

City of West Allis

Matter Summary

7525 W. Greenfield Ave.
West Allis, WI 53214

File Number	Title	Status
2010-0389	Report	Introduced
Police Department Report involving Lenny's, 6309 W. National Ave. (2009-2010 Class B Tavern License no. 458 and Dance Hall License no. 506 of Lenny's, Inc., Leonard E. Malan, Agent, Incident Date: April 22, 2010). Introduced: 6/15/2010 Controlling Body: License & Health Committee		

COMMITTEE RECOMMENDATION POF

ACTION DATE:	MOVER	SECONDER		AYE	NO	PRESENT	EXCUSED
<u>8-3-10</u>			Barczak	✓			
			Czaplewski	✓			
			Kopplin				
			Lajsic				
			Narlock				
		✓	Reinke				
	✓ JR		Roadt	✓			
			Sengstock	✓			
			Vitale				
		R	Weigel	✓			
			TOTAL	5	0		

SIGNATURE OF COMMITTEE MEMBER



Chair

Vice-Chair

Member

COMMON COUNCIL ACTION PLACE ON FILE

ACTION DATE:	MOVER	SECONDER		AYE	NO	PRESENT	EXCUSED
<u>AUG 03 2010</u>	✓		Barczak	✓			
			Czaplewski	✓			
		✓	Kopplin	✓			
			Lajsic	✓			
			Narlock	✓			
			Reinke	✓			
			Roadt	✓			
			Sengstock	✓			
			Vitale				✓
			Weigel	✓			
			TOTAL	9			1

**STANDING COMMITTEES OF THE
CITY OF WEST ALLIS COMMON COUNCIL**

ADMINISTRATION & FINANCE

Chair: Kurt E. Kopplin
Vice-Chair: Vincent Vitale
Thomas G. Lajsic
Richard F. Narlock
Rosalie L. Reinke

PUBLIC WORKS

Chair: Gary T. Barczak
Vice-Chair: Martin J. Weigel
Michael J. Czaplewski
Daniel J. Roadt
James W. Sengstock

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Chair: Thomas G. Lajsic
Vice-Chair: Richard F. Narlock
Kurt E. Kopplin
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Vice-Chair: Daniel J. Roadt
Kurt E. Kopplin
Richard F. Narlock
Vincent Vitale



CITY CLERK/TREASURER'S OFFICE

414/302-8200 or 414/302-8207 (Fax)

www.ci.west-allis.wi.us

Paul M. Ziehler

City Admin. Officer, Clerk/Treasurer

Monica Schultz

Assistant City Clerk

Rosemary West

Treasurer's Office Supervisor

July 27, 2010

Leonard E. Malan, Agent
Lenny's, Inc.
d/b/a Lenny's
6309 W. National Ave.
West Allis, WI 53214

Dear Mr. Malan:

The Chairman of the License & Health Committee orders that you appear at its meeting on Tuesday, August 3, 2010, at 5:45 P.M., in the Common Council Chambers, West Allis City Hall, 7525 W. Greenfield Ave., with regards to an incident on April 22, 2010.

A copy of the incident was sent to your home address.

Sincerely,

Monica Schultz
Assistant City Clerk

/amn

enc.

cc: Leonard E. Malan



**City of West Allis
Police Department**

Liquor Establishment Violation

Date: 4/22/2010
To: Lieutenant Terry Morrissey
From: Ptm. Nick Stachula

Violation Type

- Tavern Violation Bartender Violation Restaurant Violation Liquor Store
- No Violation but the Incident is Liquor License Related

Incident #: 10-003638 N/A

Location: 6309 W. National Ave. N/A

Establishment Name: Lenny's N/A

Establishment License #: N/A

Establishment Owner: Leonard E. Malan N/A

Owner Address: S76W13390 Mc Shane Rd. Muskego, WI. 53130 N/A

Violation(s): Aggravated Battery N/A

Offender: Darnell D. Wilber M/B 04/02/78 N/A

Offender Address: 3059 W. Ruskin Ct. # 1 Milwaukee, WI. 53215 N/A

Offender: N/A

Offender Address: N/A

Offender: N/A

Offender Address: N/A

Offender: N/A

Offender Address: N/A

Additional Offenders listed in Incident Report narrative: Yes No

Reviewed by Commanding Officer: Capt. Fujinaka

Copy of Incident Report Attached to Liquor Laws Violation Report: Yes N/A

Commanding Officer Signature: *Capt. Patrick Fujinaka*

Reviewed by Deputy Chief Jerry Ponzi:

