

In the Circuit Court of the State of Oregon
For Multnomah County

Verified Correct Copy of Original 7/1/2019

STATE OF OREGON

Court Nbr 19-CR-40986 DA 2405017-1
Crime Report PP 19-209159

BALLOT MEASURE 11

FILED

Indictment for Violation of

JUL 01 2019

ORS 163.125 (1)
ORS 813.010 (2)
ORS 811.140 (3)

Circuit Courts
Multnomah County, Ore

Plaintiff,

v.

NICHOLAS PENA MARTINEZ
DOB: 11/19/1997

Defendant(s).

The above-named defendant(s) are accused by the Grand Jury of Multnomah County, State of Oregon, by this indictment of crime(s) of COUNT 1 - MANSLAUGHTER IN THE SECOND DEGREE, COUNT 2 - MISDEMEANOR DRIVING WHILE UNDER THE INFLUENCE OF INTOXICANTS, COUNT 3 - RECKLESS DRIVING, committed as follows:

COUNT 1

MANSLAUGHTER IN THE SECOND DEGREE

The said Defendant(s), NICHOLAS PENA MARTINEZ, on or about June 23, 2019, in the County of Multnomah, State of Oregon, did unlawfully and recklessly cause the death of LANCE HART, another human being, contrary to the statutes in such cases made and provided and against the peace and dignity of the State of Oregon,

The state further alleges that the offense resulted from the operation of a motor vehicle and the driver of the motor vehicle was driving while under the influence of intoxicants.

This count is a part of the same act or transaction as the conduct alleged in the other counts of this charging instrument.

COUNT 2

MISDEMEANOR DRIVING WHILE UNDER THE INFLUENCE OF INTOXICANTS

The said Defendant(s), NICHOLAS PENA MARTINEZ, on or about June 23, 2019, in the County of Multnomah, State of Oregon, did unlawfully drive a vehicle upon a public highway and premises open to the public, while under the influence of intoxicants, contrary to the statutes in such cases made and provided and against the peace and dignity of the State of Oregon,

This count is a part of the same act or transaction as the conduct alleged in the other counts of this charging instrument.

COUNT 3

RECKLESS DRIVING

The said Defendant(s), NICHOLAS PENA MARTINEZ, on or about June 23, 2019, in the County of Multnomah, State of Oregon, did unlawfully and recklessly drive a vehicle upon a public highway and premises open to the public, in a manner that endangered the safety of persons or property, contrary to the statutes in such cases made and provided and against the peace and dignity of the State of Oregon,

This count is a part of the same act or transaction as the conduct alleged in the other counts of this charging instrument.

Dated at Portland, Oregon, in the county aforesaid, on JULY 01, 2019.

Witnesses

Examined Before the Grand Jury
in person (unless noted)

- Travis Martin
Phillip Maynard
Andrew S Brooks
Brian D Hunzeker

Grand Jury Proceedings on:
June 27, 2019

A TRUE BILL

[Signature of Daniel C. Sheehan]

/S/ Daniel C. Sheehan
Foreperson of the Grand Jury

ROD UNDERHILL (883246)
District Attorney
Multnomah County, Oregon

By [Signature] Deputy

Security Amount (Def - MARTINEZ) \$250,000 + \$2,500 + \$2,500

AFFIRMATIVE DECLARATION

The District Attorney hereby affirmatively declares for the record, as required by ORS 161.566, upon the date scheduled for the first appearance of the defendant, and before the court asks under ORS 135.020 how the defendant pleads to the charge(s), the State's intention that any misdemeanor charged herein proceed as a misdemeanor.

Pursuant to 2005 Or Laws ch. 463 sections 1 to 7, 20(1) and 21 to 23, the State hereby provides written notice of the State's intention to rely on this ground for the imposition of consecutive sentences codified under ORS 137.123 on these counts or to any other sentence which has been provided to this defendant.

