

STATE OF WISCONSIN,

Plaintiff,

v.

Case No. 12-CF-000_____

KIM M. HOENISCH, DOB: 07/09/1971

Defendant.

CRIMINAL COMPLAINT

Special Agent Ronald W. Glaman, with the Division of Criminal Investigations at the Wisconsin Department of Justice, being first duly sworn, states that:

Count 1: Burglary

The above-named defendant, on or about Saturday, June 30, 2012, in Marathon County, Wisconsin did intentionally enter any building or dwelling without the consent of the person, identified in this complaint as Victim TS, in lawful possession and with intent to steal or commit a felony in such place, contrary to Wis. Stat. § 943.10(1m)(a), a Class F felony, and upon conviction may be imprisoned not more than 12 years and 6 months or fined not more than \$25,000, or both, pursuant to Wis. Stat. § 939.50(3)(f). Upon imposition of a sentence or placement on probation, the court may impose a deoxyribonucleic acid (DNA) analysis surcharge of \$250 and the court shall require the defendant to provide a biological specimen to the state crime laboratories for DNA analysis, pursuant to Wis. Stat. §§ 973.046(1g), 973.047(1f).

Count 2: Misconduct in Public Office

The above-named defendant, on or about Wednesday, July 25, 2012, in Marathon County, Wisconsin did, whether by an act of commission or omission, in the officer's or employee's capacity as such officer or employee exercise a discretionary power in a manner inconsistent with the duties of the officer's or employee's office or employment or the rights of others and with intent to obtain a dishonest advantage for the officer or employee or another, contrary to Wis. Stat. § 946.12(3), a Class I felony, and upon conviction may be imprisoned not more than 3 years and 6 months or fined not more than \$10,000, or both, pursuant to Wis. Stat. § 939.50(3)(i). Upon imposition of a sentence or placement on probation, the court may impose a deoxyribonucleic acid (DNA) analysis surcharge of \$250 and the court shall require the defendant to provide a biological specimen to the state crime laboratories for DNA analysis, pursuant to Wis. Stat. §§ 973.046(1g), 973.047(1f).

Count 3: Possession of a Schedule II Narcotic Drug

The above-named defendant, on or about Wednesday, March 23, 2011, in Marathon County, Wisconsin did possess or attempt to possess a controlled substance or a controlled substance analog of oxycodone without obtaining the substance or the analog directly from, or pursuant to a valid prescription or order of, a practitioner who was acting in the course of his or her professional practice, a schedule II narcotic drug belonging to Victim JK, contrary to Wis. Stat. § 961.41(3g)(am), a Class I felony, and upon conviction may be imprisoned not more than 3 years and 6 months or fined not more than \$10,000, or both, pursuant to Wis. Stat. § 939.50(3)(i). Upon imposition of a sentence or placement on probation, the court may impose a deoxyribonucleic acid (DNA) analysis surcharge of \$250 and the court shall require the defendant to provide a biological specimen to the state crime laboratories for DNA analysis, pursuant to Wis. Stat. §§ 973.046(1g), 973.047(1f).

Count 4: Possession of a Prescription Drug without a Prescription

The above-named defendant, in the summer of 2012, in Marathon County, Wisconsin did possess a prescription drug without a valid prescription, prescription drugs belonging to Victim CP, contrary to Wis. Stat. § 450.11(7)(h), an unclassified misdemeanor, and upon conviction may

be imprisoned not more than 6 months or fined not more than \$500, or both, pursuant to Wis. Stat. § 450.11(9)(a).

Count 5: Possession of a Schedule III Narcotic Drug

The above-named defendant, on or about Wednesday, July 25, 2012, in Marathon County, Wisconsin did possess or attempt to possess a controlled substance or a controlled substance analog of hydrocodone in a combined form with acetaminophen without obtaining the substance or the analog directly from, or pursuant to a valid prescription or order of, a practitioner who was acting in the course of his or her professional practice, a schedule III narcotic drug belonging to Victim TS, contrary to Wis. Stat. § 961.41(3g)(b), an unclassified misdemeanor, and upon conviction may be imprisoned not more than 30 days or fined not more than \$500, or both, pursuant to Wis. Stat. § 939.61(2).

