

State of Wisconsin

Circuit Court - Branch 1

Manitowoc County

State of Wisconsin,
Plaintiff

Motion to Deny or
Increase Cash Bail

-VS-

05-CF-381

MANITOWOC COUNTY
STATE OF WISCONSIN
FILED

Steven A. Avery,
Defendant

MAR 8 2006

CLERK OF CIRCUIT COURT

Now comes the Plaintiff, State of Wisconsin, by Calumet County District Attorney Kenneth R. Kratz, serving as Special Prosecutor in the above-captioned action, and moves the court to enter an order denying bail; in the alternative, the State requests the court increase the cash bail previously authorized from \$500,000 to an amount of \$2 Million.

1. Denial of Bail

Section 969.035(2), Wisconsin Statutes, authorizes a court to deny bail in cases where persons are accused of committing offenses of Section 940.01 (First Degree Intentional Homicide) or Section 940.225(1) (First Degree Sexual Assault). The defendant, Steven A. Avery, is now charged with committing both offenses.

To justify denial of bail, the District Attorney must provide a copy of a criminal complaint charging the commission of the applicable offense [attached as Exhibit 1], and allege that available conditions of release will not adequately protect the community, or prevent intimidation of witnesses.

New information has come to the attention of the State, as this investigation has proceeded, to require the court consider denial of bond. Those relevant factors are further supported by the attached affidavit of Investigator Mark Wiegert [attached as Exhibit 2], and are incorporated by reference into this motion. The factors relevant to the denial of bail include:

- a) Steven Avery is alleged to have abducted, raped, tortured, murdered and mutilated Teresa Halbach on October 31, 2005. Ms. Halbach was at best a casual "acquaintance" of the defendant, and is alleged to have been "targeted" by Avery as a crime victim.

23
(1)

- b) Steven Avery has a long history of acts of violence, mostly perpetrated against female victims, which acts include physical and sexual violence.
- c) Some of Steven Avery's prior criminal convictions occurred while on legal status, and thus the community was not protected from him, despite specific court orders in place designed to do just that.
- d) Steven Avery has demonstrated an intent, plan and motive to abduct, rape, torture, kill and mutilate young woman, as evidenced by conversations with inmates, and showing diagrams within the Wisconsin Corrections System, of a "torture chamber" Avery intended to build upon his release from prison.
- e) Steven Avery has demonstrated an intent, plan and motive to dispose of victim's bodies through burning, as evidenced by conversations with inmates within the Wisconsin Corrections System. Conversations with inmates also included a detailed demonstration on how to bind victims to be held against their will.
- f) Steven Avery has demonstrated an intent, plan and motive to kill other women, as evidenced by correspondence sent to his then wife, Lori Avery, while incarcerated in the Wisconsin Corrections System. Dangerousness of Steven Avery to members of the community, including family members, was the subject of specific findings of the court, in Manitowoc Case 87-FA-118 [a transcript of which is attached as Exhibit 3], including the defendant being impulsive; had threatened to kill and mutilate his wife (using his children to deliver the messages); and had refused to participate in counseling or other programming while in prison .
- g) Steven Avery has demonstrated an intent, plan and motive to hold citizen victims against their will, as evidenced by the purchase of hand cuffs and leg irons from "Intimate Treasurers" retail store on October 9, 2005.

For the above reasons, the State believes that available conditions of release, if the defendant was able to post significant cash bail, are not adequate to protect members of the community, most specifically female citizens, and therefore the court should deny bail.

2. Increase in Amount of Cash Bail

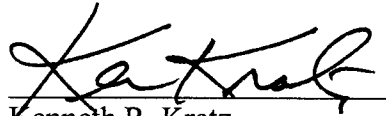
Section 969.01(4), Wisconsin Statutes, provides courts direction in fixing bail, including setting the amount necessary to post as "cash bail" if required, and setting non-monetary conditions, when applicable. Factors relevant to the imposition of bail, and which new evidence is now available for the court's consideration, include: the nature, number and gravity of offenses; the potential penalties facing the defendant; the degree of violence involved; prior criminal record; the character and reputation of the defendant; the character and strength of evidence presented against the defendant; whether the

defendant was bound over at a preliminary hearing; and violations of prior conditions of release.

The State alleges that with new information available to the court, should the court decide not to deny bail altogether, significant increase of the cash bail from \$500,000 to \$2 Million is required to secure the defendant's appearance at future court appearances. Other relevant factors are further supported by the attached affidavit of Investigator Mark Wiegert [attached as Exhibit 2], and are incorporated by reference into this motion. The factors relevant to the increase of cash bail include:

- a) The character and strength of the state's case has increased since the last time bail was considered, including the addition of an eye-witness (co-defendant) and details of additional criminal behavior of the defendant, Steven Avery. The nature, number and gravity of offenses has increased, as have the potential penalties upon conviction.
- b) Details of the degree of violence exhibited, as described by co-defendant Brendan Dassey, must be considered by this court.
- c) The defendant's prior criminal record (2 burglary convictions; felony animal abuse; endangering safety) were already argued to the court, but remain relevant in this bail consideration. Recent statements from an inmate include admissions of Avery that his intent was to "rape" the woman he ran off the road and pointed a rifle at.
- d) The "character" of Steven Avery has been painfully exhibited through the alleged acts of kidnapping, rape, torture, homicide and mutilation of Teresa Halbach. Further allegations of prompting and inclusion of his 16 year old nephew in this series of crimes also speaks to Mr. Avery's deviant character.
- e) The defendant has been bound over for trial.
- f) Prior offenses (torture and killing of a cat) was committed while the defendant was on previous legal status (Felony Probation) and subject to specific conditions of the court, designed to protect our community from Steven Avery.
- g) Allegations of Steven Avery's plan to flee the jurisdiction, prior to his arrest on the charges he now faces, was described for investigators in detail by the defendant's nephews, Brendan and Bryan Dassey.
- h) Requests by the defense that some method of "surety" bond be authorized in lieu of cash bail has been cautioned by attorneys for Manitowoc County, and correspondence has been forward detailing those concerns. Finally, defense suggestions that Mr. Avery's parents "believe in him" provide little legal basis to convert the defendant's cash bail to anything else.

Respectfully submitted this 8th day of March, 2006.



Kenneth R. Kratz
Calumet County District Attorney
Special Prosecutor

State of Wisconsin

Circuit Court

Manitowoc County

STATE OF WISCONSIN

D. A. Case No. 2005CA000607
Agency Case No. 05-0157-955

Plaintiff,

-VS-

ORIGINAL FILED **NOV 15 2005**

CRIMINAL COMPLAINT

Steven A. Avery
12932 Avery Road
Two Rivers, WI 54241
DOB: 07/09/1962
Sex/Race: M/W

CASE NO: _____
LYNN ZIGMUNT
CLERK OF CIRCUIT COURT
MANITOWOC COUNTY, WISCONSIN

Case No. 05-CF-381

Defendant,

Thomas Fassbender, Special Agent with the Wisconsin Department of Justice, Division of Criminal Investigations, being first duly sworn, states that:

Count 1: FIRST DEGREE INTENTIONAL HOMICIDE

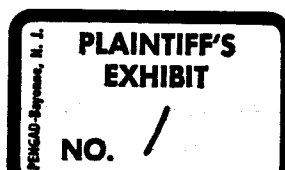
The above-named defendant on Monday, October 31, 2005, at 12932 Avery Road, Town of Gibson, Manitowoc County, Wisconsin, did cause the death of Teresa M. Halbach, with intent to kill that person, contrary to sec. 940.01(1)(a), 939.50(3)(a) Wis. Stats., a Class A Felony, and upon conviction shall be sentenced to imprisonment for life.

