

DISTRICT COURT OF OTTAWA COUNTY
STATE OF OKLAHOMA

STATE OF OKLAHOMA

COURT CASE#:

PLAINTIFF,

MPD CASE#: 2022-0180

VS.

DEFENDANT

MCBRIEN, MINDY DIANE

SSN: XXX-XX-0732

ANTICIPATED CHARGE(S):

21-711-21-711 MANSLAUGHTER 1ST DEGREE

47-10-102.1-47-10-102.1 LEAVING SCENE OF ACCIDENT W/FATALITY

FILED
DISTRICT COURT
OTTAWA CO. OKLA.

APR 22 2022

CASSIE KEY COURT CLERK

BY _____

AFFIDAVIT FOR: **ARREST WARRANT**

THE UNDERSIGNED UPON OATH DEPOSES AND STATES AS FOLLOWS TO WIT:

The following events took place in the city of Miami and the County Ottawa, State of Oklahoma

On the date of 02/05/2022 at approximately 22:22 hours Officers were called to the area of 1205 E Steve Owens Blvd. in the City of Miami, County of Ottawa, State of Oklahoma in reference to a male subject, who I later identified as Guang Xin Ye, in the roadway, more specifically the outside East bound lane of Steve Owens Blvd. that had possibly been hit by a vehicle. See associated Miami Traffic Collision Report Number 2202052224.

The first officer arriving at the scene (Officer B. Mullin) observed a citizen (Kedra Wade) attempting CPR on Ye.

Integris EMS was dispatched to the scene and ultimately were not able to resuscitate Ye and he was pronounced dead at the scene by EMS at 2240 hours.

I was the on-call detective on 02/05/2022. Corporal McDonald called my phone and requested I respond to a fatality vehicle vs pedestrian hit and run accident, in the 1200 block of Steve Owens Blvd. While in route, I spoke to Chief Anderson on the phone who advised that Ottawa County Deputies were called to the scene of a vehicle off the roadway on Highway 137, South of East 120 road.

I spoke to Ottawa County Investigator Holly McDaniel on the phone, she advised that the vehicle she was out with had been abandoned on the west side of 137 after it had been wrecked. Miami Detective Wright had responded to Ottawa County Investigator McDaniel's location on 137.

When I spoke to Det. Wright on the phone, he advised that he observed pattern transfer in the dust on the hood of the vehicle that had been wrecked and abandoned on Hwy 137. Det. Wright advised that he felt that the pattern transfer in the dust could be consistent with clothes that Ye was wearing.

Investigator McDaniel seized the vehicle, a dark gray Jeep Cherokee bearing Oklahoma Tag # CSD503 registered to Phillip and Mindy McBrien. The seized vehicle was then towed by Jason's Big Tow Wrecker, to the Ottawa County Sheriff's Office sally port where it was secured until I could get a search warrant written and signed the next day, reference search warrant SW-22-05.

Wyandotte Nation K9 Officer Hamblett Wrote in his statement that he and Ottawa County Deputy L. McDaniel were tasked with attempting to locate the owner of the vehicle that was found wrecked and unoccupied on Hwy 137. As the two were driving to the address that is listed on the vehicle's registration, they came across a green 4 door car traveling east bound on E 147 road in the immediate vicinity of the McBrien residence. Officer Hamblett advised that he turned around and got behind the vehicle in attempt to obtain the tag number off the vehicle in case the vehicle was somehow related to the investigation. Officer Hamblett said that the vehicle was bearing Oklahoma tag number JXB631 and was registered to Phillip Brown. Officer Hamblett advised that as he pulled up to the vehicle it pulled to the side of the road and stopped. As Officer Hamblett walked up to the driver's door of the vehicle the door opened and a male, identified as Phillip Brown, immediately told Officer Hamblett, "Honestly, I wouldn't even be on this road right now, if I didn't just help this lady that wrecked her car up here". Officer Hamblett asked Brown who he had helped. Brown said that she didn't tell him her name, but he seen McBride (believed that he meant McBrien) on her card when she tried to pay him for the ride. Brown told Officer Hamblett that he had gotten a flat tire and had to change the tire in the woman's driveway. Brown initially refused to tell Officer Hamblett what McBrien said happened and Officer Hamblett explained to Brown that an investigation was in progress and that Officers were trying to figure out the details. Brown said that he didn't see the accident but pulled up on it after the fact. Brown told Officer Hamblett that the lady was a little drunk. Brown was given a witness statement form to fill out and he returned it to the Miami Police Department a few days later.

