

STATE OF WISCONSIN, CIRCUIT COURT, DANE COUNTY

For Official Use

State of Wisconsin, Plaintiff,  
-vs-

**Plea Questionnaire/  
Waiver of Rights**

Kevin Kesterson Defendant Case No. 05 CM 223  
Name

I am the defendant and intend to plea as follows:

Charge/Statute	Plea	Charge/Statute	Plea
<u>Obstructing an officer/946.41(6)</u>	<input type="checkbox"/> Guilty <input checked="" type="checkbox"/> <u>Alford</u> <input type="checkbox"/> No Contest		<input type="checkbox"/> Guilty <input type="checkbox"/> No Contest
	<input type="checkbox"/> Guilty <input type="checkbox"/> No Contest		<input type="checkbox"/> Guilty <input type="checkbox"/> No Contest

See attached sheet for additional charges.

I am 52 years old. I have completed 16 years of schooling.

- I  do  do not have a high school diploma, GED, or HSED.
- I  do  do not understand the English language.
- I  do  do not understand the charge(s) to which I am pleading.
- I  am not  am currently receiving treatment for a mental illness or disorder.
- I  have not  have had any alcohol, medications, or drugs within the last 24 hours.

**Constitutional Rights**

I understand that by entering this plea, I give up the following constitutional rights:

- I give up my right to a trial.
- I give up my right to remain silent and I understand that my silence could not be used against me at trial.
- I give up my right to testify and present evidence at trial.
- I give up my right to use subpoenas to require witnesses to come to court and testify for me at trial.
- I give up my right to a jury trial, where all 12 jurors would have to agree that I am either guilty or not guilty.
- I give up my right to confront in court the people who testify against me and cross-examine them.
- I give up my right to make the State prove me guilty beyond a reasonable doubt.

I understand the rights that have been checked and give them up of my own free will.

**Understandings**

- I understand that the crime(s) to which I am pleading has/have elements that the State would have to prove beyond a reasonable doubt if I had a trial. These elements have been explained to me by my attorney or are as follows:  See Attached sheet.  
WILL BE STATED IN COURT BY JUDGE.
- I understand that the judge is not bound by any plea agreement or recommendations and may impose the maximum penalty. The maximum penalty I face upon conviction is: 9 mos or \$10,000 or both
- I understand that the judge must impose the mandatory minimum penalty, if any. The mandatory minimum penalty I face upon conviction is: N/A
- I understand that the presumptive minimum penalty, if any, I face upon conviction is: N/A

The judge can impose a lesser sentence if the judge states appropriate reasons.

## Plea Questionnaire/ Waiver of Rights

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**Understandings**

- I understand that if I am placed on probation and my probation is revoked:
  - if sentence is withheld, the judge could sentence me to the maximum penalty, or
  - if sentence is imposed and stayed, I will be required to serve that sentence.
- I understand that if I am not a citizen of the United States, my plea could result in deportation, the exclusion of admission to this country, or the denial of naturalization under federal law.
- I understand that if I am convicted of any felony, I may not vote in any election until my civil rights are restored.
- I understand that if I am convicted of any felony, it is unlawful for me to possess a firearm.
- I understand that if I am convicted of any violent felony, it is unlawful for me to possess body armor.
- I understand that if I am convicted of a serious child sex offense, I cannot engage in an occupation or participate in a volunteer position that requires me to work or interact primarily and directly with children under the age of 16.
- I understand that if any charges are read-in as part of a plea agreement they have the following effects:
  - Sentencing – although the judge may consider read-in charges when imposing sentence, the maximum penalty will not be increased.
  - Restitution – I may be required to pay restitution on any read-in charges.
  - Future prosecution – the State may not prosecute me for any read-in charges.
- I understand that if the judge accepts my plea, the judge will find me guilty of the crime(s) to which I am pleading based upon the facts in the criminal complaint and/or the preliminary examination and/or as stated in court.

**Voluntary Plea**

I have decided to enter this plea of my own free will. I have not been threatened or forced to enter this plea. No promises have been made to me other than those contained in the plea agreement. The plea agreement will be stated in court or is as follows:  See Attached.

No plea agreement

**Defendant's Statement**

I have reviewed and understand this entire document and any attachments. I have reviewed it with my attorney (if represented). I have answered all questions truthfully and either I or my attorney have checked the boxes. I am asking the court to accept my plea and find me guilty.

Kevin Koster  
Signature of Defendant

Nov. 21, 2005  
Date

**Attorney's Statement**

I am the attorney for the defendant. I have discussed this document and any attachments with the defendant. I believe the defendant understands it and the plea agreement. The defendant is making this plea freely, voluntarily, and intelligently. I saw the defendant sign and date this document.

Stephen M. Mays  
Signature of Attorney

11/21/05  
Date

STATE OF WISCONSIN

CIRCUIT COURT  
Branch 9

DANE COUNTY

STATE OF WISCONSIN,

Plaintiff,

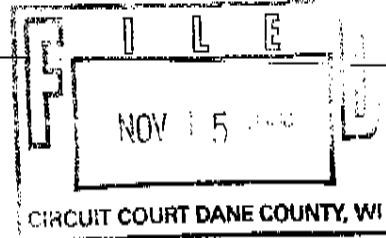
**MOTION TO ALLOW *ALFORD* PLEA  
OR ALTERNATIVELY FOR ADJOURNMENT**

vs.

Case No. 05 CM 223

KEVIN KESTERSON,

Defendant.



