No. 21-1026

In The

Supreme Court of the United States

CAMILLE A. WALTERS,

Petitioner,

v.

D. A. MARK BENSEN, et al.,

Respondents.

On Petition For Writ Of Certiorari To The Wisconsin Supreme Court

PETITION FOR WRIT OF CERTIORARI

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QUESTIONS PRESENTED

I. Was it illegal that the Wisconsin Supreme Court disregarded their own rules of internal operating procedures, which require all decisions of the court to be supported, at minimum, by the citation of the authority or statement of grounds upon which the decision is based?

II. Why did the OLR initially investigate my claims of prosecutor malfeasance and then dismiss and close the investigation when I provided the proof of malfeasance in the form of a Blood Warrant and Affidavit that proved the breaking of federal law of false swearing?

III. Why did Wisconsin Supreme Court Chief Justice Annette Kingsland Ziegler take part in the ruling of my Malfeasance Petition when she should have recused herself?

IV. Is it legal for a DA to withhold first blood (inculpatory) evidence and submit time delayed and compromised blood evidence which could have mistakenly been an exculpatory factor, in favor of a defendant?

V. Did DA Mark Bensen violate due process by knowingly and intentionally directing a later compromised blood sample for the defendant when he should have submitted the uncompromised first blood sample which was available?

VI. Is it legal for a District Attorney to conceal the disclosure of the initial BAC of a criminal who killed 2 people and seriously injured 3 others?

RELATED CASES

- Petition for Review, Malfeasance Complaint against Office of Lawyer Regulation Keith Sellen, Director and District Attorney, Mark Bensen, Wisconsin Supreme Court, Judgment entered Oct. 18, 2021.
- Supreme Court of Wisconsin, Office of Lawyer Regulation, Review of the Decision to Close my Grievance against DA Mark Bensen, Judgment entered July 26, 2021.
- Supreme Court of Wisconsin, Office of Lawyer Regulation, Decision to Close my Grievance against DA Mark Bensen, Judgment entered July 15, 2021.

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PETITION FOR WRIT OF CERTIORARI

I, Camille A. Walters, respectfully request the issuance of a writ of certiorari to review the judgment of the Wisconsin Supreme Court.

OPINIONS BELOW

The decision of the Wisconsin Supreme Court is a paragraph opinion dated 18 October 2021. The ruling is reproduced at App. 1. The Supreme Court of Wisconsin, Office of Lawyer Regulation made a decision for the closure of my grievance dated 26 July 2021. The ruling is reproduced at App. 3. The Supreme Court of Wisconsin, Office of Lawyer Regulation made a decision to close my grievance dated 15 July 2021. The ruling is reproduced at App. 6.

JURISDICTION

The opinion and judgment of the Wisconsin Supreme Court was issued on 18 October 2021. This Court's jurisdiction exists under 28 U.S.C. 1254(1).

FEDERAL LAW INVOLVED

Federal Law 18 U.S. Code 1621(2)

1621. Perjury generally

Whoever –

(2) in any declaration, certificate, verification, or statement under penalty of perjury as permitted under section 1746 of title 28, United States Code, willfully subscribes as true any material matter which he does not believe to be true;

is guilty of perjury and shall, except as otherwise expressly provided by law, be fined under this title or imprisoned not more than five years, or both. This section is applicable whether the statement or subscription is made within or without the United States.

CONSTITUTIONAL PROVISIONS INVOLVED

Fourth Amendment to the United States Constitution

In regard to warrants:

Only judges and magistrates may issue search warrants. In Coolidge v. Hampshire, 403 U.S. 443 (1971), the Supreme Court held that a warrant must be issued by a "neutral and detached" judge capable of determining whether probable cause exists. To obtain a warrant, law enforcement officers must show that there is probable cause to believe a search is justified.

Officers must support this showing with sworn statements (affidavits). And must describe in particularity the place they will search and the items they will seize.

Fourteenth Amendment to the United States Constitution

Protections that must be provided:

Procedural due process requires government officials to follow fair procedures in civil and criminal proceedings. The law must be fairly applied to all. Procedural safeguards must be afforded before a decision is taken that could affect a citizen's right, and each person's fundamental rights must be protected throughout the process. Due Process guarantees the accused of a fair trial, any violation of fundamental fairness will constitute a denial of that guarantee. It is granted that a defendant is denied fundamental fairness when evidence material to guilt or innocence is unavailable.

STATEMENT OF THE CASE

The Wisconsin Supreme Court has failed to decide an important question of federal law that should be settled by this Court. I proved to the Wisconsin Supreme Court that **State Law 946.32 False Swearing and Federal Law 18 U.S.C. 1621(2)** were violated. I supplied incontrovertible evidence that DA Mark Bensen knowingly and deceptively withheld the fact that the blood of the defendant Devin Feucht was

immediately obtained following the deadly car accident which he caused on the night of December 8, 2019. Feucht's blood was obtained by First Responders in the ambulance following the extraction of Feucht from his car, and by Froedtert Hospital Staff on Dec. 8, 2019. Bensen knew on December 10, 2019, that the blood for defendant Feucht was obtained on Dec. 8, 2019. December 10, 2019, is the day the Blood Warrant Affidavit was signed by ADA Mandy Schepper and she was directed by Bensen to sign it.

ARGUMENT

According to the Wisconsin Supreme Court's own rules and standards **every** decision is supported at minimum by a citation of the Wisconsin statute by which review is granted and by a citation of the authority or statement of grounds upon which the ruling is based. The ruling on my grievance has no citation of the law on which to base their decision to take no action. The Wisconsin Supreme Court ignored the numerous state laws and federal law, against the law, in favor of DA Bensen.

I made the statement that **Federal Law 18 U.S.C. 1621(2) False Swearing and State Law 946.32 False Swearing** had occurred in my Petition for Review of Malfeasance to the Wisconsin Supreme Court. I asserted in my complaint that Bensen is guilty of false swearing verbally and in writing to Intake Investigator, Jonathan Zeisser; as Bensen stated falsely in an email dated July 13, 2021, that the earliest

sample that the Germantown Police Department received from Froedtert Hospital was at 1:05 a.m. on Dec. 9, 2019. Bensen stated, "I am not aware of any samples taken any earlier than the 1:05 a.m. sample." The federal question was timely and properly raised, and improperly disposed of by the Wisconsin Supreme Court, with the statement, "Your complaint and the supporting materials have been reviewed and it has been concluded there is no basis for further investigation of your allegations. Accordingly, no further action will be taken regarding this complaint."

