

**FILED**  
**11-03-2022**  
**Clerk of Circuit Court**  
**Pierce County, WI**  
**2022CF000230**

| STATE OF WISCONSIN                                                                                                                                                       | CIRCUIT COURT | PIERCE COUNTY                                                                                                       |
|--------------------------------------------------------------------------------------------------------------------------------------------------------------------------|---------------|---------------------------------------------------------------------------------------------------------------------|
| STATE OF WISCONSIN                                                                                                                                                       | Plaintiff,    | DA Case No.: 2022PI000902<br>Assigned DA/ADA: Halle E. Hatch<br>Agency Case No.: 22-6888<br>Court Case No.:<br>ATN: |
| vs.                                                                                                                                                                      |               |                                                                                                                     |
| MARY K. BROWN<br>E5647 - 10th Ave.<br>Durand, WI 54736<br>DOB: 08/17/1984<br>Sex/Race: F/W<br>Eye Color: Brown<br>Hair Color: Brown<br>Height: 4'11"<br>Weight: 260 lbs. | Defendant.    | <b>CRIMINAL COMPLAINT</b>                                                                                           |
|                                                                                                                                                                          |               | <i>For Official Use</i>                                                                                             |

The undersigned being first duly sworn on oath states that,

**Count 1: PHYSICAL ABUSE OF AN ELDER PERSON - INTENTIONALLY CAUSE GREAT BODILY HARM, INCREASED PENALTY FOR ELDER PERSON VICTIM**

The above-named defendant on Friday, May 27, 2022, in the Village of Spring Valley, Pierce County, Wisconsin, did intentionally cause great bodily harm to VICTIM, DOB 01/19/1960, an elder person who is 60 years of age or older, contrary to sec. 940.198(2)(a), 939.623(2)(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.

And further, invoking the provisions of sec. 939.623(2)(c) Wis. Stats., because the crime victim is an elder person, the maximum term of imprisonment of more than 10 years prescribed by law for the underlying crime may be increased by not more than 6 years.

**Count 2: MAYHEM, INCREASED PENALTY FOR ELDER PERSON VICTIM**

The above-named defendant on Friday, May 27, 2022, in the Village of Spring Valley, Pierce County, Wisconsin, with the intent to disfigure VICTIM, did cut the limb of VICTIM, contrary to sec. 940.21, 939.623(2)(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.

And further, invoking the provisions of sec. 939.623(2)(c) Wis. Stats., because the crime victim is an elder person, the maximum term of imprisonment of more than 10 years prescribed by law for the underlying crime may be increased by not more than 6 years.

## **PROBABLE CAUSE:**

On June 4, 2022, Investigator Pete Koch was contacted by the Pierce County Medical Examiner, John Worsing, regarding a death at the Spring Valley Health and Rehab Center located at S830 Westland Drive, Spring Valley, Pierce County, Wisconsin. Medical Examiner (herein "ME") Worsing explained to Inv. Koch that there was a death of VICTIM, DOB 01/19/1960, and that VICTIM was sent over to Ramsey County, Minnesota, for an autopsy due to the unusual circumstances of his death. The underlying reason was that when viewing VICTIM's body at the funeral home, ME Worsing noticed that VICTIM's foot was not attached to his body, but was rather lying beside him.

VICTIM was at the nursing home because he had previously fallen in his residence and the heat went out, causing VICTIM to have severe frostbite on both of his feet. His feet were necrotic. VICTIM was placed in the nursing home in March 2022. ME Worsing reviewed the medical chart, which indicated that a nurse had amputated his right foot on May 27, 2022.

Inv. Koch reviewed the medical chart of VICTIM. The follow is from the St. Croix Hospice RN Nurse 2 's written notes:

On a Client Episode Coordination Notes Report from St. Croix Hospice RN Nurse 2, dated June 1, 2022, she stated that she was doing a visit to Spring Valley Nursing Home and spoke to the Spring Valley Facility Nurse, Nurse 1. Nurse 1 told Nurse 2 that at shift change, Mary Brown, stated in a report that she was going to cut off VICTIM's foot for comfort. Nurse 1 and another unnamed nurse told her not to and to leave the foot attached.

Nurse 1 indicated that when she did VICTIM's dressing change around 8:00 a.m. on May 27, 2022, there was 2 or more inches of flesh and a tendon still attached to VICTIM. Later that night Brown, CNA Nurse 3 and CNA Nurse 4 went into VICTIM's room and Brown cut VICTIM's tendon, which amputated his right foot completely.

Nurse 1 stated that no order from a physician was evident in VICTIM's chart. Nurse 1 told Nurse 2 that VICTIM's foot was placed in the freezer in the basement, to be sent with him when he passed away. Nurse 1 reported the incident to the state and indicated that there would be follow-up.

