted card and demonstrated them. He said he understood the directions. MONGAN lost his balance during the instruction phase. During the performance phase he stopped while walking, did not touch heel to toe, stepped off line, used his arms to maintain balance (more than 6 inches), performed an improper turn, and took the wrong number of steps. MONGAN also failed to count his steps out loud, his gate was wide and little success was obtained from his efforts. MONGAN walked with his arms extended with great effort trying to perform the test.

MONGAN'S efforts on this test showed him placing his arms out and wobbling as he walked, stepping off the line wide footed on almost every step in an effort to remain standing. His turn was quick and he appeared confused as he walked back wide footed, stepping off the line again several times, never touching heel to toe.

CLUES: 7 (Evaluation Criteria 2 or more).

ONE LEG STAND:

I read the instructions from the preprinted form and demonstrated as noted on the form. He said "yes" when I asked if he understood the instructions but could not remain in the position demonstrated. During the counting phase MONGAN counted very slow, he stopped twice and looked at me confused and asked if he should continue. He appeared dazed and confused. MONGAN started with his hands to his side and swayed while balancing, he raised his arms more than 6 inches, he held them out as far wide as they could go. He put his foot down several times and reached 10-19 after a 30 second period had passed. His body was loose and flaccid with varying posture. MONGAN set his foot down 2 times and looked at me as if the test had stopped. He started back up as I continued to watch him. I stopped the test at this time. He showed great signs of intoxication.

CLUES: 3 (Evaluation Criteria 2 or more).

UNDER ARREST:

Based on MONGAN'S confusion, statements of alcohol consumption, presence of alcohol, and appearance of inebriety I believed MONGAN to be under the influence. At approximately 10:15 P.M. I advised MONGAN he was under arrest for operating under the influence of alcohol. Placed him in handcuffs, checked for fit and double locked, and seat belted him in the front seat of my squad. MONGAN stated he was claustrophobic and I assured him he was not going to be placed in the back seat. He asked to have the handcuffs in front and I advised him they were to remain behind his back.

Just before transport MONGAN requested his handcuffs be adjusted. I had him step out of the vehicle and adjusted them again. We then drove to the Ogle County Jail. En-route to the jail I was advised a passenger on the other vessel had died from the collision. I requested both boats be seized and secured pending the investigation. Ogle County Sheriff's department facilitated the transfer of both boats to secure storage (evidence 43129 and 43109). Ogle County also secured names, passenger locations and statements from other persons involved.

At the jail I read MONGAN his warning to motorist (10:55 P.M.) and had him sign a handwritten line at the bottom of the form indicating I read it to him. I waited a period of no less than 20 minutes and requested a breath test.



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MONGAN refused (see attached refusal printout from machine). I requested blood and urine and he also refused. I started a recording on my department issued IPHONE and read MONGAN his notification of rights and asked for a statement from him. MONGAN gave 2 video statements (see attached videos). During MONGAN'S statement I was able to record his visible skin for injuries and his face. MONGAN was notified on video of the death of an occupant of the other boat. When asked about the collision MONGAN mentioned he did not know there was a crash until after it happened. MONGAN stated he was driving north (upriver) in the Oregon area with his friend Nicholas Lamb. He did not know how it happened and only recalled that he was out on the river doing some fishing. MONGAN described his events on the video statement.

I called the State's Attorney's office and advised States Attorney Morrow of the condition of MONGAN and that he was involved in a boating crash resulting in a death. I advised he was under arrest for reckless operation and operating under the influence, refused breath, blood and urine sampling and requested direction on additional charges. MONGAN was confined to the Jail, finger printed and photographed. I seized his cell phone pending investigation (evidence 43189).

After midnight DAY CHANGE TO THE 25th of June, 2016. I traveled to Rockford Memorial Hospital to visit Nicholas Lamb and was advised he had been released approximately 5 minutes ago. I called LAMB on the phone and asked that he pull off to the side of the road and wait to speak with me. I met him at Montague and Meridian road at 2:20 A.M. and spoke with him outside of the front seat passenger window. He stated he was on medication and did not feel well to speak. I asked for permission to record an audio statement from him. I recorded a 21 minute statement from him and he said he would meet with me the following day when he felt better (recording attached). LAMB stated they were driving about 1/4 throttle traveling up stream and did not believe they were up on plain when they collided with the pontoon boat. LAMB stated he was rocked to the left side upon impact (audio recording is attached). He also stated they had been drinking vodka and beer. LAMB also stated he was unaware of how the boats collided as he was not facing forward. LAMB stated he could not write out a statement because of his condition and reluctantly provided one (written statement attached).