Bensen also falsely attested in his response to Zeisser that the original criminal complaint mentions the Dec. 9, 2019, 2:25 a.m. blood sample. Bensen said, "When the original criminal complaint was filed on May 27, 2019, we did not know which sample the crime lab would utilize. The criminal complaint could have mentioned the (Dec. 9, 2019) 1:05 a.m. blood sample and in a perfect world we would have done so, but we did not intentionally omit mentioning the 1:05 a.m. blood sample in any way to mislead the court."

Bensen intentionally fails to point out the fact that the 1:05 a.m. blood sample was not submitted so it couldn't have been tested and most importantly the **first blood sample** was deliberately withheld from testing as directed by Bensen. I also supplied the Blood Warrant Affidavit which proved Bensen was lying and proved the **fact** that the blood of defendant Devin Feucht was obtained on December 8, 2019.

The Blood Warrant Affidavit were signed by ADA Mandy Schepper and the Assistant District Attorney

according to **Wisconsin Law 978.03 Deputies and Assistants in certain prosecutorial units**, can only sign and act as a DA under the directive of the DA.

I substantiated my claim that Bensen is guilty of violating **Wisconsin Law 946.65 Obstructing justice**. Wisconsin law dictates whoever knowingly gives false information to any officer of any court with intent to influence the officer in the performance of official functions is guilty of a Class I felony.

DA Bensen knew when the crucial first blood was obtained and he criminally withheld and intentionally deceived the Court, the public and the pre-sentencing investigator for the Dept. of Corrections. He also deceived the hospital who obtained and supplied the blood to the police, the Wisconsin Crime Lab and the victims when he directed time delayed and complicated (after anesthesias were given) blood evidence to be submitted to the Wisconsin Crime Lab which was thought to be indecipherable.

In another response to Julie Braun, Operations Director of the Crime Victim Rights Board, Bensen directly infers that the first BAC of Feucht was unreliable. I provided this response to the OLR. Bensen said, " . . . The blood alcohol results from the drugs Mr. Feucht received to treat him, interfered with obtaining a quick and reliable blood alcohol level for Mr. Feucht at the time of the crash." Bensen cannot decide what test results are reliable or unreliable, all evidence material to guilt or innocence must be presented. The Supreme Court of Wisconsin in case State v. Disch, 119 Wis. 2d 461 (1984) 351 N.W.2d 492, ruled, . . . "The

results of a blood test mandated by statute are prima facie correct, and the results are statutorily admissible." . . . "Assuming authentication of the sample tested, it is not permissible to suppress the results of a blood test or (breathalyzer test) . . . "

After the first blood from Feucht was obtained, and before he went into surgery, he was administered anesthesias. The Wisconsin Crime Lab, the agency that was sent the complicated blood even though the first blood sample was obtained, stated to the police and to the DA, ADA, and DDA that they had **never** received such a complex sample and that they would likely not be able to isolate the ethanol (alcohol) from the anesthesias.

I have proof of this in several documents including court transcripts that Bensen stated the results were compromised. I have further evidence in the Germantown Police Report that the complicated blood samples were thought to be unreadable. On Pg. 69 of the GPD Report DDA Sandra Giernoth, ADA Schepper and GPD Det. Sgt. Penny Schmitt met on January 15, 2020, to discuss the investigation and the findings. On January 16, DDA Giernoth received a response from the Wisconsin Crime Lab, "which indicated they were having difficulties quantitating the ethanol due to an interfering substance in the blood. The substance causing the issue was described as a drug given to Feucht by the anesthesiologist.

This was intentional. The first blood of the defendant was obtained and it did not have any conflicting medications in it.

There were multiple verbal communications where Bensen stated after court in private briefings where many witnesses heard Bensen say that this particular criminal case would likely be a, "test case." I asked Bensen what he meant by saying this would likely be a "test case", Bensen stated, "The results of the alcohol in the blood will likely never be determined."

According to **Wisconsin Law 904.01** the definition of "relevant evidence" means evidence having any tendency to make the existence of any fact that is of consequence to the determination of the action more probable than it would be without evidence. The general rule of evidence, Wisconsin **Law Rule 904.02**, states, "All relevant evidence is admissible." The importance of these statutes is to ensure that blood alcohol test results are admissible into evidence, and it is a violation to exclude them from evidence. An authenticated test drawn from the person in question by a qualified person by legislative edict is admissible. It may not be excluded from evidence. Blood tests results are obviously relevant evidence of a fact of consequence in an action and are of the type to be admitted into evidence under general rules of evidence adopted by the Wisconsin Supreme Court. Additionally, they are mandated by the legislature to be admissible.

I submitted Case No. 20GF11 Hearing Transcript dated 17 April, 2020, to the Wisconsin Supreme Court,

another form of proof of Bensen's False Swearing, as the transcript proves Judge Martens was deceived by Bensen. On page 5 of the transcript, Bensen says, "With regard to the penalties, Judge, I know you have said there's probable cause . . . there's two deceased, as well as two other individuals that suffered significant injuries if the blood supports that." "However, even if the blood does not support that, or we are unable to get the results back in a reasonable period of time, the State is prepared, and we would charge other counts."

On Pg. 10 of the above mentioned transcript, Judge Martens states, "And the actual charges will depend on the results of an analysis of the defendant's blood, a blood sample taken contemporaneous with the incident here." Judge Martens explains that emergent medical care was provided to the defendant and the sample was taken later because of this . . . " Judge Martens further explains, "And it also appears that from my review of the police reports, that the sample that was taken was taken after some other drug or drugs had been administered to Mr. Feucht in the course of his medical treatment at the hospital."