Officer Hamblett advised that when he arrived at the residence, he drove up a long driveway. While driving up the driveway, he noticed the lights in the house were on and he could see a person moving inside of the residence. Officer Hamblett advised that as he got closer to the residence, the lights in the house were turned off. Officer Hamblett later observed the lights that he was seeing were in the living room and kitchen area of the house. Officer Hamblett shined his flashlight into the house through the window and observed a female standing in the dark kitchen staring out the window. Officer Hamblett later identified the female as Mindy McBrien.

Officer Hamblett writes in his statement. "Mindy met us at the front door and we began speaking to her. I asked Mindy if she knew where her vehicle was, and she said it was at her in-laws house. Mindy confirmed she drove a Jeep Cherokee. While speaking to her at the front door, Phillip arrived. I asked Mindy if she would be willing to come to the police department with us. She did not immediately answer. While speaking with Mindy and my initial observations of her; she appeared to be intoxicated based upon my training and experience. Mindy displayed the following signs of intoxication; thick slurred speech, unsteady on her feet, red blood shot eyes, and odor associated with the consumption of alcoholic beverages coming from her breath".

Brown writes in his statement, that at around 10:30 pm while driving home he noticed an SUV off the roadway in a ditch just past the Paddle Fish Research Center on Hwy 137. Brown advised that he stopped and offered to help and found a woman who was slurred a little in speech and asked her if she was ok. The woman who was later identified as Mindy McBrien said that she needed a ride home. Brown advised that his tire had blown out while the two were on their way to McBrien's house and he had to change the tire in her driveway. Brown advised that he changed the tire and then convinced McBrien to give him her husband's phone number so he could call her husband and tell him where her car was and that she was safe and give her husband his information. Brown advised that Mindy's husband is the one that told him that her name was Mindy. Brown wrote in his statement "if she killed someone, I'll do whatever to help".

I was able to interview Brown at the Miami Police Department at a later date. Brown said that he was headed

home and described it as he was "headed towards the twin bridges area". Brown said that he came up on a car in the ditch, so he pulled to the side of the road and turned on his hazard lights and went to check on the driver of the vehicle. Brown said that McBrien was still trying to get the vehicle out when he walked up to the vehicle. Brown said that when he asked her if she needed help, she advised him that she was a nurse and that she just needed to be pulled out or something. Brown said that McBrien kept repeating that she could help him out. Brown explained that he thought that McBrien was making romantic advances toward him and thought that is what she was meaning when she continued to tell him that she could help him out. Brown said that he asked McBrien if she could give him her address or tell him where she lived so he could drive her home. Brown advised that McBrien did not want to leave her vehicle but he finally talked her into getting out of the car and getting into his vehicle so he could drive her home. I asked Brown if McBrien was in the driver's seat of her vehicle when he was talking to her and he advised that she was. Brown said that McBrien was able to direct him to her house. Brown said, "she was not so drunk that she didn't know where she was going, but she was pretty drunk." Brown said that he got a flat tire on the way to her house and asked McBrien if she might have tools in her garage to fix it and McBrien invited him into the house. Brown said that he could tell that they had kids and that the house was huge. Brown said that he convinced McBrien to give him her husband's number so he could call him. Brown said that he was worried about McBrien's husbands' reaction if he came home and found him at his house with his wife. Brown said that McBrien told him that her husband's name was Phillip McBrien. Brown said that he called and talked to her husband (Phillip McBrien) and explained to him what was going on. Brown said that he got his tire changed and left. Brown explained that he did not know that McBrien had hit a pedestrian until he was told by the officers that stopped and talked to him as he was driving away from the McBrien's residence.

