

IN THE DISTRICT COURT OF KINGFISHER COUNTY,

STATE OF OKLAHOMA

Kingfisher County Oklahoma

FILED

OCT -7 2024

LISA MARKUS, COURT CLERK
BY: *[Signature]*

STATE OF OKLAHOMA,)
)
 Plaintiff,)
)
 vs.)
)
 JEFFREY KENT MYERS,)
)
 Defendant.)

No. CF-2023-61

DEFENDANT’S MOTION TO QUASH FOR INSUFFICIENT EVIDENCE

COMES NOW, Jeffrey Kent Myers (hereafter “Mr. Myers”), by and through his attorneys of record, Joe E. White, Jr. and Kate C. White of White & Weddle, P.C., and, pursuant to 22 O.S. §504.1, hereby respectfully moves this Honorable Court to quash the Information for insufficient evidence in the above-captioned matter.

PROCEDURAL HISTORY

1. On or about October 17, 2023, Mr. Myers was charged by Information with (1) count of Child Neglect -- a Felony, in alleged violation of 21 O.S. 843.5(C).¹
2. On June 27, 2024, a Preliminary Hearing was held. [See excerpts of Transcript attached as Exhibit “1.”] Thereafter, the Magistrate, Judge Lafferty, found that the evidence was insufficient to find probable cause and ordered Mr. Myers to be discharged. [See Order, attached as Exhibit “2.”] The State announced that it would appeal.
3. On July 31, 2024, upon the appeal of the State, the Magistrate’s ruling was reversed, and Mr. Myers was ordered to be bound over on the allegation of child neglect. [See Order, attached as Exhibit “3” and Transcript, page 9, lines 11-14, attached as Exhibit “4.”]

¹ The allegations have a date range from August 1, 2015, to December 31, 2021.

4. On August 6, 2024, Mr. Myers appeared for the hearing to enter a Bind Over Order.

[See Order, attached as Exhibit “5” and transcript, attached as Exhibit “6.”]

5. Mr. Myers is scheduled for formal arraignment on October 9, 2024.

ARGUMENT AND AUTHORITIES

I. THE STATE OF OKLAHOMA’S INFORMATION SHOULD BE QUASHED FOR INSUFFICIENT EVIDENCE.

Oklahoma State Statute, Title 22, Section 504.1, allows for the filing of this motion, which states, in part:

A. In addition to a demurrer to the indictment or information, as provided in Section 504 of Title 22 of the Oklahoma Statutes, the defendant may file a motion to quash for insufficient evidence in felony cases after preliminary hearing. The defendant must establish beyond the face of the indictment or information that there is insufficient evidence to prove any one of the necessary elements of the offense for which the defendant is charged.

22 O.S. §504.1(A).

In *State v. Berry*, the Oklahoma Court of Criminal Appeals discussed the State’s burden of proof at a preliminary hearing:

Although the State is not required to present evidence at the preliminary examination which would be sufficient to support a conviction, *Matricia v. State*, 1986 OK CR 152, 726 P.2d 900, it must establish that a crime was in fact committed and that there is probable cause to believe that the defendant committed the crime. These two elements of the test are supported by entirely different proof requirements.

State v. Berry, 1990 OK CR 73, 799 P.2d 1131, 1133.

The *Berry* Court further discussed the requirement for the State to establish that a crime was committed and the manner in which the magistrate must make that determination:

When considering whether or not a crime has been committed, the State is required to prove each of the elements of the crime. *State v. Rhine*, 1989 OK CR 19, 773 P.2d 762, 764. This part of the test is totally independent from the involvement of the defendant in the offense. The magistrate must consider the proof established by the State in light of the statutory elements of the given offense. If the elements

of the crime are not proven, then the fact of the commission of a crime cannot be said to have been established. A defendant cannot be held to answer for actions which do not amount to a crime as defined by our statutes. This is a higher burden of proof that is required for the second part of the preliminary analysis.

Id.

The “higher burden” in proving all the elements of a crime means that the State must “establish with certainty that a crime had been committed.” *Id.* at ¶ 11. Only then will there be a need to apply the second prong of the test, which is to determine whether there is probable cause to believe that the defendant committed the crime. *Id.* at ¶ 10.

The second proof determination, whether it is reasonable to believe that it was the defendant who committed the crime, allows the State to satisfy a lesser burden of proof. The State is not required to prove the defendant's guilt with certainty; that is, the purpose of the subsequent trial. Instead, the State must establish that it is reasonable to believe that the defendant was involved in the commission of the offense. *State v. Edmondson*, 1975 OK CR 93, 536 P.2d 386, 392. In the end, the evidence at the preliminary hearing “must coincide with [the defendant’s] guilt and be *inconsistent with innocence*.” *State v. Heath*, 2011 OK CR 5, ¶ 7, 246 P.3d 723, 725 (emphasis added) (*quoting State v. Davis*, 1991 OK CR 123, ¶ 7, 823 P.2d 367, 369).

Here, the State has failed to (1) establish that a crime was committed; and (2) establish that it is reasonable to believe Jeffrey Myers was involved in the commission of the alleged crime.

