



Committee: None	Date:
Common Council Item Number:	Date:
20-0405	3/17/2020
Submitted By:	City Administrator Approval:
Brian Running	Kevin Lahner, City Administrator
Finance Department Review:	City Attorney's Office Review:
Rich Abbott, Finance Director Click here to enter text.	Brian Running, City Attorney BER

Subject:

Disallowance of claim for damages filed by Billy Howled.

Details:

See the attached notice of claim for details of the incident. The matter is under investigation. Mr. Howled was not arrested by a Waukesha Police officer. There are a <u>lot</u> of issues to be investigated and analyzed in this matter.

A disallowance at this time does not bar recovery, it just shortens the time period in which a lawsuit can be filed. Mr. Howled's claim was not prepared by a lawyer, so his intended causes of action against the City are not clear, but if this is a section 1983 civil-rights action, it's not subject to the notice of claim statute anyway. I called the attorney Mr. Howled retained to represent him in the criminal matter, but she has not returned my call.

Options & Alternatives:

The alternative is to allow the claim and to pay Mr. Howled the amount he demands. This is not recommended.

Financial Remarks:

There is no financial impact from a disallowance.

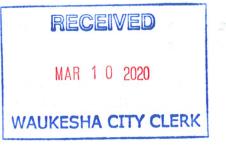
Executive Recommendation:

Disallow the claim and authorize the Clerk to issue a formal notice of disallowance. Our insurance company will continue to investigate and handle the matter.



Clerk Treasurer, City of Waukesha ATTN: CLAIMS 201 Delafield street room 104 WAUKESHA, WI 53188

Claimant: Billy D Howled Phone Number 414581-8381 Email address billyhowled@gmail.com



On January 24,2020 I Billy D Howled was arrested at my job 821 w State St, Milwaukee Wi 53233 at approximately 0900 hours due to arrest warrant that was given to the court of Waukesha on 1-14-2020 by detective Tyler Lusmann of the city of Waukesha police department.

Which wrote a criminal complaint stating that on November 29 2018 and December 3 2018 that I Billy was believe to be a person of interest in drug manufacture/cocaine on the dates listed above without doing a proper investigation that led to my arrest which was the arrest of the wrong person.

This situation in fact has caused me loss of wages at my job for me working my mandatory overtime hours to take care of myself my wife and 4 children. Embarrassment in front of the inspector of the jail coworkers' captains and lieutenants. This has caused damage to my reputation due to me being a correctional officer and being handcuffed and walked out on camera for everyone to see.

I was taken to Waukesha jail where I was striped searched and, spent approximately 10 hours in a secure cell and put on the list to go to court in between the hours listed above.

I was scheduled for court and was released on a signature bond for the amount of 1500 dollars my next court date was set for February 10,2020 and I was to comply with the Wisconsin community services pretrial supervision program were I showed up once a week and had to call the drug test line to take drug test when ordered to do so until this matter was resolved and I did exactly what was ordered.

On January 27,2020 I retained an attorney for the amount of 3,500 dollars to represent me in this matter [LASTER & ASSOCIATES, LLC 839 N. JEFFERSON ST, SUITE 310 MILWAUKEE, WI 53202.

On February 20,2020 an earlier court date that was set for me which I attended for all charges to be dismissed and they were dismissed without prejudice.

LASTER & ASSOCIATES, LLC

TEL.: (414) 431-1195

ATTORNEYS AT LAW 839 N. JEFFERSON ST., SUITE 310 MILWAUKEE, WI 53202

FAX: (414) 270-0607

-REPRESENTATION AND FEE AGREEMENT-

, retain the law firm of LASTER & ASSOCIATES, LLC as my attorneys to represent me in a matter involving / MING/ Felonies 200Fe .This agreement covers the principal case only and does not extend to an appeal or trial of this matter. The retainer fee is \$ 3500 Chymhich shall be paid by the commencement of the firm's work. 1. The retainer fee is an advance fee for the legal services and will be applied toward the fees, cost and disbursements expended on this matter. Cost and disbursements include, but not limited to, transcript fees, expert and investigator fees, exhibits and special supplies, photocopying, telephone, telefax, postage, delivery, travel and computer research. Advanced fees will be placed in Firm's business account and the advanced fee sum of \$ 35/D/U will serve as advanced payments for legal services rendered in this matter. Client hereby consents

to Firm placing advanced fees in Firm's business account.