Facts Constituting the Offenses Charged

I, the complainant, am a Special Agent (S/A) with the Division of Criminal Investigations (DCI) at the Wisconsin Department of Justice (DOJ) and base this complaint upon my investigation as well as investigative reports from S/A Jeremy R. Buss along with any attachments to the reports. I further rely upon statements and documents from employees within the Wisconsin Department of Corrections (DOC), including from Regional Chief Mickey M. McCash, Assistant Regional Chief Eric J. Losee, Probation Agent Liesle Dille-Markevitch, and Probation Agent Mandy Freimann. I further rely upon statements from people identified in this complaint as Victims TS, CP, and JK. I also rely upon statements from Kim M. Hoenisch (hereinafter "defendant") and the defendant's husband. I believe that the information contained within the reports and any attachments is truthful and reliable. Statements attributed to the investigating officers are presumed truthful and reliable as statements from sworn law enforcement officers. Incriminating statements attributed to the defendant are presumed truthful and reliable as statements against her penal interest. Statements attributed to the other identified parties are believed to be truthful and reliable as statements from victims or witnesses to a crime. Based upon information and belief, I state the following:

- 1) I, S/A Ronald W. Glaman, served as the primary investigator in this case. Based upon my investigation, I confirmed that the defendant was employed by the State of Wisconsin as a probation agent with the Wisconsin Department of Corrections (DOC) in the Division of Community Corrections (DCC) within the Wausau Regional Field Office, at the time of these allegations. The investigation began from a report that the defendant took medication from a probationer on Wednesday, July 25, 2012, when the probationer was at the field office, located in Marathon County, Wisconsin. In this complaint, the probationer is identified as Victim TS.
- 2) Assistant Regional Chief Losee reported that the defendant's coworkers observed her take medication from an offender on or about Wednesday, July 25, 2012. Probation Agent Freimann explained that she observed Victim TS enter the defendant's office with a large bag of medication. Probation Agent Freimann saw the defendant direct Victim TS into the hallway waiting area, thereby leaving the defendant alone with Victim TS's medication. Probation Agent Freimann went to get Probation Agent Dille-Markevitch to intervene. Probation Agent Dille-Markevitch saw the defendant going through the bag of medications. Probation Agent Dille-Markevitch witnessed the defendant clenching something in her hand and then place the item behind her back and slip it into her back pocket. Probation Agent Dille-Markevitch explained that the defendant being alone with a probationer's medication was contrary to a "job instruction" that the defendant received previously.
- 3) S/A Buss spoke with Regional Chief McCash on Wednesday, August 1, 2012. Regional Chief McCash explained that the defendant received a "job instruction" after an earlier suspicious incident from February 2011, involving a similar report of the defendant stealing medication from a probationer. The "job instruction" included advising the defendant that she should never be alone with an offender's medication. The instruction directed the defendant to stop having probationers bring medication to her and stop having medication in her office. The information provided by Regional Chief McCash demonstrated that, on July 25th, the defendant violated the "job instruction."
- 4) S/A Buss and I spoke with Victim TS on Thursday, August 2, 2012. Victim TS stated that he was missing Vicodin. Victim TS explained that, on Saturday, June 30, 2012, an unknown woman entered his house that

morning scaring his minor children. Victim TS said that he was at work and he learned from his daughter that a woman entered the house asking to use the telephone and claiming to have a flat tire. Victim TS said that, after returning home, his daughter and he went to the grocery store that day where he had a chance encounter with the defendant. Victim TS said that his daughter identified the defendant as the person who entered the house earlier that day. Victim TS explained that he discovered the missing Vicodin around the time of this incident. Victim TS recalled later bringing his medication into the probation office at the request of the defendant, which occurred on July 25th. Victim TS's residence is located in Marathon County, Wisconsin.

- 5) The defendant admitted to entering Victim TS's residence on two occasions in June 2010 during a conversation with S/A Buss and I, which occurred on Tuesday, August 21, 2012. The defendant initially denied ever entering Victim TS's residence, but she later admitted that she was the person who entered the residence on June 30th. The defendant provided inconsistent statements about the reason for stopping at Victim TS's residence before admitting that, "probably, yeah" she was looking for medication, but she said that she did not take anything from the residence on June 30th. The defendant did, however, admit to stopping at the residence on an earlier occasion looking for Vicodin, which occurred shortly before the June 30th incident. The defendant initially denied taking any Vicodin during this earlier incident as well, but then admitted, "yeah, you know the answer . . . yeah." The defendant explained that she was doing home visits of probationers and stopped at Victim TS's residence. The defendant said that she stopped by and, discovering no one was home, she entered the residence and took four to five tablets of Vicodin. The defendant admitted to entering TS's residence and looking for the medication in the kitchen and TS's bedroom. This corroborates Victim TS's description that someone had taken Vicodin from his residence around time of June 30th.
- 6) During the August 21st interview, the defendant also admitted to taking Vicodin from Victim TS during his visit to the probation office. Although the defendant could not recall the specific date, she identified Victim TS and admitted that she took a "couple of his Vicodin" when he went for a urinalysis, which was consistent with the incident that occurred on July 25th. The defendant estimated that she took three tablets of a generic version of Vicodin. The defendant claimed that this was the only

instance when she took pills from Victim TS's visit to the probation office. The defendant also admitted to stealing medication on two other occasions from two other probations, identified in this complaint as Victim CP and Victim HH.

