

STATE OF WISCONSIN

CIRCUIT COURT  
BRANCH I

MARINETTE COUNTY

STATE OF WISCONSIN,

Plaintiff,

v.

Case No. 07-CF-05

JAMES ALLEN NICHOLS  
(D.O.B. 5/27/78)  
341 Oconto Avenue, Apt 2  
Peshtigo, Wisconsin,

Defendant.

Amended  
CRIMINAL COMPLAINT

**FILED**  
JAN 18 2007  
LINDA L. DUMKE-MARQUARDT  
CLERK OF COURTS  
MARINETTE COUNTY, WI

Michael Yoder, being duly sworn on oath, states that:

**COUNT I: First Degree Intentional Homicide While Armed as a Habitual Criminal**

On January 5, 2007, in the Town of Peshtigo, Marinette County, State of Wisconsin, the defendant James A. Nichols did cause the death of another human being (Cha Vang) with intent to kill Cha Vang, while armed with a dangerous weapon (to wit: a knife), contrary to Wis. Stats. §§940.01(1)(a) & 939.63 (2005-06).

Upon conviction for this offense, a Class A felony, the maximum possible penalty is life imprisonment. Further, because the defendant committed this offense while using a dangerous weapon, the maximum term of imprisonment for the underlying crime may be increased by not more than five (5) years.

**REPEATER ALLEGATION:** And further, invoking the provisions of sec. 939.62(1)(c) Wis. Stats., the defendant James Nichols is a repeater as he was convicted of Burglary (3 counts) contrary to Wis. Stat. §943.10(1)(a) and Criminal Damage to Property (1 Count) contrary to Wis. Stat. §943.01(2) in Marinette County Circuit Court Case No. 1996 CF 178 and sentenced on March 6, 1997, to a 10 year term of imprisonment on one count of burglary, and three terms of probation (two 10 year terms and one 5 year term) to be run concurrently with one another and consecutive to his term of imprisonment. He was released on parole from prison on February 19, 2002 and remains on parole supervision until March 3, 2007. His convictions remain unreversed and of record. As such, the maximum term of imprisonment for the underlying offense may be increased by not more than six (6) years.

**COUNT II: Felon in Possession of a Firearm as a Habitual Criminal**

On January 5, 2007, in the Town of Peshtigo, Marinette County, State of Wisconsin, the defendant James A. Nichols did possess a firearm (to wit: a 12 gauge shotgun) after having been convicted of a felony in the State of Wisconsin in Marinette County Case No. 1996-CF-178, contrary to Wis. Stat. §941.29 (2005-06).

Upon conviction of this offense, a Class G felony, the maximum possible penalty is a fine not to exceed \$25,000 or imprisonment not to exceed 10 years or both.

**REPEATER ALLEGATION:** And further, invoking the provisions of sec. 939.62(1)(c) Wis. Stats., the defendant James Nichols is a repeater as he was

convicted of Burglary (3 counts) contrary to Wis. Stat. §943.10(1)(a) and Criminal Damage to Property (1 Count) contrary to Wis. Stat. §943.01(2) in Marinette County Circuit Court Case No. 1996-CF-178 and sentenced on March 6, 1997, to a 10 year term of imprisonment on one count of burglary, and three terms of probation (two 10 year terms and one 5 year term) to be run concurrently with one another and consecutive to his term of imprisonment. He was released on parole from prison on February 19, 2002 and remains on parole supervision until March 3, 2007. His convictions remain unreversed and of record. As such, the maximum term of imprisonment for the underlying offense may be increased by not more than four (4) years.

**COUNT III: Concealing a Corpse as a Habitual Criminal**

On January 5, 2007, in the Town of Peshtigo, Marinette County, State of Wisconsin, the defendant James A. Nichols did hide a corpse (to wit: the body of Cha Vang) with intent to conceal a crime, contrary to Wis. Stat. §940.11(2).

Upon conviction for this offense, a Class G Felony, the maximum possible penalty is a fine not to exceed \$25,000 or imprisonment not to exceed 10 years or both.

**REPEATER ALLEGATION:** And further, invoking the provisions of sec. 939.62(1)(c) Wis. Stats., the defendant James Nichols is a repeater as he was convicted of Burglary (3 counts) contrary to Wis. Stat. §943.10(1)(a) and Criminal Damage to Property (1 Count) contrary to Wis. Stat. §943.01(2) in Marinette County Circuit Court Case No. 1996-CF-178 and sentenced on March 6, 1997, to a 10 year

term of imprisonment on one count of burglary, and three terms of probation (two 10 year terms and one 5 year term) to be run concurrently with one another and consecutive to his term of imprisonment. He was released on parole from prison on February 19, 2002 and remains on parole supervision until March 3, 2007. His convictions remain unreversed and of record. As such, the maximum term of imprisonment for the underlying offense may be increased by not more than four (4) years.

