

STATE OF WISCONSIN

CIRCUIT COURT

WAUPACA COUNTY

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STATE OF WISCONSIN,

Plaintiff,

v.

Case No. \_\_\_\_\_

CHAD W. MAGOLSKI,  
Race/Gender: M/W,  
DOB: 05/01/1976,  
511 Douglas St.  
New London, WI 54961,

Defendant.

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**CRIMINAL COMPLAINT**

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Christopher Gregory, Lieutenant with the New London Police Department, being first duly sworn on oath, upon information and belief states the following:

**COUNT 1: FIRST-DEGREE INTENTIONAL HOMICIDE**

Chad W. Magolski did, on or between December 7, 8, or 9, 2007, in the city of New London and county of Waupaca, Wisconsin, cause the death of James L. Park, DOB 6/15/30, with intent to kill James Park contrary to Wis. Stat. § 940.01(1)(a), a Class A felony, and upon conviction, may be sentenced to life imprisonment pursuant to Wis. Stat. § 940.01(1)(a) and Wis. Stat. § 939.50(3)(a). Pursuant to Wis. Stat. § 973.01(3), if convicted, Magolski shall be sentenced under Wis. Stat. § 973.014(1g). Pursuant to Wis. Stat. § 973.014(1g)(a), the Court shall make an extended supervision eligibility date determination of one of the following options:

(1) Magolski is eligible for release to extended supervision after serving twenty (20) years.

(2) Magolski is eligible for release to extended supervision on a date set by the Court, but which may not be a date that occurs before the earliest possible date under subparagraph (1).

(3) Magolski is not eligible for release to extended supervision.

### **PROBABLE CAUSE STATEMENT**

Your complainant Christopher Gregory is a lieutenant with the City of New London Police Department. Your complainant's statements contained herein are based upon Lieutenant Gregory's information and belief of the facts and circumstances found within the records and reports of the City of New London Police Department, the records and reports of the Division of Criminal Investigation as well as the reports and analysis of the Wisconsin State Crime Laboratory. Your complainant has relied upon such records and reports in the past and found them to be truthful and reliable. Upon such information and belief, your complainant states the following:

1. On December 15, 2007, Officers Peterson and Algiers of the New London Police Department were called out to 301 North Shawano Street in the city of New London and county of Waupaca, Wisconsin because of a call that there was a person lying on the floor of Apartment #1. A person who purported himself to be Darwin Alberts and who claimed to be the landlord of the building at 301 North Shawano Street provided access to the officer's to Apartment #1. According to Alberts, James Park was the tenant who rented Apartment #1 which was a lower level apartment. Investigation revealed that the building at 301 North Shawano Street consisted of three separate apartments. In addition to James Park residing at Apartment #1, Chad Magolski was the tenant renting a second-floor or upstairs apartment – Apartment #3, and another second-floor or upstairs apartment was rented by Michael Jones – Apartment #2. Based

upon past professional police contacts with James Park by then Sgt. Gregory; Sgt. Gregory who was later came on scene identified the person found within Apartment #1 as James Park.

#### Condition of Park

2. James Park was found lying on the floor and was partially under a table. There was staining on the clothing of Park and on other surfaces within Apartment #1 consistent with blood. There were openings in clothing worn over the upper body of Park consistent with having been caused by an edged instrument, such as a kitchen knife. Park also had lacerations on uncovered, or open areas of skin consistent with an edged instrument. A subsequent forensic autopsy conducted by Fond du Lac County Medical Examiner Dr. Kelley on the body of James Park indicated the cause of death being stab wounds to the neck, chest, and abdomen. What is commonly referred to as the front pants pocket of Park was found to be in a state where the inside lining of the pocket was protruding outside of the pants of Park.

#### Further Information About the Pants Pocket and Habits of James Park

3. The condition of the pocket was consistent with that of a pocket having been what is commonly referred to as "turned out," a reference to pulling the inside of the pocket out in an effort to disgorge any contents of the pocket. Park's son-in-law, William Larsen, described that Park ordinarily kept a house key attached to a belt loop with the key kept inside the pocket. A key similar to a house key was found attached to a cord which was attached to a belt loop of Park's pants, but the key was not inside the pocket. This key being outside of Park's pocket was also consistent with Park's pocket having been turned out.

4. William Larsen had contact with Park when Park moved to New London. At that time, according to Larsen, Park had stopped carrying a wallet, but instead kept his cash in a money clip. A search was conducted by the New London Police Department, members of the Division of Criminal Investigation of the Department of Justice as well as members of the

Wisconsin State Crime Laboratory Field Response Team. Neither a money clip, nor cash were discovered on Park's person, in the vicinity of Park's body, or within Park's residence.

