

INFORMATION

STATE OF CONNECTICUT
SUPERIOR COURT

JD-CR-71 R.L.V. 3-11

Disposition date

Police Case number

Agency name

Agency number

1100054516

Hamden Police

Title, Allegation and Counts

State of Connecticut vs. (Name of accused) **Powell, Mark D**
Residence (Town) of accused **North Haven**
Docket number **CR12-267291**

Address **90 Clintonville RD**
Date of birth **06/21/1962**

To be held at (Town) **Part A New Haven**
Geographical area number **GA-98**
Court date
The undersigned Prosecuting Authority of the Superior Court of the State of Connecticut charges that:

Count One — Did commit the offense of:
SEXUAL ASSAULT 1

At (Town) **Hamden** On or about (Date) **12/25/2011** In violation of General Statute number **53a-70**

Count Two — Did commit the offense of:
UNLAWFUL RESTRAINT 1

At (Town) **Hamden** On or about (Date) **12/25/2011** In violation of General Statute number **53a-95**

Count Three — Did commit the offense of:

At (Town) On or about (Date) In violation of General Statute number

See other sheet for additional counts
Date **1-5-12** Signed (Prosecuting Authority) *J M Cabata*

Court Action

Defendant advised of rights before plea
(Judge) (Date) Bond Surety 10 % Election (Date)
 Attorney Public defender Guardian Cash CT JY
Bond change Seized property inventory number

Count	Plea date	Plea	Plea withdrawn		Verdict finding	Fine	Remit	Additional disposition
			Date	New plea				
1						\$	\$	
						\$	\$	
						\$	\$	
2						\$	\$	
						\$	\$	
						\$	\$	
3						\$	\$	
						\$	\$	
						\$	\$	

Date	Other Court Action	Judge

Receipt number Cost IMP NCI Bond information Bond forfeited Forfeiture vacated Forfeiture vacated and bond reinstated

Application fee - receipt number if paid Circle one W I Q Program fee - receipt number if paid Circle one W I Q Probation fee - receipt number if paid Circle one W I Q

Prosecutor on original disposition Reporter/monitor on original disposition Signed (Clerk) Signed (Judge)

ARREST WARRANT APPLICATION

STATE OF CONNECTICUT

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JD-CR-64b Rev. 3-11
C.G.S. §54-2a
Pr. Bk. Sec. 36-1, 36-2, 36-3

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For Court Use Only
Supporting Affidavits sealed
Yes No

Police Case number 1100054516
Agency name Hamden Police
Agency number
Name (Last, First, Middle Initial) Powell, Mark D
Residence (Town) of accused North Haven
Court to be held at (Town) Part A New Haven
Geographical Area number GA-98

Race: White Sex: Male D.O.B: 06/21/1962

Application For Arrest Warrant

TO: A Judge of the Superior Court

The undersigned hereby applies for a warrant for the arrest of the above-named accused on the basis of the facts set forth in the: [X] Affidavit Below. [] Affidavit(s) Attached.

Date 1-5-12 Signed (Prosecuting authority) [Signature] Type/print name of prosecuting authority Eugene R. Coakley, Jr

Affidavit

The undersigned affiant, being duly sworn, deposes and says:

That the Affiant, Sergeant Colin Kearns, is a regular member of the Hamden Police Department, currently assigned to the Detective Division, and has been a member of said Department since May 20, 2002, and at all pertinent times mentioned herein acted in his official capacity as a member of said Department. The following facts and circumstances are stated from personal knowledge and observations as well as from information received from brother and sister officers acting in their official capacity.

That in accordance with the confidentiality provisions of CGS 54-86e, the name and address of the Complainant shall not be disclosed however she shall from this point forward herein be referred to as the Complainant, date of birth 10-4-1989.