Copy forwarded to License and Health Committee: Date:



West Allis Police Department

Incident Report

Incident: Agg Assault-Nonfamily Strongarm

Incident Report Number: 10-003638 Between: Date - Time And/At: Date-Time 4/22/10 00:30

Incident Location: 6309 W National Ave, West Allis, WI, 53214

CFS Code-1: 1306 CFS Code-2: CFS Code-3: CFS Code-4:

CFS Code-5: CFS Code-6: CFS Code-7: CFS Code-8:

Name (Last, First, Middle): V Adkins, Matthew H DOB: 01/15/1985 Race/Sex: W/M

Address: (Address, City, State, Zip) 5240 MIDLAND DR #23, GREENFIELD, WI, 53220 Home Phone Number

Employer Work Phone Number

Employer Address Cell Phone Number

Name (Last, First, Middle): CN Wilber, Diana L DOB: 06/28/1961 Race/Sex: I/F

Address: (Address, City, State, Zip) 3059 W Ruskin Ct #1, Milwaukee, WI, 53215 Home Phone Number (414) 672-3246

Employer Work Phone Number

Employer Address Cell Phone Number

SUMMARY

Ptm. Stachula reports: 04/22/10 at 0030hrs, Aggravated Assault at Lenny's Tavern 6309 W. National Ave. Matthew H. Adkins M/W 01/15/85 reported that while playing in a pool tournament at the tavern, he was involved in an argument with another patron (First name of Darnell, M/U, early thirties, 6'01", 195lbs, trimmed beard, wearing a silver necklace). After the argument, Adkins walked away and was blind sided (punched four to five times) by the offender. As a result of the assault Adkins lost two teeth and a third was knocked loose. Based on the suspect information provided, Darnell D. Wilber M/U 04/02/78 is considered as a person of interest. Further investigation will be conducted.

Vehicle Information: (Year, Make, Model, Style, Color)

License Number: State: Expiration Year: Vin: Insurance Company:

Other Vehicle Information: NCIC#

Reporting Officer(s): Stachula, Nick Payroll Number: 9167 Payroll Number: Report Date: 04/23/2010

Time Received: 01:30 Time Cleared: 02:07 Unit(s) Assigned: 311, 312 1 Of 8

Reviewed by: Fujinaka, Patrick Payroll Number: 1292 Copy To

Date: 04/23/2010

CFS Code-1:

1306

Incident Report Number:

10-003638

AA 5-5-D PF1242

West Allis Police Department

Continuation

Incident Report Number
10-003638

Incident Location:
6309 W National Ave, West Allis, WI, 53214

Incident Date:
04/22/2010

NAMES

Contact

Torres, Jonathan H W/M-24 of 1912 S 21st St, Milwaukee, WI, 53215
DOB: 05/13/1985

Suspect

Wilber, Darnell D B/M-32 of 3059 W Ruskin CT, 1, Milwaukee, WI, 53215
DOB: 04/02/1978 DL: W416-1647-8122-08
HT: 601 WT: 210 Hair: Brown
Eyes: Brown
Home Phone: (414) 672-3246

Booking#: 10-001976

Case#	Charge	Description	Ct
10-003638	940.19(2)	Substantial Battery-Intend Bo	1

Witness-1

Adkins, Gary R W/M-58 of 5240 W Midland Dr. # 23, Greenfield, WI, 53220
DOB: 03/04/1952
Cell Phone: (414) 248-3963

Witness-2

Malan, Leonard E W/M-65 of S76 W13390 McShane Dr, Muskego, WI, 53150
DOB: 01/02/1945 DL: M450-5254-5002-06
Home Phone: (414) 529-0298 Work Phone: (414) 774-8100

Business

Lennys of 6309 W National Ave, West Allis, WI, 53214
Business Phone: (414) 774-8100

NARRATIVE

INITIAL CALL

Ptm. Stachula reports...