2. Fees and cost will be billed monthly. I agree to pay for fees, services and cost as billed. If payment is not received or arrangements are not made within thirty (30) days of any billing, the law firm may withdraw from further representation of client. I agree that the law firm may charge interest at the rate of twelve percent (12%) per annum on any balance not paid within thirty (30) days. It is further understood that firm will bill me for work that includes, but is not limited to the following: office conferences, telephone conversations, reviewing and drafting of emails, court appearances, reading and writing correspondence, preparing and reviewing pleadings and documents, analyzing financial records and reports, and travel to and from court or other destinations associated with this representation. Initial

3. I understand that the final fee cannot be calculated at this time. I understand that the hourly fee of the attorneys at LASTER & ASSOCIATES, LLC, is currently \$275 and may be periodically adjusted by the firm. The attorneys will keep time records, and I am invited to inquire about any billing matters at any time. The final fee will be based on time expended and cost incurred. Any unearned fees will be refunded at the conclusion of representation. If I dispute firm's determination as to what amount, if any, must be refunded to me, I must provide attorney with written notice of the dispute within thirty (30) days from the date of the final accounting. If the dispute cannot be resolved within thirty (30) days, Firm will submit the dispute to binding fee arbitration through the State Bar of Wisconsin Fee Arbitration Program. The State's Bar's Fee Arbitration Program may be contact c/o State Bar of Wisconsin, P.O. Box 7158, Madison, WI 53707-7158, or by phone at (800) 728-7788. I am not required by this agreement to participate in fee arbitration and may pursue a dispute of Attorney's fees in other appropriate forums. I further understand, if firm fails to refund unearned fees, I may file a claim with the Wisconsin's Lawyer Fund for Client Protection may be contacted c/o State Bar of Wisconsin, P.O. Box 7158, Madison, WI 53707-7158, or by phone at (800) 728-7158, Madison, WI 53707-7158, or by phone at (800) 728-7158, Madison, WI 53707-7158, or by phone at (800) 728-7788.

4. I may discharge my attorneys at any time, but agree that they will be paid or arrangements will be nade to pay for any work done. I recognize that the law firm shall, pursuant to Sec. 767.264 of the Wisconsin Statutes, be entitled to the granting of a separate judgment in favor of the law firm upon their withdrawal or lischarge for the amount of any outstanding fees, cost and disbursements due and owing.

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<u>Billy</u> Client's Nar	D. ne	Howle	D	(Print)
BUL Client's Sin	Dature	Homm	0	<u>]-27</u> Date

LASTER & ASSOCIATES, LLC

Date

Firm Representative

Billy Howled

Invoice Billy Howled

BILL TO Clerk Treasurer city of Waukesha (1262)524-3550 201 Delafield street room 104 Waukesha WI 53188	Invoice # Date		2 07 Mar 2020
ltem	Quantity	Price	Amount
Attorney Fees	1	\$3,500.00	\$3,500.00
		Subtotal	\$3,500.00
		Total	\$3,500.00
		Amount Due	\$3,500.00

pully D. Hound

Billy Howled

Invoice Billy Howled

BILL TO Clerk Treasurer city of Waukesha (1262)524-3550 201 Delafield street room 104 Waukesha WI 53188	Invoice # Date		1 07 Mar 2020	
Item	Quantity	Price	Amount	
Emotional distress pain and suffering Defame of character	10	\$1,500.00	\$15,000.00	
		Subtotal	\$15,000.00	
		Total	\$15,000.00	
		Amount Due	\$15,000.00	

Bull P. Haulen

Billy Howled

Invoice

Billy Howled

BILL TO Clerk Treasurer city of Waukesha (1262)524-3550 201 Delafield st, Room 104 Waukesha WI 53188	Invoice # Date		3 07 Mar 2020	
ltem	Quantity	Price	Amount	
Wrongful arrest Per hour incarcerated	10	\$7,700.00	\$77,000.00	
		Subtotal Total Amount Due	\$77,000.00 \$77,000.00 \$77,000.00	