- 7) On Thursday, September 13, 2012, I spoke with a probationer identified in this complaint as Victim CP who is on disability under the care of the Veterans Administration as he was a medic in the military. Victim CP explained that he has several prescriptions, including Fentanyl, Aderall, Alprazolam, Xanax, and Vicodin. Victim CP said that the defendant was his probation agent for several years until he recently received a new agent. Victim CP said that the defendant never conducted many home visits; instead, she had him report to the probation office regularly. Victim CP said that the defendant claimed to have received phone calls alleging that he was not taking his medications properly. Victim CP said that the defendant always wanted him to bring his medications to the office. Victim CP said that he complied and always left the medications with the defendant when he went away to take a urinalysis. Victim CP said that he thought that he was missing medications following these visits because he would come to the end of the bottle and he would not have enough medicine to continue taking them as directed. Victim CP did not recall precisely how many and what types of medications came up short, but he said that he was instructed by the defendant to come to the office so frequently that he started tracking the visits in a small notebook. Victim CP said that there was a time he provided the defendant with several lose bottles of different medications for disposal. When I spoke with the defendant on August 21st, she admitted to stealing medicine from Victim CP, but she claimed it only occurred on one occasion in late June or early July 2012. The defendant said that she had Victim CP leave for a urinalysis and then she was alone with the medicine in her office and she took three generic tablets of Vicodin. The defendant claimed that this was the only time she stole from Victim CP. On August 17, 2012, Assistant Regional Chief Losee provided me with a plastic bag containing seven bottles containing tablets or capsules in the name of Victim CP. Assistant Regional Chief Losee explained that the bottles and medication were found in the defendant's office.
- 8) During the August 21st conversation, I spoke with the defendant regarding the theft of medication from Victim HH. The defendant explained that she stole four Vicodin tablets from Victim HH in July

2012. She said that Victim HH brought his medication into the office and Victim HH left for a urinalysis. The defendant said that she took the medication when she was alone with the medication at the probation office.

- 9) On Monday, October 29, 2012, I spoke with a person identified in this complaint as Victim JK, regarding an incident that occurred on Wednesday, March 23, 2011. Victim JK was able to recall the date of the incident because she has a generator at her residence for backup power and there was a blizzard on March 23rd when she needed to rely upon the generator for power. Victim JK explained that the defendant called her on the morning of March 23rd, asking to use her shower because the defendant claimed to have no electricity at her residence. Victim JK allowed the defendant to use the shower and directed her to a bathroom primarily used by Victim JK's children, but the defendant took it upon herself to use the master bathroom. Victim JK left for work and returned home two hours later, finding that the defendant was still using a bathroom, but she now had switched to the original bathroom used by Victim JK's children. Victim JK said that her teenage daughter, who was home from school given the blizzard, told her that the defendant had used three different bathrooms at the residence. Victim JK said that she later heard about the defendant entering homes and stealing prescription medication so she checked her medication. Victim JK said that she had a prescription for oxycodone where she had taken only about four tablets out of a 30 tablet supply so there were approximately 26 tablets in the residence on March 23rd. Victim JK said that, when she later looked for the oxycodone prescription, it was gone. Victim JK explained that the prescription had been stored in one of the three bathrooms used by the defendant on March 23rd and she believes that the defendant took the medication on that day. Victim JK provided a prescription for the stolen oxycodone, showing that it was described as a 30 tablet supply of "oxycodone HCL 5 mg tablet." On October 31, 2012, S/A Loreen Glaman and I spoke with the defendant about this incident. The defendant admitted to taking a bottle that contained small white tablets while at Victim JK's residence in the spring of 2011. The defendant said that the medication that she stole may have been Oxycontin.
- 10) Even after interviewing the defendant and alerting her to the investigation, I received reports that the defendant continued to engage

in illegal conduct. On Tuesday, October 23, 2012, I spoke with Victim SS who regarding an incident that occurred one week earlier, on Tuesday, October 17, 2012. Victim SS has an adult teenage daughter and Victim SS lives with her husband at a residence located in Marathon County, Wisconsin. Victim SS's teenage daughter explained that, during the day on October 17th, she heard a knock on the front door of the residence so she went to answer it, finding no one at the door. She then heard a side door open at the residence. She went to the area of the door and saw the defendant in the residence, in a hallway that is in close proximity to a master bathroom. The defendant told her that she stopped to wash her hands at the residence. She said that the defendant then used a guest bathroom at the residence. Victim SS explained that she is the defendant's cousin and she was aware of allegations that the defendant stole prescription medication from family members. Victim SS looked at a prescription medication bottle for Vicodin that was stored in the master bathroom. Upon looking in the bottle, Victim SS discovered that the Vicodin had been replaced with another medication, which appeared to be acetaminophen. Victim SS explained that she did not believe that the defendant had sufficient time to take and replace the Vicodin on this occasion given that her adult teenage daughter was home. Therefore, Victim SS believes that the defendant took the Vicodin and replaced the medication on an earlier occasion. Victim SS turned over the counterfeit Vicodin to me, which I confirmed was not Vicodin; instead, the medication was a combination of acetaminophen and naproxen. On October 31st, I spoke with the defendant about the incidents involving Victim SS. The defendant initially denied ever taking medication from Victim SS's residence. The defendant then later admitted to taking medication from Victim SS, but the defendant continued denying that she ever replaced the medication with another substance, such as Tylenol. The defendant said that the theft occurred during the earlier of the two visits. The defendant explained that she took the entire bottle of Vicodin and she recalled about fifteen tablets being in the bottle.