I was dispatched to the Aurora West Allis Medical Center, Emergency Room # 12, for a report of a male who was assaulted at Lenny's Tavern 6309 W. National Ave. Prior to responding to the hospital, I stopped at Lenny's Tavern. The doors were locked and no one answered the door. I then responded to the hospital and made contact with Matthew H. Adkins M/W 01/15/85 and his father Gary R. Adkins M/W 03/04/52.

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Stachula, Nick

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04/22/2010WITNESS STATEMENT - GARY ADKINS

I made contact with Gary and had him step into the hallway, in order to obtain his statement. Gary said that he was with his son, Matthew, at Lenny's for a pool tournament. He said everything was going good and they were getting along with the other teams. He said that as the night went on one of the other team members was getting pretty drunk. He said that Matthew was up and about to shoot, when this party who went by the name of Darnell (later identified as *Darnell D. Wilber M/U 04/02/78*) started stumbling around in front of the pocket Matthew was shooting at. He said that Matthew asked Darnell to move and made reference to proper pool edacity. Gary said that Darnell seemed to be upset by Matthew making the comment and replied "shoot mother fucker".

Gary said that they started to argue and Darnell was calling Matthew a "sweetie" and a "boy". The two got into each other's face and the bar owner, Leonard E. Malan M/W 01/02/45, got in between them. He said that after Leonard broke up the argument, Matthew started to walk away. He said that all of a sudden, Darnell lunged towards Matthew and punched him in the face. Gary said that Darnell continued to punch Matthew in the face and eventually knocked him into the wall and onto the floor. Gary said that he pulled Darnell off of Matthew. He added that Darnell was in good shape and he was to old to try and do anything else. Gary believed Darnell punched Matthew in the face 3-4 times, with a closed fist.

Gary said that after he pulled Darnell off of Matthew, he left the bar with his friend "Jonathan". He said that he went to help Matthew up and noticed that some of his teeth were knocked out. Gary said that he asked Leonard if he was calling the police and he advised that he was just kicking everyone out of the bar for the night. Gary said that Matthew tried finding his missing teeth, but was unsuccessful. He said that as soon as he left the bar, he drove Matthew to the hospital and had the ER staff call the police.

Gary advised that Matthew was in a heated argument with Darnell, but at no time did Matthew throw a punch. He added that Matthew was drinking tonight, but knew to walk away after Leonard broke up the argument. Gary added that Darnell "sucker punched" Matthew and was completely out of line for attacking Matthew.

Gary described Darnell as a male black/Hispanic mix, late twenties to early thirties, 6'01", 195lbs, and wearing a brown or maroon shirt.

VICTIM STATEMENT - MATTHEW ADKINS

I made contact with Matthew who was still in the hospital bed. Matthew was in visible pain. He was having trouble speaking, but was able to provide a statement. Matthew said that he was at Lenny's tonight with his father and entered a pool tournament. He said that during his play, a party by the name of Darnell was stumbling around in front of the pocket he was shooting at. He said that he asked Darnell to move away from the pocket. He said that Darnell was intoxicated and

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was yelling "Just shoot mother fucker!" He said that he tried explaining proper pool edacity to Darnell, but he only became more belligerent. He said that he tried ignoring him, but then Darnell started calling him "boy" and "sweetie pie".

Matthew said that he did get in Darnell's face and started yelling at him. He said that the bar owner, Leonard, got in between them and he backed down. He said that after Leonard broke it up, he turned his back and started walking away from the pool table. Matthew said that next thing he knew was being blind sided by a punch. He said that Darnell reached around him and punched him in the face. Matthew said that the first punch was followed by another 3 or 4 and he eventually fell to the floor. Matthew said that he felt a great deal of pain to his mouth and knew that some of his teeth were knocked out.

Matthew said that he was eventually helped to his feet by his father. He said that Darnell fled the tavern and he started looking for his missing teeth. He advised that he was unable to find his missing teeth and he went with his father to the hospital.

Matthew described Darnell as a black/Hispanic mix, late twenties to early thirties, 6'01", 200lbs, wearing a silver necklace and having a tatoo on his left forearm. He was unable to recall what the tatoo was of. *Per Darnell's criminal history check, it shows he has a tattoo (Indian) on his left forearm.*

Matthew added that Darnell was with another party by the name of "Jonathan". He described him as a shorter Hispanic male, late twenties, shorter and athletic build (suspected to be *Jonathan H. Torres M/H 05/13/85*).

