

FILED
08-26-2024
Clerk of Circuit Court
For Official Use
La Crosse County WI
2024CF000755

STATE OF WISCONSIN CIRCUIT COURT LA CROSSE COUNTY

STATE OF WISCONSIN

Plaintiff,

vs.

Todd L Waldenberger
426 22nd St N
La Crosse, WI 54601
DOB: 06/08/1978
Sex/Race: M/W
Eye Color: Brown
Hair Color: Brown
Height: 5 ft 10 in
Weight: 192 lbs
Alias: Also Known As Todd Leo
Waldenberger

Defendant.

DA Case No.: 2024LC002639
Assigned DA/ADA: Trevor Paulson
Agency Case No.: 80-24-06319
Court Case No.:
ATN:

CRIMINAL COMPLAINT

Sergeant Brandon Penzkover, La Crosse County Sheriff's Department, being first duly sworn on oath says that on information and belief:

Count 1: OPERATING WITH PROHIBITED ALCOHOL CONCENTRATION - 4TH OFFENSE

The above-named defendant on or about Wednesday, July 3, 2024, at 16th and State Streets, in the City of La Crosse, La Crosse County, Wisconsin, did operate a motor vehicle with a prohibited alcohol concentration of more than 0.02, contrary to sec. 346.63(1)(b), 939.50(3)(h) Wis. Stats., a Class H Felony, and upon conviction may be fined not more than Ten Thousand Dollars (\$10,000), or imprisoned not more than six (6) years, or both.

And furthermore, invoking the provisions of Wisconsin Statute Section 346.65(2)(am)4, the defendant shall be fined not less than \$600 and imprisoned for not less than 60 days if the number of convictions under ss. 940.09 (1) and 940.25 in the person's lifetime, plus the total number of suspensions, revocations and other convictions counted under s. 343.307 (1) since January 1, 1989, equals 4, except that suspensions, revocations or convictions arising out of the same incident or occurrence shall be counted as one.

Count 2: OPERATING A MOTOR VEHICLE WHILE UNDER THE INFLUENCE - 4TH OFFENSE

The above-named defendant on or about Wednesday, July 3, 2024, at 16th and State Streets, in the City of La Crosse, La Crosse County, Wisconsin, did operate a motor vehicle while under the influence of an intoxicant, contrary to sec. 346.63(1)(a), 939.50(3)(h) Wis. Stats., a Class H Felony, and upon conviction may be fined not more than Ten Thousand Dollars (\$10,000), or imprisoned not more than six (6) years, or both.

And furthermore, invoking the provisions of Wisconsin Statute Section 346.65(2)(am)4, the defendant shall be fined not less than \$600 and imprisoned for not less than 60 days if the number of convictions under ss. 940.09 (1) and 940.25 in the person's lifetime, plus the total number of suspensions, revocations and other convictions counted under s. 343.307 (1) since January 1, 1989, equals 4,

V.

Todd L Waldenberger

Page 2 of 4

except that suspensions, revocations or convictions arising out of the same incident or occurrence shall be counted as one.

And furthermore, invoking the provisions of sec. 343.30(1q)(b)4 and (1q)(c) Wis. Stats., upon conviction, the court shall revoke the defendant's operating privilege for not less than two (2) years nor more than three (3) years, and shall order the defendant to submit to an alcohol and drug abuse assessment and to comply with treatment as a condition of reinstatement.

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

FACTUAL BASIS:

COUNTABLE OFFENSES FOR PENALTY ENHANCER AND DETERMINING PROHIBITED ALCOHOL CONCENTRATION: Your complainant has reviewed records available through the Wisconsin Criminal Information Bureau, Wisconsin Department of Transportation and other available sources and has noted that the defendant has the following convictions which may be counted as offenses under Wis. Stat. §343.307 for enhancing the penalties and determining the prohibited alcohol concentration of the above alleged offenses:

INC.	CONV. DATE	OFF. DATE	JURISDICTION	OFFENSE
1	03/11/1997	03/17/1996	La Crosse	OWI
2	02/06/2001	12/17/2000	La Crosse	OWI
3	09/08/2006	05/27/2006	Trempealeau	OWI

Complainant is informed by the Report of Officer Jake Fleischman of the UW-La Crosse Police Department:

Initial Observations:

After being dispatched to 16th/State St. to assist Sergeant Gilliam, I observed a Black Honda moped laying down on the sidewalk. Next to the moped was a white male identified as Todd Waldenberger.

Contact with Todd Waldenberger:

Waldenberger was identified by Sergeant Gilliam via WI driver's license. When speaking to Waldenberger, I noticed his eyes were bloodshot, he slurred his speech, and had trouble standing on his own, he would sway, nearly falling down multiple times. Waldenberger also had a moderate odor of intoxicants emitting from his breath.

