

IN THE CIRCUIT COURT OF BOONE COUNTY, MISSOURI

STATE OF MISSOURI,)	
)	
Plaintiff)	
)	
v.)	Case No. 19BA-CR04782
)	
JOSEPH DUANE ELLEDGE,)	
)	
Defendant.)	

MOTION TO REDUCE OR AMEND BOND

COMES NOW Defendant by and through counsel, John P. O'Connor, and requests the Court to amend or reduce bond based on the following reasons:

1. The Defendant is 24 years of age, has no prior felony or misdemeanor arrests or convictions.
2. Defendant was born and raised in Oak Grove, Missouri and is a life-long resident of the State of Missouri.
3. Defendant is currently living in Columbia, Missouri attending the University of Missouri and has been attending since 2015 to the present.
4. Defendant is currently enrolled and is 12 credit hours away from completing his bachelor's degree in Mechanical Engineering with a 3.6 grade point average. He was scheduled to graduate December, 2019.
5. Defendant has been on the Dean's List at the University of Missouri every semester he has attended in his college career.
6. Defendant is a member Pi Tau Sigma National Honor Society of Mechanical Engineers.

7. Defendant has worked summers and during the school year as part of his internship at Leggett & Platt Engineers and Nanova Biomaterials in Columbia, Missouri.

8. Defendant has been promised a job at Leggett & Platt Engineers, Carthage, Missouri at a salary of approximately \$50,000 a year upon his completion and graduation in December, 2019. Defendant was scheduled to begin his job January 2020.

9. The Defendant is charged with a “D” Felony and is eligible for probation.

10. Defendant has no prior history of violence of any type.

11. Defendant scored a 2 on the bond investigator’s Risk Assessment Report on a scale of 0 to 25, categorizing him as low-risk, the lowest level of this assessment. See Exhibit 1. For one of the two points he was given, the defendant could not verify sufficient means of support. He is a student living off student loans at this time.

12. On October 25, 2019, after Defendant was taken into custody, he cooperated with detectives, and answered their questions in the present case. The Defendant was then charged with this offense. It is important to note, also when stopped by detectives, the defendant’s mother was in the car. She was separated from her son by detectives. Mrs. Elledge advised detectives they were going to her Blue Springs home for the weekend and returning to Columbia on Sunday. (This is significant because detectives failed to share this information in their Probable Cause Statement, or with Prosecutors, or with the judge who issued a warrant in this case).

13. Prior to October 25, 2019 and after reporting his wife missing after a day and a half of her not coming home, the Defendant cooperated fully with Columbia law enforcement officers. He waived his Miranda rights and talked to Columbia Police detectives for several hours until they were done asking questions and they released him. He cooperated every time the police came to his house to ask further questions. He signed every consent to search they asked

him to sign. The only time he advised the police that he was no longer going to talk with them is after he hired counsel in this case on October 21, 2019. See Exhibit 2, Affidavit of Patrick J. O'Connor, attorney at law.

14. On October 25, 2019, when the Defendant was seen packing items at his residence when the detectives arrested him for questioning in the alleged abuse allegation, the Defendant had only the amount of clothing and other necessary essentials for a weekend trip to his mother's house in Blue Springs, Missouri. At that time and place, the Defendant had every right to go anywhere in the United States he chose because he was not under any criminal charge or not under any direction from any court restricting his travel. The list of the items in the vehicle at the time of this stop of the Defendant on October 20, 2019 were the following items:

- a. Pack and Play and mattress
- b. High chair (foldable)
- c. Child's Food: est 15 prepackaged food, est. 3-5 snack packs in baggies and possibly one container of snacks; gallon of whole milk (abt 1/2 full), 2-3 pears, 2 sippy cups and 2-4 spoons
- d. Child's clothes: about 8 changes of clothes, est. 30 diapers, 1 container of wipes and Desitin, 1 bath towel, 3 blankets
- e. Child's toys: 1 medium cloth bag of toys and books
- f. Jean: 1 grey travel weekender bag: makeup holder with makeup and cleansers, few shirts, pants, undergarments, socks, curling iron, shoes.
- g. Joe: 1 orange duffel bag: 3 shirts, 1 pair sweatpants, socks, toothbrush, toothpaste, 1 brush.

These items are consistent with a weekend trip to Blue Springs.

