

STATE OF INDIANA)
) SS:
COUNTY OF MARION)

IN THE MARION SUPERIOR COURT
CRIMINAL DIVISION

STATE OF INDIANA)
)
 v.)
)
SHANE OSBORNE)

CAUSE NO. 49

MOTION FOR GREATER THAN STANDARD BOND

Comes now the State of Indiana, by its Deputy Prosecuting Attorney, and requests that the Court set bond in this matter in an amount greater than the standard bond. The State hereby notifies the Court of its objection to the Defendant's release on his own recognizance. In support of this objection, the State would show the Court as follows:

1. The following factors demonstrate the defendant's instability and disdain for the Court's authority to bring him to trial:
 - a. The above-named defendant has a history of failing to appear for court hearings.
 - b. The above-named defendant committed the present offense while released on bond or his/her own recognizance for a prior offense, that is: Domestic Battery as a Level 6 felony and/or Intimidation under 33C02-2102-F6-000061 in Henry County.
 - c. The above-named defendant has prior arrests in 10 different Indiana counties resulting in prior convictions in 7 counties.

2. Additionally, the defendant poses a **RISK TO THE PHYSICAL SAFETY OF ANOTHER PERSON OR THE COMMUNITY**:
 - a. As described in the probable cause affidavit filed in the case the defendant poses a direct threat to the welfare of his child, and his neighbors and their children, through his neglectful and careless actions;
 - b. The defendant is a convicted felon with a pending case and had an unsecured and loaded firearm in his residence.

Respectfully submitted,

/s/ Cathy McCallum

Cathy McCallum
Deputy Prosecuting Attorney
Marion County Prosecutor's Office
251 E. Ohio St., Suite 160
Indianapolis IN 46204
317-327-3522

**STATE OF INDIANA
MARION COUNTY, ss:**

**IN THE MARION SUPERIOR COURT
CRIMINAL DIVISION**

Cause No: 49

STATE OF INDIANA)
)
vs.)
)

INFORMATION

COUNT I

**DANGEROUS CONTROL OF A FIREARM
I.C. 35-47-10-6**

A LEVEL 5 FELONY

COUNT II

**NEGLECT OF A DEPENDENT
I.C. 35-46-1-4(a)(1)**

A LEVEL 6 FELONY

COUNT III

**NEGLECT OF A DEPENDENT
I.C. 35-46-1-4(a)(1)**

A LEVEL 6 FELONY

On this date, the undersigned Deputy Prosecuting Attorney of the Nineteenth Judicial Circuit, being duly sworn on his/her oath (or having affirmed), says that in Marion County, Indiana

COUNT I

On or about January 14, 2023, SHANE OSBORNE, being an adult, did recklessly provide a firearm to a child, to-wit: K. O., for any purpose other than a purpose described in Section 1 [35-47-10-1];

COUNT II

On or about January 14, 2023, SHANE OSBORNE having the care of K. O., a dependent, did knowingly place said dependent in a situation that endangered the dependent's life or health, to-wit: leaving K. O. unattended and in possession of a firearm, that is: a loaded handgun;

COUNT III

On or about January 14, 2023, SHANE OSBORNE having the care of K. O., a dependent, did knowingly place said dependent in a situation that endangered the dependent's life or health, to-wit: leaving K. O. unattended and able to leave the residence through the unlocked front door while only wearing a diaper;

all of which is contrary to statute and against the peace and dignity of the State of Indiana.

January 17, 2023

Date

RYAN MEARS
Marion County Prosecutor
19th Judicial Circuit

/s/ Cathy McCallum

Cathy McCallum, #14295-49
Deputy Prosecuting Attorney

State's Witnesses:

RAINERIO COMIA BGPD
ZACHARY DALTON BGPD
KELSEY GEMBALA BGPD
MATT A HICKEY BGPD
ZACHARY HORGAN BGPD
DEMARCUS JOHNSON BGPD
BRANDON L SHIPLEY BGPD
K. O,
Kendra Breedlove
Alexandra Miller
Pamela Osborne
C. P.
Nicole C Summers

AFFIDAVIT FOR PROBABLE CAUSE

STATE OF INDIANA, COUNTY OF MARION, SS:

I, Matt Hickey swear (affirm), under penalty of perjury as specified by IC 35-44-2-1, that the foregoing representations are true.

On Saturday, January 14th, 2023, at approximately 6:13 P.M., Beech Grove Police Department Sergeant Zachary Horgan and Officers Rainerio Comia and Kelsey Gembala were dispatched to [REDACTED] Diplomat Court Apt. [REDACTED] on the complaint of a person armed. Dispatch advised that the complainant, Nicole Summers, stated a 3 to 4 year-old juvenile male, wearing only a diaper, had a chrome handgun and was pointing it at people. Summers further stated the child lived in an upstairs apartment.