#### STATEMENT OF PROBABLE CAUSE

1. Complainant states that he has been a Marinette County Sheriff's Deputy for the past 25 years. He is a lieutenant and currently assigned to the investigations bureau of the Marinette County Sheriff's Department. He bases this complaint upon his own personal belief and observations as well as the observations of other law enforcement officers and citizens who have provided information regarding the above allegations. He also relies upon statements made by James A. Nichols, the defendant in this matter as those statements were made against his penal interest. He specifically relies upon reports of other law enforcement officers with the Marinette County Sheriff's Department and other law enforcement agencies that assisted in this investigation. He has relied upon similar such reports in the past and found them to be truthful and reliable.

2. The defendant, James Allen Nichols, has a date of birth of May 27, 1978, and his last known place of residence was 341 Oconto Avenue, Apt. 2, Peshtigo, Wisconsin.

3. Complainant states from his professional experience as a law enforcement officer and his personal experience residing in Marinette County, that he is personally familiar with the Peshtigo Harbor Wildlife Area. The Peshtigo Harbor Wildlife Area is public hunting land located within the Town of Peshtigo, Marinette County, State of Wisconsin, and is under the control of the Wisconsin Department of Natural Resources. Complainant states that he is also familiar with the Town of Athelstane, Marinette County and knows that it is approximately 35 miles northwest of the Peshtigo Harbor Wildlife Area.

4. Based upon his review of Marinette County Sheriff's Department records including a report of Det. Anthony O'Neill, complainant knows that on January 5, 2007, at approximately 6:30 p.m., his department responded to a complaint of a lost hunter in the Peshtigo Harbor area. Fellow members of the hunting party, including Chong Yang, Choua Lee, and Pau Vang reported that they arrived at the Harbor and Hipke Road parking area at 2:00 p.m. Cha Vang and Chong Yang split in to one group and Pau Vang and Choua Lee into another group. They were to meet where they had parked the car at 4:00 p.m. However, Cha Vang did not appear at 4:00 p.m. Pau Vang and Choua Lee stated that Cha Vang did not speak English.

5. Based upon a review of records relating to this investigation, James Nichols has made various inconsistent statements concerning events surrounding this matter.

6. Sergeant Deputy Jason Ducane reported that on January 5, 2007, he was dispatched to the Bay Area Medical Center ("BAMC") in Marinette, Wisconsin for a report of a person in the emergency room with a gunshot wound. Marinette County dispatch records indicate that the call was received from BAMC at approximately 6:56 p.m. Sgt. Ducane subsequently met the defendant at the BAMC and he identified himself as James A. Nichols and who indicated that he had been shot by an unknown person while hunting. Based upon a review of Marinette County law enforcement dispatch records, prior to Nichols appearing at BAMC there was no report of any shooting incident and no calls for assistance from Nichols.

7. Sgt. Ducane observed an open wound on the 4<sup>th</sup> knuckle of Nichols' left hand and a small puncture wound on the top of his right hand between the 2<sup>nd</sup> and 4<sup>th</sup> knuckle. The right hand wound was later determined to be an entry wound for a .22 caliber bullet which was later recovered, and the wound had a direction of entry from the knuckle and up towards the wrist. Nichols told Ducane that he was hunting by himself in the Athelstane area near Benson Lake Road at approximately 3:30 pm and the incident occurred around 4 to 4:30 pm. Nichols stated that while he was hunting, he got shot in the hand. Nichols told Sgt. Ducane that he laughed at first and then started to run. Nichols then stated that he was hit a second time, but did not realize where the shot came from. He stated he then ran to his car and drove home. When asked, Nichols indicated that he did not know who shot him and did not yell out to the person shooting at him to stop. Nichols stated that the hospital in Iron Mountain, Michigan would have been the closest place for him to be treated. Instead, Nichols went to his residence, arriving there between 5:00 and 5:30 p.m. and then called his girlfriend,

Dacia James. James picked him up and drove him to an address on Grant Street in Marinette and then to the hospital. Nichols told Sgt. Ducane that he was hunting squirrel with a high-powered pellet gun, which he stated he had brought to the hospital in his girlfriend's car. When asked why he brought the gun with him to the hospital, Nichols stated that it was valuable and that he knew the police would ask him for the gun he had been using and inspect it. Nichols stated that he was familiar with the handling of weapons and was a good shot when he was younger, denied owning any firearms, and acknowledged that he was not to possess firearms due to being on parole. Nichols insisted that the pellet gun and a BB gun were the only guns he owned.