On Saturday June 25th, 2016 I took photographs and video of the boats involved in the crash. (see attached photographs and video). The boats had damage on them. MONGAN's boat was damaged on the front, rear and underside and DAILY's boat was damaged on the left (port) side midship, pontoon below the water line, inside the boat and across to the right side (starboard). Neither boat showed visible signs of bodily fluid (blood or other matter). A video walk around was taken on both boats as well as documented photographs. There was damage on the pontoon boat which appeared to be made by the jon boat striking it and passing over the top of it. There is a large cut into the deck and left pontoon which appears to be caused by the lower unit of the jon boat (see attached photographs). MONGAN'S boat has 24 empty beer cans and 14 unopened beer cans. DAILY'S boat had 7 empty beer cans and 1 empty beer bottle. I secured a black piece of metal from the pontoon boat which matched up to the lower unit of the jon boat (evidence 43130)

I met with LAMB again at his residence to get a video statement. He recalled the events and stated they were fishing and began to travel upstream. He stated they had been consuming alcohol and met with some friends on the river where they made additional drinks before traveling north toward the River Road Campground. LAMB identified the friends as Jennifer and Matthew Kirchner of Oregon. LAMB seemed very reserved and limited on his recollection. He spoke on video and stated he did not see the crash as he was sitting in the front seat of the boat facing backwards. LAMB stated that he fell hard to the left and then blacked out for an unknown period of time waking up in a different location on the boat.



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Later in that day I was contact by the Daily family regarding the crash and I agreed to go to River Road Campground and Marina. I spoke with DAVID DAILY briefly and asked if I could return on Sunday to record a video statement.

On Sunday June 26th, 2016 I recorded David Daily in a video statement. DAILY said they were out on the pontoon boat traveling down stream at idle speed (south) when MONGAN was approaching him head on at a high rate of speed. DAILY stated he turned the boat in an effort to avoid being struck and that MONGAN turned the same way striking the pontoon. He also stated that he was honking on the horn in an effort to gain MONGAN's attention. DAILY stated his passenger WELLS was ejected from the vessel and could not be found initially in the water. See attached video statement. DAILY gave a written statement to the county Police on the date of the accident. His written statement is consistent with this video statement. (DAILY will later contact me and offer a second statement.)

I met with the passengers of the DAILY boat. Each gave a video statement. Philip Lukes and Sherry Bushre (married but with separate last names) stated they were driving south on the rock river and MONGAN was driving north at a high rate of speed. BUSHRE stated she notified DAILY of MONGANS approach and he acknowledged. LUKES states he waved his hands and called out in an effort to get MONGAN's attention. LUKES stated he fell from his seat into BUSHRE's lap upon impact. Both LUKES and BUSHRE declined medical attention at the scene. Written statements on the night of the accident by the county police by LUKES and BUSHRE are similar to the video statements given. BUSHRE added that she was struck by a drinking cup that came from MONGANS boat. She wanted it entered into evidence (43198).

I met with Thomas Water^s and video recorded a statement. WATERS stated he heard about the accident and got into a pontoon boat with Thomas Wessling. They went out on the river and searched for WELLS and after approximately 6-8 minutes found her floating face down in the river. WATERS entered the water and swam to her, he then turned her over so her face was out of the water. He swam back to the boat and was exhausted. He was assisted getting her onto his pontoon and started performing CPR.

I met with Jami Fleming Kidd and Mark Pytel. Both stated they were along the rivers edge when the accident occurred. FLEMING KIDD stated she witnessed the collision and described the on boat with MONGAN striking DAILY and passing over the boat. She described the events after the collision and affirmed there were rescue efforts. FLEMING KIDD provided 2 video statements. One of the recollection of the events and another on the rivers edge showing me the location of the crash.

PYTEL is engaged to FLEMMING KIDD and he was with her when the crash took place. PYTEL stated his back was turned but quickly turned around to see the boats during the crash. PYTEL left the rivers edge to get his cell phone and he called 911. He returned to the rivers edge and stayed on the phone with 911 describing the events. PYTEL gave a video statement.

On Monday June 27th CPO Teas, CPO Jones and I went to the autopsy in Rockford at the Winnebago County Coroner's office and witnessed the procedure. I secured blood evidence card 43188 and clothing evidence 43187. Photographs were provided by the office and are attached.