Upon my arrival to the area of the 1200 block of east Steve Owens Blvd. I observed that patrol units were blocking all the lanes of Steve Owens. I observed a white blanket that I later learned was covering the victim who was identified as Guang Xin Ye. I observed that Ye had a significant injury to his left forehead above his left eye. The injury was so severe that I could see exposed brain matter in the open head wound. Det. Barnes and Chief Anderson were on scene at the time of my arrival and photos had already been taken by Det. Barnes and evidence had been collected by patrol officers. Det. Barnes advised that Ye had been hit with such force that he was knocked out of his shoes and hat and upon his arrival both were laying in the roadway. Det. Barnes described the scene as having plastic car parts laying in various locations in the roadway that may have come off the suspect vehicle. The plastic pieces were collected and booked into evidence.

I was at the Miami police department attempting to locate an address for Ye, when I was advised that Wyandotte Nation Officer Hamblet and Deputy L. McDaniel had made contact with Mindy and Phillip McBrien at their residence located at 59500 E 147 Rd. and that Mindy was being driven by a friend to the police department to speak to me.

Upon Mindy's arrival to the police department, I went up front to speak to her. When Mindy stood up, I could see that she was unsteady on her feet. I asked Mindy if she would come back and talk to me, and she agreed. I walked with Mindy to the front interview room of the police department that is located only a few feet away from where I initially met with Mindy. When I got into the interview room and sat down with Mindy, I could smell an odor coming from her that is commonly associated with drinking alcohol. I advised Mindy that I knew that she was intoxicated, (she shook her head yes). I advised Mindy that because she was intoxicated, I did not feel like it would be fair for me to interview her that night. I asked Mindy to come and speak to me the next day at 1300 hours. Mindy agreed to come in the next day for an interview. Mindy did not show up for an interview the next day.

On February 7th, 2022, I wrote and was granted search warrant #SW-22-05 for Mindy McBrien's 2016 Jeep Cherokee VIN# 1C4RJFBG6GC334723 that was still secured in the Ottawa County Sheriff Department Salley Port. I then contacted Oklahoma Highway Patrol Investigator Dustin Thornton and requested assistance in

collecting the possible evidence from the vehicle.

On February 8th 2022 with the assistance of Oklahoma Highway Patrol Trooper Dustin Thornton and Trooper Austin Duncan, I executed the search warrant and collected multiple items of evidence to include possible blood, hairs and fibers that could possibly match back to Ye. Paint chips were also collected from Mindy's vehicle and sent to OSBI, and in the event that paint chips are found on Ye's clothing they may be matched. While executing the search warrant, I called Phillip McBrien and advised him of the search warrant and requested the keys to the vehicle. Phillip advised that he would get back to me on the keys. Phillip never called me back. I observed pattern transfer on the hood of the vehicle that in my opinion matched a crochet style sweater that Ye was wearing at the time that he was killed.

On February 10th I spoke to Randy Bridendolph. Bridendolph had information that he wanted to share about the hit and run. Bridendolph advised that he left for work on Saturday February 5th at a little after 10:00pm. Bridendolph said that he lives across from the pool at 730 B S.E. here in Miami. Bridendolph advised that he was driving east on Steve Owens Blvd. and he was in the outside lane when he came up on what looked to him to be a bike of some sort with a tail light on it. The bike was in the outside lane, so Bridendolph moved to the inside lane and went around the person on the bike. Bridendolph said that he looked in his rear-view mirror and seen a vehicle in the outside lane behind him and noticed that the vehicle did not move over into the inside lane to go around the bike as he did. Bridendolph advised that he found that odd, when he came up on the light at Steve Owens and Elm, he waited to let the vehicle catch up to him so that he could get a tag number. Bridendolph said that the vehicle stopped behind him and would not pull up next to him at Elm so he couldn't get the tag number then. Bridendolph said that after the light changed, he and the other vehicle continued to the next light (turnpike entrance and Steve Owens Blvd.) Bridendolph said when he got to the next light, he pulled into the turn lane because he was turning north. Bridendolph said that he had a red light at the turn lane and the vehicle in the east bound lane had a green light. Bridendolph said that the vehicle came to a stop in the outside lane. Bridendolph said that the light was green, but the vehicle stopped in the intersection. Bridendolph described that the vehicle was out into the intersection a full car length past the white line. Bridendolph said he took a mental note of the tag number on the vehicle but advised that he could only remember the last four digits and thought that the last four of the tag was T 503. The last four digits on Mindy McBrien's Jeep are D 503. Bridendolph described the vehicle as a charcoal gray Tahoe or Jeep Cherokee. Bridendolph said that he could not see the driver and thought that the windows were tinted, because he couldn't see them.