19CR40986
IN
Indictment
11293112
[Barcode]

Verified Correct Copy of Original 6/24/2019

In the Circuit Court of the State of Oregon for Multnomah County

Court Nbr 19-CR-40986 DA 2405017-1
Crime Report PP 19-209159

STATE OF OREGON,

Plaintiff,

v.

NICHOLAS PENA MARTINEZ
DOB: 11/19/1997

Defendant(s).

PROBABLE CAUSE AFFIDAVIT OF PROBABLE CAUSE
 FOUND NOT FOUND
TO SUPPORT CONTINUED DETENTION OF DEFENDANT
JUN 24 2019
[Signature]
JUDGE

FILED
JUN 24 2019
CIRCUIT COURT

I, Kelley A. Rhoades, swear that I am a Deputy District Attorney for Multnomah County and that I have reviewed the police reports which have been filed in this case by police officers; that the crimes charged against defendant(s) occurred in Multnomah County and that the probable cause for detention following the arrest of defendant(s) is as follows:

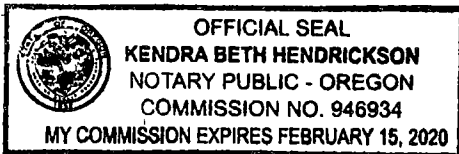
That on 6/23/19 at approximately 3:30 am, the Major Crash Team responded to a fatal crash investigation in the area of SE 78th and SE Flavel. Upon arrival, a bicyclist was found to be deceased and the driver of a motor vehicle, identified as Nicholas MARTINEZ, was still on scene. Officers spoke with a witness who had observed MARTINEZ and believed MARTINEZ was drunk. The witness saw MARTINEZ get into a silver Lexus at 7-11 on the corner of SE 82nd and SE Flavel. The witness then observed the vehicle leave the 7-11, westbound on SE Flavel, in an aggressive manner at "High rate of speed." As the vehicle was just getting out of sight, he heard the crash. He then went to the crash scene and confirmed it was the same car and MARTINEZ was the same driver. Officer Hunzeker spoke with MARTINEZ and observed an odor of alcoholic beverage coming from MARTINEZ'S mouth as he spoke, as well as slurred raspy speech and watery eyes. MARTINEZ told Officer Hunzeker that he was drinking Sprite and Tequila most of the day with his friend and had never drank Tequila before. MARTINEZ said he stopped by the 7-11 then continued westbound on SE Flavel St. He reported his speed got up to around 30-40 mph and he was looking down to take a bite of his Taquito. When he looked up a person with a bicycle was in the middle of the road. MARTINEZ said he applied his brakes, but could not stop and crashed into the bicyclist. Officer Hunzeker performed Standardized Field Sobriety Tests (SFST) and found 6/6 clues on the Horizontal Gaze Nystagmus test, 4/8 clues on the Walk and Turn and 1/3 clues on the One Leg Stand. Officer Hunzeker also observed MARTINEZ with a circular and front-to-back sway while conducting the SFSTs. Based on his training and experience, Officer Hunzeker believed MARTINEZ to be impaired to a noticeable and perceptible degree. MARTINEZ supplied a blood sample, which will be sent for forensic analysis.

I believe there is probable cause to believe the defendant, **NICHOLAS PENA MARTINEZ**, has committed the crime(s) of: COUNT 1 - MANSLAUGHTER II (RECKLESS), COUNT 2 - DUII - MISDEMEANOR (ALCOHOL ONLY) and COUNT 3 - RECKLESS DRIVING.

Date 6/24/19

Kelley A Rhoades
Signature
Kelley A. Rhoades, DDA, OSB# 093168

SUBSCRIBED AND SWORN TO BEFORE
ME ON THE ABOVE DATE:



[Signature]

Notary Public For Oregon:
My Commission Expires. 2/15/2020
 Deputy Clerk of the
Circuit Court
 Judge of the Circuit Court

AFFIDAVIT OF PROBABLE CAUSE