Count 2: MUTILATING A CORPSE

The above-named defendant between Monday, October 31, 2005, and Friday, November 4, 2005, at 12932 Avery Road, Town of Gibson, Manitowoc County, Wisconsin, did mutilate, disfigure or dismember a corpse with the intent to conceal a crime, contrary to sec. 940.11(1), 939.50(3)(f) Wis. Stats., a Class F Felony, and upon conviction may be fined not more than Twenty Five Thousand Dollars (\$25,000), or imprisoned not more than twelve (12) years and six (6) months, or both.

PROBABLE CAUSE:

Complainant states that he is a special agent with the Wisconsin Department of Justice, Division of Criminal Investigations, and bases this complaint upon the reports and investigations of Deputy Bill Tyson and Deputy Dan Kucharski, Cpl. Leslie Lemieux of the Calumet County Sheriff's Department, as well as statements of witnesses Ken Bennett, Leslie Eisenberg, Dr. Donald Simley, Sherry Culhane, Karen Halbach, Steve Harrington and statements of defendant Steven A. Avery. The statements of Deputy Tyson, Deputy Kucharski, and Cpl. Lemieux are presumed to be truthful and reliable as made by sworn law enforcement officials; the statements of witnesses Ken Bennett, Leslie Eisenberg, Dr. Donald Simley, Sherry Culhane, Karen Halbach, and Steve Harrington are presumed truthful and reliable as citizen informants; and the statements of defendant Steven A. Avery, are presumed truthful and reliable as they were made against his penal interests.



(5)

Complainant is informed that on November 3, 2005, Karen Halbach contacted the Calumet County Sheriff's Department. Halbach stated that her daughter, Teresa Marie Halbach, DOB: 03/22/1980, had not been seen or heard from since Monday, October 31, 2005. Halbach said it was unusual for Teresa not to have had personal or telephone contact with her family or friends for that length of time. Halbach stated that her daughter was driving a 1999 Toyota Rav 4, dark blue in color, bearing Wisconsin license plate #SWH582. Complainant is informed that Corporal Leslie Lemieux of the Calumet County Sheriff's Department obtained Wisconsin Department of Transportation records for Wisconsin license plate #SWH582. The records outlined that the vehicle with Wisconsin license plate #SWH582 is owned by Teresa M. Halbach, and the VIN for said vehicle is JT3HP10V5X7113044.

Complainant is informed that on November 5, 2005, officers received information from volunteer searchers that they had located a vehicle matching the description of the vehicle owned by Teresa Halbach at Avery Auto Salvage located on Avery Road in the Town of Gibson, County of Manitowoc, Wisconsin. Volunteer searchers had received verbal consent to search Avery Auto Salvage yard by Earl Avery. Law enforcement was provided with a partial VIN number and detailed description of the Rav 4 located at Avery Auto Salvage, which was consistent with that belonging to Teresa M. Halbach. During a visual observation of the vehicle, law enforcement officials noted that there were tree branches covering the vehicle and also vehicle parts placed alongside of the vehicle which looked as though someone had attempted to conceal the vehicle.

On November 5, 2005 a search warrant was obtained and executed for Avery Auto Salvage, which included the residences, outbuildings, vehicles and property. During the execution of the search warrant, Teresa Halbach's 1999 Toyota Rav 4, VIN #JT3HP10V5X7113044, was found partially concealed. The vehicle was subsequently seized, secured in an enclosed trailer and transported to the Wisconsin Crime Laboratory for subsequent search and analysis. On November 6, 2005, a preliminary report was received from the Wisconsin State Crime Lab indicating a presumptive positive finding of human blood located within the interior of Teresa Halbach's vehicle. Steven Harrington of the State of Wisconsin Crime Laboratory confirmed that technicians had located the presumptive human blood in the rear cargo portion of the vehicle as well as the ignition area of the vehicle.

Complainant is informed that during a search of the residence of Steven A. Avery, law enforcement also identified a dried red substance which appeared to be blood on the bathroom floor in front of the washer and dryer and also located items of restraints within Steven Avery's residence, including handcuffs and leg irons. Complainant is informed that on November 6, 2005, Deputy Kucharski continued the search of the defendant's bedroom located at 12932 Avery Road, Town of Gibson, Manitowoc County, Wisconsin, where officers located two firearms, identified as a .22 caliber semi-automatic rifle and a .50 caliber black powder muzzleloader. Deputy Kucharski noted that there was masking tape attached to the muzzleloader with the name "Steve" written on it. On November 5, 2005, Deputy Tyson located a desk in the same room, which contained numerous magazines addressed to Steven A. Avery, Sr. at 12932 Avery Road. Also on November 6, 2005,

officers carried out a search of a detached garage next to the Steven Avery residence located at 12932 Avery Road, Town of Gibson, Manitowoc County, Wisconsin. Officers located approximately eleven spent .22 caliber long rifle shell casings on the floor of the garage.

Complainant is informed that on November 7, 2005, Deputy Dan Kucharski continued the search of the defendant's bedroom located at 12932 Avery Road, Town of Gibson, Manitowoc County, Wisconsin. Deputy Kucharski located a Toyota ignition key adjacent to furniture found within the bedroom of the defendant, Steven Avery. Complainant is informed that the key located in the bedroom of Steven Avery's residence was successfully used in the ignition of the Toyota Rav 4 owned by Teresa M. Halbach; the key successfully turned the ignition of the Halbach vehicle.

Complainant is informed that on November 8, 2005, while continuing to execute the search warrant of the Avery Auto Salvage property located on Avery Road in the Town of Gibson, Manitowoc County, Wisconsin, law enforcement officials located two Wisconsin license plates, bearing Wisconsin license plate #SWH582, in a scrapped vehicle located on the north end of the salvage yard. The plates were crumpled. The recovered license plates were later identified as the license plates that belonged to the 1999 Toyota Rav 4 owned by Teresa M. Halbach.

Complainant is informed that on November 5, 2005, officers located a burn barrel near the residence of Steven Avery located at 12932 Avery Road, in the Town of Gibson, County of Manitowoc, Wisconsin. In that burn barrel, officers located burned clothing and a partially burned shovel.

Complainant is informed that on November 8, 2005, while continuing to execute the search warrant of the property located near the residence of Steven Avery located at 12932 Avery Road in the Town of Gibson, Manitowoc County, Wisconsin, officers located bone fragments and teeth in a fire pit area located approximately 20 yards south of a detached garage that is located next to the residence of Steven Avery. Officers also located remnants of steel belts of tires that appear to have been utilized as fire accelerants.

The bone fragments located were transported by Dorinda Freymiller, a special agent with the Division of Criminal Investigations, to Ken Bennett, a retired forensic anthropologist, who identified the bones as being human in nature. Bennett also determined that based on the characteristics of the ilium bone, the bones are from an adult human female.