I am not disputing the Sentence that Feucht received, I am disputing the fact that the first blood evidence and the BAC of Feucht were deliberately withheld from the information Judge Martens was given. On July 9, 2020, the Wisconsin Crime Lab obtained a BAC for Feucht of .133 with the compromised blood provided to them. Judge Martens did a good job regarding the handling of this case with the information provided to him and the Sentence he imposed.

However, the evidence that was withheld was a direct factor in the Sentence imposed and the Sentence would likely have been greater if the evidence of Feucht's full inebriation and drug level wasn't concealed.

My attorney asked for all of the medical files to be subpoenaed and released for Feucht in a June 8, 2020, email sent to Bensen.

Bensen violated **Federal Law 5 U.S.C. 552-Public information**; agency rules, opinions, orders, records, and proceedings; by withholding the ambulance BAC and drug test results which were obtained, the hospital BAC of Feucht, and deceiving Judge Martens and the public. The ambulance and hospital results were suppressed by Bensen.

The fact is Feucht was a protected individual with strong ties to the Washington County Courthouse. Feucht's grandfather, (Dale Feucht was known to Bensen, his name was on the vehicle registration along with Devin Feucht's name found inside Feucht's car immediately following the crash). The judge who illegally signed Feucht's Blood Warrant, retired Judge Andrew Gonring, was former classmates and friends for over 50 years with Feucht's grandfather. Judge Gonring was the presiding judge in all of the paternity cases concerning Feucht, brought by Feucht's mother, for 20 + years. Under the 4th Amendment a judge who signs a warrant must be neutral. A judge who is friends with the defendant's grandfather is not neutral.

DDA Giernoth was appointed as a Judge after she had worked on this case for four months; she was

illegally assigned to be the Judge on this case. She was removed as the assigned Judge after Judge Martens noticed she was involved in the investigation of this case as DDA, Pg. 13, April 17, 2020, court transcript (also provided to the WI Supreme Court.)

However, the inculpatory evidence that was material to the sentencing has been criminally withheld. To date, even the first BAC that was obtained from Feucht at Froedtert Hospital in Wauwatosa, Wisconsin has been concealed from me and the public. The first BAC for my son (Theo's BAC was .000) and the other occupant (Nick Duernberger was .15) in the car has been released.

Evidence is material according to the holding of the *Brady* case if, "there is reasonable probability that the conviction or sentence would have been different if these materials had been disclosed." *Brady* evidence includes physical evidence.

Bensen told lies to favor the criminal and the fact is that if the blood was not able to be deciphered Feucht would have received no Sentence for OWI and an undeserved short Sentence because of this. There is no minimum Sentence in Wisconsin for vehicular homicide and causing great bodily harm.

The Blood Warrant Affidavit states, "The affiant is aware that alcohol dissipates from the body by a natural process over time, and probable cause exists to obtain all of the blood samples from Froedtert Hospital on Dec. 8, and 9, 2019, for conveyance to the Wisconsin

Crime Lab for testing." All blood samples were not tested!

The earliest sample of blood that was sent was 4-hour-old, diluted compromised blood in favor of the defendant who had ties to the Washington County Courthouse. Out of two separate boxes of blood kits received for Devin Feucht only 2 samples were submitted for testing on Dec. 16, 2019. **None of the samples were the first blood sample.**

DA Bensen directed there to be no arrest. **Wisconsin State Law 968.07 Arrest by a law enforcement officer** defines a law enforcement officer arrest when an enforcement officer believes on reasonable grounds that a person has committed a crime, an officer does not need a warrant or the same quantum of evidence necessary for conviction, but information that would lead a reasonable officer to believe that guilt is more than a possibility, which information can be based in part on hearsay. State v. Dimaggio, 49 Wis. 2d 565, 182 N.W.2d 466 (1971). An officer need not be in possession of a warrant to make a valid arrest. Schill v. State, 50 Wis. 2d 473, 184 N.W.2d 858 (1971).

There would be no arrest for 4½ months, two dead, two seriously injured, a huge amount of evidence and an uninsured drunk driver named Devin Feucht trapped in the driver's seat at the scene of the crash. And still no arrest!

DA Bensen is guilty of violating **Wisconsin State Law 946.68 Simulating legal process**. Legal process includes a subpoena, summons, complaint,

warrant, injunction, writ, notice, pleading, order or other document that directs a person to perform or refrain from performing a specified act and compliance with which is enforceable by a court or governmental agency.

Bensen references a Dec. 9, 2019, 2:10 a.m. Warrant that was obtained by Officer Schulz, who personally drove to now retired Judge Andrew Gonring's house, which is never done in exigent circumstances, and one would only do if telephones and fax machines did not exist.

On Pg. 20 of the GPD Report it states the Blood Search Warrant that Officer Schulz had obtained was not needed and not used, "The Blood Warrant and Affidavit were correctly documented as not being used."

I asserted and maintain there is no way a Blood Warrant Affidavit were ever produced in such a short amount of time. On Pg. 8 of the GPD Report it reads "During the process of waiting for Devin to be released from surgery, (Devin was released from two surgeries at 2:07 a.m. on Dec. 9, 2019), Officer Schulz was finally able to clear the scene of the accident and complete a Blood Search Warrant and Affidavit."

The Blood Warrant Affidavit I obtained from Dec. 10, 2019, are 5 pages long. The drive from the accident scene to now retired Judge Andrew Gonring's house takes 25 minutes; the accident scene was not cleared until well after 1:30 a.m. on Dec. 9, 2019. This would mean that several pages of information relating to the accident from various witnesses and police, and

information regarding the victims were all typed out by Officer Schulz and read and signed by Judge Gonring in an astonishing 15 minutes or less! If the Warrant was not typed out, the law requires a recorded warrant must be filed with the Clerk along with any Affidavit. Since no evidence of this Warrant exists, Bensen is guilty of, **946.68 Simulating legal Process and 946.76 Search Warrant, premature disclosure**, under Wisconsin law these violations are both felonies. Bensen mentioning this fictitious Warrant from 2:10 a.m. on Dec. 9, 2019, is what prompted me to find the actual Blood Warrant and Affidavit from 4:30 p.m. on Dec. 10, 2019, at the Courthouse Clerk's Office. This Warrant was conveyed on Dec. 11, 2019.