67 Mar 2020

Waukesha County Case Number 2020CF000066 State of Wisconsin vs. Billy D Howled

Case summary Filing date Case type **Case status** 01-14-2020 Criminal **Closed - Electronic filing** Address Defendant date of birth **Branch ID DA case number** 2652 N 10th St, Milwaukee, WI 53206 09-28-1984 7 2019WK005975 Charges Printable version Prosecuting agency **Responsible official Prosecuting agency** attorney Lazar, Maria S. **District Attorney** Wittchow, Zachary A Defendant owes the court: \$0.00 Count no. Statute Description Severity Disposition 1 961.41(1)(cm)1g Manufacture/Deliver Cocaine (<=1g) Felony G Dismissed on Prosecutor's Motion 2 961.41(1)(cm)1g Manufacture/Deliver Cocaine (<=1g) Felony G Dismissed on Prosecutor's Motion Defendant **Defendant name** Date of birth Sex Race Howled, Billy D 09-28-1984 Male African American Address (last updated 01-29-2020)**JUSTIS ID Fingerprint ID** 2652 N 10th St, Milwaukee, WI 53206 Attorneys Attorney name Entered Laster, Earlean Antonia 01-28-2020 Court record

Date	Event	Court official	Court reporter	Amount	
02-20-2020	Judgment of dismissal/acquittal	Lazar, Maria S.			
02-20-2020	Dispositional order/judgment	Lazar, Maria S.			
02-20-2020	Hearing	Lazar, Maria S.	DeWaide,		
	02-20-2020 02-20-2020	DateEvent02-20-2020Judgment of dismissal/acquittal02-20-2020Dispositional order/judgment02-20-2020Hearing	02-20-2020Judgment of dismissal/acquittalLazar, Maria S.02-20-2020Dispositional order/judgmentLazar, Maria S.	02-20-2020Judgment of dismissal/acquittalLazar, Maria S.02-20-2020Dispositional order/judgmentLazar, Maria S.	02-20-2020Judgment of dismissal/acquittalLazar, Maria S.02-20-2020Dispositional order/judgmentLazar, Maria S.

01-27-2020 Return on warrant

01-27-2020 Signature bond signed

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\$1,500.00

01-24-2020 Notice of hearing Additional text: Hearing on February 10, 2020 at 10:00 am. 01-24-2020 Signature bond set for Howled, Billy D Costello, Kevin Recorded \$1,500.00 Hearing Additional text: Defendant is not to use/possess any controlled substances without a valid prescription and take as prescribed. Defendant not to possess any drug paraphernalia. Defendant to have no contact with 1019 Delafield St (in Waukesha, WI) listed in the Criminal Complaint. Defendant to report/comply with Wisconsin Community Services Pretrial Supervision Program. Defendant to report to or call WCS by Tuesday, January 28, 2020 by 4:00 PM. Defendant to comply with I.D. Processing. 01-24-2020 Change of address notification for Howled, Billy D Additional text: ADDRESS INFO for Billy D Howled Current: 2650 N 10th St, Milwaukee, WI 53206 (Effective: 01-24-2020) Prior: 2530 N 17Th St, Milwaukee, WI 53206 01-24-2020 Warrant/Capias/Commitment canceled for Costello, Kevin Recorded Howled, Billy D Hearing Initial appearance 01-24-2020 Recorded Costello, Kevin Hearing Additional text: 03:07 PM Defendant Billy D Howled in court, in custody, with attorney Amanda Marie Nimmer. Attorney appears as friend of the court. Bryan A. Charbogian appeared for the State of Wisconsin. Defendant was not evaluated by the public defender's office, as he was a late add on. Defense acknowledges receipt of complaint and waives reading of complaint. Service admitted/advised of charges and potential penalties. Court advises of right to an attorney. Defendant to apply at Public Defender's Office for representation. Court tolled time limits for preliminary hearing. Hearing scheduled for February 10, 2020 at 10:00 am. 01-24-2020 Report Additional text: Waukesha County Pretrial Screening Services Report by Wisconsin Community Services filed. 01-16-2020 Arrest warrant issued for Howled, Billy D Dorow, \$1,500.00 Jennifer R 01-14-2020 Demand for Discovery and Inspection -Prosecutor 01-14-2020 Arrest warrant authorized for Howled, Billy D Dorow. Jennifer R https://wcca.wicourts.gov/caseDetail.html?caseNo=2020CF000066&countyNo=67&index=0&mode=details

Lazar, Maria S.