Trooper Thornton had removed the vehicle infotainment system and the Event Data Recorder (EDR) from the vehicle at the time that the search warrant was executed. On February 10th he called and advised that there were no events logged into the EDR. Trooper Thornton advised that this is common if the airbags on the vehicle are not deployed during the accident. The airbags on Mindy's Jeep were not deployed.

On February 11th Detective Wright went to the Elks Lodge and inquired about obtaining video from the surveillance cameras. Det. Wright spoke to Robin Priest, Kayden Jacobs, and Mark Priest. Kayden advised Det. Wright that he thought that the video only stores three days before it overwrites itself. Det. Wright confirmed the video was not available and asked if it was possible for us to take the drive and have it looked at by a forensic expert and see if the video could be recovered. Mark agreed that he would deliver it to the police department later that evening after he was able to obtain a replacement. Mark advised Det. Wright that he did review the footage from that night and watched a female leave from the side door. Mark said that she had left her husband who is a fireman sitting at the bar. Mark said she walked outside into the parking lot toward another vehicle but then got into her Jeep. Mark said that she then drove onto main street and went north.

Mark did bring in the drive and Sgt. Bissell received it and placed it into evidence.

Mark had used his cell phone to record some of the surveillance video that night and provided Det. Wright with a copy of that video. I viewed the cell phone video provided by Mark and observed Mindy McBrien walking out into the parking lot and getting into her vehicle alone. The video was time and date stamped at 02/05/2022 at 11:17 pm. Mark explained that the surveillance system time was an hour fast, so the time was actually 10:17 pm.

59 items of evidence were delivered to the OSBI lab including both trace and DNA evidence.

I obtained surveillance video from Estes Collison. The surveillance camera captures the south parking lot of the Elks Lodge located at 401 S Main in Miami. Mindy's vehicle can be seen leaving the Elks Lodge parking lot and heading north on main street.

I obtained surveillance video from BIA Chief Mullin of the surveillance footage from Otter stop located at 301 S Main in Miami, depicting Mindy's vehicle turning east bound from main street, onto Steve Owens Blvd.

I obtained surveillance video from Vapor Maven located at 1205 E Steve Owens Blvd. in Miami, depicting Mindy's vehicle east bound on Steve Owens Blvd. A small light, that I believe to be the headlight of Ye's scooter can be seen disappearing under McBrien's vehicle. Showers of sparks can be seen coming from the bottom of Mindy's Jeep, and moments later, first responders arriving and rendering aid to Ye.

I obtained surveillance video from Green Culture located at 1429 E Steve Owens Blvd. in Miami, depicting Mindy's vehicle continuing east bound on Steve Owens Blvd.

I obtained surveillance video from Berry's Auto Center located at 1410 E Steve Owens Blvd. in Miami, depicting Mindy's vehicle continuing east bound on Steve Owens Blvd. in the outside lane.

While conducting notification of death to Ye's family, I was asked about the scooter that Ye was known to ride. Ye's nephew Quan Xin showed me a picture of a scooter like the one Ye was riding. The scooter was equipped with a headlight and taillight. I believe that after McBride ran over Ye and his scooter, the scooter became lodged under the vehicle and drug down the road, causing the sparks that can be seen on the Vapor Maven surveillance video.