Nurse 1 asked VICTIM on May 29, 2022, what happened and VICTIM stated that when they cut his foot off he felt everything and it hurt very bad. Nurse 2 spoke to the Director of Nursing, Tracy Reitz, and Reitz told her that Brown and Nurse 3 were in the room and that both stated that VICTIM did not appear to have any pain during the incident. Nurse 2 wrote that according to Nurse 4, VICTIM moaned when the tendon was cut and the foot was amputated. Nurse 4 stated that after the foot was amputated, it was placed in a red biohazard bag and eventually placed in the freezer. Nurse 4 stated that Brown was pushing her to retrieve the foot so that Brown could take it home to preserve it.

Inv. Koch conducted multiple interviews with nursing home staff. Inv. Koch interviewed Nurse 3. Nurse 3 stated the following:

Nurse 3 stated she was in the room when Brown amputated VICTIM's right foot. She confirmed the date of the amputation and stated it happened around 4:30-5:00 p.m. on May 27, 2022. Brown called Nurse 3 into VICTIM's room and was going to help her do a bandage change. When Brown was cutting off the bandage, Brown stated she was unsure why nobody had removed VICTIM's foot by now. Nurse 3 stated the foot was still attached by a tendon. She stated that VICTIM's foot was broken prior to the incident. She thought there might have been viable tissue still on his foot. She stated that Brown started cutting the foot with gauze scissors and it did take a while to cut through, about a minute. She stated that VICTIM did not appear to be in any pain during this because she looked at him. She stated that Brown had to cut about ¼ inches of skin. She asked Brown what to do with the foot, but Brown didn't know so Nurse 3 went to Kevin Larson, facilities administrator, and he wanted to throw it away. It was eventually decided that she was to put it in a zip lock bag and then into a biohazard bag. Kevin Larson took the foot and put it in the freezer in the basement. Nurse 3 stated she wanted to call the Director Of Nursing, but Larson did not call her. Inv. Koch asked Nurse 3 if she thought that conduct was wrong and she admitted she should have questioned it. She described the foot as black on both feet. She stated the foot was not bleeding and you could see through it and there was no bleeding after the amputation.

She was unsure if the family knew the foot was falling off. She did not believe that VICTIM could feel anything. She stated this incident was the first time she worked with VICTIM. She stated that Brown was talking about taking VICTIM's foot home and epoxying it. She also stated that Brown has spoken about taxidermy. She thought it was weird that Brown wanted to bronze the foot. She stated that Brown had talked to other nurses about cutting off the foot and they told her not to.

Inv. Koch interviewed Nurse 5, CNA. Nurse 5 stated the following:

On Thursday, May 26, 2022, Nurse 5 stated she was walking down the hallway and was asked by a St. Croix Hospice nurse to help reposition VICTIM's foot. When she went into VICTIM's room, she noticed that there were 2 white tendons and about 5 cm of skin still holding the foot to his body. She stated that VICTIM was still able to wiggle his toes while she helped wrap his foot. She stated that the next day, on May 27, 2022, she received a call from Nurse 3 telling her what happened. Nurse 5 advised Nurse 3 to contact Larson. Nurse 5 stated that Nurse 3 told her that Brown had cut VICTIM's foot off.

She stated that Nurse 1 asked her if she knew anything about VICTIM's foot and she told her what Nurse 3 had told her. Nurse 1 stated to her that they needed to report it to the police and the state.

Nurse 5 stated it was not a very good amputation. She stated that hospice nurses were coming every day the last couple of weeks because VICTIM was so close to passing. She stated that Brown came up to her after she cut the foot off and apologized and stated that her intent was to help VICTIM and give him some dignity, and that her family has a taxidermy shop and she was going to preserve the foot and put it on display with

a sign that said "wear your boots kids." Nurse 5 had worked at the nursing home for about 4 weeks at the time of the incident.

Inv. Koch interviewed Kevin Larson, Rehab Centers Administrator. Larson stated the following:

He completed a self-report for the State. He had a 5-day window to report it, per state policy, but it was reported late because the state portal was down. Brown did not do a report on the incident. He was informed that nobody wrote anything in VICTIM's chart on May 27, 2022, except for one notification about medications from a St. Croix Hospice nurse. He was informed that there was a lot of missing entries in regards to VICTIM's chart.

Larson stated that Brown had not asked him if she could remove VICTIM's foot, and stated there wasn't any order from a doctor about removing it. Larson stated that the best practice should have been to get an order from a doctor and he believes that they would have given the order to remove VICTIM's foot. He believed the hospice doctor would have given an order for it.