Case 2020CF000066

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FILED 01-14-2020 **Clerk of Circuit Court** untv

		Waukesha Coi
STATE OF WISCONSIN	CIRCUIT COURT WAUKESHA COUNTY	2020CF000066
STATE OF WISCONSIN Plaintiff vs. Billy D Howled 2530 N 17Th St Milwaukee, WI 53206 DOB: 09/28/1984 Sex/Race: M/B Eye Color: Brown Hair Color: Black Height: 5 ft 7 in Weight: 155 lbs Alias:	DA Case No.: 2019WK005975 Assigned DA/ADA: Zachary A. Wittchow Agency Case No.: 18-067627 18-068365 Court Case No.: ATN: CRIMINAL COMPLAINT	
Defendant.		

The undersigned, of the Waukesha City Police Department being first duly sworn on oath, upon information and belief, states that:

Count 1: MANUFACTURE/DELIVER COCAINE (<=1G)

The above-named defendant on or about Thursday, November 29, 2018, at 1019 Delafield St, Waukesha WI, in the City of Waukesha, Waukesha County, Wisconsin, did deliver a controlled substance, to-wit: Cocaine, in an amount of 1 gram or less, contrary to sec. 961.41(1)(cm)1g, 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.

And the Court may suspend the defendant's operating privileges for not less than six (6) months nor more than five (5) years. If the defendant's driving privileges are already suspended, any suspension imposed must be served consecutively.

Count 2: MANUFACTURE/DELIVER COCAINE (<=1G)

The above-named defendant on or about Monday, December 3, 2018, at 1019 Delafield St, Waukesha WI, in the City of Waukesha, Waukesha County, Wisconsin, did deliver a controlled substance, to-wit: Cocaine, in an amount of 1 gram or less, contrary to sec. 961.41(1)(cm)1g, 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.

And the Court may suspend the defendant's operating privileges for not less than six (6) months nor more than five (5) years. If the defendant's driving privileges are already suspended, any suspension imposed must be served consecutively.

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PROBABLE CAUSE:

And prays that the defendant be dealt with according to law; that the basis for complainant's charge of such offense is: Based upon a review of the investigative reports written by Detective Tyler Lusmann of the City of Waukesha Police Department who is believed to be truthful and reliable in this instance.

Those reports indicate that on Thursday November 29, 2018 Detective Lusmann communicated with a confidential informant (CI) who indicated that he/she could purchase \$100 worth of crack cocaine from an unknown black male at 1019 Delafield Street, Apartment #1, in the City of Waukesha at approximately 1:30 PM. The CI indicated that the CI had contacted a black female by the name of Makciea who indicated to the CI that the black male was currently at her apartment at the above address and would sell the crack cocaine to the CI. The CI indicated that the CI called Makciea's cell phone 262-271-1741 to set up the deal.

Detective Lusmann researched the above address in his department's in house database and found that it was associated with the name Makciea Champ, he also noted that the cell phone number provided by the CI matched the phone number listed to Champ in the department's records.

Detectives met with the CI at a pre-determined location and searched the CI's person and vehicle for money, weapons, drugs and other contraband and were met with negative results. Detective Lusmann then provided the CI with \$100 in pre-recorded buy money as well with a covert listening device and a covert audio visual recording device. They then followed the CI to the target location maintaining constant visual contact until the CI arrived at 1:40 PM. At that time, Specialist Filter maintained visual contact of the CI and observed the CI enter 1019 Delafield Street, Apartment #1.

The CI exited the apartment at 1:54 PM. Specialist Filter advised that as the CI exited the residence the CI was able to positively identify Champ as the female that also exited the residence. Specialist Filter also advised that there was an unknown black male that also exited Champ's apartment at this time.