Officer Schulz went to the judge that Bensen directed he go to, in person, to speak privately about what to charge and what not to charge and what blood specimens to send. The DA directs and decides which judge will sign a warrant. The Dec. 9, 2019, 2:10 a.m. Blood Warrant and Affidavit were documented as not being used in the GPD Report. However, this "false" Warrant was referenced by Bensen in his answer to the OLR.

The hospital was blamed for not complying with a blood draw until 2:25 a.m. on Dec. 9, 2019. On Pg. 44 the GPD Report states any blood obtained before the issuance of the Warrant was an "illegal draw." All of the blood was legal to obtain, Feucht's consent was never needed, and a warrant was never needed.

The 2:10 a.m. Warrant Affidavit from Dec. 9, 2019, could not be found at the Washington County Clerk's Office. Where is the Blood Warrant Affidavit that was signed by Judge Andrew Gonring at 2:10 a.m. on Dec. 9, 2019? This Blood Warrant Affidavit were never used according to the GPD Report on Pgs. 9, 10, and 20. Bensen falsely swore and simulated legal process by naming a Warrant that doesn't exist and a Warrant that Bensen stated was needed and obtained in exigent circumstances at now retired Judge Andrew Gonring's house!

Warrants in extreme exigent circumstances are not obtained by having an officer drive from Germantown to West Bend and then back to the hospital in Wauwatosa. Warrants are telephonically obtained these days and are required to be filed with the Clerk's Office.

On Pg. 23 of the GPD Report it states that Feucht's blood samples were mailed to the WI State Lab of Hygiene on Dec. 10, 2019. It was decided by Bensen that the blood not be tested at the WI State Lab of Hygiene and instead be taken to the Wisconsin Crime Lab.

Devin's blood specimens were indeed obtained without a Warrant Affidavit, since the Blood Warrant Affidavit from Dec. 10, 2019, were not conveyed to the hospital until Dec. 11, 2019.

Froedtert Hospital gave police the blood kit for Feucht on Dec. 9, 2019. On Dec. 10, 2019, this blood was mailed to the WI State Lab of Hygiene. Det. Sgt. Schmitt, reports on Pg. 38 and Pg. 46 that she called

the WI Lab of Hygiene and told personnel they were told not to open or touch the blood kit that was sent there. Pg. 44 GPD Report, Officer Merten picked up the blood kit on Dec 12, 2019. Why was it determined necessary for Devin's blood kit to be picked up from the WI Lab of Hygiene? This lab had just finished testing Devin's OWI blood for alcohol and drugs from his June 3, 2019, arrest. The results of Feucht's BAC (.198) which came back on Dec. 3, 2020, were on Bensen's desk five days prior to the accident of Dec. 8, 2019.

The WI State Lab of Hygiene has more expertise with testing than the Wisconsin Crime Lab. The delayed blood sample for Feucht was then picked up from the WI Lab of Hygiene on Dec. 12, 2019; taken and stored at the GPD. On Dec. 16, 2019, only 2 samples out of 2 separate boxes of blood were taken to the Wisconsin Crime Lab, GPD Report Pg. 44. **The first blood samples obtained from Feucht were not sent to the Wisconsin Crime Lab.**

The blood samples that were sent to the Wisconsin Crime Lab for analysis of Feucht's BAC were samples that were deliberately misappropriated by Bensen, illegally, to favor a criminal defendant.

The GPD Report states that on Dec. 11, 2019, Officer Ball conveyed the Blood Warrant Affidavit from Dec. 10, 2019, to obtain Feucht's blood. 8 vials of blood were turned over by lab technician, Alex Harkes. According to Officer Ball, there was only 1 vial of blood drawn prior to Officer Pesch's "legal" blood draw. **This blood was specimen 1-19-343-0863B, the 1:05 a.m.**

blood draw and it was not sent to the Wisconsin Crime Lab, Pg. 50 GPD Report!

The earliest blood sample that could have possibly been sent was over 4 hours old, the accident happened at 10:20 p.m. Dec. 8, 2019, and the earliest blood sample they initially admitted to having was from 2:25 a.m. on Dec. 9, 2019.

The GPD Report on Pg. 44, states that all of the blood that was obtained would be taken to the Wisconsin Crime Lab for testing. It wasn't! Only 2 vials were initially tested prior to the charges hearing on July 15, 2020. On Pg. 50 of the GPD Report items 19-2457-1 and 19-2432-1 were the only blood samples taken for testing. They were not the first blood draw samples as the GPD have denied getting the first sample and so has DA Bensen.

Bensen directed a second blood sample for Feucht to be tested at the Wisconsin Crime Lab. The results came back on Aug. 3, 2020; this is on Pg. 87 of the GPD Report. The results are not revealed in the GPD Report.

On Friday, Aug. 14, 2020, the results of yet another blood sample for Feucht came back from the Wisconsin Crime Lab. The results are omitted from the GPD Report. They gave this third sample the special specimen name, "#20-1605-1 OTHER NAMES." Was this the first sample that they wanted to know the full impairment of, but, also most especially, withhold from the public?

On June 27, 2019, the Supreme Court affirmed police can order blood drawn from unconscious DUI suspects. The Court upheld a Wisconsin law that says people driving on a public road have impliedly consented to having their blood drawn if police suspect them of driving under the influence. The Supreme Court also said that "exigent circumstances" permit police to obtain a blood sample without a warrant. The hospital obtained Feucht's blood and the police were directed to deceive by Bensen and Det. Sgt. Schmitt.

On Pg. 9-10 of the GPD Report, Officer Pesch states that he was advised to place a Police Hold on Feucht by Lieutenant Gonzalez requesting the GPD be contacted upon Feucht's release from the hospital for him to be taken into custody for OWI charges. Officer Pesch disobeyed orders from his superior and followed the orders of Bensen and Det. Sgt. Schmitt.