On Wednesday June 29th I received a call from Louis Lipsey. LIPSEY stated he had information about the crash and would like to speak with me. I met LIPSEY and he gave a video statement. LIPSEY stated he saw DAILY and WELLS earlier that day around 6:30 or 7:00 P.M. and that they were drinking beer. He believed WELLS to be intoxicated and could not be sure for DAILY. LIPSEY felt the information was important to the investigation and wanted it to be part of the report. Lipsey later added that he was encouraged to contact the police after a



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conversation with [REDACTED] He said the [REDACTED] family is sympathetic to the MONGAN family as they are a local Oregon business.

On Tuesday June 28th I was contacted by DAILY and he stated he gave me some incorrect information regarding the crash. I suggested we meet and get additional statements in video format. On June 30th I met with DAILY and he stated he informed me of the incorrect direction in which he turned. He stated he previously mentioned that he turned left and he wanted to correct himself and say he turned right (the damage on his vessel is on the left side and is consistent with a right turning boat). DAILY apologized for his confusion and affirmed that he did in fact turn his boat to the right.

On July 2nd, 2016 I met with Thomas Wessling who was one of the campers who participated in the recovery of WELLS. WESSLING stated he was on his dock near the rock river when he heard the crash. He and WATERS got into their pontoon boat and went immediately to the scene. WESSLING stated he was looking for WELLS in the water and found her as WATERS jumped in and brought her back to the edge of the boat. WESSLING described WELLS as unresponsive and with assistance she was brought into the boat and CPR was started. WESSLING said she was transported to the shore and he left DAILY on his boat at the accident scene. WESSLING described the scene upon initial approach as DAILY's boat and MONGAN's boat had crashed and there was debris in the water. WESSLING explained that DAILY never left the location of the crash site until WESSLING returned in a second boat to get DAILY and his boat back to shore.

Observation on the boat show physical evidence that the jon boat driver by MONGAN was traveling at a rate of speed fast enough to propel the vessel over the top of the pontoon boat. Marks made on the pontoon boat plastic seats are consistent with the keel locations and measurements on the jon boat. Parts from the jon boat's lower unit were deposited on the deck and seat locations inside the pontoon boat. The bottom of the jon boat has plastic shavings on the rear keels indicating the boat passed entirely over the plastic seat gathering material which is similar to the seat plastic and retaining it on the bottom of the jon boat keel. This evidence can be seen in the attached images. The parts of the lower unit which were broken off from MONGAN's boat were an exact match to the lower unit.

Physical damage to both boats which support the collision process is documented in photographs and is as follows: The pontoon boat has damage on the left side with paint transfer, keel marks, boat debris and specific damage resulting from the boat lower unit striking the side deck and lower pontoon of the pontoon boat. The jon boat has paint transfer, plastic debris on the boat and score marks on the lower unit supporting a strike and shift in energy as the boat passed over the top of the pontoon boat.

Based upon the physical evidence and witness statement information MONGAN was traveling north on the Rock River and failed to see DAILY. When DAILY took action to avoid a collision MONGAN failed to avoid striking DAILY's boat in the rear left quarter (port aft), traveling up and over DAILY's pontoon leaving marks, debris, and evidence on DAILY's boat. DAILY's boat had the right of way and MONGAN's boat was legally required to give way. During this event MONGAN's boat struck WELLS, resulting in her death and ejecting her into the water. MONGAN was under the influence during this boating crash and was arrested for operating under the influence and reckless operation.

Attachments are numbered in the lower right corner:

Statement receipts for
1-MONGAN,





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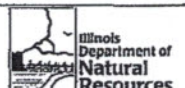
2016-1-364-005BU