After questioning Waldenberger, it was learned he had been coming from Howie's on the 1100 block of La Crosse St., heading home. Waldenberger advised he had been drinking craft IPAs and he had "too much" to drink. Waldenberger advised he had eaten an egg salad sandwich and chips 5 hours earlier. Waldenberger advised he was taking anxiety medications. Waldenberger later advised he had smoked marijuana the day prior.

Waldenberger advised there were pedestrians crossing the street at 16th/State St. causing him to lose control of his moped in an attempt to avoid them and ending up on the sidewalk. There were no witnesses on scene upon arrival.

Based on my observations I asked Waldenberger to participate in Standardized Field Sobriety Tests (SFSTs). Waldenberger agreed to participate in the tests.

V.

Todd L Waldenberger

Page 3 of 4

SFSTs:

I chose a well lit, flat, and dry section of the sidewalk to conduct the testing. When asked Waldenberger advised he did have a back issue may hinder his ability to perform certain movements well. Waldenberger advised he would participate to the best of his ability.

Horizontal Gaze Nystagmus (HGN):

I placed Waldenberger in the proper stance and explained the instructions to him. Waldenberger advised he understood the directions. During the test, Waldenberger's eyes showed a lack of smooth pursuit, in both eyes. Distinct sustained nystagmus in both eyes. Onset of nystagmus prior to 45 degrees, in both eyes. Vertical gaze nystagmus, in both eyes. There were 6 total clues observed.

Walk and Turn (WAT):

I placed Waldenberger in the proper stance and explained the instructions to him. Waldenberger advised he understood the directions. Waldenberger had trouble keeping his balance during instructions nearly falling over. Waldenberger did not use proper heel to toe steps as instructed. Waldenberger performed an improper turn. Waldenberger stepped off the line multiple times between steps 1 and 10. Waldenberger counted 10 steps on each pass instead of 9 as instructed. Waldenberger used his arms to balance. There were 8 total clues observed.

One Leg Stand (OLS):

I placed Waldenberger in the proper stance and explained the test to him. Waldenberger advised he understood the directions. Waldenberger chose to raise his right leg. Waldenberger has trouble balancing while receiving instructions. Waldenberger let his foot touch the ground multiple times. Waldenberger used his arms for balancing. There were 2 total clues observed.

Alternative Test:

Waldenberger requested an alternative test. Waldenberger was asked to count down from 80 to 60. Waldenberger was instructed to count out loud only the even numbers. Waldenberger agreed that he understood the instructions. Waldenberger struggled to count the correct numbers, miscounting and pausing to think often.

Preliminary Breath Test (PBT):

Waldenberger refused a PBT test.

Probable Cause:

Based on Waldenberger's bloodshot eyes, slurred speech, lack of balance, odor of intoxicants emitting from his breath, and performance during SFSTs. I found probable cause to arrest him for operating while intoxicated (OWI) 1st offense.

Arrest of Todd Waldenberger:

Waldenberger was placed into custody by Sergeant Gilliam. I searched Waldenberger in front of my squad before placing him into the back of my squad car. Waldenberger's handcuffs were checked to ensure they were double locked and secured properly.

OWI Processing:

After arriving to the Police Department Waldenberger was escorted to the processing room. Waldenberger's handcuffs were removed and he was allowed to use the restroom under supervision. Informing the accused paperwork was read verbatim to Waldenberger. Waldenberger refused the chemical breath test via intoximeter. A search warrant for legal blood draw was applied for. An affidavit and search warrant were sent to the on-call judge Doyle.

The warrant was later approved. Waldenberger was transported to Mayo clinic for a legal blood draw. A responsible party identified as Kelly Lynn Waldenberger was contacted and instructed to meet us at

V.

Todd L Waldenberger

Page 4 of 4

Mayo. Kelly consented to a PBT test to verify sobriety. Kelly's PBT result was 0.00. Todd did not wish to complete the alcohol influence report. The citation, informing the accused, alcohol influence report, pre-interrogation warning, notice of intent to revoke, signature bond with conditions, and the responsible party paperwork were given and explained to Todd with no issues. Todd was his property and released on signature bond to his appropriate party at 0210 hours on July 4th, 2024.

Blood was drawn by phlebotomist Ashley Mezera.

Search Warrant/Affidavit:

Search warrant for legal blood was approved by Judge Doyle at 0052 hours, on July 4th 2024. The search warrant was opened at 0122 hours and closed at 0201 hours.

Subscribed and sworn to before me on 08/26/24

Electronically Signed By:

Nick Passe

Assistant District Attorney

State Bar #: 1061509

Electronically Signed By:

Deputy Megan Hartman

Complainant