OBSERVATIONS OF INJURIES

Matthew had an abrasion above his right eye, which was slightly swollen. Two of his teeth were completely knocked out/missing and a third was knocked loose. The two teeth that were knocked out were the #9 and # 7 teeth (upper front teeth) and the loose tooth was # 8. Matthew advised that the injuries he sustained caused him a great deal of pain.

MEDICAL RELEASE FORMS

Matthew signed and dated two copies of the Authorization and Consent for disclosure and release of patient health care records.

LACK OF CONSENT

Matthew said that at no time did he give Darnell permission/consent to punch him in the face, causing him to knock out his teeth or to cause him any pain.

IDENTITY OF OFFENDERReporting Officer(s):
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After I obtained Gary and Matthew's statement, I responded to the station for further investigation. I recalled that while putting together our department's patrol gang book, I placed a photo of a "Darnell" who fit the description provided by Gary and Matthew. In 2008-2009, several known 21st St. gang members were hanging out at Lenny's Tavern. I checked the "21" street gang section of the book and located Darnell D. Wilber M/U 04/02/78. On Darnell's photo I had previously wrote that he frequents Lenny's and Mario's Tavern.

PHOTO ARRAY

Darnell did not have a current photo with our department and per his criminal history, he did not have an adult arrest since 2006. The photo of Darnell in our database was from 2005. At this time I decided to create a line-up with Darnell's 2005 booking photo, since we had no further suspect/offender information at this time. The photo array consisted of the following booking photos:

1. # 301564 Torres, Neils
2. # 312648 Caraballo-Vazquez, Jamie
3. # 296409 Wilber, Darnell
4. # 314323 Hernandez, Santino
5. # 303419 Medrano, Michael
6. # 277227 Lopez-Sosa, Gonzalo
7. # 297575 Burdohan, Carlos
8. # 313863 Rodriguez, Jose
9. blank photo
10. blank photo

I requested the assistance of Ptm. Scott to show the photo array to Matthew.

See Ptm. Scott's Supplement Report for showing of photo array.

WITNESS STATEMENT - LEONARD MALAN

On 04/23/10 at 2330hrs, I responded to Lenny's Tavern and made contact with the owner/bartender (Leonard E. Malan M/W 01/02/45). I asked Leonard if he recalled the fight inside of his tavern on 04/22/10 at about 0030hrs. Leonard said that he did and that after the fight he kicked everyone out and closed the bar for the night. I asked Leonard why he did not call the police. He said that everyone left, so he figured there was nothing we could do.

I asked Leonard to tell me what he witnessed regarding the fight. He said that two guys were involved in an argument over a pool game. He said that Matthew and some other guy by the name of Darrel or Darnell were involved in the fight. He said that Matthew and Darnell were in each other's face and Matthew bumped his chest into Darnell.

Leonard said that he got in between them to break it up. He said that Darnell then

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punched Matthew in the face a couple of times. He added that Matthew fell down and apparently got his teeth knocked out. He said that Darnell left and Matthew was going to the hospital with his father. I asked Leonard if Matthew's father (Gary) asked him to call the police and he said he did not.

I advised Leonard that I knew Darnell has been coming to his tavern for several years and plays in his pool league, with his mother Diana. At this time Leonard admitted that Darnell was in fact his name and that he knew him as a regular customer, along with his mother Diana. Leonard said that when the fight occurred Darnell was with his friend Jonathan, but his other teammates had already left the bar (including his mother).

I asked Leonard if he had any pool league paperwork with Darnell's information. Leonard went behind the bar and handed me a roster form with Darnell's team information. I asked Leonard if the Darnell on the roster form was the same Darnell that was involved in a fight with Matthew tonight. He said that it was.