This is a stand out, stand alone, case as it is unheard of for a criminal of this level to be released to the public without an arrest or a monitoring device. Since there was no Police Hold enacted on Feucht, he was illegally released from the hospital without the police or public being notified, as a free citizen with all rights and privileges intact including driving privileges. Det. Sgt. Schmitt told me Feucht would be hospitalized until March 2020. He was released on Dec. 28, 2019!

DA Bensen and Det. Sgt. Schmitt maintained Feucht was in need of further surgeries and rehab and was wheelchair bound and unable to operate a car.

These were all lies; he was seen all over town walking just fine and he was seen driving.

Pesch incorrectly reports on Pg. 9 that it was against HIPPA to enact a Police Holding. HIPPA is a federal law and law enforcement (any government official at any level of government who are authorized to investigate or prosecute a violation of the law) is exempt from HIPPA.

When I called the DA's office and GPD to report my fears that Feucht was a flight risk and my outrage that Feucht had not been arrested, all of my concerns were minimized by both government agencies. I was told that Devin would just get released on a judge's signature bond and I was asked by the DA's Office, "What would an arrest do?"

The Sentence Feucht received is two consecutive 10 year sentences for each death and 30 years of extended supervision. Feucht's Sentence was issued on Dec. 22, 2020.

Feucht's blood was drawn in the ambulance before his arrival at Froedtert Hospital according to the DMV Crash Report. Devin's BAC was obtained at Froedtert Hospital at 11:49 p.m., on Dec. 8, 2019. These results are unknown to date. These results are public information! Bensen has abused his office by inflicting further emotional harm to the crime victims by withholding evidence.

The BAC of all who were injured was obtained the minute they arrived at the hospital. Even deceased

Shellie Becker's (driver in the other car involved) blood sample was taken later in the early morning hours of Dec. 9, 2019, by the medical examiner. Feucht's BAC was enough for him to have been charged, convicted and sentenced immediately. This did not happen.

It took scientists 7 months to isolate the alcohol from the medications that were interfering with the results of the testing. The scientists at the Wisconsin Crime Lab were only accustomed to receiving the first (most accurate) blood draw. Blood can only be saved for 1 year for reliable testing purposes; every time a vial of blood is tested alcohol evaporates.

The sample which was sent to be tested for Feucht had lengthy time delays and the sample was obtained after Feucht's body was flushed with IV fluids thus diluting the blood sample. This could have caused the alcohol content to be below Wisconsin sentencing standards of .08 alcohol blood level. The criminal would not have had to serve a lengthy prison sentence. This was a direct due process violation!

On Dec. 8, 2019 at 10:20 p.m. Feucht drunkenly drove the wrong way killing two people including my son, Theo Walters. Theo died from the extensive brain, spinal and multiple severe internal and external injuries caused by Feucht on Dec. 11, 2019. My son was only 20 years-old.

Feucht caused great bodily harm to two others and himself. This was 20 year-old Devin Feucht's second drunk driving offense in six months. His first

OWI occurred on June 3, 2019. He was charged on December 16, 2019.

I obtained a copy of that driving report under Wisconsin open records law, his BAC was .198. This driving record report and the GPD Report for the deadly December 8, 2019, car accident were not able to be obtained until after the sentencing hearing for Feucht.

The Affidavit that is attached to the December 10, 2019, Blood Warrant clearly omits charges for OWI homicide. A warrant must show all possible charges. Somehow, even after all of the evidence indicating OWI homicide, the Warrant and Affidavit never mention the possibility of an OWI homicide charge!

Under oath Officer Ball lists 26 specific and separate reasons that they have for charges and it is declared **all of the blood samples would be tested**.

The charges portion of the Affidavit states: "Wherefore, your affiant prays the court issue a search warrant for the above-described blood samples, which may constitute evidence of a crime or crimes to wit: Homicide by Negligent Operation of a motor vehicle, Wisconsin statute 940.10(1) and First Degree Reckless Injury, causing great bodily harm, Wisconsin statute 940.23(1)."

DA Bensen never planned to arrest Feucht nor the blood results coming back with a conclusive reading, and, therefore directed the Affidavit to omit charges for

OWI (2nd offense) OWI Homicide by Negligent Operation of a motor vehicle 940.09(1)(a).

As soon as Det. Sgt. Schmitt arrived on the accident scene shortly before midnight on December 8, 2019, and telephoned DA Bensen, all events went from going the right way with proceeding with an arrest, and a police hold on criminal defendant Feucht, to going the wrong way. All of the sudden, as can be seen by reading the GPD Report, when DA Bensen became involved the Police Hold was no longer enacted which is standard procedure in all fatal accidents, and then the police falsely blamed the hospital for refusing to comply with a blood draw until much later.

On Sept. 6, 2021, I filled out a request form for the supplemental fatal accident report of December 8, 2019. On Sept. 7, 2021, at 6:02 p.m.; I received a call from the GPD asking me if I wanted the full GPD Report. The police officer told me the entire report was 162 pages. I quickly determined that 67 pages were deceptively and intentionally left out of what I was given. When I went to pick up the Report, I was given the exact same 95 page Report which was provided to me in January, 2021. The Blood Warrant Affidavit, and the Supplemental Fatal Accident Report which **always** includes the BAC for the driver was left out of the Report for Feucht. The BAC of drunk drivers is public information.

Just days prior to the Dec. 8, 2019, fatal car accident caused by Devin Feucht, DA Bensen, contacted

the Jackson PD and requested that all of the records and videos for Feucht's previous drunken driving arrest from June 3, 2019, be forwarded to his office, according to the JPD Report. Devin Feucht's identity was absolutely known and fresh in DA Bensen's mind at the time of the accident.

Another connection DA Bensen has to Feucht is that Feucht's uncle, Brian Feucht owns Boss Realty, and DA Bensen's family had properties listed with Boss Realty during the process of this case. This is a conflict of interest and further malfeasance.

Feucht was not arrested for his crimes in the fatal drunk driving accident of December 8, 2019, for 4½ months and, only after I threatened a lawsuit on April 15, 2020, in an email to DA Bensen. Feucht had full freedom for all of these months and absolutely no monitoring device. He was seen all over town. He was posting videos of himself doing drugs and laughing and partying with friends (I sent these videos to my lawyer and he sent them to DA Bensen and the GPD). He was still not arrested!