Chad Magolski's Financial Straits

5. Investigation revealed that Chad Magolski owed Alberts for the December rent. The rent was due on December 1, 2007, and was not paid by Magolski at the time. Magolski told DCI Special Agent James Holmes that Alberts was not known to come to the apartment building on weekends. In December of 2007, December 1<sup>st</sup> was a Saturday and December 2<sup>nd</sup> was a Sunday.

6. Alberts informed law enforcement that on Monday, December 3, 2007, Alberts appeared at 301 North Shawano and personally knocked on the door of Magolski in an effort to speak to Magolski about Magolski being late with the rent. Despite knocking on the door, Alberts was unable to make contact with Magolski on December 3, 2007.

7. Alberts and Magolski both were interviewed about the events of December 4, 2007. Between the two it was related that Alberts attempted contact with Magolski in the same way and Magolski did answer the door at Apartment #3. In addition to paying rent, Magolski had the obligation to reimburse Alberts for utility costs at Apartment #3. On December 4, 2007, Magolski told Alberts he would pay the rent on December 10, 2007. Magolski was also informed by Alberts at that time that the utility bill for December was \$42.39. Magolski said he would pay the utility bill by December 10, 2007.

8. Magolski admitted that on December 4, 2007, he did not have the money to pay the rent. Magolski informed law enforcement that in November of 2007 he had received \$200 from his father which was the last of any cash assets Magolski had. Magolski stated that it was his plan to attempt to get a loan from his employer (Graichen Sanitation who Magolski stated he worked for "on and off" on an irregular basis) in order to be able to pay the rent, but that even as late as December 10, 2007, he had not made contact with anyone at Graichen Sanitation in an

effort to determine if a loan or advance could be had. Magolski admitted that he had been unemployed for a while. Magolski and Mike Jones both stated that during the week of December 10, 2007, Magolski borrowed \$20 from Jones.

Magolski's Partial Payment to Alberts on December 10, 2007

9. Both Alberts and Magolski indicate that on December 10, 2007, Alberts went to Apartment #3 looking for payment from Magolski for the December rent as well as the utility payment. Magolski stated that in the early morning hours of December 10th, he had placed a \$50 bill (which Magolski claimed was the result of change from breaking a \$100 bill from the last \$200 received from his father in November of 2007) in an envelope, which was placed on the door of Apartment #3.

10. Alberts informed law enforcement that Mike Jones paid rent in cash, but never had paid with a denomination larger than a \$20 bill, and that Park always paid by personal check. Alberts stated that he took the \$50 bill from the envelope from the door of Magolski's Apartment #3 and placed it with other cash money he kept at his residence. Alberts turned over to DCI Special Agent Holmes the cash Alberts believed contained the \$50 bill he had received from Magolski by virtue of the envelope on Magolski's door on December 10, 2007.

11. That cash was sent to the Wisconsin State Crime Laboratory and analyzed by Senior Analyst James Andreas (all work on this case and interpretation was conducted by Analyst Andreas). Chemical analysis of one \$50 bill in particular provided by Alberts tested presumptively positive for the presence of blood. Furthermore, a DNA profile of James Park was prepared from a DNA card prepared from blood obtained from the body of Park at Park's autopsy. The crime laboratory discovered the presence of a mixture of possible contributors of DNA material on the same \$50 bill that tested presumptively positive by chemical analysis for the presence of blood.

12. The crime laboratory had also developed a DNA profile for Chad Magolski by virtue of a buccal swab obtained from Magolski with his consent, which was provided to the crime laboratory. Crime laboratory findings revealed that James Park was a possible contributor to the DNA mixture on the \$50 bill. The above described fact of James Park being a possible contributor to the \$50 bill was the subject of further interpretation by the Wisconsin Crime Laboratory because after the original analysis, the Wisconsin Crime Laboratory changed its protocols. Under those new protocols Park is still considered a contributor to the DNA mixture on that particular \$50 bill.

13. The foregoing DNA evidence is true despite the claim by Magolski that he paid the \$50 to Alberts by placing the \$50 in the envelope in the early morning hours of December 10, 2007, with the remains of money received from his father. The facts of the Wisconsin Crime Laboratory DNA analysis is also true despite Magolski's claim that he had never been inside the apartment of James Park, had never provided Park with any cash money himself, nor had received any cash money from Park at any time prior to December 10, 2007.

#### The Timing of the Death of James Park

14. Law enforcement obtained the records of all financial transactions conducted by James Park as well as phone records both for a landline that was associated with Apartment #1 at 301 North Shawano and a cell phone associated with James Park. A review of those records showed regular and consistent financial transactions and cell phone use by Park through December 6 and 7, 2007. The last of any financial transactions occurred on December 6, 2007, and the last of any phone calls occurred late in the afternoon/early evening of December 7, 2007. No phone or financial activity that could be associated with the activities of James Park (or even anyone using the phones and/or financial cards/instruments available to Park – with or without his consent) occurred after 5:35 p.m. on December 7, 2007.