EVIDENCE

At this time I collected the M.A.C.D. Pool Roster Form as evidence. The sponsor was Listed as Lenny's B # 774-8100 at 6309 W. National Ave. The Wednesday "Mixed 4 Player" box was checked. The player information was written as follows:

Darnell Wilber Address: 3059 W. Ruskin Milw, WI. 53215 Phone: 414-672-3246 (listed as Team Captain)

Alison Danforth Address: 3059 W. Ruskin Ct # 1 Milw, WI. 53215 Phone: 414-672-3246 (Darnell's girlfriend)

Jonathan Torres Address: 3059 W. Ruskin Milw, WI 53215 Phone: 414-519-8677

Diana Wilber Address: 3059 W. Ruskin Ct. # 1 Milw, WI 53215 Phone: 414-672-3246 (Darnell's mother)

Sandra Wilber Address; 3051 W Fardale # 2 Milw, WI. 53221 Phone: 414-282-9202

Robert Skenandore 1920 S. 19 Milw, WI 53204 Phone: 414-763-7491

The roster form was placed on property # 56087.

ATTEMPT TELEPHONE CONTACT WITH OFFENDER / CONTACT WITH DIANA WILBER

I called the telephone numbers listed on the Roster Form. I was able to speak to a female who identified herself as *Diana L. Wilber F/I 06/28/61*. Diana advised that she is Darnell's mother. Diana was hesitant to provide any information, but admitted that she was at Lenny's on 04/23/10 with her son Darnell. She said that they played in a pool tournament that night and she left the bar before Darnell. She said that she has not seen Darnell since that night and did not hear about any fight at the bar, involving Darnell.

I advised Diana that I needed to speak with Darnell regarding a fight that occurred that night. I asked her she had a telephone number for Darnell and she

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advised she had no way of contacting him. I gave Diana my information and advised her to have Darnell call me as soon as possible. Upon checking Diana's information through the D.O.T. database, her address was listed as 3059 W. Ruskin Ct. # 1 Milwaukee, WI. 53215.

I also called the listed number for Jonathan Torres. A younger female answered and she advised that Jonathan was her cousin and she was uncooperative. I was unable to make contact with the listed number for Sandra Wilber and Robert Skenandore.

ATTEMPT CONTACT WITH OFFENDER

As of 04/27/10 0030hrs, I have not received a phone call from Darnell. I responded to his mother's residence at 3059 W. Ruskin # 1 Milwaukee, WI. 53215. with three Milwaukee Police Officers (District 6). Upon knocking on the door of the apartment, I received no answer. I then called the telephone # 414-672-3246 and Diana answered the telephone. I identified myself to Diana and asked her to answer her door. Diana said "hold on" and then hung up. Diana never answered the door and did not answer the telephone upon call back.

PHOTO ARRAY (MILWAUKEE POLICE DEPARTMENT)

I contacted Milwaukee Police Department Bureau of Identification and asked them if they had a current photo of Darnell. They advised they had a photo of Darnell from 2008, from the Milwaukee County Sheriff's Office. I requested them to make a photo array with the updated photo of Darnell.

I later picked up the photo array # 15099. The photo array consisted of the following photos:

1. # 770752217 Melendez, Johnny
2. # 447584812 Fuentes, Jose L.
3. # 818624017 Wilber, Darnell D.
4. # 374605229 Chairez, Jesus
5. # 600153807 Martinez, Elias
6. # 945040502 Acevedo, Sixto L.
7. blank photo
8. blank photo

Det. Sgt. Best enlarged the photographs in this photo array. I turned the photo array over to Ptm. Cato and requested him to show the photo array to Malan. See Ptm. Cato's Supplement Report for further photo array / identification information.

CASE DISPOSITION

As of 05/05/10, all attempts to contact Darnell have been unsuccessful. This case will be reviewed at the District Attorney's Office on 05/05/10 at 0830hrs. Matthew

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was ordered to appear at the DA's office at the time of review.

See Ptm. Kraemer's Supplement Report for photographs. See Ptm. Scott's Supplement Report for initial photo array. See Ptm. Cato's Supplement Report for photo array / positive ID.

On 05/04/10 at 2300hrs, I received a phone call from Matthew advising that he was having car trouble and was stuck up north. He advised that he still wished to proceed with this case. This case will be reviewed at the DA's office on 05/12/10 at 0830hrs.

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West Allis Police Department

Supplementary Report

Incident Report Number 10-003638	Incident Location: 6309 W National Ave, West Allis, WI, 53214	Incident Date: 04/22/2010
New Incident:	Original CFS Code-1:	New CFS Code-1: New CFS Code-2

NARRATIVE

Officer Kraemer Reports...