Regular drunk drivers who don't hurt anyone get arrested when they are thought to be impaired by reasonable suspicion of police officers. Not Feucht! Feucht was given the unusual unheard of privilege of not being named in the papers or pictured in the papers or media for 6 months. The deceased and injured were not given this treatment, their names were immediately published creating a deliberate confusion about who

drove the wrong way and drunkenly caused the fatal accident.

The DA, DA's Office, Det. Sgt. Schmitt and GPD officers violated their oaths of office and were in constant communication with one another in their deception of justice as proved in the record.

On March 25, 2020, it states in the GPD Report on Pg. 71, the DA's Office contacted Cammie Walters regarding the, "difficult situation of the blood for Devin."

DA Bensen, ADA Schepper and Det. Sgt. Schmitt had a phone conference about my letter requesting an internal police department investigation, on April 14, 2020, according to the GPD Report on Pg. 73.

On Pg. 74 Bensen, ADA Schepper and Det. Sgt. Schmitt had another conference call on Wednesday April 15, 2020, this time about my email to Bensen where I threatened a lawsuit if Feucht wasn't immediately arrested. Feucht was arrested on April 16, 2020.

DA Bensen flagrantly abused the power of his office. The OLR and the Wisconsin Supreme Court have turned a blind eye to the reported crimes. Former OLR Director, Keith Sellen, and Intake Investigator, Jonathan Zeisser, stated that the prosecutor has discretionary power to decide which cases to prosecute and which cases not to prosecute. This statement is not in accordance with **Wisconsin Law 978.05 Duties of the district attorney**.

DA's must prosecute all criminal actions and the law outlines what crimes they must charge. Charges

should have been issued within 72 hours from Bensen due to the severity of his crimes. Warrants and criminal complaints are issued from the district attorney's office and the district attorney directs which judge will sign the warrant.

Bensen violated **Wisconsin Law 968.02 Issuance and filing complaints** and **Wisconsin Law 968.04 Warrant summons or complaint**. Probable cause determines that an arrest or summons to appear in court must occur immediately following the discovery of a crime. There need not be a warrant for an arrest.

However, if there is a warrant/affidavit there must be an arrest. If the DA doesn't order it, the judge who signed the warrant must order the arrest. There are two warrants that were correctly filed with the Washington County Clerk's Office and one that was not. The first is the Blood Warrant Affidavit signed by Judge Gonring on Dec. 10, 2019. The second is the Search Warrant Affidavit signed by Judge Pouros and DDA Giernoth on Jan. 2, 2020. These were signed under oath by the issuing police officers the DDA, and ADA, under the direction of DA Bensen. The criminal complaint normally comes first and must be immediately filed with the clerk's office. There was no filing of a criminal complaint until May, 27, 2020. **The mandatory provisions of the law were not followed**.

Keith Sellen, the former Director of the OLR, whose ruling my Petition for Review of Malfeasance to the WI. Supreme Court stems from, stated in his

decision to me, "A prosecutor is entitled to rely on statements of law enforcement unless known at the time to be false." I proved that Bensen knew on December 10, 2019, that the first blood of Feucht was obtained. The Blood Warrant Affidavit which states Feucht's blood was obtained on Dec. 8, 2019, was signed by ADA Schepper, GPD Det. Brian Ball, and Judge Andrew Gonring, on Dec. 10, 2019, and filed with the Washington County Clerk of Court on December 11, 2019, proves this fact.

I have established that Bensen knew all of the times he lied; and that he knew he was lying. Bensen directed all of the corruption.

According to **Wisconsin Law 946.12**, Bensen is guilty of a felony for his acts of **Misconduct in Public Office**. District attorneys are obligated to disclose all facts and whether by an act of omission or commission the officer or employee of the government exercises a discretionary power in a manner inconsistent with their duties or the rights of others with the intent to obtain a dishonest advantage for another is guilty of misconduct in public office.

Bensen knew that the Wisconsin Crime Lab was having immense difficulty quantitating the alcohol from the sample they were given. I was told this repeatedly by ADA Schepper and DA Bensen. Bensen was unwilling to send the blood to another lab to get the results. The Wisconsin Crime Lab did not specialize in sophisticated testing. The Wisconsin Crime lab's FAQ page states they will gladly send the blood sample

to another lab free of charge. The decision to send the blood to another lab comes from the DA.

I sent multiple letters to the GPD and to DA Bensen requesting they send the blood to NMS Labs. NMS Labs does the most specialized testing in the U.S. and they did my deceased son Theo's blood work as directed by DA Bensen. **My son's blood and urine were tested exhaustively and meticulously; he was tested for 46 drugs including cocaine and opiates. Feucht was a known cocaine and marijuana user. Davis and Duernberger both stated this to police in the GPD Report. Feucht's blood and urine were not tested to this same level. Feucht was the driver!** Feucht's blood sample was submitted for testing 8 days after it was obtained to ensure all the drugs in his system would not be found. Drugs stay in a blood sample for only 3 days! Drugs can be found in a urine sample for up to a month. NMS Labs explained this to me. I called this lab and told them the situation, they stated they could easily determine and isolate the alcohol in this complicated case. I asked the DA to please direct the blood to be sent there; he would not. Sending any other sample than the first blood sample was a deliberate, criminal and deceptive injustice to victims and the justice system. Both Criminal Complaints that were provided to the court in court case #2020CF000226 and in which Bensen's name is on, and in which he signed under oath, state that hospital medical staff would not comply with an earlier blood draw for Devin than at 2:25 a.m. on Dec. 9, 2019. Officer Pesch states he obtained the exigent

circumstances blood draw from Froedtert Hospital employee, Joseph A. Eckes, containing 2 blood vials, Pgs. 9-10 of the GPD Report. An amended Criminal Complaint lists 1:05 a.m. on Dec. 9, 2019.

