

STATE OF NEW HAMPSHIRE

14-169-WA

CHESHIRE COUNTY

8TH CIRCUIT - KEENE, CHESHIRE COURT

ARREST WARRANT

TO THE SHERIFF OF ANY COUNTY IN THIS STATE OR DEPUTY, OR ANY POLICE OFFICER WITHIN THE STATE:

WHEREAS, the Complainant, **Police Officer Benjamin E Nugent** of Keene Police Department in the County of Cheshire

has exhibited to me, Frank J Obuchowski, a Justice/Justice of the Peace in the County of Cheshire, his/her complaint upon oath against the Defendant,

JAMES M PHILLIPS, of [REDACTED] **ST KEENE, NH 03431**,

in the County of Cheshire for the crime(s) of:

631:2 SECOND DEGREE ASSAULT

WE COMMAND YOU to take the Defendant, if found to be in your precinct, and bring him/her before the 8TH CIRCUIT - KEENE, CHESHIRE COURT

Dated the 11 day of July, 2014

[Signature]
Justice/Justice of the Peace



RETURN

STATE OF NEW HAMPSHIRE COUNTY OF CHESHIRE

I have arrested the defendant and now have him/her before the Court as commanded.

7/14/14
Date

[Signature]
Name of Officer

#174

Patrol Ofc
Title of Officer

THE STATE OF NEW HAMPSHIRE
JUDICIAL BRANCH
http://www.courts.state.nh.us

Court Name: 8th Circuit - District Division - Keene
Case Name: James M Phillips Date of Birth: 8-22-89
Case Number: _____ Agency Case Number: _____
(if known)

ORDERS AND CONDITIONS OF BAIL

It is hereby ordered pending arraignment trial probable cause hearing appeal that the above defendant:

- I. A. Be released on \$ 1,000.00 personal recognizance and subject to conditions listed in Paragraph II and those conditions indicated in Paragraph III.
B. Be released on \$ _____ cash/ corporate surety bond subject to conditions listed in Paragraph II and those conditions indicated Paragraph III.
C. Be detained to permit revocation of conditional release.
D. Be detained for not more than 72 hours to allow for filing of a probation violation.
E. A hearing pursuant of RSA 597:2 III shall be conducted before the acceptance of bail.

II. Defendant's release is subject to the conditions that:

- A. Defendant not commit a federal, state or local crime while on release.
B. Defendant appear at all court proceedings as ordered.
C. Defendant advise the court in writing of all changes of address within 24 hours.

III. The court hereby determines that defendant's release under Paragraph I(A):

- will not reasonably assure the appearance of defendant as required.
 will endanger the safety of the defendant or of another person or the community.

By reason of such determination, the court imposes the following additional conditions that defendant:

1. shall have no contact with Matthew Alderisaw by mail, telephone or otherwise, and is further ordered not to interfere with this person at their residence, school or place of employment and additionally is ordered to refrain from going within 300 feet of where that person(s) may be.
 shall live at: _____
 shall not travel outside of _____
 travel restrictions: _____
2. refrain from possessing a firearm, destructive device, dangerous weapon, or ammunition.
3. refrain from ~~excessive~~ ^{any} use of alcohol, and use of a narcotic drug or controlled substance as defined in RSA 318-B.
4. comply with the following curfew: _____

Case Name: _____

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ORDERS AND CONDITIONS OF BAIL:

- 5. is ordered not to drive until defendant's license or privilege is restored by the Director of Motor Vehicles.
- 6. report to arresting law enforcement agency or _____ as required.
- 7. remain in the custody of _____, a responsible adult residing at _____, N.H., who agrees to supervise the defendant and to report any violation of a release condition to appear as required and will not pose a danger to the safety of any person in the community.
- 8. Sign a waiver of extradition before release on bail.
- 9. Other:

shall stay out of the Central Square of Keene NH.

- IV. The defendant is hereby advised that in the event the defendant violates any of the above conditions of release the defendant may:
- A. Be subject to immediate arrest and detention.
 - B. Be subject to imprisonment for contempt of court.
 - C. Be subject to immediate revocation of release.
 - D. Be subject to additional imprisonment of 1 year if the defendant commits a misdemeanor while on release
 - E. Be subject to additional imprisonment of 7 years if the defendant commits a felony while on release.