He stated that his investigation into the incident was that Brown did it for VICTIM's dignity and comfort. He stated that he knows that the hospice doctor would have for sure. It appeared that Brown was the only one concerned about VICTIM's foot. He stated that he had told Brown to just stabilize it because VICTIM was near passing within hours. He stated that VICTIM lingered longer than expected and it became a couple of days and Brown believed it was the right thing to do.

He stated that when he was in the building the date of the incident, Brown asked him what to do with the foot, which made him think that it just fell off. He stated that he believed that Brown did not have any malicious motive for mistreatment of VICTIM.

He did state that it was a problem that she did not get approval for the removal. He stated he does not know why she removed it.

Inv. Koch interviewed Tracy Reitz, Director of Nursing for the Center. Reitz stated the following:

Reitz stated that a few days before the amputation, VICTIM had rolled out of bed and the right foot was dead, foul smelling, and was held on by a tendon. She stated that she was able to take his foot and put it back in. She placed it back in, and wrapped it up. VICTIM was slightly coherent and just started at his foot and apologized for the smell and his feet. She stated that he was there because of frostbite to this feet and described it as his feet were black like a mummy. She also stated that in the past she has had other patients' toes fall off, and they have previously kept the patient's toes in the freezer. She stated that Brown had cut off the foot. She stated nobody had called her until Sunday, May 29, 2022, when Nurse 3 called her about the foot. She stated that Nurse 3 was distraught about the incident.

She asked Nurse 3 how VICTIM reacted when the foot was cut off and Nurse 3 stated nothing. She asked Nurse 3 if he looked to be in pain and she stated no. She told Nurse 3 to monitor VICTIM and that if he passes, the foot needs to go with him.

Reitz stated it should have been removed by a doctor. She spoke with Brown about the scope of her practice and what she should have done. Brown told her that she did not know why she did it, and she didn't think until after the fact that she was doing it for him and giving him comfort. Reitz stated that VICTIM was embarrassed of the smell and it was done for compassion and no malice. She stated Brown had not documented this incident.

Inv. Koch interviewed Nurse 4, CNA. Nurse 4 stated the following:

Nurse 4 was present when VICTIM's foot was amputated. She stated that Brown came and got Nurse 4 and Nurse 3 to help change VICTIM's bandages. They went into the room and Nurse 3 held VICTIM's foot up and she was holding his hand. She stated that Brown stated she did not understand why his foot was still on because it just causes him discomfort. The next thing Nurse 4 knew, VICTIM's foot was cut off. She stated Brown used a surgical scissors. She stated there was no order to remove his foot. She stated Brown cut one or two tendons. She stated that when she was holding VICTIM's hand, his grip was extremely tight and he was moaning a little bit. She stated VICTIM was not in the right mindset but could still communicate with them. She stated VICTIM complained about the smell of his feet and that they hurt. Brown was looking for the foot after the amputation so she could put it on display to remember to wear your boots. Nurse 4 stated she did not think it was right to remove the foot without consulting a doctor. She thought they should have gotten permission from a doctor and also tell VICTIM what they were doing. She stated Brown wanted to save the foot and taxidermy it. She thought it took Brown about 30 seconds to remove the foot.

Inv. Koch interviewed Mary Brown, defendant. Brown stated the following:

She stated when she had gone in previously to change his dressings, VICTIM would say how much better it felt when they used Vaseline gauze, it felt much better. The gauze kept the air off of the nerve endings to help reduce the pain. Her thought was if she took the foot away, she could get the gauze right on the stump. She stated that the foot was only on by a tendon and she took a bandage scissors and snipped it. She watched VICTIM the whole time and she believed that he did not feel anything and did not show any signs of pain. She then covered his stump so he would be in comfort with the gauze. She stated VICTIM always complained about the smell and that it was her thought that he would like it better.

When asked about her scope of practice, Brown admitted she should have gotten a doctor's order and called a doctor first. Because of the state of his feet, she thought that the doctor would just tell her to leave it alone. She stated that there was only one tendon and a little piece of skin but the main thing was the tendon that was keeping the foot intact. She stated that there was no bleeding and no life left in the foot. She stated she was trying to make the quality of life better for him. When she is thinking of herself in his condition, she would have wanted it off. She admitted that VICTIM never asked her to remove his foot. She described VICTIM's feet as mummy feet. She acknowledged it was outside her scope and she did not have a doctor's order.

Brown had no doctor's order to conduct an amputation. She stated that she did not have any authorization to remove VICTIM's foot. Brown did not have VICTIM's permission to amputate his foot. Administrators of the nursing home agreed that it was outside of the scope of Brown's practice to conduct such a procedure and a doctor's order was necessary prior to any amputation.

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

Subscribed and sworn to before me on 11/02/22

Electronically Signed By:

Halle E. Hatch

District Attorney

State Bar #: 1118581

Electronically Signed By:

Thomas Bauer

Complainant