COUNTY OF HERKIMER STATE OF NEW YORK
LITTLE FALLS CITY COURT

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IN THE MATTER(S) OF:
THE PEOPLE OF THE STATE OF NEW YORK,

Plaintiff;

Docket Nos:
CR-00349-22

v.

JORDAN BORMANN,
Defendant.

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DATE: **October 19, 2022 at 11:40 a.m.**
Arraignment

HELD: 659 East Main Street
Little Falls, NY 13365

BEFORE: **HON. JOSHUA P. BANNISTER, JUDGE**

APPEARANCES: **JOSEPH MACRI, ESQ.**
-Attorney for Mr. Bormann

ALSO PRESENT: **Jordan Bormann**

Digitally Recorded Proceeding Transcribed by:
SUSAN L. PELLEGRINI, 518 COURT TRANSCRIPTION
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THE COURT: All right. This is the case of the People of the State of New York v. Jordan Bormann. Sir, is that you?

MR. BORMANN: Yes.

THE COURT: And what's your date of birth?

MR. BORMANN: 5/1/01.

THE COURT: Ok. Excuse me, ok. So, today is an arraignment. You have a charge against you of Assault in the 2nd Degree. You have the right to have an attorney today and each stage of this proceeding. Today, Mr. Macri, Joseph Macri, is appearing virtually. Excuse me. Do you consent for him to represent you for today's purposes? Ok. So, he's also virtual. So, after COVID, we've got a lot of computer equipment and have allowed people to appear virtually when it's convenient. Sometimes for health reasons, even though that's kind of coming to an end. But other times for convenience. Do you consent for him to be virtual or do you want him to come down and sit next to you?

MR. BORMANN: That's fine.

THE COURT: Ok. So, you had an opportunity to speak with him?

MR. BORMANN: Yep.

THE COURT: Ok. So, sir, are you going to hire your own attorney or are you going to apply for assigned

counsel?

MR. BORMANN: Apply for assigned counsel.

THE COURT: Ok. So, there's a form to fill out. It's based on financial need. So, did you fill it out already?

MR. BORMANN: No, not yet.

THE COURT: Ok. So, you can fill that out and then the Clerk will process it. And if you're financially qualified, they'll get you an attorney. In any event, because it's an arraignment, you have the right to counsel today. The other thing is you have a single charge of Assault in the 2nd Degree. There's been a felony complaint that's filed with this Court. Did you get a copy of that?

MR. BORMANN: Yes.

THE COURT: Ok. So, Mr. Macri, do you want me to read that document from top to bottom or do you waive a reading?

MR. MACRI: Judge, we'll waive a reading and enter a not guilty plea.

THE COURT: Ok. The other thing is you have the right to have a prompt felony hearing to determine if there's reasonable cause to hold you on this charge. Your attorney probably wants me to address the bail issue first. There was a request for bail. The People made a recommendation for $2,500 cash, $5,000 bond, $5,000

partially secured bond. Do you want to be heard on that, Mr. Macri?

MR. MACRI: Yes, Your Honor. I would request for sir to be released on his own recognizance. I believe he has no criminal history. This is his first arrest, Your Honor. He does live locally within the Village of Herkimer. There's no reason to believe he would be a flight risk, Judge, or no reason to believe he wouldn't appear at a future court dates. In regards to the victim, I believe, also, he'd be willing to consent to a stay away order of protection temporarily while this case pends, Judge, in lieu of bail being set.

THE COURT: Ok. Do you mind if I ask him some questions, Mr. Macri?

MR. MACRI: No, Your Honor.

THE COURT: All right. So, the Court in all cases, unless otherwise provided by law, must impose the least restrictive kind and degree of control or restriction as necessary to secure the principle's return to Court when required. There's various factors that go into that. Sir, did you finish high school?

MR. BORMANN: Yes, I'm in college.

THE COURT: And you're in college right now?

MR. BORMANN: Yeah.

THE COURT: Where at?

MR. BORMANN: Utica. I want to be a teacher.

THE COURT: Utica College or MVCC?

MR. BORMANN: Utica College. Everything I'm doing right now so far is on computer. But--

THE COURT: Ok. How far along are you?