On November 14, 2005, Leslie Eisenberg, Forensic Anthropologist, described the bone fragments as the obvious result of mutilation of a corpse. Eisenberg stated that almost every bone in the body or body area is present and has been recovered from the scene.

The tooth fragments that were located in the burn pit area were delivered to Dr. Donald Simley, who is board-certified in forensic odontology and has been practicing forensic dentistry since 1981. Dr. Simley's analysis of the tooth fragments indicated the presence of human teeth.

On November 9, 2005, the defendant, Steven A. Avery, provided a statement to your complainant indicating that the victim, Teresa Halbach, was at his home on October 31, 2005 between 2:00 and 3:00 p.m. Steven Avery stated that he resides at 12932 Avery Road in the Town of Gibson, County of Manitowoc, Wisconsin. The defendant denies ever being in the victim's car and indicated that there was no way his blood could be in her car. Steven Avery admitted to having personal contact with Teresa Halbach that day in his driveway outside of his residence. The defendant stated that he paid Teresa Halbach \$40 in cash and indicated that Halbach gave him an Auto Trader Magazine at that time.

On November 14, 2005, your complainant reviewed a report submitted by Sherry L. Culhane, DNA Analyst with the Wisconsin Department of Justice, Division of Law Enforcement Services, Wisconsin State Crime Laboratory. Culhane indicates that blood found in the interior portion of Teresa Halbach's vehicle (including on the driver's seat; the ignition area; the front passenger seat; and the rear passenger door entrance) match the DNA profile for the defendant, Steven A. Avery. Culhane also indicates that DNA material found on the Toyota ignition key, seized from the bedroom of Steven A. Avery, matched the DNA profile of the defendant, Steven A. Avery.

Culhane's report further indicates that blood found in the rear cargo area of the Toyota Rav 4 was analyzed, and found to match DNA found upon a "Wild Cherry Pepsi" can recovered from the front console of the vehicle. Culhane indicates both DNA samples originate from the same female individual, which your complainant believes to be the victim, Teresa M. Halbach.

On November 15, 2005, in a preliminary report, Culhane indicated to your complainant that the partial DNA profile developed from the charred remains is consistent with the female DNA profile developed from the human blood stain in Teresa Halbach's vehicle, as well as the "Wild Cherry Pepsi" can also located in Teresa Halbach's vehicle.

Based on the foregoing, the complainant believes this complaint to be true and correct.

This 15th day of November, 2005.

Thomas J. Fautsch
Complainant

Kenneth R. Kratz
Kenneth R. Kratz
Calumet County District Attorney
Manitowoc County Special Prosecutor
State Bar No. 1013996

STATE OF WISCONSIN

D. A. Case No. 2005CA000607
Agency Case No. 05-0157-955

Plaintiff,

-VS-

AMENDED CRIMINAL COMPLAINT

Steven A. Avery
12932 Avery Road
Two Rivers, WI 54241
DOB: 07/09/1962
Sex/Race: M/W

Case No. 05-CF-381

Defendant,

Thomas Fassbender, Special Agent with Wisconsin Department of Justice, Division of Criminal Investigation, being first duly sworn, states that:

Count 1: FIRST DEGREE INTENTIONAL HOMICIDE - AS A PARTY TO A CRIME

The above-named defendant on Monday, October 31, 2005, at 12932 Avery Road, Town of Gibson, Manitowoc County, Wisconsin, as a party to a crime, did cause the death of Teresa M. Halbach, with intent to kill that person, contrary to sec. 940.01(1)(a), 939.50(3)(a), 939.05 Wis. Stats., a Class A Felony, and upon conviction shall be sentenced to imprisonment for life.

Count 2: MUTILATING A CORPSE - AS A PARTY TO A CRIME

The above-named defendant between Monday, October 31, 2005, and Friday, November 4, 2005, at 12932 Avery Road, Manitowoc County, Wisconsin, as a party to a crime, did mutilate, disfigure or dismember a corpse with the intent to conceal a crime, contrary to sec. 940.11(1), 939.50(3)(f), 939.05 Wis. Stats., a Class F Felony, and upon conviction may be fined not more than Twenty Five Thousand Dollars (\$25,000), or imprisoned not more than twelve (12) years and six (6) months, or both.

Count 3: POSSESSION OF A FIREARM BY A FELON

The above-named defendant on Saturday, November 5, 2005, at 12932 Avery Road, Calumet County, Wisconsin, did possess a firearm subsequent to the conviction for the felony or other crime, as specified in sub. (1) (a) or (b), contrary to sec. 941.29(2)(a), 939.50(3)(g) Wis. Stats., a Class G Felony, and upon conviction may be fined not more than Twenty Five Thousand Dollars (\$25,000), or imprisoned not more than ten (10) years, or both.

Count 4: FIRST DEGREE SEXUAL ASSAULT - AS A PARTY TO A CRIME

The above-named defendant on Monday, October 31, 2005, at 12932 Avery Road, Town of Gibson, Manitowoc County, Wisconsin, as a party to a crime, did have sexual intercourse, with Teresa M. Halbach, without that person's consent by use or threat of use of a dangerous weapon, contrary to sec. 940.225(1)(b), 939.50(3)(b), 939.05 Wis. Stats., a Class B Felony, and upon conviction may be sentenced a term of imprisonment not to exceed sixty (60) years.

Count 5: KIDNAPPING

The above-named defendant on Monday, October 31, 2005, at 12932 Avery Road, Town of Gibson, Manitowoc County, Wisconsin, by force or threat of imminent force, did seize or confine Teresa M. Halbach, without that person's consent and with intent to cause the victim to be imprisoned or confined, contrary to sec. 940.31(1)(b), 939.50(3)(c), Wis. Stats., a Class C Felony, and upon conviction may be fined not more than One Hundred Thousand Dollars (\$100,000), or imprisoned not more than forty (40) years, or both.

Count 6: FALSE IMPRISONMENT

The above-named defendant on Monday, October 31, 2005, at 12932 Avery Road, Town of Gibson, Manitowoc County, Wisconsin, did intentionally seize and confine Teresa M. Halbach, without that person's consent, and with the knowledge that he had no lawful authority to do so, contrary to sec. 940.30, 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.

PROBABLE CAUSE:

Your complainant relies on the same factual basis as set forth in the original Criminal Complaint with the following additions.

Complainant states that he is a Special Agent with the Wisconsin Department of Justice, Division of Criminal Investigations, and bases this amended complaint upon the reports and investigations of Deputy Bill Tyson, and Investigator Mark Wiegert of the Calumet County Sheriff's Department, as well as citizen witness, Barb Janda, and defendant Brendan R. Dassey. The statements of Deputy Tyson and Investigator Wiegert are presumed to be truthful and reliable as made by sworn law enforcement officials, and the statements of defendant Brendan R. Dassey are presumed truthful and reliable as they were made against his penal interests.

On February 27, 2006, Investigator Mark Wiegert of the Calumet County Sheriff's Department interviewed Brendan R. Dassey, DOB: 10/19/1989, who stated that on October 31, 2005, at approximately 3:45 p.m., he got off the school bus and went to his residence which is located next door to Steven Avery's residence at 12932 Avery Road. Dassey stated that he saw Teresa Halbach's vehicle.