So Ordered:

Date July 16 2014

Richard Tracy
Justice / Bail Commissioner

I hereby acknowledge receipt of the above release and the penalties notification on the page 2 of this form

Defendant: James M. Phillips

Corporate Surety

c: 7-16-14

Case Name: _____

Case Number: _____

ORDERS AND CONDITIONS OF BAIL

PENALTY FOR OFFENSE COMMITTED WHILE ON RELEASE

- I. A person convicted of an offense while released pursuant to this chapter shall be sentenced, in addition to the sentence prescribed for the offense to:
 - a. A term of imprisonment of not more than 7 years if the offense is a felony; or
 - b. A maximum term of imprisonment of not more than 1 year if the offense is a misdemeanor.

A term of imprisonment imposed pursuant to this section shall be consecutive to any other sentence of imprisonment. Neither the penalty provided by this section nor any prosecution under this section shall interfere with or prevent the forfeiture of any bail or the exercise by Court of its power to punish for contempt, but section shall be construed to provide an additional penalty for failure to appear.

DETENTION AND SANCTIONS FOR DEFAULT OR BREACH OF CONDITIONS

- II. a. A peace officer may detain an accused until he can be brought before a justice if he has a warrant issued by a justice for default of recognizance or for breach of condition of release or if he witnesses a breach of conditions of release. The accused shall be brought before a justice for a bail revocation hearing within 48 hours. Saturdays, Sundays and holidays excepted.
- b. A person who has been released pursuant to the provisions of RSA 597:2 and who has violated a condition of this release is subject to a revocation of release, and order of detention, and a prosecution for contempt of Court under the provisions of RSA 597:7-a.
- c. The State may initiate a proceeding for revocation of an order of release by filing a motion with the Court, which ordered the release, and the order alleged to have been violated. The Court may issue a warrant for the arrest of a person charged with violating a condition of release, and the person shall be brought before the Court for a proceeding in accordance with the section.

RSA 641:5 TAMPERING WITH WITNESS AND INFORMANTS. CLASS B FELONY IF:

- III. a. Believing that an official proceeding, as defined in RSA 641:1, II or investigation is pending or about to be instituted, defendant attempts to induce or otherwise cause a person to:
 1. Testify or inform falsely, or
 2. Withhold any testimony, information, document or thing; or
 3. Elude legal process summoning him to provide evidence; or
 4. Absent himself from proceeding or investigation to which he has been summoned; or
- b. Defendant commits any unlawful act retaliation for anything done by another in defendant's capacity as witness or informant; or
- c. Defendant solicits, accepts, or agrees to accept, any benefit in consideration of defendant's doing any of the things specified in paragraph 1.

SUPPORTING AFFIDAVIT For REQUEST to ISSUE ARREST WARRANT

INSTRUCTIONS: A person seeking an arrest warrant shall appear personally before any justice or justice of the peace, and shall give an affidavit in the form hereinafter prescribed. The affidavit shall contain facts, information and circumstances upon which such person relies to establish probable cause for the issuance of the warrant, and the affidavit may be supplemented by oral statements under oath for the establishment of probable cause. The person issuing the warrant shall retain the affidavit and shall make note personally of the substance of any oral statement under oath supplementing the affidavit or arrange for a transcript to be made of such oral statements.

PROBABLE CAUSE IS DEFINED AS: "An apparent state of facts found to exist upon reasonable inquiry, which would induce a reasonably intelligent and prudent [person] to believe, in a criminal case, that the accused person had committed the crime charged.

State of New Hampshire

CHESHIRE COUNTY

KEENE DISTRICT COURT

07/11/2014

I, **Benjamin Nugent**, being duly sworn, herewith make application for the issuance of an Arrest Warrant against the defendant

JAMES PHILLIPS (08/22/1989):
Address: Homeless Keene, NH

I have information that a crime or offense has been committed by the defendant as follows:

That: On 06-03-2014 at approximately 1843 hours I was working for the Keene police Department as a uniformed police officer.

That: Units from the Keene police department were dispatched to Central Square for a disturbance.

That: It was reported that one person had been pushed into the fountain.

That: The fountain only has a small amount of water in it and the middle of the fountain is a tower of rocks.