Officers arrived on the scene and Summers directed Officers Gembala and Comia to one of two upstairs apartments, numbered [REDACTED]. As officers were speaking with the occupants of apartment [REDACTED] Alexandra Miller, who lives in apartment [REDACTED], opened her door and told Officer Comia that the apartment in question was number [REDACTED]. At that point a toddler wearing only a diaper, later determined to be K.O. (age 4), opened the door to apartment [REDACTED]. Once K.O. opened the door for officers, they could not see an adult within the apartment at that time. Officer Gembala made multiple announcements with no response from anyone inside. Officers then entered the apartment to investigate if K.O. had been left there alone. As Officer Gembala walked into the living room, an adult male, later determined to be Shane Osborne, wearing only underwear, appeared at the end of the hallway. Osborne looked as though he had just been awakened by the officers. Officer Gembala explained to Osborne that they were investigating a complaint that K.O. was seen walking around with a possible handgun. Osborne explained that he had been ill all day and did not know that K.O. had left the apartment. He further advised there was not a firearm in the home, nor did K.O. have any toy guns. He assisted officers in a cursory look throughout the apartment and no firearm-like object was in plain view.

Sergeant Horgan went back downstairs to follow up with Summers in apartment [REDACTED]. While there, Sergeant Horgan also spoke with Summer's son, C.P. [REDACTED]. C.P. explained to Sergeant Horgan that he was able to get a very good look at the handgun that K.O. was holding. C.P. described the gun as having a chrome slide and a black frame. C.P. went on to say that K.O. was outside their door with the gun, which is downstairs from Osborne's apartment.

As Officer Gembala was leaving the apartment building, the neighbor from apartment [REDACTED], Alexandra Miller, approached Officer Gembala and informed her she had security camera footage of the incident. The video showed K.O. walking around the upstairs landing of the apartment building with a silver and black handgun.

Sergeant Horgan, Officer Comia, and Officer Gembala returned to apartment [REDACTED] d again

Affidavit for Probable Cause

contacted Osborne. Sergeant Horgan informed Osborne that they had video evidence that K.O. was outside the apartment with a handgun. Osborne said he did not have a handgun but indicated that a relative may have left one in the apartment. Sergeant Horgan explained to Osborne that they needed to find the handgun. Osborne said the only place that it could be was in his bedroom closet and pointed Sergeant Horgan in that direction. Sergeant Horgan searched the closet but did not locate the handgun.

Officer Comia was with K.O. in his bedroom and asked the child where he put his toy while displaying his hand in the form of a gun. K.O. then walked out of the bedroom and into the living room, where he went to a roll-top desk and said “pew pew”, while motioning toward the desk. Osborne then opened the desk roll top exposing a silver and black handgun lying on the desk. The gun was just as C.P. described and appeared to be the one Sergeant Horgan observed in the surveillance video.

Officer Comia photographed the gun, and Sergeant Horgan unloaded the gun and found it to have no round in the chamber, but it did contain 15 live rounds in the magazine. The gun was observed to be a Smith & Wesson SD9VE (serial # HFR0465) 9 mm handgun. Sergeant Horgan had dispatch check the weapon via IDACS/NCIC and the gun was not found to be stolen. The gun was then collected by Sergeant Horgan as evidence.

Officer Gembala spoke to Osborne about the handgun and he stated the following. The firearm was not his. It belonged to his cousin Johnny Snowden, with an unknown address or phone number, who sometimes left the handgun at the apartment when he felt mentally unstable. Osborne did not know the weapon was in the apartment at this time, nor that K.O. knew where it was located. He did not own any firearms because he had prior felony convictions. However, he allowed the weapon to be within his home from time to time and his fingerprints would be on it because he had handled it in the past. Today, he was ill and resting in bed all day. He believed K.O. was inside the apartment playing and watching television. However, he stated that he must have been very asleep because he did not notice K.O. leave the apartment. He was watching K.O. today due to the child's mother, Kendra Breedlove, being more sick than him and he was the child's sole care-giver at the time.

Officer Gembala contacted DCS and filed a report for the incident under DCS report #2753100. K.O. was transported to Breedlove's residence by Shane's mother, Pamela Osborne.

Osborne was arrested for neglect of a dependent (I.C. 35-46-1-4, Felony-6) and transported to the Marion County Jail by Officer Comia.

All events occurred in Marion County, Indiana

DATED: January 17, 2023

/s/ Detective Matt Hickey
AFFIANT