That on 12-25-2011, at approximately 0309 hours, Officer John Glass responded to [redacted] Hamden, CT in reference to a fall victim. Upon arrival Hamden Fire Department (HFD) was already on scene treating the Complainant. HFD advised that the Complainant was intoxicated, fell backwards into a mirror, and struck her head. HFD stated that the complainant was breathing on her own, however, she was unconscious and was not responding to pain stimulus.

That an American Medical Response (AMR) ambulance responded to the scene and transported the Complainant to Yale-New Haven Hospital for additional treatment.

(This is page 1 of a 8 page Affidavit.)

Date 1-5-12 Signed (Affiant) Colin Kearns Sgt. C. Kearns #174
Jurat Subscribed and sworn to before me on (Date) 1-5-12 Signed (Judge/Clerk/Commissioner of Superior Court, Notary Public) [Signature] #160

Finding

The foregoing Application for an arrest warrant, and affidavit(s) attached to said Application, having been submitted to and considered by the undersigned, the undersigned finds from said affidavit(s) that there is probable cause to believe that an offense has been committed and that the accused committed it and, therefore, that probable cause exists for the issuance of a warrant for the arrest of the above-named accused.

Date and Signature Signature Signed at (City or town) New Haven On (Date) 1/5/12 Signed (Judge / Judge Trial Referee) [Signature] Name of Judge/Judge Trial Referee Blue

ARREST WARRANT APPLICATION

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CFS #: 1100054516

Name (Last, First, Middle Initial) Powell, Mark D	Residence (Town) of accused North Haven	Court to be held at (Town) Part A New Haven	Geographical Area number GA-98
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Affidavit - Continued Race: White Sex: Male D.O.B: 06/21/1962

That on 12-25-2011, at approximately 1730 hours, Officer Glass spoke to the Complainant via telephone regarding the incident. The Complainant stated that the only thing she remembers is dancing in the living room, falling backwards, and hitting her head. The Complainant stated that she did not remember anything after that. The Complainant stated that she suffered a minor concussion.

That on 12-28-2011 the Complainant contacted Officer Glass via telephone and disclosed to him that an AMR employee while being transported to the hospital had sexually assaulted her. Officer Glass was off duty at the time and directed the Complainant to contact the Hamden Police Department and report the incident. The Complainant did so on 12-29-2011 at 0002 hours. Officer Stoor investigated the complaint. The Complainant related to Officer Stoor that while being transported to the hospital she was awoken by one of the AMR staff members in the rear of the ambulance, when she felt her breast being touched, and rubbed forcibly. The Complainant also stated that the staff member had his fingers inside of the front of her pants penetrating her vagina. The Complainant stated she was very weak, but remembers yelling out to "stop". The Complainant indicated that she did not get a good visual of the staff member, but could remember that he was a white male with dark hair wearing a black hat.

That on 12-30-2011, the Complainant responded to the Hamden Detective Bureau and met with the Affiant and Detective Stewart. The Complainant indicated that on the evening of 12-24-2011 and early morning hours of 12-25-2011 she was at a Christmas party at ~~2100~~ Hamden, CT. The Complainant indicated that she had been drinking and became intoxicated. The Complainant indicated that she was dancing, tripped on a couch and struck her head on a large wall mirror. The Complainant indicated that a short while later she became unconscious in the kitchen prompting a call for medical assistance.

That the Complainant indicated she was transported via AMR Ambulance to Yale-New Haven Hospital. The Complainant indicated that while in transport she awoke in the ambulance to find an AMR employee forcefully manipulating her breasts with his hands and pinching her nipples, causing pain. The Complainant indicated that the AMR employee also had his hand down the front of her pants, underneath her underwear digitally penetrating her vagina with his fingers, causing pain.

That the Complainant indicated she was conscious for only a short period of time possibly thirty seconds to a

(This is page 2 of a 8 page Affidavit.)