To: Juan Colas  
Assistant Attorney General  
Wisconsin Department of Justice  
P.O. Box 7857  
Madison, WI 53707-7857

The accused, Kevin R. Kesterson, by his attorney, Stephen J. Meyer, hereby moves the court, to enter an order allowing the accused to enter an *Alford* plea or in the alternative, an order adjourning the trial in this matter until the accused's medical condition improves. The grounds for this motion are as follows:

1. Over the last two months, the accused has undergone multiple CAT scans, a three day hospital stay, numerous treatment regimens and has incurred significant weight loss. The medical condition of the accused has prevented him from working on a regular basis.

2. The adverse medical condition of the accused is verified by the two letters written by his treating physician which are attached to this motion (Exhibits 1 and 2). As pointed out in his physician's letter of November 7, 2005, due to Mr. Kesterson's weakened medical condition, the stress of the upcoming trial would be medically difficult for him to tolerate.

3. Mr. Kesterson believes that resolution of this case would be beneficial to him in relieving stress and allowing him to focus on addressing his medical issues. Accordingly, he seeks permission

from the court to exercise its discretion and allow him enter an *Alford* plea to the charge, pursuant to *North Carolina v. Alford*, 400 U.S. 25 (1970), *State v. Garcia*, 192 Wis.2d 845, 532 N.W.2d 111 (1995), and Wis JI-Criminal SM-32A.

4. As the identified legal authority makes clear, the acceptance of an *Alford* plea is discretionary with the court. One of the recognized reasons to allow the entry of an *Alford* plea is to allow the accused to avoid the stress of trial. *Garcia*, 192 Wis.2d at 857.

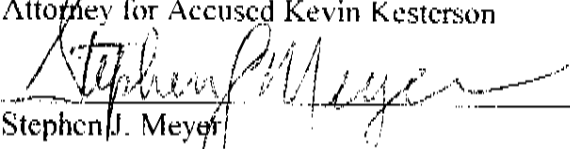
5. Counsel for the accused has discussed this motion and the medical condition of the accused with Assistant Attorney General Juan Colas. Mr. Colas objects to allowing Mr. Kesterson enter an *Alford* plea but has no objection to the court adjourning this matter due to the accused's medical condition.

Dated this 15<sup>th</sup> day of November, 2005.

**MEYER LAW OFFICE**

Attorney for Accused Kevin Kesterson

By:

  
Stephen J. Meyer  
SBN: 1011807

P.O. Box Address:  
10 East Doty Street  
Suite 507  
Madison, WI 53703  
608/255-0911

**EXHIBIT #** 1  
**Case #** 050M 223  
**Date:** 11/22/05  
**Circuit Court Branch 9**

E-mails March 25 and 29, 2004

Kesterson to DePula Flyer Idea

From: kevin@kesterson.com  
 To: pdepula@hotmail.com  
 Subject: Re: More .....  
 Date: Thu, 25 Mar 2004

I think you may want to leave the standard disclaimer off of this one though!

> > "do you trust Don around your children??"

> > picture this Kev ....

> > A comparison piece ..... a very negative one .....

300

> > dropped selectively... ..

> > A bad photocopy of his face .....

> > quotes from those posts ..... instructions on how to see

> > them for real... ..

> > Lyn Beyler... ..Respectable... ..

> > Don Eggert .....Criminal .....pervert.

> > Picture the response .....

DePula to Kesterson Flyer Detail, 11:52

From: Patrick Derrin <pderrin@hotmail.com>  
 To: <kevin@kesterson.com>  
 Sent: Monday, March 29, 2004 11:52 AM  
 Subject: Burn this when through!

The Eggert Drop Piece - What do you think? I think it will be big news.

BEFORE YOU VOTE ON APRIL 6th, KNOW THE FACTS ABOUT SUPERVISOR DON EGGERT

In a recent investigation using the Internet's leading search tool,

www.google.com, it has been found that Supervisor Don Eggert has posted lewd

and disgusting material to Internet news groups such as:

Alt.Sex.Beastiality Alt.Sex.Wanted Alt.Sex.Masturbation  
 Alt.Sex-Wizards  
 Alt.Sex.Fat

Supervisor Eggert used his University of Wisconsin email address (dsgart@students.wisc.edu) to participate in these lewd and disgusting exchanges with other people trolling for sex on the Internet. You may see the information first hand if you use his email address as a search term and select the group option.

Some of the things he's written include:

[Content Redacted]

I don't know about you, but I can't help but think of him as a depraved, craven individual. Behind that smile, is he undressing you with his eyes? When he shakes your hand, think about where it's been. Just knowing that belonged to a group about BEASTIALITY is enough for me to not vote for our elected leaders should be held to a higher standard. The people of south Madison deserve better. I hope you agree that we need a representative that our children can look up to. Not someone who lurks in the dark and participates in pornographic acts with strangers. I KNOW IS HARD TO BELIEVE, BUT FEEL FREE TO LOOK IT UP FOR YOURSELF. BEFORE YOU VOTE ON APRIL 6, KNOW WHO YOU ARE REALLY VOTING FOR! Supervisor Eggert is also the only candidate that has a criminal record. Ask him about it.

## Kesterson Replies Re: Flyer Detail 11:55 a.m.

From: "Kevin Kesterson" <kevingkesterson.com>  
To: "Patrick DeFula" <pdepula@hotmail.com>  
Subject: Re: Burn this when through!  
Date: Mon, 29 Mar 2004 11:55

Clear channel won't even be able to report on it :)

That is one disgusting collection