

STATE OF WISCONSIN : CIRCUIT COURT : DANE COUNTY, WI

STATE OF WISCONSIN,

Plaintiff,

v.

CASE NO. 22-CF-2481

MARK WAGNER,

Defendant.

MOTION TO DISMISS COMPLAINT

NOW COMES the Defendant, Mark Wagner, by and through his attorneys, Michael J. Steinle and Daniel H. Sanders, upon all the records, files and proceedings heretofore had herein, respectfully moves this Honorable Court pursuant to Wis. Stats. Sec. 971.31(2) and (5) for entry of an order dismissing the complaint previously filed in this action.

AS GROUNDS THEREFORE, Counsel would show to this Court that the Court lacks jurisdiction because the Criminal Complaint by which the Defendant is charged is defective. Specifically, the complaint fails to set forth essential facts from which it could be inferred that the Defendant committed the crime charged and fails to state the essential facts constituting the crime of Second-Degree Reckless Endangering Safety contrary to Wis. Stats. Sec. 941.30(2) as required by law. Such defect is a violation of the rights guaranteed to him by the fourth, fifth and fourteenth amendments to the United States Constitution; Article 1, Sections 1, 8, and 11 of the Wisconsin Constitution; Wis. Stat. §§968.01 and 968.02; and *State v. Schneider*, 60 Wis.2d 563, 211 N.W.2d 630 (1973); *State v. Haugen*, 52 Wis.2d 791, 191 N.W.2d 12 (1971); *State ex rel. Evanow v. Seraphim*, 40 Wis.2d 223, 161 N.W.2d 369 (1968).

State v. Petrone, 161 Wis.2d 530, 418 N.W.2d 676 (1991) overruled in part on unrelated grounds by *State v. Greve*, 2004 WI 69, 272 Wis.2d 444, 681 N.W.2d 479.

Dated at Milwaukee, Wisconsin, this 26th day of October, 2022.

Respectfully submitted,

TERSCHAN, STEINLE, HODAN &
GANZER, LTD.

Electronically Signed By:

MICHAEL J. STEINLE
Attorney for Mark Wagner
State Bar No. 1018859

P.O. ADDRESS:

309 North Water Street, Suite 215
Milwaukee, Wisconsin 53202
Telephone: 414-258-6200

HART & POWELL SC

Electronically Signed By:

DANIEL H. SANDERS
Attorney for Mark Wagner
State Bar No. 1092309

P.O. ADDRESS:

735 North Water Street, Suite 1212
Milwaukee, Wisconsin 53202
Telephone: 414-271-9595