On March 1, 2006, Investigator Mark Wiegert and your complainant, Special Agent Thomas Fassbender, again interviewed Brendan R. Dassey, DOB: 10/19/1989, regarding the disappearance and subsequent homicide of Teresa Halbach.

Dassey stated that on October 31, 2005, he went to pick up the mail on his bike and, upon returning, he saw that there was a letter for Steven Avery. Dassey stated that on his way to Steven Avery's trailer, he passed a burn barrel located on Avery's property. Dassey stated that he looked into the burn barrel and observed a cell phone and camera inside of

the barrel. Dassey stated that while approaching the Avery residence on his bike, he heard screams for help coming from Avery's trailer.

Dassey stated that he then went to Steven Avery's trailer to deliver the mail. Dassey stated that when he approached the door to Steven Avery's residence, he continued to hear screams coming from inside the trailer. Dassey described those screams as a female voice screaming, "Help me." Dassey indicated that he knocked on the door three times and waited for Steven Avery to come to the door. Dassey stated that after several minutes, Steven Avery came to the door and Dassey noted that Avery was covered in sweat. Dassey stated that Steven Avery invited him into the kitchen area of the residence. Dassey stated that Steven Avery asked him if he wanted to get some of that stuff and then asked Dassey if he wanted to get some "pussy." Dassey stated that Steven Avery told Dassey that he had "fucked" Teresa Halbach and wanted to keep doing it and stated that he wanted to "fuck her so hard." Dassey indicated that Steven Avery encouraged him to sexually assault Teresa Halbach as well.

Steven Avery then escorted Dassey into Steven's bedroom where Dassey observed Teresa Halbach lying face up on Steven Avery's bed. Dassey indicated that Teresa Halbach was nude and was restrained to the bed with handcuffs and leg irons. Dassey stated that Teresa Halbach was begging him to help her, saying things such as tell him to stop and don't do this. Dassey stated that Steven Avery told him to "do her" and "screw her." Dassey stated that he then had sexual intercourse with Teresa Halbach while Steven Avery watched. Dassey stated that he had sexual intercourse with Teresa Halbach for approximately five minutes. Dassey stated that during this time, Teresa Halbach was asking him not to do it, asking him to tell Steven to knock it off, and asking him to uncuff her, and that Halbach was crying.

Dassey stated that he then put his clothes on, and he and Steven then went out into the living room and watched TV. Dassey stated that Steven Avery had closed the bedroom door. Dassey stated that they were in the living room approximately 10 to 15 minutes. Dassey stated that Steven Avery told him, "That's how you do it" and asked Dassey if it felt good. Dassey stated that Avery told him he did a good job and that he was proud of him. Dassey stated that Steven Avery told him he was going to kill Halbach, specifically tie her up, stab her and choke her. Dassey stated that Steven Avery also talked about getting rid of her body and that he wanted to burn her body.

Dassey stated that after approximately 10 minutes, he and Steven Avery returned to the bedroom, where Teresa Halbach was still restrained and begging for help. Dassey stated that Steven Avery had a knife, which Dassey described as being between six and eight inches long, that Avery had obtained from the kitchen area. Dassey stated that Steven Avery told Halbach that he was going to kill her and that he was not going to let her go, while threatening her with the knife. Dassey stated that Avery then used the knife and stabbed Teresa Halbach in the stomach area. Dassey stated that Steven Avery then handed Dassey the knife and told Dassey to "cut her throat." Dassey stated that he then went over to Teresa Halbach and cut her throat with the knife. Dassey stated that Avery then told Dassey to cut some of Teresa Halbach's hair off, and Dassey stated that he did. Dassey stated that Teresa Halbach was still alive at that time, so Steven Avery went over to Teresa and put his hands around Halbach's neck and strangled her for approximately two to three minutes. Dassey stated that Steven Avery then went to the bathroom and

washed the blood off of his hands. Dassey stated that during this period of time, Steven also punched Teresa Halbach and had told her to shut her mouth.

Dassey stated that he and Steven Avery then unshackled Teresa Halbach and tied her up with rope. Dassey and Steven Avery then carried the body of Teresa Halbach into Steven Avery's detached garage, where they placed her in the back of her Toyota Rav 4. Dassey stated that he believed that Teresa Halbach was dead because he did not see her stomach moving anymore while they were carrying her. Dassey stated that Steven Avery wanted to take Teresa's body and dump it in a pond in the Avery Salvage Yard. Dassey stated that Avery then decided to burn the body instead. Dassey stated that there was already a fire burning in the burn pit behind Steven Avery's garage; Dassey had observed this fire burning when he first arrived at Steven Avery's trailer. Dassey and Steven Avery then removed Teresa Halbach's body from the vehicle and placed her body on the garage floor. Dassey stated that Steven Avery then went to his residence and retrieved a .22 caliber rifle and returned to the garage, where he proceeded to shoot Teresa Halbach approximately ten times. Dassey stated that he shot her at least once and possibly three times in the left side of her head, and the remaining shots were to the mid-section of Teresa Halbach's body. Dassey stated that he did not know why Steven Avery shot Teresa Halbach.

Dassey stated that he and Steven Avery placed Teresa Halbach's body onto a roller creeper and then transported her body to the fire which was already burning behind Steven Avery's garage. Dassey stated that he and Steven Avery placed Teresa Halbach's body on the fire and proceeded to place tires and brush on top of her. Dassey stated that he and Steven Avery then used a golf cart to retrieve additional items, including a car seat, a wood cabinet, and additional brush and tires, which they then placed on top of Teresa Halbach's body in the fire pit.

Dassey stated that Steven Avery then drove Teresa Halbach's Toyota Rav 4 back by the trees of the Avery Salvage Yard near the pond. Dassey stated that he accompanied Steven Avery in Teresa Halbach's vehicle. Dassey stated that he and Steven Avery tried to conceal the vehicle by covering it with branches and a car hood. Dassey stated that Steven Avery then removed the license plates from Teresa Halbach's vehicle and then opened the vehicle hood. Dassey stated that he did not know what Avery did under the hood, however. Dassey stated that he and Steven Avery then returned to Avery's trailer using the "long way." Dassey stated that upon returning to Avery's trailer, he observed Avery place the key for Teresa Halbach's Toyota Rav 4 in a dresser drawer in Avery's bedroom. Dassey stated that Steven Avery told him that he was glad Dassey had helped him. Dassey stated that he and Steven Avery then removed the sheets from Avery's bed and took them out to the fire pit and placed them in the fire. Dassey stated that Steven Avery had him throw Teresa Halbach's clothing, which were "full of blood cleaned up" on the fire. Dassey stated that Steven then asked Dassey to assist him in cleaning the garage floor. Dassey stated that there were two areas of blood located on Steven Avery's garage floor. Dassey stated that he and Steven Avery used gasoline, paint thinner and bleach to clean the floor. Dassey stated that he then received a phone call from his mother telling him that he needed to be home by 10 p.m. Dassey stated that he then returned to his residence, at which time he noticed the bleach stains on his pants.