However, the blood that was first sent to the WI State Lab of Hygiene contained the 2 vials of blood that Officer Pesch states were obtained at 2:25 a.m. and later on Dec. 9, 2019. On May 27, 2020 the criminal complaint was amended to 1:05 a.m. on Dec. 9, 2019, because I had refused to go along with the ridiculous notion that the blood of the perpetrator of the worst car accident in Washington County was not immediately obtained when everyone else's (blood) directly affected by the accident was obtained.

Bensen is guilty of breaking **Wisconsin Law 946.47 Harboring or aiding felons**, with his actions in calling off an arrest for Feucht. The law states: (a person) with intent to prevent the apprehension, prosecution or conviction of a felon, destroys, alters, hides or disguises physical evidence or places false evidence is guilty of this crime. According to Wisconsin law this crime is a felony!

Throughout this entire ordeal DA Bensen insisted that Feucht's blood was not obtained until Dec. 9, 2019, because of the life-saving efforts that hospital staff administered. The Blood Warrant Affidavit dated Dec. 10, 2019, lists the fact that Feucht's blood was obtained on December 8, 2019, in 4 different places in the document.

On Pg. 7 of the GPD Report it is stated, "Devin was immediately assessed by numerous members of the Froedtert medical staff.

Feucht was then put in a medically induced coma after extensive IV flushing.

The GPD Report states that the blood obtained from before the, "legal blood draw" (all blood drawn was legal, this was an exigent circumstances case and Wisconsin is an implied consent state, the Wisconsin Supreme Court, and the Supreme Court has held.) If the blood they submitted was blood taken after the Warrant was conveyed to the hospital on Dec. 11, 2019, this could mean blood that was over a day and a half old was conveyed. No Warrant was ever needed and blood was obtained without a Warrant. Under Bensen's directive, On Pg. 22 of the GPD Report; Det. Sgt. Penny Schmitt tasked Det. Ball with obtaining a new Blood Search Warrant Affidavit. Why wasn't the Blood Search Warrant from the day before that Officer Schulz supposedly obtained conveyed to Froedtert Hospital? A Blood Search Warrant has a 5 day time limit.

The Warrant was a deliberate excuse to send in blood obtained much later from defendant Feucht. On Pg. 44 of the GPD Report Det. Ball identifies the **intent and motive** for the Dec. 10, 2019, Blood Warrant Affidavit. Det. Ball states, . . . "Having received information regarding the complexity of the blood draw from Feucht while he was being treated at Froedtert, the decision was made to complete the affidavit with

the intent to obtain a search warrant to procure the blood obtained from Froedtert Hospital during the treatment of Feucht." **Indeed they did need a warrant to obtain the complicated anesthesia infused blood as they already had the uncomplicated blood they obtained without a warrant. Two samples of this compromised blood with extraordinary time delays were sent to the Wisconsin Crime Lab as directed by Bensen.**

Wisconsin Law 942.03 Giving false information for publication is another offense Bensen is guilty of, as he knowingly gave an inaccurate criminal complaint dated May 27, 2020, to reporter Kendra Lamer, of the West Bend Daily News for publication. This intentional false information was published on May 29, 2020.

When he did this, Bensen had all of the medical information for my son, Theo Walters, on his desk by April 6, 2020. Most importantly he had Theo Walters' comprehensive lab results from NMS Labs (results came back in February of 2020) which detailed he had no detectable amounts of alcohol or drugs in his system at the time of the accident.

There were 2 accounts of events leading up to the car accident. One account states that my son, Theo Walters did not ingest alcohol or marijuana, Pg. 92 of the GPD Report testimony was given by Jarrod Davis in writing. It is important to note that Jarrod Davis was also tape recorded by Officer Ball Pgs. 41-43 GPD Report. Another account states that, Nick

Duernberger, a front seat surviving passenger, said Theo Walters had one beer and they all smoked marijuana. There is no written account for Nick Duernberger. Also Nick Duernberger was interrogated by Officer Ball who was wearing an Axon Body Camera Pg. 26-27 of the GPD Report. Nick Duernberger was never specifically asked if Theo smoked marijuana. When Nick said, "they", he meant he and the others not specifically Theo.

Both Nick and Jarrod stated to police that Theo Walters had asked to drive. The GPD and Bensen chose to have only the verbal account given by Duernberger included which was falsified by GPD included in the criminal complaint. The reason for this was to have all occupants in Feucht's car to share in an implied public blame for the fatal accident. Nick Duernberger's BAC from the hospital is listed in both of the criminal complaints as .15. Nick Duernberger was a front seat passenger. Why was his BAC even mentioned? He wasn't the driver. Most bizarrely Feucht's BAC from the hospital has never been revealed anywhere to date. DA Bensen never thought I would get my son's medical files from the hospital or his comprehensive lab results. He was attempting to bully us into submission with these public lies.

Curiously the other car's occupants' state of inebriation (they had consumed alcohol and marijuana, Pg. 38 of the GPD Report) were omitted from both of the criminal complaints. Never before has a backseat, seat-belt wearing, deceased victim ever been as falsely vilified in a newspaper as my son was. The other

deceased victim who was a driver (she had consumed alcohol and smoked marijuana) was not a target of Bensen and the GPD. Bensen is guilty of defamation under **Wisconsin Law 942.01 Defamation**.

Since Bensen had to charge Feucht with his crimes at this point, he meant to bring down my son's good name and honor. Due to the fact that my son was innocent and the medical examiner Robert Schaffer was willing to interpret the NMS Lab results to the reporter Kendra Lamer (my permission was given to the medical examiner). I did receive a full correction and retraction of the heart wrenching lies (the West Bend News published that Theo Walters had consumed 4-6 beers and smoked a blunt) that were published about my deceased son. The correction and retraction for Theo Walters, was published on June 9, 2020, in the West Bend Daily News.

Feucht was never interrogated by police, they never voice recorded or Axon Body Camera recorded him. He was first interviewed by Det. Sgt. Schmitt a month after the deadly accident. On Pg. 61-62 of the GPD Report, Det. Sgt. Schmitt states she told Feucht he was not under arrest; if he was uncomfortable talking about the accident he didn't have to; and that he could end the interview at any time. Feucht did sign and release all of his medical records to Det. Sgt. Schmitt.