Date	<u>1-5-12</u>	Signed (Affiant)	<u>Sgt C. Kearns #174</u>
Jurat	Subscribed and sworn to before me on (Date) <u>1-5-12</u>	Signed (Judge/Clerk/Commissioner Superior Court, Notary Public)	<u>W. Judge Ullida #160</u>
Reviewed (Prosecutorial Official)	Date	Reviewed (Judge / Judge Trial Referee)	Date
<u>S. M. Calvey</u>	<u>1-5-12</u>	<u>[Signature]</u>	<u>4/5/12</u>

ARREST WARRANT APPLICATION

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Name (Last, First, Middle Initial) Powell, Mark D	Residence (Town) of accused North Haven	Court to be held at (Town) Part A New Haven	Geographical Area number GA-98
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Affidavit - Continued Race: White Sex: Male D.O.B: 06/21/1962

minute while the incident was occurring. The Complainant indicated that she remembered her shirt and bra being pulled up and her breasts exposed. The Complainant could not recall the condition of her pants.

That the Complainant could only describe the AMR employee as a white male wearing a hat. The Complainant indicated that she would not be able to recognize this male if she saw him again.

That the Complainant indicated at the hospital she awoke briefly and was sedated, intubated and did not wake until approximately 0930 hours on 12-25-2011. The Complainant indicated that when she woke her friend Jay Ciliberti was in her hospital room. The Complainant indicated that the intubation tube was later removed and when she was able to speak she immediately told Ciliberti what had taken place in the ambulance. The Complainant indicated that Ciliberti was the only person in the room when she disclosed to him what had occurred. The Complainant indicated that she did not disclose what had occurred in the ambulance to any hospital staff.

That the Complainant indicated that she contacted Officer Glass, who was off duty, and advised him of what had occurred on the ambulance. The Complainant indicated she was advised by Officer Glass to report the incident to the Hamden Police as soon as she was able. The Complainant did so on 12-29-2011 at 0002 hours, with Officer Stoor.

The Complainant indicated that she was intoxicated at the time of her fall on 12-25-2011 consuming approximately five beers and four shots and also consuming one half of a percocet pill.

The Complainant later explained that she waited a number of days to report the allegations of sexual assault because she was scared and did not know how she wished to handle the situation. The Complainant gave the same explanation as to why she told Officer Glass on 12-25-2011 that she did not recall anything after she fell.

That on 12-30-2011 the Affiant and Det Stewart interviewed Jay Ciliberti. Ciliberti indicated that while at the party at ~~211~~ the Complainant was intoxicated, had fallen striking her head and became unconscious in the kitchen. A call for medical assistance was made and the Complainant was later transported to the hospital.

(This is page 3 of a 8 page Affidavit.)

Date	<u>1-5-12</u>	Signed (Affiant)	<u>Sgt C. Kern # 174</u>
Jurat	Subscribed and sworn to before me on (Date) <u>1-5-12</u>	Signed (Judge/Clerk, Commissioner Superior Court, Notary Public)	<u>LT. [Signature] #2160</u>
Reviewed (Prosecutorial Official)	Date	Reviewed (Judge / Judge Trial Referee)	Date
<u>[Signature]</u>	<u>1-5-12</u>	<u>[Signature]</u>	<u>1/5/12</u>

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Name (Last, First, Middle Initial) Powell, Mark D	Residence (Town) of accused North Haven	Court to be held at (Town) Part A New Haven	Geographical Area number GA-98
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Affidavit - Continued Race: White Sex: Male D.O.B: 06/21/1962

That Jay Ciliberti indicated a short time later he responded to Yale-New Haven Hospital to visit the Complainant. He was unable to do so due to her condition. Ciliberti indicated that prior to leaving hospital staff gave him the Complainant's clothes in a bag. He indicated that the clothes had been cut off the Complainant so he threw them away.