15. As further proof that the defendant and his mother were going to her Blue Springs home for the weekend, the following exhibits are text message conversations of the defendant's mother with the following friends and relatives: Shelly, Richard, Todd Geringer, LiLi, Pat

Spiegler, Marilou Kruch, Shelby Kruch, Dawn, Clara, and Elaine. See Exhibits 6-13. There are additional text messages between Joseph Elledge and Matt Smith exchanged on 10/23/2019 in which Joseph states that he is “coming to KC this weekend,” and would “probably be there Friday afternoon,” clearly indicating a weekend trip to Kansas City. (see Exhibit 14)

16. Before his arrest on October 25, 2019 on this offense, he had hired attorneys to represent him and he continued to go to class at the University of Missouri-Columbia. All indications that he had no intention to flee the jurisdiction.

17. The Defendant’s mother, Jean Elledge, as can be seen from Exhibit 3 of this Motion, has filed a Petition for Appointment of Guardian and Conservatorship of the child victim in this case.

18. As can be seen from those filings, the Defendant has consented to his mother to be appointed guardian of the child and the child will be residing at 4816 S.W. Marguerite, Blue Springs, Missouri, 64015.

19. As a result of Defendant’s mother, Jean Elledge having custody of the child, the Defendant will not be in contact with the child as per the court order in this case. Thus, the concern for the welfare of the victim is alleviated. It has also come to attention of counsel that the parents of the mother of the minor child has also filed for emergency custody. Regardless of who is awarded custody the defendant will not be allowed contact with the minor child if so ordered by this Court.

20. I would highlight the Court’s issuance of the warrant for arrest in which there are two boxes for the judge to select and after reading the Probable Cause and talking to detectives, the Court checked one box, the Defendant “will not appear on summons;”. The Court did not check the box that he was a danger to the victim, community or another person. See Exhibit 4.

There is no evidence he is a danger to this victim and there is no evidence, at this time, that he is a danger to the community or another person.

21. The only thing cited by the State that he is a flight risk is based on him packing items from his house in preparation for what they say to leave for an unknown period of time. I remind the Court again that at the time he was pulled over, October 25, 2019, there was no charge pending, there was no necessity for him to stay in the jurisdiction and, after the police talked with him and pulled his mother aside, of which she will be here to testify, she advised them of what their plans were. Those plans were to go to her home in Blue Springs, Missouri. I assume that was not in the State's Bond Motion because the detectives failed to provide that critical information.

22. When arrested by Columbia Police on October 25, 2019, the defendant did not have a passport on his person. Defendant has a passport which I have in my possession from his mother and will tender to the court as part of the court's consideration of amending or reducing the bond.

23. In light of the new Supreme Court rule 33.01, regarding bonds which went into effect on July 1, 2019, the court must take into account the following: (1) the nature and circumstances of the offense charged; (2) the weight of the evidence against the defendant; (3) the defendant's family ties, employment, financial resources, including the community; (4) the defendant's record of convictions; (5) whether the defendant was on probation, parole, or release pending trial or committed; and (6) a validated evidentiary-based risk assessment tool approved by the Supreme Court of Missouri.

24. The defendant would argue that there are conditions, or a combination of conditions, that would ensure the safety of the community, and defendant is not a flight risk, and

there are reasonable grounds to believe he will appear on all court dates.

25. The defendant would request the court to consider electronic monitoring, house arrest with electronic monitoring, or electronic monitoring with house arrest and GPS tracking, or any other condition or conditions to ensure safety to the public and the defendant's appearance.

26. The Bond Investigator report in Bold letters states the defendant appeared to be leaving the jurisdiction at time of his arrest clearly implying he was running away. Secondly and more troubling the investigator stated the bond should remain the same because he is suspected in his wife's disappearance. The defendant is not charged in this case with any criminal offense regarding his missing wife. The defendant is not the only suspect in this case, the defendant's wife had been exchanging sexually explicit texts with another individual.

27. Defendant respectfully requests this court to consider this bond on the offense which is he charged, not suspicion of a crime he is not charged.

28. As it relates to danger to the community, there is no evidence to support that the defendant is a danger to the community. Judge who issued and signed the warrant for the defendant's arrest and set the \$500,000 bond cash-only did not mark the box that the defendant is a danger to the crime victim, the community or another person. It is clear the Judge marked flight risk because of the State's motion which was inaccurate per the information contained previously in this motion. See Exhibit 5.

WHEREFORE, Defendant respectfully requests the court to amend or reduce the bond and set any and all conditions the court deems appropriate.

Respectfully submitted,

/s/ John P. O'Connor

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ATTORNEYS FOR DEFENDANT

CERTIFICATE OF SERVICE

I hereby certify that on this 5th day of November, 2019, a true copy of the foregoing document was filed utilizing this Court's ECF system, and that a copy of the foregoing document was then served via this Court's system for electronic distribution to all counsel and parties of record.

/s/ John P. O'Connor