8. Sgt. Ducane left Nichols alone for awhile after expressing doubt about the accuracy of the defendant's statements. Upon Sgt. Ducane's return, Nichols asked if they could talk about hypothetical things and then proceeded to ask about self-defense. Nichols wanted to know if he could do harm to someone that is intending to do harm to him. Sgt. Ducane replied that it depended on the circumstances. Sgt. Ducane then asked Nichols if he had had a confrontation and whether there was more to his story and if there was someone else that authorities needed to look for. Nichols paused and replied that he did not know what to tell Sgt. Ducane.

9. When Sgt. Ducane asked Nichols if he had been hunting in the "Harbor" referring to the Peshtigo Harbor Wildlife Area, Nichols acknowledged he had been hunting there. Nichols also asked Sgt. Ducane why he was so interested in Harbor Road and then asked "if somebody shoots you, you can shoot them back?" In response to Sgt. Ducane's questions, Nichols then stated that there was someone else that officers needed to look for and that the person was in the area of Hipke Road, which

runs off Harbor Road in the Peshtigo Harbor area. Sgt. Ducane asked Nichols if the subject was dead. Nichols replied that he had "no choice," as the other person shot him point blank when Nichols told the person that he was molesting his hunting. Nichols then raised his hands and indicated which wound related to the first shot and which to the second shot. Nichols stated that the "Hmong group are bad." Nichols stated that he was trying to tell the guy to hunt somewhere else. Nichols indicated that the guy started to speak gibberish and then shot the defendant in the hand. Nichols stated that he laughed at the guy. When he started to run at the guy, he was shot again. Nichols stated that before the guy could raise up his rifle again, Nichols was on him and they wrestled. He then stated the guy choked him and tried to rip out his eyes. Sgt. Ducane observed no visible injuries to either of Nichols' eyes or neck.

10. Nichols was then interviewed by Detective Anthony O'Neill. Nichols gave some different information to Deputy O'Neill. Nichols stated that on January 5, 2007 at approximately 2:30 pm, he was hunting squirrels and stated that he had hunted in the area before. He said that the Hmong are mean and kill everything and that they go for anything that moves. Nichols stated that he was hunting with a shotgun. Nichols stated that he treed a squirrel and killed it at which time he observed a person looking at him. Nichols stated he told the person to go to another area as he was hunting there. Nichols claimed that the other person was approximately 50 feet away and then leveled a .22 cal. Marlin rifle at him. Nichols claimed that the person then shot him one time in the right hand. Nichols reported that the person yelled "I'm going to kill you, I'm going to kill you" Nichols stated that he then ran and hid behind a tree that was approximately 40 feet away from where he was when the first shot was fired. Nichols also claimed that

he fired a wild shot off in the direction of the other hunter but didn't know if he hit the person. Nichols stated that the person then shot him again and hit him a second time. Nichols stated he turned around and observed the person appear to do something with his weapon and that he then ran about 90 feet towards the person and wrestled the gun away from him. Nichols then stated that he stabbed the person twice on the neck. Nichols stated that the person had blood on the face area. Nichols stated that he then covered up the person and kicked the person's firearm under some bark. Nichols acknowledged that no one prevented him from running away from the person but he did not want to run through the picker bushes. He did not recall what happened to the knife.

11. Nichols was treated for the wounds to his hands and from his right hand a .22 caliber bullet was removed and seized by law enforcement officers. Observations indicated that the bullet entered between the 2<sup>nd</sup> and 4<sup>th</sup> knuckle and proceeded up into the hand which suggests that Nichols' hand was pointed at the firearm when he was shot.

12. Det. O'Neill also interviewed Dacia James on January 5, 2007, and she was also present in the room while Sgt. Ducane interviewed Nichols. James told Det. O'Neill that Nichols called her and asked her to come to his apartment in Peshtigo, that she picked him up and transported him to the hospital, and that she only knew that he was shot and that Nichols stated he did not know who had shot him.

13. On January 6, 2007, Det. O'Neill interviewed James again. James stated that Nichols called her at approximately 5:00 p.m. on January 5, 2007 and asked her to go to his apartment (which complainant knows is located in Peshtigo). James went to

the Nichols' apartment and found him lying on the floor with a towel wrapped around his injured hands. James saw blood on his face and on the towel. She used a hand towel to clean the blood from his face and cleaned up blood that was on the floor. Nichols told James that he was hunting when another person walked into the area and that he told the person to leave as he was molesting his hunt, that the person shot him twice, once in each hand. Nichols and the other person got into a fight and Nichols stabbed and killed him. Nichols also stated that the person said something to him before shooting but he could not understand it as it was not in English.