This insane cover-up and plan to have Feucht not fully charged with his crimes was done on Feucht's behalf by the very people who are employed to work to

protect the public. The date of the in-home interview was Jan. 7, 2020, shortly after this visit he was given all the contents of the items that were in his car, during the investigation. They also gave my son's glasses to Feucht after I had asked for them. No Motion to Return Devin's property was ever filed with the court. They kept my son's cell phone, downloaded it; and sifted through it for 5 months. All aspects of the investigation are disturbing as Feucht was given preferential treatment as directed by Bensen. Officer Ball lied and attested there were 3 phones in the Feucht car. There were 5 according to the GPD Report Pgs. 33-34, phone in glove box Pg. 47, phone Pg. 58 and phone Pg. 60; two were illegally given back to Feucht! Also what happened to all of Feucht's illegal drugs and drug paraphernalia that were stated to have been found in his car in the GPD Report? When items are given back during an investigation there needs to be an itemized list filed with the clerk's office of what was given back and what was kept.

All of this criminal activity was happening simultaneously as my wonderful, accomplished, innocent son lay dying from the injuries that were caused by the defendant that Bensen was protecting.

Further injustice occurred when Chief Justice Ziegler was directly involved in the decision of my Petition for Review of Malfeasance, according to an email response I received from the Wisconsin Supreme Court Clerk's Office on Oct. 27, 2021, when I asked this specific question.

The Wisconsin Supreme Court under SCR Chapter 60 Code of Judicial Conduct SCR 60.03 Recusal sub (4) statute outlines the circumstances a judge should recuse themselves. Chief Justice Ziegler could not have been impartial as she directly worked with Bensen for 10 years, retired Judge Andy Gonring (the judge who signed the blood warrant on Dec. 10, 2019, who is a former classmate of and friends with Devin's grandfather) for 7 years, and former Director of the OLR Keith Sellen for 14 years.

Chief Justice Ziegler is close personal friends with all of those aforementioned, including former Director of the OLR, Keith Sellen and most specifically DA Bensen. Wisconsin law defines that Wisconsin Supreme Court Justice Ziegler should have removed herself because she worked with those I have accused. Chief Justice Ziegler should not have been involved in my case as she knows every single person who is mentioned, including me.

Chief Justice Ziegler has been publicly reprimanded for presiding in 11 cases in which her spouse was a paid director. She was punished under SCR 60.04(4)(e)(a).[1]

My case was taken for review by Chief Justice Ziegler so that she could dispose of it for her friends.

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[1] Misconduct includes "willful violation of a rule of the Code of Judicial Ethics." Wis. Stat. 757.81(4)(a). Please see Ziegler v. Ziegler, Supreme Court of Wisconsin, May 28, 2008.

Even if Chief Justice Ziegler did not author the statement that disposed of my complaints, she illegally participated in the ruling.

The truth has been manipulated by Bensen directing the submission of distorted evidence and contorted lies. The actions were illegal, unethical, and egregious.

I have provided all records, warrants, affidavits, emails, etc. I have more than met the burden of proof required in my allegations of all of the agencies involved in my complaints.

The subpoenaing of all of Feucht's medical records and Bensen's removal as DA and disbarment is in order as a full investigation will prove his enormous level of criminal activity.

Irreparable harm will result to the detriment of justice for Wisconsin citizens and all citizens of the United States if action is not taken and reversed in my favor. The Supreme Court can rectify and harmonize the law that the state of Wisconsin judicial system has allowed to be broken in this case. It is inevitable that others have and will suffer irreparable harm if the decision of the Wisconsin Supreme Court is not vacated and rectified.

This case calls for the application of a new precedent. A single decision can create a precedent. The Wisconsin Supreme Court illegally deciding to take no further action in the face of injustice has now endangered our judicial system. Currently, defendants' can request "Brady disclosure" referring to the holding of

the *Brady* case, and the numerous state and federal cases that interpret its requirement that the prosecution disclose material exculpatory evidence to the defense. It is inferred that material inculpatory evidence should be provided, however the omission of inculpatory evidence to the *Brady* rule leaves a gaping hole in the judicial system.

Our laws need to have a case precedent in which prosecutors can be held accountable for misconduct and misappropriation of evidence as the public suffers when a fair sentence for a criminal hangs in the balance due to the withholding of inculpatory evidence.

I propose the "Walters disclosure" to be part of our country's legal language. I am requesting this Petition of Writ of Certiorari be accepted by the United States Supreme Court to be remanded to the Wisconsin Supreme Court for a full investigation by an independent panel of investigators and lawyers according to **Wisconsin Law SCR 22.25(1).**

The standard for evaluation of misappropriation of inculpatory evidence has not been settled by this Court.

In the Case of Brady v. Maryland, 373 U.S. 83 Decision, The Supreme Court held that withholding exculpatory evidence violates due process, "Where the evidence is material either to guilt or to punishment." The Court determined that under Maryland law, the withheld evidence could not have exculpated the defendant but was material to his level of

punishment. Thus, the Maryland Court of Appeals' ruling was affirmed – Brady would receive a new sentencing hearing but not a new trial. William O. Douglas wrote; "We now hold that the suppression by the prosecution of evidence favorable to an accused upon request violates due process where the evidence is material either to guilt or to punishment" . . . "Society wins not only when the guilty are convicted, but when criminal trials are fair."

The first blood evidence of Feucht was requested by me repeatedly. Suppression by Bensen the prosecutor, violated due process and the prosecutor's actions of False Swearing must be held accountable in the form of punishment in accordance with the laws of the state of Wisconsin and Federal Law. Bensen broke multiple Wisconsin state laws, Federal laws, and Constitutional provisions. Bensen must be held accountable!

As the Supreme Court has famously written, the government's interest in a criminal prosecution "is not that it shall win a case, but that justice shall be done." I am respectfully requesting that the Supreme Court grants my petition for writ of certiorari: To reverse and correct and remand the Wisconsin Supreme Court's decision to take no further action in my complaints; to demand that the Wisconsin Supreme Court thoroughly

investigate all of Bensen's illegal actions so that justice can finally be done.

Respectfully submitted,

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