MR. BORMANN: I just switched majors so I just had to restart everything. I went from business major to early childhood development.

THE COURT: How many years have you been going to school?

MR. BORMANN: This will be my third year. I did two years of Business Management and this will be the first year for going to be a teacher.

THE COURT: So, you have about 60 credits already or no?

MR. BORMANN: A little less than that.

THE COURT: Ok. So, seem to be kind of going part-time?

MR. BORMANN: Yeah. Because I do work too.

THE COURT: And where do you work?

MR. BORMANN: Lowe's. Unloading.

THE COURT: The Herkimer one or Utica?

MR. BORMANN: Herkimer.

THE COURT: Full-time, part-time?

MR. BORMANN: Part-time.

THE COURT: How many hours a week?

MR. BORMANN: Probably like 25 to 30.

THE COURT: And how much do you make there?

MR. BORMANN: $15 something an hour.

THE COURT: And sir, you live at the 328 Pleasant Ave?

MR. BORMANN: Yes.

THE COURT: Ok. And who lives with you there?

MR. BORMANN: It's my parents and my three siblings.

THE COURT: How old are they?

MR. BORMANN: The three siblings are 20, 16 and I believe one just turned 13.

THE COURT: Ok. Does anybody else live with you there?

MR. BORMANN: Parents.

THE COURT: Ok.

MR. BORMANN: They're both 45.

THE COURT: All right. So, what do your parents do for a living? Do they work?

MR. BORMANN: My dad's ex-military. And mom is actually looking for a job at the current time.

THE COURT: Your dad's retired from the military?

MR. BORMANN: Yes, sir.

THE COURT: And what did he do?

MR. BORMANN: He was a mechanic.

THE COURT: Do you know his highest rank?

MR. BORMANN: I do not. We don't really talk about all that that much.

THE COURT: Ok. Do you know if they own their home?

MR. BORMANN: No, we're in the process of buying one. The one we're in is not--

THE COURT: All right. So, you guys rent. Do you have other family in the area?

MR. BORMANN: I have an aunt in Ilion.

THE COURT: Ok. So, you're from Herkimer County? Or the area?

MR. BORMANN: No, I'm not, no. I was born here but we moved up north to Governeur. We recently moved back down here when my grandparents got sick. So, my parents (inaudible) took care of them.

THE COURT: Ok. That's because your dad was at Fort Drumm or something?

MR. BORMANN: Correct.

THE COURT: Ok. But your extended family's here?

MR. BORMANN: Yes.

THE COURT: Ok. All right. So, it doesn't appear that you have a criminal history. Do you have bank accounts?

MR. BORMANN: I do but one's negative and that's the only one I have.

THE COURT: Do you have like retirement accounts or investments or anything?

MR. BORMANN: No, not yet. I was waiting until after college to do all that.

THE COURT: Ok. Do you own a car?

MR. BORMANN: No.

THE COURT: Do you own any guns?

MR. BORMANN: No.

THE COURT: All right. So, if I were to set bail, do you think your parents would be able to help you out? Like do you know if they bank accounts or--

MR. BORMANN: I believe they would help me out. But I'm not sure. They have no money. Like I said, they were in the process of buying a house.

THE COURT: Didn't they already make the down payment?

MR. BORMANN: Yeah, they're just waiting on everything to get sent over to them.

THE COURT: All right. So, you are charged with a Class D Felony Assault in the 2nd Degree. The police

report says it's in subdivision A of the accusatory instrument has on subdivision 12, which appears to be proper, because the allegation is that you pushed somebody who's over 65 years old and there's more than a 10 year age difference between the two of you. So, that is a serious thing. You do have the right to have the People prove this at a trial. It wouldn't necessarily be in this Court. It would be in County Court because it's a felony. So, this Court only keeps things during the pretrial proceedings, unless it gets worked out with a disposition here for a misdemeanor or below. Unless that happens, it will go to County Clerk on either an indictment or a superior court information and you have the right to have a trial where the People have to prove each and every element of these crimes beyond a reasonable doubt. You also have the right to have a felony hearing. So, if I were to set bail and you go to jail, you would have the right to come back within about a week and to see if there's reasonable cause to hold you on a felony. And that's where the police and the People would have to bring in, you know, a witness to testify about this and see if there's reasonable cause to charge you. But with respect to the bail, so, I reviewed your education. You're in college. You're working part-time. You live with your family. Maybe you didn't live here your whole life but it