14. James stated that when she and Nichols left his apartment, they put a knife and shotgun that he had with him while hunting into her vehicle. They traveled to Menominee, Michigan and placed the shotgun in a locked rental storage space belonging to Nichols. James stated that they then exchanged the shotgun for an air rifle that was in storage, and placed the air rifle into the trunk of her car. James also stated that she and Nichols also transferred from her car to the locker a camouflage hunting bag, .22 caliber ammunition and shotgun ammunition. They then stopped at the River Cities Fuel Plaza where she bought a soda, and also stopped at her mother's house, before proceeding to the hospital. James states that Nichols directed her to remove the knife from his pocket prior to going to the hospital. Officers subsequently recovered the knife, which appeared to contain blood, from the center console of her vehicle. James also stated that while en route to the hospital she told Nichols to tell the truth because if the other person attacked him it was self-defense.

15. Det. O'Neill also reports that he spoke to Autumn James, Dacia James' mother. She stated that shortly after 6:00 p.m. on January 5, 2007, her daughter

summoned her out to the garage at her residence. She saw that Nichols' hands were in a towel and that they were bleeding. Nichols stated that a Hmong shot him twice and he retaliated and killed the person. Nichols also told her that he laughed after the guy shot him the first time.

16. Complainant states that he was present at the Peshtigo Harbor Wildlife Area on Saturday, January 6, 2007. While at that locations, officers located the body of the deceased Cha Vang. Vang's body was lying on its back in a small depression and a log was lying across his lower chest. Leaves and other natural debris, including small sticks and earth covered parts of Vang's body, including his face. Vang's body was not visible from a nearby trail. A short distance to the south of Vang's body, a .22 caliber rifle was observed lying along side a dead log. The rifle was partially under a long piece of bark that was laid across the rifle parallel to the log. In addition, a short distance to the east of Vang's body, investigators recovered a magazine containing .22 long rifle cartridges. The rifle had one fired cartridge in the chamber and no magazine in the magazine well. Throughout the area, bloodstains were observed, including a trail of blood southwest of Vang's body in the direction of a wildlife area parking lot. The Wisconsin State Crime Laboratory processed the above area and recovered evidence.

17. Complainant states that Det. O'Neill was present when Michigan law enforcement authorities executed a search warrant at the storage locker in Menominee, Michigan, and the following items were recovered: a break action 12 gauge shotgun concealed behind a piece of furniture, ammunition for a 12 gauge gun and a .22 caliber Marlin bolt action rifle and a box of .22 cal. long rifle ammunition. Upon examination of the shotgun, O'Neill observed a spent shotgun shell in the shotgun. In addition, O'Neill

observed droplets of blood on the concrete apron outside the storage locker and inside the locker. James told O'Neill that Nichols rented this storage locker. She provided officers with the key that was subsequently used to open it.

18. Det. O'Neill also reports searching Nichols' apartment pursuant to a search warrant. He observed blood droplets at various locations in the apartment as well as a camouflaged jacket that appears to have substantial blood staining. In addition, there was a set of keys, a cap, and a left hand glove that appeared to have blood staining on them.

19. Complainant states that forensic pathologist Mark J. Witeck, M.D. performed an autopsy of Cha Vang. Dr. Witeck's preliminary findings indicate that the cause of death is the result of multiple stab wounds to the face and neck and a shotgun wound to the head, neck and torso. Further there was a hemorrhage in the neck, chest and abdomen. He reported recovering multiple small lead pellets from Mr. Vang's body. He further concluded that the manner of death was a homicide.

20. Detective O'Neill was present during the autopsy and observed numerous small wounds visible on Vang's right arm, upper and right side of his chest, neck, head and face which Dr. Witeck advised were caused by shotgun pellets. Dr. Witeck recovered numerous pellets from Vang's body. In addition, Det. O'Neill reported that Dr. Witeck identified approximately 5 stab wounds to the front of Vang's neck and an additional stab wound to his left cheek. The stab wounds severed Vang's jugular vein. In addition, wounds consistent with a pellet were observed in the carotid artery. A laceration was also located behind Mr. Vang's left ear that was not consistent with a knife wound. Finally, O'Neill reports observing a wooden stick, approximately 3-4


inches long and ¼ to ½ inch in diameter, protruding from Cha Vang's clenched teeth into his mouth and throat.