PHOTO LOG

On 04/22/10 at approximately 0147 hrs I used Squad Camera 66 and media card S66- 2 to take several photos of Adkin's injuries. The following is a photo log:

1. AWAMC ER12
2. Overview of victim
3. Victim's face
4. Closeup of injuries to victim's mouth
5. Closeup of injuries to the left side of victim's face
6. Closeup of injuries to right side of victim's face
7. WAPD photo data sheet

I printed out two copies of the photos and gave them to Officer Stachula for the downtown packet. Media card S66-2 was sealed into an envelope and placed into the FTSB lock box.

Reporting Officer(s): Kraemer, Robert E.	Payroll Number: 9691	Payroll Number:	Report Date: 04/23/2010
Reviewed by: Fujinaka, Patrick	Payroll Number 1292	Copy To:	1 Of 1

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Supplementary Report

Incident Report Number 10-003638	Incident Location: 6309 W National Ave, West Allis, WI, 53214	Incident Date: 04/22/2010
New Incident:	Original CFS Code-1:	New CFS Code-1: New CFS Code-2

NARRATIVE

FOLLOW UP INVESTIGATION

At the request of Pto. Stachula I was asked to show a photo array to Leonard Malan. On 5/2/10 at 0101hrs, officers arrived a Lenny's tavern 6309 W. National Av. Leonard Malan owns the tavern and he was present. I read the witness instructions for sequential photo arrays to Leonard. He stated he understood and signed to form. Then I showed Leonard the photo array asking him, " Is this the person you saw known to you as Darnell Wilber, involved in the fight at Lenny's on 4/22/10?"

1. Johnny Melendez
2. Jose Luis Fuentes
3. Darnell Dewayne Wilber
4. Jesus Chairez
5. Elias Martinez
6. Sixto L. Acevedo
7. Blank
8. Blank

Leonard positively identified Darnell Wilber in photo number 3. Leonard stated he was 100% sure. He signed below the photo and wrote 100%. Leonard said the victim Matthew Adkins instigated the incident and Darnell punched him in the face. I placed the photo array on property #56160.

Reporting Officer(s): Cato, James .	Payroll Number: 9469	Payroll Number:	Report Date: 05/03/2010
Reviewed by: Navarrette, Robert .	Payroll Number 1371	Copy To:	1 Of 1

West Allis Police Department

Supplementary Report

Incident Report Number 10-003638	Incident Location: 6309 W National Ave, West Allis, WI, 53214	Incident Date: 04/22/2010
New Incident:	Original CFS Code-1:	New CFS Code-1: New CFS Code-2

NARRATIVE

PHOTO LINE-UP

Officer Scott reports...

On 04/22/10 at 0305 hrs, Officer Stachula requested my help in administering a photo line-up to Matthew H. Adkins. Officer Stachula had assembled the photo line-up and instructed me to ask Adkins, "Is this the person who attacked you?" I ordered the line-up in the following order and wrote the numbers on the back of the photos. The photo line-up did not print out the names associated with the numbers.

1. #301564
2. #312648
3. #296409
4. #314323
5. #303419
6. #277227
7. #297575
8. #313863
9. Blank Filler Sheet
10. Blank Filler Sheet

I administered the photo line-up to Adkins while he was in ER Room #12 at Aurora West Allis Medical Center. Adkins stopped for approximately 15 seconds on photo #3 and stated, "That looks like him, but I am trying to imagine him with short hair." I continued with the rest of the photo line-up. After I was finished, Adkins requested to see photo #3 again. Adkins stated that he was not sure, so he did not want to positively identify photo #3 as the offender. I informed Officer Stachula of the results. I later placed the photo line-up onto property under #56088.

Reporting Officer(s): Scott, Zachary .	Payroll Number: 9437	Payroll Number:	Report Date: 04/22/2010
Reviewed by: Navarrette, Robert .	Payroll Number: 1371	Copy To:	1 Of 1

DIF 500, CIB 70V, 458

414-509-0089

Muskego 53150

570 W1390 McShane Rd

Leonard E. Moran, Agent

Lenny's, Inc

Lenny's 6309 W National Ave