After the CI exited the residence, the CI got into the CI's vehicle and Detective Lusmann followed the CI back to a pre-determined location maintaining constant visual contact of the CI. Upon meeting with the CI, the CI turned over 3 clear plastic corner cuts containing a white, rock-type substance which based on his training and experience, Detective Lusmann believed to be crack cocaine. Detective Lusmann then searched the CI's person and vehicle again for money, weapons, drugs and any other contraband and was met with negative results. The CI indicated that the CI performed the deal with the unknown black male in the kitchen and that Champ was in the vicinity of the deal. The CI further stated that the black male then handed a crack rock to Champ after the deal with the CI was complete.

Detective Lusmann transported the suspected crack cocaine to the Waukesha Police Department where he weighed and tested the substance. The cocaine weighed 0.74 grams. Case 2020CF000066

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STATE OF WISCONSIN - VS - Billy D Howled

Using a Scott Reagent Pouch, Detective Lusmann tested a small portion of the substance from one of the corner cuts receiving a positive test for cocaine.

The CI provided to Detective Lusmann the unknown black males cell phone number, which was 414-349-9216. Detective Lusmann researched this number in a law enforcement database and found that it was linked to a person Laquita Moody Howled. The database further showed that a possible relative of Laquita Moody Howled was Billy D Howled. Detective Lusmann obtained Billy Howled's department of transportation photograph and compared it to the digital video of the controlled buy. He was able to positively identify Billy Howled, the above named defendant as the suspect that sold the crack cocaine to the CI.

On Monday December 3, 2018, Detective Lusmann again communicated with a CI who indicated that he/she could purchase \$100 worth of crack cocaine from a black male that the CI only knew as Brandon. The CI indicated that the CI contacted Makceia Champ via her cellphone and set up the deal. The CI stated that the deal would take place at approximately 5:30 PM at Champ's residence of 1019 Delafield Street, #1, in Waukesha.

Detective Lusmann met with the CI and searched the CI's person and vehicle for money, weapons, drugs and other contraband and was met with negative results. He then provided the CI with \$100 in pre-recorded buy money as well as a covert listening device and a covert audio/video recording device. Detectives then followed the CI to the target location maintaining constant visual contact of the CI until the CI arrived. Specialist Filter observed the CI enter apartment #1 at 5:35 PM. Several minutes later the CI exited the apartment and Detectives followed the CI back to a pre-determined meeting location maintaining constant visual contact of the CI.

Upon meeting with the CI, the CI turned over 2 clear plastic corner cuts containing a white, rock-type substance, which based on his training and experience, Detective Lusmann believed to be crack cocaine. Detective Lusmann searched the CI's person and vehicle for money, weapons, drugs and other contraband and was met with negative results.

Once at the City of Waukesha Police Department, Detective Lusmann weighed and tested the suspected crack cocaine. The substance weighed 0.87 grams. Using a Scott Reagent Pouch, Detective Lusmann tested a small portion of the substance from one of the corner cuts which tested positive for cocaine.

Detective Lusmann reviewed the digital video of the controlled buy and was able to positively identify Billy Howled, the above named defendant as the person who sold the crack cocaine to the CI. The video depicted the defendant pull a baggie out of his pants pocket, inside of the baggie were a number of crack rocks. After the defendant hands the crack cocaine to the CI in the video, the defendant tells the CI "that's a piece for 60 and another piece for 40". Based on his training and experience, Detective Lusmann knows that 60 and 40 are monetary for each of the corner cuts of crack cocaine.

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

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STATE OF WISCONSIN - VS - Billy D Howled

Subscribed and sworn to before me on 01/14/20 Electronically Signed By: Molly M. Schmidt Assistant District Attorney State Bar #: 1086868