Dassey stated that he recalled that Steven Avery received two telephone calls from Avery's girlfriend, Jodi. Dassey stated that he believed that both telephone calls were received while Teresa Halbach was still restrained in Avery's bedroom.

Dassey stated that Steven Avery had been scratched on the finger and that it was bleeding, and he remembered Steven putting a bandaid on it when he went into his residence to get the bleach. Dassey stated that Steven Avery told him he was going to crush Teresa Halbach's car and commented, "The sooner the better."

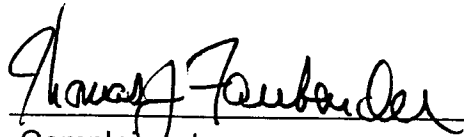
Dassey stated he spoke with Steven Avery at a later date, and Avery told him that he attempted to bury some of Halbach's bones as well as chopped them up with a shovel. Dassey also stated that Steven Avery told him he used a pail and removed some of her bones from the burn pit and dumped them in the gravel pit to the west of Steven Avery's property.

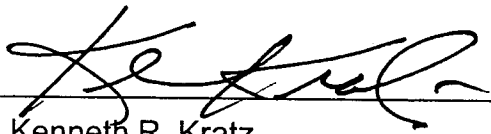
On February 27, 2006, your complainant spoke with Barb Janda. Barb Janda stated on October 31, 2005, when Brendan Dassey returned from Steven Avery's residence, Dassey had bleach stains on his jeans. Barb Janda asked Dassey what happened to his jeans, and he told her that his jeans were bleached while he was helping Steven Avery clean his garage floor with bleach. On March 1, 2006, Investigator Wiegert recovered the jeans worn by Dassey on October 31, 2005. Investigator Weigert noted that the jeans contained bleach spots and other stains.

Based on the foregoing, the complainant believes this complaint to be true and correct.

Subscribed and sworn to before me,
and approved for filing on:

This 7th day of March, 2006.


Complainant


Kenneth R. Kratz
District Attorney
State Bar No. 1013996

STATE OF WISCONSIN,
Plaintiff,

AFFIDAVIT IN SUPPORT OF
PLAINTIFF'S MOTION TO
DENY OR INCREASE BAIL

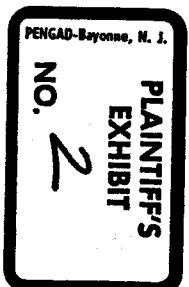
vs.

STEVEN A. AVERY,
Defendant.

Case No. 05-CF-381

Mark Wiegert, Investigator with the Calumet County Sheriff's Department, being first duly sworn on oath, states that upon information and belief:

1. Your affiant is an investigator with the Calumet County Sheriff's Department, and is serving as lead investigator in the disappearance and subsequent homicide of Teresa M. Halbach. Results of the investigation, to this point, have led to the filing of criminal charges against Steven A. Avery and Brendan R. Dassey in Manitowoc County Circuit Court. Copies of the criminal complaint and amended criminal complaint against Steven A. Avery (Case No. 05-CF-381), is attached hereto and incorporated by reference to this affidavit [Exhibit 1].
2. Your affiant has reviewed an official report submitted by Neil McGrath, Special Agent with the Wisconsin Department of Justice, Division of Criminal Investigation (hereafter "DCI"), who indicates that on November 6, 2005, Agent McGrath interviewed Dawn Pliszka, receptionist for Auto Trader magazine. Pliszka indicated that between 8:30 and 9:00 a.m. on October 31, 2005, a male individual identifying himself as "B. Janda" called asking that a photographer come to his property to take pictures that day. The man, later identified as the defendant, Steven Avery, told Pliszka that the photographer (referred to as "she"), had been out to his residence before to take photos (DCI Report 05-1776/7; DCI Report 05-1776/226; DCI Report 05-1776/235).
3. Your affiant is informed in an official report submitted by DCI Agent Neil McGrath, who indicates that on November 6, 2005, contact was made with Angela M. Schuster, manager of Auto Trader magazine, who indicated that Teresa M. Halbach had taken photos at the Avery Salvage Yard on numerous occasions during 2005. Halbach had been to the Avery property on June 20; August 22; August 29; September 19; and October 10; all in 2005, to take photographs for Auto Trader Magazine (DCI Report 05-1776/2; DCI Report 05-1776/126). Halbach complained that on previous trips to the Avery property, Steven Avery answered the door only wearing a towel. (CCSD Report-Pages 14-15; 20; 38).
4. Your affiant has reviewed Exhibit #3, which reflects Judge Hazelwood's findings on April 15, 1993 (Manitowoc County Case 87-FA-118). Steven Avery admits to being physically abusive before and during the marriage to Lori Avery (Transcript-Page 6); "There's plenty to be worried about with a man like this when he makes threats" (Transcript-Page 6); "The kind of threats he made to his wife, not simply a threat to kill her, but this grandiose mutilation-type scheme, the drawings and everything else indicate



that this is not simply a thought of an instant, this is something that he has brooded over for some period of time and has not been able to deal with in any effective manner, but to simply let it out and to create another victim” (Transcript-Page 9). Lori Avery also described to Inv. Baldwin from the Calumet County Sheriff’s Department, that her marriage with Steven Avery was very rocky, with a lot of domestic and physical abuse, including instances of choking, hitting and punching (CCSD Report-Page 213).


5. Your affiant has reviewed an official report submitted by Debra Strauss, Special Agent with DCI, who indicates that on November 11, 2005, Agent Strauss, together with Calumet County Sheriff’s Investigator John Dederling, interviewed Jodi M. Stachowski, Steven Avery’s girlfriend. Stachowski indicated that there has been a long history of physical abuse between her and Avery, including an incident during 2004, where Steven Avery “slapped her”, and that she had to call the police and have Avery arrested. Stachowski indicated that while in Crivitz, Steven Avery threw her to the ground and hit her. Stachowski further indicated that on three or four occasions, Avery struck her hard enough where she received a bruise, including being struck hard enough during one occasion where she received a big bruise on her right cheekbone (DCI Report 05-1776/39). Your affiant is further informed in an official report submitted by Special Agent Strauss, who indicated that on November 29, 2005, Agent Strauss re-interviewed Jodi Stachowski, who indicated that during August 2005, during one violent incident, Steven Avery choked her (DCI Report 05-1776/162).
6. Your affiant is informed in an official report from Calumet County Sheriff’s Department, that on January 20, 2006, your affiant interviewed J.A.R., DOB: 11/09/1964. J.A.R. stated that in 1982 or 1983, while she was residing with Steven and Lori Avery, she was sexually assaulted by Steven Avery. J.A.R. stated that during the assault, Avery held his hand over her mouth and told her that if she yelled or screamed, that there was going to be trouble. (CCSD Report Pages 345-346).
7. Your affiant is informed in an official report submitted by Special Agent Thomas Fassbender of DCI, as well as Investigator Wendy Baldwin of the Calumet County Sheriff’s Department. On January 27, 2006, Inv. Baldwin interviewed M.A. regarding an alleged sexual assault. M.A. stated that Steven Avery had forced sexual intercourse with her in the summer months of 2004. M.A. stated that Steven Avery had physically forced her hands over her head and had penis to vagina intercourse with her. (CCSD Report-Page 361). Special Agent Fassbender indicated that on January 25, 2006, he spoke with C.A., mother of alleged sexual assault victim M.A. The victim’s mother indicated that the victim does not wish to speak about the sexual assault between her and Steven Avery, because Steven Avery told the victim that if she “told anyone about their activities together, he would kill her family” (DCI Report 05-1776/212). Your affiant is further informed in an official report submitted by Special Agent Debra Strauss of DCI, who indicated that in interviewing Jodi Stachowski on November 11, 2005, when Stachowski spoke with Steven Avery regarding his relationship with his niece, M.A., Steven admitted, “Yea, I fucked her” (DCI Report 05-1776/**).
8. Your affiant has reviewed records reflecting that on November 23, 1982, Steven A. Avery was convicted of being party to the crime of cruelty to an animal, committed on or about September 2, 1982; records indicate that on or about September 2, 1982, Avery built a bonfire at his residence and chased down a live cat which belonged to him. After Avery caught the cat, he soaked it in gas and oil, and then threw the live cat into the bonfire where it caught fire and crawled out of the burning pit. After the cat crawled out, Avery again doused the animal with gas before it died.