21. Det. O'Neill has also indicated that based on his training and experience with various types of firearms including shotguns, that it appears that Mr. Vang was shot from a distance closer range than the 90 feet reported by Nichols. In addition, based on the location of the shotgun pellet wounds, it appears that at the time he was shot, Mr. Vang was turning away and had his right arm across his chest.

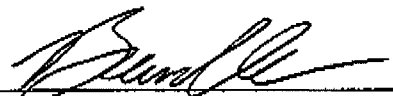
22. Complainant has reviewed information from the Wisconsin Department of Corrections and Marinette County Clerk of Court's Office including a certified copy of complaint and judgment of conviction in *State of Wisconsin v. James Allen Nichols*, Marinette County Case number 96-CF-178. This document reflects that the defendant was convicted of three counts of burglary contrary to Wis. Stat. §943.10(1)(a) and criminal damage to property contrary to Wis. Stat. §943.01(2). He was sentenced on March 6, 1997, to a 10 year term of imprisonment on one count of burglary, and three terms of probation (two 10 year terms and one 5 year term) to be run concurrently with one another and consecutive to his term of imprisonment. He was released on parole from prison on February 19, 2002 and remains on parole supervision until March 3, 2007. His convictions remain unreversed and of record. Attached hereto and incorporated by reference is a copy of the Judgment of Conviction for this defendant in Marinette County Case Number 96-CF-178. Your complainant believes the information contained therein to be both true and correct since it is a public record and business record maintained in the ordinary course of business by the Marinette County Clerk of Court.

Your complainant, therefore, prays that the defendant be charged and dealt with according to law.

Dated this 16<sup>th</sup> day of January, 2007.

  
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Lt. Michael Yoder  
Marinette County Sheriff's Department

Subscribed and sworn to before me and approved for filing this 16<sup>th</sup> day of January, 2007.

  
\_\_\_\_\_  
Brent H. DeBord, District Attorney  
State Bar No. 1037757  
Marinette County Courthouse  
1926 Hall Avenue  
Marinette, WI 54143

STATE OF WISCONSIN      CIRCUIT COURT BRANCH 2      MARINETTE COUNTY

State vs James Allen Nichols

JUDGMENT OF CONVICTION

Sentence Withheld, Probation Ordered

Date of Birth: 05-27-1978

Case No.: 96CF000178

The  Court  Jury found the defendant guilty of the following crime(s):

Ct.	Crime(s)	Wis Stat. Violated	Plea	Fel. or Misd.	Date(s) Crime Committed
3	Burglary-Building or Dwelling [939.05 Party to a Crime]	943.10(1)(a)	No Contest	FC	Betw 7-4-96 & 8-10-96
7	Criminal Damage to Property [939.05 Party to a Crime]	943.01(2)	No Contest	FD	On & betw 9-2-96 & 9-13-96
15	Burglary-Building or Dwelling [939.05 Party to a Crime]	943.10(1)(a)	No Contest	FC	Betw 7-12-96 & 8-2-96

IT IS ADJUDGED that the defendant is convicted on 01-09-1997 as found guilty and is sentenced as follows:

Ct.	Sent. Date	Sentence	Length	Concurrent with/Consecutive to/Comments	Agency
3	03-06-1997	Withheld, Probation Ordered	10 YR	to run consecutive with ct. 8 Felony Surcharge 70.00	DOC
7	03-06-1997	Withheld, Probation Ordered	5 YR	to run concurrent with ct. 3 but consecutive with ct. 8. Misd. Surcharge \$70.00	DOC
15	03-06-1997	Withheld, Probation Ordered	10 YR	to run concurrent with ct. 7, but consecutive with ct. 8. Felony Surcharge \$70.00	DOC

Conditions of Sentence/Probation

**FILED**  
MAR 06 1997  
LINDA L. DUMKE  
CLERK OF COURTS  
MARINETTE COUNTY, WIS.

IT IS ADJUDGED that 0 days sentence credit are due pursuant to § 973.155 Wisconsin Statutes.

IT IS ORDERED that the Sheriff execute this sentence.

Tim A. Duket, Judge  
David G Miron, District Attorney  
Charles K Kenyon, Defense Attorney



BY THE COURT:

Linda L. Dumke  
Circuit Court Judge/Clerk/Deputy Clerk

3-6-97  
Date

I, Linda L. Dumke-Marquardt, Clerk of Court, certify that the copy annexed has been compared by me with the original on file and required by law to be in my custody, the same is a correct transcript and true copy of the original record I herewith set my hand and affix the seal of the Clerk of Courts of Marinette

County of Marinette, this 8<sup>th</sup> day of January, A.D. 2007  
Linda L. Dumke-Marquardt, Clerk