That: At the time of my arrival the Keene Fire Department was already on scene treating a patient, later identified as the victim Matthew Oldershaw.

That: It was Oldershaw that had been pushed, causing him to fall into the water fountain.

That: Oldershaw was transported to the Cheshire Medical Center Emergency Room, and the next day to Dartmouth Hitchcock Medical Center in Lebanon New Hampshire, for treatment for his injuries.

That: Witnesses said that the suspect had left the scene towards Pedraza's restaurant.

That: Witnesses stated that the suspect was associated with Dorrie Omeara who I located across the street in front of Pedarza's restaurant.

That: I spoke to Dorrie Omeara who informed me that approached the water fountain to get a bucket of water to wash off sidewalk chalking's when she was accosted by Matthew "Yankee" Oldershaw.

That: Omeara said that as she grabbed more water, someone shoved Oldershaw into the water fountain.

That: The suspect was described by witnesses as a white male wearing a blue t-shirt jeans and a baseball hat.

That: I reviewed a video of the incident that had been posted online.

That: The video captures the moments just prior to the assault and behind Omeara can be seen the upper torso of what appears to be a male wearing a teal V-neck t-shirt.

That: There are also many other videos of capturing the pre and post assault happenings in Central Square.

That: In those videos can be seen a male, later identified as James Phillips, wearing a teal V-Neck shirt, baseball hat and jeans.

That: I have compared the video footage from the most recent booking photo of Phillips and they appear to be one in the same.

That: Witness, Andrew Giddens, reported to me that he saw the assault and had captured the suspect on video.

That: Giddens showed me a video on his phone, one that I have seen previously online.

That: The video showed James Michael Phillips wearing the teal V-neck shirt and baseball hat in Central Square around the time of the assault.

That: Giddens told me that he witnessed the male in the video, James Phillips, shove Oldershaw into the fountain.

That: Giddens told me that he was 100% sure that the male in the video was the same male he saw shove Oldershaw.

That: On 06/17/2014 at approximately 1900 hours while on patrol I saw James Phillips riding his bike north on Court St.

That: I positively identified him as James M Phillips DOB 08-22-1989 and confirmed that he was in fact the subject in the video.

That: I received and reviewed the medical records from Oldershaw's stay at the hospital.

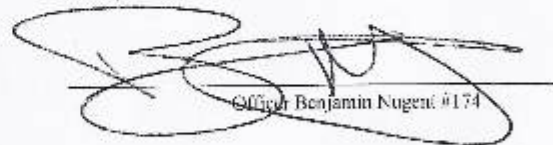
That: Oldershaw received several fractures to include to his ribs and scapula.

That: The records have been submitted to the case file as evidence.

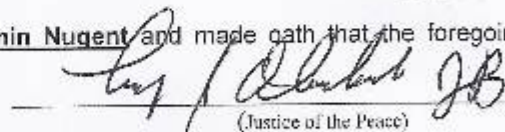
That: James Phillips did commit the crime of Second Degree assault in that he did, recklessly cause serious bodily injury to Matthew Oldershaw, to wit fractured bones, by shoving him causing him to fall into a stone filled water fountain.

Based of the foregoing information, there is probable cause to believe that the defendant did commit a crime or offense as stated above.

WHEREFORE, I request the issuance of an arrest warrant and an order for a duly authorized officer to take the defendant and bring **him/her** before the court having jurisdiction.

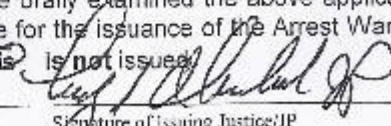


Officer Benjamin Nugent #174

Then personally appeared before me the above named **Officer Benjamin Nugent** and made oath that the foregoing affidavit is true.


(Justice of the Peace)

And I, Frank S O buchowski, have personally examined the Complaint against the aforesaid defendant and any information contained in the above affidavit, and have orally examined the above applicant. Based on such information, I conclude there ^(S) ~~is~~ **is not** sufficient probable cause for the issuance of the Arrest Warrant sought. Therefore, the application is ~~granted~~ **denied** and the Arrest Warrant ~~is~~ **is not** issued.




Signature of Issuing Justice JP

Official Title