9. Your affiant has reviewed an official report submitted by Donn Adams, police officer with the City of Eau Claire Police Department, who indicated that on December 7, 2005, contact was made with Jessey Werlein, who indicated that he was an inmate at the Green Bay Correctional Institution with the defendant, Steven A. Avery. Werlein describes that while at Green Bay Correctional, Steven Avery had drawn up plans for a "torture chamber". Avery also described his plans, upon being released from prison, to abduct several females and use the torture chamber; Werlein indicated that Avery specifically told him that his plans were to catch girls, rape them, torture them, and get rid of them (City of Eau Claire Police Department Report No. 1-05-029178). Your affiant is further informed in an official report submitted by Kim Skorlinski, Special Agent with DCI, who indicated that on January 5, 2006, Jessey Werlein was re-interviewed, and provided more details regarding the diagram of the torture chamber. Werlein indicated that the diagram was of a room approximately eight feet by ten feet, having a bed, a hole in the floor, and an air duct. Werlein said Avery talked about sound proofing the walls, and building the torture chamber for kidnapping, raping and torturing, and then killing women. Werlein indicated that he has come forward with this information after hearing of the woman being killed in Manitowoc. Werlein indicated that he knew Avery for about two or three years while imprisoned and saw him just about everyday (DCI Report 05-1776/193).
10. Your affiant has reviewed an official report submitted by Thomas Fassbender and Kim Skorlinski, Special Agents with DCI, who indicate that on February 23, 2006, contact was made with Anthony G. Myers while at the Oshkosh Correctional Institution. Myers indicated that he had previously been at the Green Bay Correctional Institution, and there had known the defendant, Steven A. Avery. Myers indicated that Avery talked about bondage and tying women to a wall and such. Avery described tying women's hands together with their palms facing each other, so that they could not lay flat, and even drew a diagram of such a scene and demonstrated that position for Myers. Myers indicated that Avery was always talking about dominance or anger towards women (DCI Report 05-1776/238).
11. Your affiant has reviewed an official report submitted by Kevin Heimerl, Special Agent with DCI, who indicates that on November 15, 2005, contact was made with Wisconsin Department of Corrections Inmate Daniel Luedke, at the Red Granite Correctional Institution. Luedke recalls having previously been imprisoned with the defendant, Steven A. Avery, while they were both incarcerated at Fox Lake Correctional Institution. Luedke recalls having conversations with Steven Avery, including Avery telling him "the way to get rid of a body was to burn them" (DCI Report 05-1776/156).
12. Your affiant has reviewed attached Exhibit #3, and incorporates that transcript, by reference, into this affidavit.
13. Your affiant is informed in an official report that Steven Avery sent letters to his wife, Lori Avery, while incarcerated, including correspondence sent through his minor children indicating "I hate mom", and "she will pay"; "I will kill you"; "I will get you when I'm out"; and "Daddy will git (sic) mom when daddy gits (sic) out, love, daddy". These letters served as a partial basis for the family court decision to discontinue visitation between the defendant, Steven A. Avery and his children while Mr. Avery was incarcerated (included in Judge Hazelwood's findings, Exhibit #3).
14. Your affiant has reviewed an official report submitted by Kim Skorlinski, Special Agent with DCI, who indicates that on November 22, 2005, contact was made with Dawn Lehr,

employee at "Intimate Treasures" retail store in Manitowoc, Wisconsin. Lehr recalls that on October 9, 2005, Steven Avery, together with his sister, Barb Janda, came into Intimate Treasures and purchased a pair of handcuffs and leg irons. Avery paid cash for the items, and Lehr recalled that neither Avery nor Janda were regular customers of the store. (DCI Report 05/1776-138).

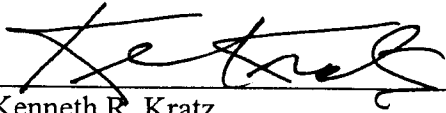
15. Your affiant is aware that Steven A. Avery has previously been convicted of two counts of Burglary; Felony Animal Cruelty; and Endangering Safety.
16. Your affiant has reviewed an official report submitted by Thomas Fassbender and Kim Skurlinski, Special Agents with DCI, who indicate that on February 23, 2006, contact was made with Anthony G. Myers while at the Oshkosh Correctional Institution. Myers indicated that he had previously been at the Green Bay Correctional Institution, and there had known the defendant, Steven A. Avery. Myers indicated that Steven Avery told him about the incident for which he was sentenced for endangering safety, and about a woman a car and a gun being involved, and remembered Avery describing thoughts about "raping the woman" or that it was "his plan to rape the woman". Myers recalls it having something to do with a car accident and remembering that Avery acted real proud of himself (DCI Report 05-1776/238).
17. Your affiant has reviewed Exhibit #1, and notes the allegations of Steven Avery "prompting" his nephew, Brendan Dassey, to participate in criminal behavior.
18. Your affiant is aware that Steven A. Avery was bound over for trial in Manitowoc County Case Number 05-CF-381, at a Preliminary Hearing on December 6, 2005.
19. Your affiant is informed in an official report submitted by Wendy Baldwin, Investigator with the Calumet County Sheriff's Department, who indicated that on February 27, 2006, contact was made with Bryan Dassey, nephew of the defendant, Steven A. Avery and brother of Brendan Dassey. Bryan recalls Steven Avery having a conversation with him where Avery indicated he could "kill someone and get away with it". Bryan also recalls that the weekend they went up north (the weekend of November 4, 2005), that the family had overheard that Marinette County was coming to their property; Bryan indicated that Steven seemed very panicked and he was "going to take off", however, Bryan's grandfather told him that "if he didn't do anything, that you should not run". Bryan Dassey indicated that Steven wanted to run away at the time (Calumet County Sheriff's Department Report-Page 485-486).
20. Your affiant is aware that the Manitowoc County Corporation Counsel has sent correspondence to Judge Patrick Willis, expressing concerns in the Court converting any cash bail in this matter to a "surety" bond.

Dated this 8th day of March, 2006.



Mark Wiegert
Calumet County Sheriff's Investigator

Subscribed to and sworn before me
This 8th day of March, 2006.