- 11) The investigation revealed that the defendant possessed a number of prescription medications without a valid prescription through her theft of the medications from others. The defendant possessed medications that included:
 - a) Hydrocodone: The National Institutes of Health (NIH) maintains a website that explains "[h]ydrocodone is in a class of medications

called opiate (narcotic) analgesics” and patients “will take hydrocodone in combination with at least one other medication,” such as Vicodin which is a combination of acetaminophen and hydrocodone. See <http://www.nlm.nih.gov/medlineplus/druginfo/meds/a601006.html>. I know from training and experience that both the brand name of Vicodin and comparable generic forms of Vicodin include this combination of acetaminophen and hydrocodone. A prescription for the medicine includes a breakdown of acetaminophen and hydrocodone. For example, a designation of “5-500” means that each tablet contains 5 milligrams (mg) of hydrocodone and 500 mg of acetaminophen. Based upon information and belief, coupled with my training and experience, all medication described in this complaint as Vicodin or a generic form of Vicodin falls within range of a Schedule III narcotic drug. See Wis. Stat. § 961.18(5)(c)-(d).

- b) Oxycodone: The NIH website explains that “[o]xycodone is in a class of medications called opiate (narcotic) analgesics,” which is “available in combination with acetaminophen” and other drugs, including aspirin and ibuprofen. See <http://www.nlm.nih.gov/medlineplus/druginfo/meds/a682132.html>. Oxycontin is a brand name for a product containing oxycodone. See *id.* Acetaminophen also had gone under the name APAP and N-acetyl-para-aminophenol. See <http://www.nlm.nih.gov/medlineplus/druginfo/meds/a681004.html>. As with hydrocodone, a designation of two numbers in the prescription denotes the quantity of each drug within a tablet. For example, “Oxycodone/APAP 5MG-325MG” means that each tablet contains 5 mg of oxycodone and 325 mg of acetaminophen. Based upon information and belief, coupled with my training and experience, all medication described in this complaint as Oxycontin or oxycodone, including any generic form of Oxycontin, falls within range of a Schedule II narcotic drug. See Wis. Stat. § 961.16(2)(a)11.

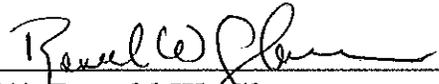
- 12) The defendant engaged in her criminal conduct without the consent or permission of her victims. Based upon the statements provided by the victims, coupled with the admissions made by the defendant, she did not have permission or consent to enter the residences identified in this complaint when the owners of the residences were not present. This includes both the residences where no one was home and those where only a child or children of the owners were present in the home at the time the defendant entered, but this does not include those residences

where an adult was present and did not object to the defendant's entry into the residence. The defendant entered the residences without consent and with the intent to steal medications. The defendant through her conduct and admissions repeatedly stole or attempted to steal medications. The defendant committed the thefts at her place of employment, in residences where she did not have permission to enter, and in additional residences where she used a ruse to gain permission to enter. In none of the instances of theft or attempted theft described within this complaint did anyone give the defendant permission to take and carry away the medication.

- 13) The defendant committed crimes against probationers at the Wausau Regional Field Office in Marathon County, Wisconsin. At the time of the offenses, the defendant was a public officer or employee given her profession as a probation agent in the DCC at the Wisconsin DOC. The defendant, in her capacity as a probation agent exercised discretionary power over her office by having the authority to order probationers into her office with specific demands or requirements, such as instructing the probationers to bring medications into the office. The defendant exercised her discretionary power in a manner inconsistent with the duties of her office, employment, and the rights of others. The defendant previously received a job instruction directing her to discontinue her pattern of practice related to probationers bringing in medications and the defendant being alone with the medications. The defendant exercised her discretionary power with the intent to obtain a dishonest advantage for herself, as demonstrated by her theft of the medications.

I, the complainant, believe that there is probable cause to believe that the defendant committed the criminal offenses identified within this complaint.

Dated this 21st day of December, 2012.



S/A Ronald W. Glaman
Division of Criminal Investigations
Wisconsin Department of Justice

Subscribed and sworn to before me and approved
for filing this 21st day of December, 2012.



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