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CPO Steven Beltran #364

- 2-LAMB from 2:31 A.M.,
- 3-LAMB from 8:23P.M.,
- 4-DAILY,
- 5-BUSHRE,
- 6-FLEMMING KIDD,
- 7-LUKES,
- 8-PYTEL,
- 9-WATERS,
- 10-LIPSEY.
- 11-WESSLING
- 12-Diagram from DAILY
- 13-WELLS information
- 14-WELLS SOS photo
- 15-Call for service log Ogle County Sheriff's office page 1
- 16-Call for service log Ogle County Sheriff's office page 2
- 17-Call for service log Oregon EMS page 1
- 18-Call for service log Oregon EMS page 2
- 19-Call for service log Oregon EMS page 3
- 20-Field sobriety test performance report front
- 21-Field sobriety test performance report back
- 22-Non validated field sobriety test performance report
- 23-Traffic crash warning to motorist
- 24-Traffic crash sworn report
- 25-Intox ER/IR-II Subject test
- 26-Notification of rights
- 27-Alcohol and or drug influence supplemental
- 28-Arrest card front
- 29-Arrest card back
- 30-Deputy identification list
- 31-Deputy statement for DAILY
- 32-Deputy statement for LUKES
- 33-Deputy statement for BUSGRE page 1
- 34-Deputy statement for BUSGRE page 2
- 35-Evidence cards 43139, 43129
- 36-Evidence cards 43131, 43197
- 37-Evidence cards 43109, 43128, 43189
- 38-Evidence cards 43187, 43188
- 39-Evidence cards 43198
- 40-Hospital photographs page 1 of 2
- 41-Hospital photographs page 2 of 2
- 42-Morgue photographs page 1 of 4
- 43-Morgue photographs page 2 of 4
- 44-Morgue photographs page 3 of 4
- 45-Morgue photographs page 4 of 4
- 46-Autopsy photographs page 1 of 3
- 47-Autopsy photographs page 2 of 3

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48-Autopsy photographs page 3 of 3
49-Boat photographs from 6/25/16 page 1 of 5
50-Boat photographs from 6/25/16 page 2 of 5
51-Boat photographs from 6/25/16 page 3 of 5
52-Boat photographs from 6/25/16 page 4 of 5
53-Boat photographs from 6/25/16 page 5 of 5
54-Boat photographs from 6/25/16 page 1 of 5
55-Boat photographs from 6/27/16 page 1 of 1
56-Boat photographs from 6/28/16 page 1 of 2
57-Boat photographs from 6/28/16 page 2 of 2

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Illinois Boating Accident Report

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Diagram of Accident: If applicable, diagram exactly what happened. Show the direction / location of boats involved before, during and after accident.

Diagram not to scale

Brief Synopsis of Accident: Synopsis for USCG database use.

All damage estimates are based on field observations or owner statements and are not intended for insurance or restitution purposes.

On Friday June 24th, 2016 at approximately 8:33 P.M. I, CPO Steven Beltran #364, was notified on a boat accident on the Rock River near 3400 North River Road Oregon Illinois. I responded and met Marc C. Mongan (identified via Illinois drivers license) and asked him what happened regarding the crash. MONGAN advised he was involved in a crash and did not have specific recollection. MONGAN exhibited signs of insobriety and showed indicators on field sobriety testing and was arrested for operating under the influence of alcohol. I interviewed the passenger on MONGAN's boat Nicholas Lamb. LAMB advised they were traveling north up the rock river and collided with another boat. I interviewed the other boat and was advised David Daily was operating south at no wake speed and observed MONGAN rapidly approaching. DAILY signaled to MONGAN and turned to the starboard side. MONGAN turned to the port side and struck DAILY.

DAILY had 3 passengers. Megan Wells was sitting in front of the engine on a bench seat in the pontoon boat and was struck by MONGAN's boat and ejected into the water. WELLS died as a result of the crash.

STATE OF ILLINOIS)
) SS
COUNTY OF WINNEBAGO)

AFFIDAVIT

Now comes the Affiant, David Swaziek, first being fully sworn states as follows:

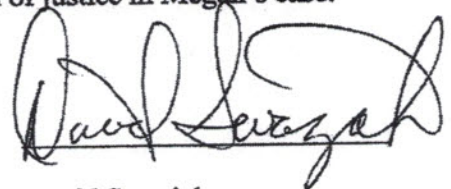
1. My name is David Swaziek.
2. I am the father of Megan Wells, deceased.
3. On July 16, 2016, I was at a meeting at the Ogle County Courthouse in a conference room with State's Attorney Eric Morrow, my wife Robin Swaziek, and Robbie Wells, the husband of Megan Wells.
4. During the July 16, 2016 meeting we questioned whether Mr. Morrow had any relationship with Marc Mongan. State's Attorney Eric Morrow indicated "he might recognize Mongan if he saw him walking down the street".
5. State's Attorney Eric Morrow also indicated that Mongan is not "prominent" in the Oregon community and State's Attorney Morrow reassured us: that "we do not run in the same social circles."
6. On December 19, 2016, I was at a meeting at the Ogle County Courthouse in a conference room with State's Attorney Eric Morrow, Schuman, Jackson, and my wife Robin Swaziek.
7. During the December 19, 2016 meeting State's Attorney Eric Morrow indicated to me and my wife that the Grand Jury failed to indict on upgraded charges.
8. State's Attorney Eric Morrow also stated to me and my husband "there was no crime committed here".