That Jay Ciliberti indicated he returned to the hospital on 12-25-2011 and was able to visit with the Complainant at approximately 0930 hours. Ciliberti indicated that the intubation tube was later removed from the Complainant and when she was able to speak she told him she had been sexually assaulted while being transported in the ambulance. Ciliberti stated "The first thing she actually said to me was she remembers waking up in the ambulance and the EMT was sticking his hands down her pants fingering her and pinching her nipples". Ciliberti indicated that the Complainant related to him that her vagina was sore.

That Jay Ciliberti indicated he did not tell any hospital staff what had happened because the Complainant asked him not to. He indicated that the Complainant was scared, embarrassed and did not know how to handle the situation.

That on 1-3-2012 the Affiant and Lt Wydra responded American Medical Response in New Haven and met with Operations Supervisor John Rossotto. The medical call at ~~██████████~~ was researched and the AMR staff, which responded there, was identified as Paramedic Mark Powell and Emergency Medical Technician Heather Gebhardt. Rossotto advised that as a paramedic Mark Powell would have been in the rear of the ambulance tending to the patient.

That on 1-3-2012 at approximately 1845 hours Mark Powell was interviewed by the Affiant and Det Stewart. Prior to the interview Powell was presented with a voluntary interview form, which he read, stated he understood, initialed and signed.

That Mark Powel indicated, among other things, both verbally and in a taped statement that on 12-25-2011 he was working as a paramedic with American Medical Response and Heather Gebhardt was working with him as an Emergency Medical Technician. That sometime after 0300 hours he and Gebhardt did respond to an unresponsive female at ~~██████████~~. Powell indicated that when he and Gebhardt arrived Hamden Fire Department personnel were treating an unresponsive female fall victim. Powell indicated that the female was

(This is page 4 of a 8 page Affidavit.)

Date <u>1-5-12</u>	Signed (Affiant) Colin Kearns <i>Sgt C Kear #174</i>
Jurat Subscribed and sworn to before me on (Date) <u>1-5-12</u>	Signed (Judge, Clerk, Commissioner Superior Court, Notary Public) <i>St. Mark Wydra #160</i>
Reviewed (Prosecutorial Official) <i>St. Mark Wydra</i>	Date <u>1-5-12</u>
Reviewed (Judge / Judge Trial Referee) <i>[Signature]</i>	Date <u>1/5/12</u>

ARREST WARRANT APPLICATION

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Name (Last, First, Middle Initial) Powell, Mark D	Residence (Town) of accused North Haven	Court to be held at (Town) Part A New Haven	Geographical Area number GA-98
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Affidavit - Continued Race: White Sex: Male D.O.B: 06/21/1962

back boarded, immobilized, and carried to the ambulance, with other standard medical procedures being done as well. Powell indicated that the female was then transported to the hospital utilizing a priority one lights and siren response. Powell estimated the trip to the hospital was approximately ten minutes.

That Powell indicated that Gebhardt was driving and he was in the rear of the ambulance tending to the patient. Powell initially indicated that he applied standard medical treatment to the patient and denied any sort of inappropriate touching of the female patient. Powell explained how he applied pain stimuli to her thumb and hand and got no response. He also checked her pupils and believed she was unconscious. Powell stated, "She was out."

That Powell later indicated that he may have accidentally brushed one of the female's breasts while moving a blood pressure cuff from one arm to the next and removing straps to do so. Powell then explained that the female's left breast became exposed while removing straps to move the cuff. He indicated that the female was wearing a halter-top shirt, which had come down exposing her breast. Powell indicated that he covered the breast by pushing the breast down and pulling the shirt up.

That Powell initially denied having any contact with the female's vagina. He later indicated that the female's vagina became accidentally exposed and he may have brushed her vagina with his hand. Powell later explained that he did in fact manipulate the female's vagina with his right middle finger. Powell indicated that he inserted his right middle finger into the female's vagina up to the first knuckle of said finger. Powell indicated that he manipulated the female's vagina for approximately five seconds. Without being asked to do so Powell demonstrated how he manipulated the female's vagina by moving his right middle finger up and down. Powell demonstrated this a number of times and at one point stated "I just diddled it."