Kenneth R. Kratz
Calumet County District Attorney
My Commission is Permanent.

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

STATE OF WISCONSIN : CIRCUIT COURT : MANITOWOC COUNTY
BRANCH NO. III

In re the Marriage of:

LORI MATHIESON,
Petitioner,

and

STEVEN A. AVERY,
Respondent.

DECISION ON MOTION

Case No. 87 FA 118

Hearing held in the City of Manitowoc, County of
Manitowoc, State of Wisconsin, before the Honorable
Fred H. Hazlewood in Circuit Court Branch 3 on the 15th
day of April, 1993.

1993 APR 23 PM 4:58
JOAN A. HOFFMAN
CLERK OF
CIRCUIT COURT

MANITOWOC COUNTY, WIS
FILED

A P P E A R A N C E S

MR. PATRICK T. KING, Attorney at Law, 802 Michigan Avenue,
Sheboygan, Wisconsin, appearing on behalf of the
petitioner.

MR. J. MICHAEL JERRY, Attorney at Law, 231 South Adams
Street, Green Bay, Wisconsin, appearing on behalf of the
respondent.

TRANSCRIPT OF PROCEEDINGS

Jennifer K. Hau
Official Court Reporter

PLAINTIFF'S
EXHIBIT
NO. 3

(15)

sg

1 THE COURT: As I indicated at the time of
2 the hearing, I was concerned because I feel that the
3 impact of the decision given the circumstances of Mr.
4 Avery to reduce his contact with his children, could
5 almost work a termination of parental rights as a
6 practical effect. I regretfully reach a conclusion
7 that his physical contact with the children should be
8 terminated at this point.

9 I would also note that -- And I'll detail my
10 reasons, but maybe get to the bottom line first. I
11 would also note that -- that a significant change of
12 circumstances that would cause the Court to reconsider
13 and reestablish physical contact with his children
14 would be the successful completion of programs
15 available to him in the prison dealing with parenting,
16 sexual behavior, anger management. And by successful,
17 I mean the participation of the respondent in a
18 meaningful way. The beginning of a good faith effort

19 to deal with the significant character defects he has
20 demonstrated in his life today.

21 I believe that reasonable phone contact should
22 continue and may continue. I believe that there should
23 be unlimited correspondence between him and his
24 children, and I believe that this is appropriate to
25 maintain at least some relationship and also

1 appropriate because these types of contacts can be
2 readily monitored. And by reasonable phone contact --
3 And I don't mean to circumscribe this in stone. I
4 would like to think the parties can reach
5 understandings themselves as to contacts and when they
6 can occur. I would think at least once a week and on
7 birthdays and significant holidays would be appropriate
8 for phone contact.

9 Now, I reach this decision regretfully because I
10 recognize the impact it has on a person with the kind
11 of disability that Mr. Avery has, because he is in a
12 penitentiary. I would note at the outset that this
13 case was unremarkable, at least from the standpoint of
14 the case being on my calendar, following the granting
15 of the divorce until Mr. Avery wrote the Court and
16 alleged that his wife was exposing the children to
17 inappropriate sexual activity and other abuse.

18 I delivered his complaint to the Department of
19 Human Services for investigation and shortly thereafter
20 a petition was filed by the petitioner to terminate Mr.
21 Avery's visitation or physical contact privileges with
22 his children. The Guardian ad Litem has filed his
23 report in this case. The report indicates, for
24 example, that the father pokes and pinches too hard,
25 that he talks in a derogatory fashion about the

1 petitioner, but more cogently it notes that he also
2 threatens to harm the petitioner. Specifically, the
3 report indicates that Mr. Avery admits writing to the
4 children threatening to kill the petitioner or mutilate
5 her. These letters included drawings. And Mr. Avery
6 doesn't dispute that he's done these things. And the
7 most recent act was back in 1991 that we can contribute
8 to Mr. Avery and that type of behavior.

9 The materials developed in this case were really
10 quite substantial and were delivered to the Court
11 through Officer Thomas Bergner, a City of Manitowoc
12 Police Officer, who had these materials in his custody
13 as a result of ongoing complaints by Ms Mathieson over
14 the years, but much of this material involved rather
15 graphic and specific pornographic material that was
16 really produced by Ms Mathieson and Mr. Avery and in
17 which the children were involved in at least procuring,
18 transmitting, and in one instance, at least, probably

19 had a hand in producing when one of the children
20 actually took the pictures.

21 This type of conduct involved both parents and is
22 inexcusable conduct on the part of both parents, and I
23 don't -- and I did not conclude in my assessment of the
24 evidence that Ms Mathieson participated in this conduct
25 because she was particularly frightened of Mr. Avery.

1 I think she participated willingly and involved her
2 children in that, and this is particularly despicable
3 conduct on the part of both parties. Had I known about
4 it, I think, at the time it was going on, the Court
5 probably would have very severely limited the contact
6 that both parents had with their children. But that
7 was not brought to my attention and it ended with the
8 divorce of the parties in 1988.

9 Thereafter, we start seeing the use of the
10 children in threatening messages to the -- by the
11 respondent to the petitioner, and these threats have
12 continued up to this date or at least up to 1991,
13 through 1991. I was particularly concerned about
14 threats from Mr. Avery for a couple of reasons, but
15 perhaps most importantly is the fact that Mr. Avery's
16 history indicates that the threats are entitled to some
17 concern, not only by adults, but certainly by children.

18 Mr. Avery has a history of assaultive behavior, of
19 violent behavior. While Mr. Avery believes he is not
20 guilty of the charge under which he is presently
21 serving a sentence in the Wisconsin Penitentiary, he
22 freely admits his involvement in the bizarre incident
23 involving his cousin, I believe, in which he rammed her
24 car, driving her off the road. This had sexual
25 overtones about it. The incident had sexual overtones

1 about it. The Court was familiar with it because it's
2 something that was on this Court's calendar for some
3 time.

4 He admits to being physically abusive before and
5 during the marriage. There's been some reference to
6 his burning of a cat. Now, obviously, we're not here
7 to protect cats, but it indicates the kind of thinking
8 processes and the kinds of things that Mr. Avery can do
9 on an impulse. He describes himself as an impulsive
10 man, a person who acts out of anger, an individual who
11 possibly would be better off if he thought before he
12 acted.

13 So even if we accept Mr. Avery's premise that he
14 is not guilty of the charges on which he is presently
15 serving his sentence, there's plenty to be worried
16 about with a man like this when he makes threats. And
17 one can easily see where these threats can be taken
18 very seriously, particularly by children.

19 If we throw in the fact that it's certainly not
20 unreasonable to believe that he is guilty of the
21 serious crimes that he was convicted of, these threats
22 carry a very ominous tone about them. They cannot be
23 discounted. Simply a spark of anger at a moment. Mr.
24 Avery can very easily be seen as the type of person who
25 can act on these types of threats and one doesn't need

1 an art therapist to tell them that the children might
2 reach that conclusion.

3 I would also indicate that I have not given a
4 great deal of weight, actually for all practical
5 purposes no weight, to the testimony of Ms Cisler.
6 Frankly, I agree with Mr. Jerry's point made in cross-
7 examination that the conclusions she reached were
8 ordained by the methodology in that particular
9 instance, and particularly when she interviewed the
10 children and had the drawings.