9. During one of the numerous meetings with State's Attorney Eric Morrow, Morrow indicated that he did not pursue felony charges as he "did not want to overcharge".
10. On February 9, 2017 I was present for a meeting with Officer Beltran to view the boats at a secured location. Also present at the meeting was Officer Beltran, a DNR employee and my wife Robin Swaziek.
11. During the February 9, 2017 meeting Officer Beltran indicated that he is a personal friend of State's Attorney Eric Morrow.
12. Eric Morrow contacted my family by email (see attached) indicating he could not oppose the pending Motion to Dismiss filed by Marc Mongan.
13. I was present in Court when Eric Morrow stated to the Court "contrary to public opinion (or popular opinion?) this Office has never supported the Motion to Dismiss". He then went on to advise the Court that he could provide "new case law", "dispositive of the Motion to Dismiss."
14. State's Attorney Eric Morrow never informed me or my family that he was the sole decision maker and had denied Officer Beltran's request to obtain a warrant for a forcible blood draw from Mongan on the date that Mongan caused my daughter's death.
15. My spouse and I have contacted the Attorney General's office seeking the AG to proceed against Eric Morrow for obstruction of justice in Megan's case.

FURTHER AFFIANT SAYETH NAUGHT

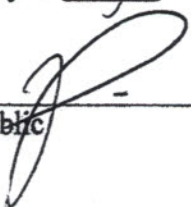
Dated: 5/16/2017



David Swaziek

Subscribed and sworn to before me

this 16th day of May, 2017.



Notary Public



STATE OF ILLINOIS
COUNTY OF WINNEBAGO

)
)
) SS

AFFIDAVIT

Now comes the Affiant, Robin Swaziek, first being fully sworn states as follows:

1. My name is Robin Swaziek.
2. I am the mother of Megan Wells, deceased.
3. On July 16, 2016, I was at a meeting at the Ogle County Courthouse in a conference room with State's Attorney Eric Morrow, my husband David Swaziek, and Robbie Wells, the husband of Megan Wells.
4. During the July 16, 2016 meeting we questioned whether Mr. Morrow had any relationship with Marc Mongan. State's Attorney Eric Morrow indicated "he might recognize Mongan if he saw him walking down the street".
5. State's Attorney Eric Morrow also indicated that Mongan is not "prominent" in the Oregon community and State's Attorney Morrow reassured us: that "we do not run in the same social circles."
6. On December 19, 2016, I was at a meeting at the Ogle County Courthouse in a conference room with State's Attorney Eric Morrow, Schuman, Jackson, and my husband David Swaziek.
7. During the December 19, 2016 meeting State's Attorney Eric Morrow indicated to me and my husband that the Grand Jury failed to indict on upgraded charges.
8. State's Attorney Eric Morrow also stated to me and my husband "there was no crime committed here".



9. During one of the numerous meetings with State's Attorney Eric Morrow, Morrow indicated that he did not pursue felony charges as he "did not want to overcharge".
10. On February 9, 2017 I was present for a meeting with Officer Beltran to view the boats at a secured location. Also present at the meeting was Officer Beltran, a DNR employee and my husband, David Swaziek.
11. During the February 9, 2017 meeting Officer Beltran indicated that he is a personal friend of State's Attorney Eric Morrow.
12. Eric Morrow contacted my family by email (see attached) indicating he could not oppose the pending Motion to Dismiss filed by Marc Mongan.
13. I was present in Court when Eric Morrow stated to the Court "contrary to public opinion (or popular opinion?) this Office has never supported the Motion to Dismiss". He then went on to advise the Court that he could provide "new case law", "dispositive of the Motion to Dismiss."
14. State's Attorney Eric Morrow never informed me or my family that he was the sole decision maker and had denied Officer Beltran's request to obtain a warrant for a forcible blood draw from Mongan on the date that Mongan caused my daughter's death.
15. My spouse and I have contacted the Attorney General's office seeking the AG to proceed against Eric Morrow for obstruction of justice in Megan's case.

FURTHER AFFIANT SAYETH NAUGHT

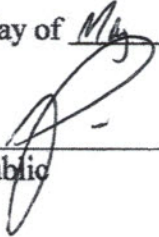
Dated: 5-16-17

Robin Swaziek

Robin Swaziek

Subscribed and sworn to before me

this 16 day of May, 2017.



Notary Public