appears you're from the area. You have other family in the area. The charges are quite serious. It's an Assault 2nd Degree, so it's a Class D violent felony. You could go to prison on it. But after reviewing the other factors, most certainly if you were to go to trial and lose, that certainly if the facts warrant it, you could do a prison term of up to 7 years with 5 years post-release. But because you don't have a criminal conviction record, you don't it doesn't appear that you have any youthful offender or juvenile delinquency charges. Because of that, you also wouldn't have any prior bench warrants. It doesn't appear that your financial circumstances are that great, although it does appear that your parents would be able to help you out with bail. Because of your lack of a criminal history, you don't have violations of orders of protections, at least none that are known to the Court. It doesn't appear that a firearm was involved. However, there are allegations about serious harm. Pushing somebody who's about 75 years old just before their 75th birthday on the sidewalk and causing some damage. So, that is serious. But, you know, the standard is I have to impose the least restrictive kind of bail. The bail recommendation is, you know, in my estimation, you know, a little light. You know, just by looking at the charges, however, you know, I got to not just look at the charges

and the facts. I also have taken into consideration your individual financial circumstances, things about your criminal history, your family composition and such. When do you have to go to college again? Do you go tomorrow or Friday or…

MR. BORMANN: What's today? Wednesday?

THE COURT: Today's Wednesday.

MR. BORMANN: I have to go Friday.

THE COURT: Ok. When do you go to work again?

MR. BORMANN: Today at 6. I work every day besides Tuesdays and Saturdays and school is every day besides Saturdays and Sundays and Thursdays. I don't know why they cancelled my Thursday classes.

THE COURT: All right. So, it wasn't an entirely high bail recommendation. But because of your lack of a criminal history, I'll release you on electronic monitoring. So, you'll need to report to the Probation Department and they'll put an ankle bracelet on you where they can monitor you and make sure you're coming back to Court. They might also put other restrictions on it. So, I could set bail. It was a fairly low bail recommendation. I figured it probably would have been a little higher. But it wasn't that high. It was $2500 cash, $5,000 bond but, you know, as an alternative to going to jail, they'll put you on the program. So, it's

not just you got to wear this ankle bracelet. You also have to do what they tell you. So, you know, if you're going out to bars and such, they might have a problem with it. You know, maybe you're 21, you can drink but, you know, they're probably, unless you're at work or you're going to school, they're probably going to want you to stay at home and stay out of trouble. We're also going to issue an order of protection for the victim here. So, you've got to leave this individual alone. I understand you might be neighbors. Possibility you might, you know, share a driveway or, you know, be close. So, you know, if you're outside and that person's outside, you probably want to go back in. You know, if you're going to be in your driveway and there's a shared driveway, maybe, you know, you want to, you know, exit as soon as possible. You know, you certainly don't want to have any problems. So, you know, if one's at 328 and the other is at 330 or 331, you know,--

MR. BORMANN: I do.

THE COURT: Well, maybe you should address your attorney. But, you know, you got to leave this guy alone.

MR. BORMANN: My question is when I am coming home from work and stuff and they are standing there in front of my house, because I've they've done this before, what do I do? Do I just call the cops?

MR. MACRI: I would have, obviously, I wouldn't have any communication with them. If you were to have any verbal communication, that's clearly going to be a violation of the it's going to be a violation of the order of protection.

MR. BORMANN: Ok.

MR. MACRI: If they're standing, unfortunately, if they're in street or the sidewalk, that's, you know, public. They're allowed to. If they're on your property, I'd call the cops and see if that could be trespassing. But if they're in the street or sidewalk, they're allowed to. I wouldn't speak to them and I would go inside the home and disengage from them.

MR. BORMANN: Ok. Thank you.