I along with other officers searched the area for the missing scooter but was not able to locate it. It is unknown at this time where the scooter went.

The following affirmation is endorsed with my electronic signature as defined as 12A § 15-102 and authorized by 22 O.S. § 7. I state under penalty of perjury under the laws of Oklahoma the foregoing is true and correct. 12 O.S. § 426.

AFFIANT:



Approximate Date/Time of Signature: 04/21/2022 06:16 PM
Location where affidavit was electronically signed: Miami Police Department

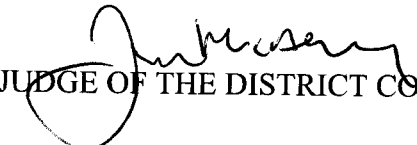
PROBABLE CAUSE DETERMINATION

I, the undersigned Judge of this District Court, reviewed the above and foregoing Probable Cause Affidavit, on the 22 day of April 2022, at 2:45 A.M./P.M. and make the following findings and Order pursuant to Gerstien V. Pugh 420 U.S. 103 (1975), and County of Riverside V. McLaughlin (1991) U.S. Lexis 2528):

The above and foregoing Affidavit contains sufficient probable cause to detain the Arrestee to await further proceedings.

The Court set an Appearance Bond in the amount of \$ 150.00

The Court denies Bond at this time.


JUDGE OF THE DISTRICT COURT

The above and foregoing Affidavit contains insufficient facts to show that there is probable cause to detain the Arrestee. The arrestee is ORDERED RELEASED FROM CUSTODY FORTHWITH.

JUDGE OF THE DISTRICT COURT

COPY

IN THE DISTRICT COURT OF THE THIRTEENTH JUDICIAL DISTRICT OF THE STATE OF OKLAHOMA
SITTING IN AND FOR OTTAWA COUNTY

THE STATE OF OKLAHOMA,

Plaintiff,

vs.

MINDY DIANE MCBRIEN

ADDR: 59500 E 147 ROAD
Fairland, OK 74343

SSN: ***-**-0732

DOB: May, 1974

Defendant(s).

Case No. CF-2022-66

FILED
DISTRICT COURT
OTTAWA CO. OKLA.

APR 22 2022

CASSIE KEY COURT CLERK

BY _____

FELONY WARRANT


STATE OF OKLAHOMA, COUNTY OF OTTAWA, TO ANY LAW ENFORCEMENT OFFICER:

YOU ARE HEREBY COMMANDED to forthwith arrest and take said **MINDY DIANE MCBRIEN** into custody for the offense(s) of:

- COUNT 1: MANSLAUGHTER--FIRST DEGREE, a FELONY, 21 O.S. § 711. \$100,000
- COUNT 2: LEAVING SCENE OF FATALITY ACCIDENT, a FELONY, 47 O.S. § 10-102.1. \$50,000

and bring her before me or some other Magistrate having cognizance of the case, to be dealt with according to law. You are further directed to execute this writ or warrant either in daytime or nighttime.

Bond for the release of the above named defendant, to guarantee said defendant's appearance in all the Court's proceedings herein, be and the same is hereby fixed in the sum of \$ 150,000, until the further Order of the Court. Dated this 22 day of April, 2022.



Judge of the District Court

Presenting Agency: MIAMI POLICE DEPARTMENT

Agency Case Number: 2022-0180

EXTRADITE / ENTER NCIC: YES NO

Circle ONE: LOCAL ONLY ALL STATES SURROUNDING STATES

Identifiers: Gender: Female Race: White
 Height: Eye Color:
 Weight: lbs. Hair Color:
 DL #: **** Markings:

OFFICER'S REPORT

STATE OF OKLAHOMA, COUNTY OF OTTAWA

Received the within writ on the ____ day of _____ and executed the same by taking into custody MINDY DIANE MCBRIEN and presenting her before the court this ____ day of _____.

Fees: Arresting _____ persons at \$ _____ each \$ _____
 _____ miles at \$ _____ per mile \$ _____
 TOTAL \$ _____

By: _____
Law Enforcement Officer