### Circumstantial Evidence of a Murder Weapon

15. Investigators consistently and uniformly described the kitchen of James Park on December 15, 2007, as cluttered, soiled, and dirty. There were a number of common kitchen knives discovered, but there was only one in a clean condition, and that knife was found spatially separated from the other typical kitchen dishes, utensils, food preparation items, and knives. This knife had a blade that was of a configuration consistent with the size, depth, and nature of the openings in the clothing of Park's upper body and the wounds examined externally and internally at the autopsy. Although the knife, to the naked eye, appeared clean; analysis at the Wisconsin State Crime Laboratory by virtue of chemical process again had a presumptive positive test for the presence of blood. DNA analysis shows Park (both under the former and current protocols) is the source of the DNA profile discovered from a swab taken of the knife. The knife in question was found in a dish strainer in the kitchen, a wire rack used for allowing dishes to be held for rinsing and/or drip drying. The autopsy of the body of Park revealed more than 875cc of blood and blood clot in the abdominal cavity and a small incised wound to the external carotid artery. The clothing of Park as well as the crime scene were consistent with significant bleeding. Park's body had a minimum of 8 different wounds consistent with having been caused by an edged instrument such as a knife.

### Reasonable Inferences About the Murder Weapon

16. Given the otherwise unique cleanliness of the knife found in the dish strainer in the kitchen sink and its size, shape, and configuration being consistent with the wounds and injuries to Park, it would be fair and reasonable for a neutral and detached magistrate to infer that the knife was used as the weapon to cause the death of James Park. (Hereafter, any references to reasonable inferences or derivations thereof; refer to those which could be made by a neutral and detached magistrate.) Given the number of stab wounds and the nature of the cause of death of James Park, it would be reasonable to infer that whoever wielded the knife intended to cause the

death of Park. It further would be reasonable to infer that the knife would have had the blood of James Park upon it after causing the wounds that would ultimately result in his death. It further would be reasonable to conclude that given the condition the knife was found in, that the person who had wielded the knife had attempted to clean the knife of Park's blood. It further would be reasonable to conclude that any person wielding the knife may have had the blood of James Park transferred to their own person and/or clothing.

Further Evidence Regarding the Identity of the Perpetrator of the First-Degree Intentional Homicide

17. In addition to Park being a possible contributor of the DNA on the \$50 bill, and in addition to the circumstances of Park no longer being alive-sometime between 5:35 p.m. on December 7, 2007 and prior to Magolski placing the \$50 payment in the envelope in the early morning hours of December 10, 2007-it would be reasonable to infer that Magolski had a financial motive to kill Park in an effort to obtain money to pay his rent and utilities. It further would be reasonable to infer that Magolski lied about the source of the \$50 because if Magolski were to tell the truth about how he obtained the \$50 dollar bill; Magolski would implicate himself in the killing of James Park.

Other Information Regarding Magolski's Knowledge of Park Carrying Cash

18. Magolski admitted having an encounter with Park at Park's apartment. Magolski stated that he had gone to Apartment #1 and made contact with Park in an effort to obtain a phone book. Magolski said that after making the request, Park produced a wad of cash from his front pants pocket. According to Michael Dorow, Magolski made statements to Dorow prior to Park's death. Those statements included that the guy downstairs "stinks a lot" and "smells like he never takes a bath"; "has to have a lot of money"; and "if someone came and knocked him off, no one would know about it". When the aforementioned statements attributed to Magolski are coupled with Magolski's contact with Park when Park produced a wad of cash; and viewed in

light of the condition in which Park's pocket was found; they point to the identity of Magolski as the perpetrator of the first-degree intentional homicide of Park.

Other Evidence Identifying Magolski as the Perpetrator

19. A bar of soap was also recovered from the bathroom sink in Park's apartment. A mixture of DNA contributors/profiles was identified by the crime lab on that bar of soap. Possible contributors to the DNA profiles found in the mixture from the soap were James Park and Chad Magolski. Under current protocols Park is still determined to be a possible contributor to the DNA on the soap, but it cannot be determined that Magolski is a contributor to the DNA mixture. At the same time, under the current protocols, Magolski is not excluded as a contributor to the DNA mixture on the bar of soap.

Other physical evidence was discovered at the crime scene at Apartment #1.

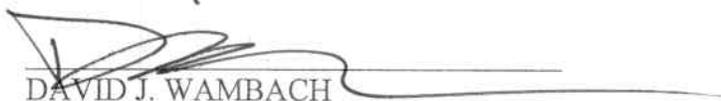
20. A towel was found in the bathroom toilet. It would be reasonable to infer that such a towel could have been used by Magolski (in addition to the bar of soap described above) to clean the murder knife and/or to have cleaned himself and/or his clothing of any of the blood of Park.

Dated this 24 day of May, 2011.



CHRISTOPHER GREGORY  
Lieutenant  
New London Police Department

Subscribed and sworn to before me and  
approved for filing this 24th day of  
May, 2011.



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