That Powell went on to explain his reason for manipulating the female's vagina was to apply pain stimuli to elicit a response from or wake the female. Powell then indicated that he did pinch the female's left breast nipple to apply pain stimuli to elicit said response.

That Powell indicated that throughout the entire contact he had with the female at no point did she become responsive or conscious.

(This is page 5 of a 8 page Affidavit.)

Date 1-5-12	Signed (Affiant) Colin Kearns Sgt C. Kear #174
Jurat Subscribed and sworn to before me on (Date) 1-5-12	Signed (Judge/Clerk, Commissioner Superior Court, Notary Public) A. [Signature]
Reviewed (Prosecutorial Official) [Signature]	Date 1-5-12
Reviewed (Judge / Judge Trial Referee)	Date 1/5/12

ARREST WARRANT APPLICATION

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Name (Last, First, Middle Initial) Powell, Mark D	Residence (Town) of accused North Haven	Court to be held at (Town) Part A New Haven	Geographical Area number GA-98
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Affidavit - Continued Race: White Sex: Male D.O.B: 06/21/1962

That Powell indicated that in the past he had seen nurses use pain stimuli to the nipple on patients in a hospital setting and the technique can be used on both male and female patients. Powell indicated that he knew it was not an appropriate technique.

That Powell expressed remorse for what he had done, that he made a mistake and a serious lapse in judgment. Powell indicated that he had never done anything like this in the past and this was the first incident.

That Mark Powell did provide a voluntary taped statement. Prior to the statement Powell asked "Should I get a lawyer?" The Affiant and Det Stewart advised Powell that it was his decision if he wanted a lawyer. At no time did Powell unequivocally ask for a lawyer and he decided to proceed with the voluntary statement.

That on 1-4-2012 at approximately 0040 hours Heather Gebhardt responded to the Hamden Detective Division for an interview. Gebhardt indicated that on 12-25-2011 she was working as an Emergency Medical Technician with AMR. She indicated that she was working with Paramedic Mark Powell. Gebhardt indicated that she recalled responding to a medical at ~~312 Hill Street~~. She indicated that when they arrived on scene there was an unresponsive fall victim on the floor with the Hamden Fire Department rendering aid. Gebhardt indicated that patient was back boarded, place on a stretcher, brought to the ambulance and transported to the hospital. Gebhardt indicated that she was the driver and Mark Powell was in the rear of the ambulance giving care to the patient.

That Gebhardt indicated that she used a priority two response to the hospital, which was no lights, no siren. Gebhardt was confident she used a priority two response. Gebhardt explained that it was paramedic Mark Powell's decision on the type of response. She could not recall the length of time of the transport.

That Gebhardt indicated that she could see into the rear of the ambulance, glanced back intermittently and could see Mark Powell rendering care. She indicated that the lights were on in the rear of the ambulance. Gebhardt indicated that she did not see Mark Powell doing anything out of the ordinary, anything inappropriate or anything that would raise concern. Gebhardt indicated that she could see the left half side of the patient and did not see the patient's clothing moved or removed and she was not able to see any of the patient's intimate parts. Gebhardt did not notice the patient regain consciousness at any point during the transport.

(This is page 6 of a 8 page Affidavit.)

Date 1-5-12	Signed (Affiant) Colin Kearns Sgt. C. Kern #174
Jurat Subscribed and sworn to before me on (Date) 1-5-12	Signed (Judge/Clerk, Commissioner Superior Court, Notary Public) G. [Signature] #100
Reviewed (Prosecutorial Official) [Signature]	Date 1-5-12
Reviewed (Judge / Judge Trial Referee) [Signature]	Date 1/5/12

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Name (Last, First, Middle Initial) Powell, Mark D	Residence (Town) of accused North Haven	Court to be held at (Town) Part A New Haven	Geographical Area number GA-98
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Affidavit - Continued Race: White Sex: Male D.O.B: 06/21/1962

That on 1-4-2012 the Affiant received Mark Powell's AMR care report for the Complainant. Nowhere in said report did Powell note that he used pain stimuli on the complainant's nipples or vagina. A run sheet was also received which stated, among other things, that the transport to the hospital began at 03:40:49 and ended at 03:55:15.