11 Now, I think my major concern here, and the major
12 bits of evidence that the Court has considered, are the
13 materials that were delivered by the police officer,
14 the testimony of Ms Mathieson, the testimony of Mr.
15 Avery, and finally, the testimony of John Clark, Mr.
16 Avery's case worker at the Green Bay Correctional
17 Facility. Mr. Avery is an individual who has
18 significant needs, and perhaps of most concern to me is
19 the fact he is not involved in any programming as a
20 result of his own choice. Programs that would provide
21 him with insights into parenting skills; hopefully
22 tools to deal with the type of anger flashes that flare
23 up in a domestic violence; anger management programs;
24 sexual treatment; sexual behavior programs. They are
25 all available, as well as academic programming, in the

1 institution. He's not involved himself in any of this
2 type of rehabilitative program.

3 According to Mr. Clark, Mr. Avery feels his non-
4 involvement in these programs is based on two factors;
5 one, he doesn't need any help; and two, he's innocent
6 of the charge he is convicted of. And I know, perhaps
7 with regard to some sexual programming, it may be
8 difficult for him to get into some of that programming
9 unless he admits to what he is currently doing his time
10 on, the acts he is doing his time on, and that may be.
11 Certainly there's a wealth of other programming
12 available in the prison system that he hasn't been
13 involved in.

14 His excuse, for example, that he didn't get
15 involved in one program is because it had a seven or
16 nine month waiting list, which pales to insignificance
17 when one looks at the thing. He's been in the place
18 for seven years. This is a man with a mandatory
19 release date of 2006. He may be and will be eligible
20 for parole, and his parole is going to be considered in
21 July. I've been informed of that during the interim
22 while this matter was pending. I got the usual
23 statement from the penitentiary, which I, in the usual
24 fashion, acknowledged receipt of, and that's the extent
25 of it. I have not conveyed any feelings or thoughts to

1 the penitentiary. I'll trust the judgment of the
2 parole board in this matter and we'll see what happens.
3 But he is eligible and I understand he will be eligible
4 for parole nearing July of this year.

5 The sad fact is he spent seven years in the
6 penitentiary and he's not addressed any of the
7 significant shortcomings he has in his life, and I
8 would note that his needs are great, and my major
9 concern is that he has not addressed these needs and
10 they flare up periodically in the kind of behavior that
11 got him in the penitentiary in the first place and I
12 think is represented by the types of threats he made to
13 his wife. Not simply a threat to kill her, but this
14 grandiose mutilation-type scheme, the drawings and
15 everything else, indicate that this is not simply a
16 thought of an instant, this is something that he's
17 brooded over for some period of time and has not been
18 able to deal with in any effective manner but to simply
19 let it out and to create another victim.

20 Now, threatening one's spouse or ex-spouse is
21 probably not a good way to curry favor either with the
22 spouse or with the Court. It's the act that certainly
23 a conscientious parent normally doesn't do, but in
24 particular, to use the children as the conveyors of
25 this kind of message is of great concern to the Court

1 and perhaps the major concern of the Court.

2 I note that this is part of a pattern that these
3 people were involved in very early on with regard to
4 the sexual information and the sexual materials. But
5 Mr. Avery's needs are great. This man was never a
6 particularly good parent at any point. He was
7 physically assaultive, frequently unemployed,
8 frequently involved in the law. His contribution to
9 his children has been biological. Unless there is
10 substantial change in his attitude -- His involvement
11 in his children's lives is likely a result of his use
12 of them, again, to convey threats for illegal purpose.
13 There needs to be a fundamental change in his attitude,
14 and at this point that doesn't appear to be likely if
15 left to his own desires.

16 Now, as I've indicated, his abuse of the trust of
17 a parent is mirrored to a certain extent in the history
18 of this case as it was relayed to me by his wife,
19 petitioner. She was no paragon either as a parent.
20 However, unlike him, she has developed an appreciation
21 of her shortcomings and has taken positive steps to
22 remedy them. Her efforts to improve in her success in
23 that regard are in stark contrast to his utter lack of
24 any meaningful effort to address his shortcomings, even
25 though he's had ample time and opportunity to do so.

1 Now, obviously, the standard in this case is the
2 best interests of the children. The use of the
3 children by one parent to convey threats of physical
4 harm, sexual mutilation of another parent is
5 inexcusable. That use, in light of the respondent's
6 history, leads the Court to the conclusion that this
7 activity is likely to be repeated unless, like
8 petitioner, he begins to address his significant
9 deficiencies. Therefore, the Court has concluded, as
10 I indicated at the outset, that personal contact with
11 the children is terminated. I think that type of
12 contact is most susceptible to the types of abuses and
13 the transmission of the types of messages that we've
14 seen at this point, that the children can be impacted
15 subtly and that impact can't be monitored, and I think
16 there needs to be some controls established to prevent
17 that and preserve the children from continually being
18 drawn into the ugliness that has marked their lives up
19 to this point.

20 As I've indicated, phone calls and letters can be
21 monitored, can be controlled, and I've continued that
22 type of contact. I recognize that this is hardly
23 contact that is a substitute for a parent-child
24 relationship, but I have to look at where we begin. I
25 have to consider what type of a parent Steven Avery was

1 to begin with, what his needs are, and even if I --
2 even if we accept the fact that he's innocent of the
3 charge for which he is serving, and I don't, but even
4 if we do, and look at this man, forgetting about that
5 incident that results in him being in a penitentiary,
6 he has tremendous needs. He has huge anger. He has
7 real potential to harm people, and he's not dealt with
8 any of that.

9 And it seems to me that the interests of his
10 children, their best interests, are best served by Mr.
11 Avery either beginning to deal with his significant
12 personal shortcomings or not being a significant factor
13 in their lives. These children cannot continue to be
14 used for the illegal or illicit purposes that has
15 marked this case up to this point in time.

16 Now, as I have indicated, a significant change of
17 circumstances in my view that would cause me to
18 reconsider this act that I'm taking today would be the
19 successful completion of programs that are available,
20 and that we've alluded to in these proceedings, within
21 the prison system, or if he should be out on a parole,
22 available in the community. And by successful, I mean
23 his participation in a meaningful way to him, a real
24 way to him, not just going through the motions, but a
25 good faith effort to address his shortcomings and to

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

develop techniques to deal with those shortcomings and hopefully techniques to deal with people on a rational, civilized basis.

I'm not talking about grades. I know Mr. Avery is probably not gifted when it comes to scholastic efforts, but I want him to devote his time to some self-improvement and demonstrate that he is ready or earnestly interested in trying to become a complete father to his children and to meet their needs and protect them. Mr. King, you'll draft the order of the Court.

(COURT'S DECISION CONCLUDED)

* * * * *

STATE OF WISCONSIN)
(SS.
MANITOWOC COUNTY)

I, Jennifer K. Hau, Official Court Reporter herein, do hereby certify that the foregoing proceedings were taken down by me in shorthand and reduced to typewriting by myself, and these proceedings are true and accurate, all done to the best of my skill and ability.

Dated this 23rd day of April, 1993.

Jennifer K. Hau
Jennifer K. Hau
Court Reporter, Branch 3