Electronically Signed By: SGT David Daily Complainant

1/30/21 Wisconsin Community Services Creating opportunities 414 W. Moreland Boulevard, Suite 200 to overcome adversity Waukesha, WI 53188 Phone: (262) 544-4600 Fax: (262) 544-9456 www.wiscs.org DRUG AND ALCOHOL TESTING PROCEDURE owled Participant Name: D#: 59323 While you are being drug tested by WCS, you will be assigned an ID# that tells you when to report for drug testing. Your cooperation with this program will help yourself prove that you are drug and alcohol free. Listed below are instructions for testing while you are involved: 1. You have been assigned an ID# by your Case Manager. The ID# is the number "5" plus the last four digits of your social security number (see above). 2. Drug tests are conducted at Wisconsin Community Services (WCS), located at 414 W. Moreland Blvd., Suite #200, Waukesha, Wisconsin. Drug testing hours are as follows: a. Monday through Thursday - between 7:00am and 5:00pm b. Friday - between 7:00am and 3:00pm c. Saturday-between 7:00am and 9:300m d. You MUST arrive BEFORE the cutoff time. If you show up at the end of drug testing hours, you MUST be able to provide a sample immediately. You will NOT be tested outside of these drug testing hours. 3. You must call the drug testing line at 414-921-0409 or 866-207-2911 every day between the hours of 4:00am and 2:59pm. After 3:00pm, the message will change to alert you that you must call back after 4:00am for the next day's message. When calling the drug testing line, you will receive the following prompts: a. "You have reached the drug testing notification system. Press 1 for English. Press 2 for Spanish." Enter the appropriate selection. b. "Please enter your client ID number". Enter the ID# listed above. Once your ID has been entered, there may be a short pause. Don't hang up. c. "Does your last name begin with ..." If yes, press "1". If no, press "2". d. You will hear one of two messages: i. "You are required to test today" - you will need to drug test at WCS ii. "Do not test today" - you do not need to test that day iii. The message will be repeated three times Preliminary Breath Tests or saliva testing may be conducted while you are in the office. You 5. will not be tested you unless your mouth is empty. If you have gum, cough drops, chewing tobacco, etc., you will be instructed to wait 10 minutes before testing. Testing Address: Wisconsin Community Services 414 W. Moreland Blvd. Room #200 Waukesha, WI 53188 Drug Testing Line: (414) 921-0409 or (866)-207-2911 WHEN REPORTING TO WCS, YOU MUST BRING YOUR PICTURE ID WITH YOU

If there is a problem with the drug testing line, please contact the WCS immediately. On weekdays, call 262-544-4600. Please note: On weekends you may call between the hours of 7:00am to 11;00am.

Participant Signature: 💹 1/29/20

		OF WAUKESHA COUNTY
W	NCS J	Case No. 20-CF - 66
	Criefing opportulities to overcome of white V.	Case No. 2000
	Befendant's Name	
	-	
	YOU ARE HEREBY RELEASED ON THE THESE CONDITIONS WILL BE IN EFFECT UNTIL YOUR	
	THE JUDGE IN Y Office hours are from 8:30 AM	OUR CASE.
	7:00 AM to 4:30 PM on Tue	sdays and Thursdays all and
	8:00 AM to 6:00 PM o 7:00 AM to 4:00 PM	
	1. You are to report to the Pretrial Service Program	x Week in Person
л. ж	414 W. Moreland Boulevard, Room 200	x Week by Phone
	Waukesha, WI 53188 Phone: 262-544-4600	As Required by the Pretrial Staff
÷	2 Duna Tractine all Irine Surgerillance	
	2. Drug Testing/Urine Surveillance	Random Testing
		Breath Test
	3. Drug/Alcohol Treatment	Attendance at AA/NA Meetings
	· ·	AODA Assessment Inpatient
		Outpatient
		Whatever is Available
	4. Psychiatric Treatment	Evaluation
		Outpatient Take all Prescribed Medication
		Domestic Violence/Anger Management
	5. You are required to pay a \$100.00 program	CC Should the fee not be paid and the balance
	sent to collections, and additional 25% will be added.	and the fee fee fee paid and the outdate
	6. Other Referrals, Conditions, Curfews, No Contact:	
	No Drugs without velid presc	ription/ No drug paraphemalia.
	- No contact with 1019 Dela	Field St. (in Wave) as listed
	7. You are not to commit any criminal offense. Any remay be grounds for revocation of this order. In addition	
	appear in Court may result in revocation of this order	
	NEXT COURT DATE ON	2/10/20AT 10 0 (A.M. /P.M.
	WAUKESHÁ COUNTY COURTHOUSE 515 W. MORELAND BOULEVARD	
	WAUKESHA, WI 53188	ROOM# 2.66
	I understand that penalties may be imposed on me for will	
	condition of release and I agree to comply with these condi	

DEFENDANT'S SIGNATURE MAN DATE:	1/29	/20
	(l