MR. MACRI: And, if for some reason it seems like it's occurring frequently, you know, don't be afraid to let Herkimer PD know. I believe the DA's office and the local police departments aren't usually too happy when people are using, if they were to be using, the order of protection, you know, against you maliciously.

MR. BORMANN: Ok.

THE COURT: So, Mr. Macri, can you stay with this case, or no?

MR. MACRI: Judge, is this going to pend in Village of Herkimer?

THE COURT: No, it's going to come back here. So, it's a felony charge. It was filed in the Village of Herkimer. However, you know, as you know, Mr. Macri, maybe your client doesn't so I'm bringing it up, when the arraigning court arraigns somebody on a felony, you know, they have the option of returning it to the court where it came from or keeping it. With a misdemeanor, we just have to go back. But when it's a felony, we're allowed to keep it. So, we'll keep the case. And sir, that's actually more convenient for you because we have court more often. So,--

MR. MACRI: Judge, my only issue is I think there may be a conflict going forward and I don't want to I don't want to take the case and then have an issue and have to, you know, relieve myself of counsel.

THE COURT: Ok. Yeah, so there is a lot of names on interested parties, witnesses, victims and such. So, you know, I think your attorney is kind of saying, you know, maybe he's represented one of these people before. Who knows. But we'll allow… We'll make sure. We'll process your application. If you qualify, we'll make sure we have an attorney back for you. When's a good day to bring him back?

COURT CLERK: The next one we would have is on November 2nd.

THE COURT: All right. So, sir, we're going to have you come back on November 2nd at 1:00 here. So, I'm signing an order for electronic monitoring. So, you need to go over to the Probation Department. You're not on probation but as an alternative of going to jail. You got to do what they tell you to do. I'm also giving you an order of protection to stay away from Stephen Berry. Stay away from his home, school, business, place of employment. Refrain from communication or any other contact by mail, telephone, email, voicemail or any other electronic means with Stephen Berry. Refrain from harassing, intimidating, threatening or otherwise interfering with him or any of the witnesses of this case. And refrain from remotely controlling, monitoring or otherwise interfering with any electronic device or any other object affecting the home, vehicle, property or the protected persons by connection through any means, including but not limited to, the internet, Bluetooth, a wired or a wireless network. So, you got to leave Mr. Berry alone. That needs your signature. And then you'll go over to Probation. So, Mr. Macri, are you, I can't stay with the case long-term, but are you requesting a felony hearing or are you reserving his rights right now?

MR. MACRI: Judge, I believe, and correct me if I'm wrong, Jordan, but we would be willing to reserve his

rights to one at a future date and time, if necessary.

MR. BORMANN: Yeah, that's fine.

MR. MACRI: Judge, are you all set with me?

THE COURT: I think so. I was going to give him a Parker warning real quick, not a written one--

MR. MACRI: Ok.

THE COURT: So, sir, you need to come to Court when you're supposed to. So, next time you have to be here is on November 2nd, 1 p.m. It'll be in this courtroom. If you're not here, that doesn't necessarily mean your case stops. That means that you've waived your right to be present. Ultimately, this could go to the Grand Jury. You could get indicted for further proceedings in that Court. They could have a trial. If you choose not to show up, they could still go ahead without you. Additionally, you're charged with a felony and I'm releasing you but that release is conditional. And the Court may revoke the Order of Release and maybe authorize to commit you to the custody of the Sheriff if you commit a subsequent felony while at liberty on this Order. So, even though I'm releasing you today because, you know, for various reasons, if you go out and commit another felony, that could change. So, don't commit any more crimes. Come to Court November 2nd, 1 p.m. And I think that's it, Mr. Macri.

MR. MACRI: Thank you, Your Honor.

THE COURT: All right. Good luck.

(Whereupon this proceeding was adjourned at 12:00 p.m.)

CERTIFICATION

I, Susan L. Pellegrini, certify that the foregoing transcript in the Little Falls City Court, Herkimer County, in the Matter of The People v. Jordan Bormann, Docket No. CR-00349-22 was prepared using the required transcription equipment and is a true and accurate transcript of the recording.

Signature *Susan L. Pellegrini* (Electronic Signature)

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