That the complainant indicated on 12-28-2011 she had told James Miller what had occurred in the rear of the ambulance on 12-25-2011. On 1-4-2012 the Affiant interviewed Miller. Miller indicated that he did witness the complainant receive her head injury and later become unconscious in his kitchen. He indicated that everyone at the party was intoxicated including the Complainant. Miller indicated that he was present when medical care was given but was not outside when the complainant was put aboard the ambulance. Miller indicated that a day or two after the incident spoke to Jay Ciliberti who told him of the Complainant's allegations. He indicated that sometime after that the Complainant sent him text messages saying that something embarrassing happened in the back of the ambulance and if he knew any of the names of the AMR personnel that had responded, which he did not.

That the Complainant indicated that on 12-28-2011 she contacted her mother by telephone and told her what had transpired in the back of the ambulance on 12-25-2011. The Complainant's mother resided in New York State. On 1-4-2012 the Affiant contacted the Complainant's mother via telephone. The Complainant's mother indicated that on 12-28-2011 at 1711 hours she received a telephone call from the Complainant. The Complainant's mother indicated that the Complainant was upset and told her "she felt terrible because something happened in the back of the ambulance." The Complainant's mother indicated that the Complainant told her "The guy in the back of the ambulance violated me." That "She woke up and he was fingering me." And "I don't know what to do." The Complainant's mother indicated that she advised the Complainant to report the incident to the police. The Complainant's mother indicated that the Complainant told her "She was drunk and didn't know how she could prove it happened." The Complainant's mother asked the Complainant if she possibly mistook being catheterized. The Complainant told her "I've played it over in my mind a hundred times, I know it happened. I was drunk, but not drunk to the point where I'd lose my memory." The Complainant's mother again advised the Complainant to report the incident to the police.

Wherefore, the undersigned Affiant has probable cause to believe that the accused, Mark D. Powell, date of birth 6-21-1962, of 90 Clintonville Rd North Haven, CT, did commit the following crimes of Sexual Assault in the

(This is page 7 of a 8 page Affidavit.)

Date <u>1-5-12</u>	Signed (Affiant) Colin Kearns <u>Sgt C. Kear #174</u>
Jurat Subscribed and sworn to before me on (Date) <u>1-5-12</u>	Signed (Judge/Clerk, Commissioner Superior Court, Notary Public) <u>[Signature]</u>
Reviewed (Prosecutorial Official) <u>[Signature]</u>	Date <u>1-5-12</u>
Reviewed (Judge / Judge Trial Referee) <u>[Signature]</u>	Date <u>1/5/12</u>

ARREST WARRANT APPLICATION

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Name (Last, First, Middle Initial) Powell, Mark D	Residence (Town) of accused North Haven	Court to be held at (Town) Part A New Haven	Geographical Area number GA-98
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Affidavit - Continued Race: White Sex: Male D.O.B: 06/21/1962

First Degree 53a-70 and Unlawful Restraint in the First Degree 53a-95 of the Connecticut General Statutes.

(This is page 8 of a 8 page Affidavit.)

Date 1-5-12	Signed (Affiant) Colin Kearns Sgt C. Kearns #174		
Jurat Subscribed and sworn to before me on (Date) 01-05-12	Signed (Judge/Clerk, Commissioner Superior Court, Notary Public) Lt. Mark Miller #160		
Reviewed (Prosecutorial Official) Sgt. Calvino	Date 1-5-12	Reviewed (Judge / Judge Trial Referee) Dane	Date 1/5/12