A. The Felony Information Must be Quashed Because the State Did Not Meet Its Burden of Proof that a Crime was Committed.

Based on the evidence presented at the Preliminary Hearing, the State cannot meet its burden of proof that a crime was committed. The State of Oklahoma charged Mr. Myers with violating 21 O.S. 843.5(C), which reads as follows:

Any person responsible for the health, safety or welfare of a child who shall willfully or maliciously engage in child neglect, as defined in this section, shall, upon conviction, be punished by imprisonment in the custody of the Department of Corrections not exceeding life imprisonment, or by imprisonment in a county jail not exceeding one (1) year, or by a fine of not less than Five Hundred Dollars (\$500.00) nor more than Five Thousand Dollars (\$5,000.00), or both such fine and imprisonment.

The statute further defines child neglect as:

“Child neglect” means the willful or malicious neglect, as defined by Section 1-1-105 of Title 10A of the Oklahoma Statutes, of a child under eighteen (18) years of age by a person responsible for a child’s health, safety or welfare;

21 O.S. §843(O)(2).

Oklahoma State Statutes Title 10A, Section 1-1-105(49) (a)&(b) further defines neglect:

- a. “Neglect” means:
 - (1) the failure or omission to provide any of the following:
 - (a) adequate nurturance and affection, food, clothing, shelter, sanitation, hygiene, or appropriate education,
 - (b) medical, dental, or behavioral health care,
 - (c) supervision or appropriate caretakers to protect the child from harm or threatened harm of which any reasonable and prudent person responsible for the child’s health, safety or welfare would be aware, or
 - (d) special care made necessary for the child’s health and safety by the physical or mental condition of the child,
 - (2) the failure or omission to protect a child from exposure to any of the following:
 - (a) the use, possession, sale, or manufacture of illegal drugs,
 - (b) illegal activities, or
 - (c) sexual acts or materials that are not age- appropriate, or
 - (3) abandonment.

b. “Neglect” shall not mean a child who engages in independent activities, except if the person responsible for the child’s health, safety or welfare willfully disregards any harm or threatened harm to the child, given the child’s level of maturity, physical condition or mental abilities. Such independent activities include but are not limited to:

- (1) traveling to and from school including by walking, running or bicycling,
- (2) traveling to and from nearby commercial or recreational facilities,
- (3) engaging in outdoor play,
- (4) remaining at home unattended for a reasonable amount of time,

- (5) remaining in a vehicle if the temperature inside the vehicle is not or will not become dangerously hot or cold, except under the conditions described in Section 11-1119 of Title 47 of the Oklahoma Statutes, or
- (6) engaging in similar activities alone or with other children.

Applying the facts to the statute in which Mr. Myers is charged, Mr. Myers, together with the Athletic Director, Administrators, Assistant Coaches, Teachers, and other school district employees, were persons responsible for the supervision and health, safety, and welfare of the student athletes who played sports, including, but not limited to, football, wrestling, and track. The application cannot end there; the child neglect statute defines the meaning of neglect: “the failure or omission to provide supervision or appropriate caretakers to protect the child from harm or threatened harm **of which any reasonable and prudent person responsible for the child's health, safety or welfare would be aware.**”² The end of the sentence is important “of which any reasonable and prudent person...would be aware.” As will be discussed at length below, Mr. Myers was not the only person charged with the supervision of the young men. Further, the wrestling and/or boxing matches between the young men in question that the Defendant is charged with did not only occur in the football locker room, but at a tennis tournament and at a young man’s home.

The charges at issue stem from wrestling matches and some boxing matches that were held in the football locker room. The Kingfisher High School football coaching staff included: Mr. Myers, Coach Nall, Coach Blundell, Coach Eaton, and Coach Patterson. (See Exhibit 1, p. 33, l. 10-13; p. 137, l. 18-21.) There is a discrepancy, between the witnesses called at the preliminary

²Webster’s Dictionary defines “prudent” as: “marked by wisdom or judiciousness,” or “shrewd in the management of practical affairs” or “marked by circumspection : discreet.” Webster’s Dictionary defines reasonable as: “having the faculty of reason” or “possessing sound judgment.”

hearing, of how many actual boxing matches occurred. The State of Oklahoma put on three (3) witnesses at the preliminary hearing: Declan Haub, Keaton Abercrombie, and Mason Mecklenburg.

The first witness, Declan Haub, testified that he played football from 2015 to 2019. (*Id.* at p. 7, l. 16-19.)³ Mr. Haub was the team captain his senior year. (*Id.* at p. 30, l. 2-5.) Team captain is an elected position voted on by Mr. Haub's teammates. (*Id.* at p. 89, l. 3-7.) The players for the 2015-2019 football seasons ranged in age from 14 to 18. (*Id.* at p. 10, l. 5-9.) The football players would have practice and then have 15-20 minutes to change and shower prior to watching film. (*Id.* at p. 12, l. 17-23.) There was a big space at the front of the locker rooms. (*Id.* at p. 10, l. 25-p. 11, l. 1.) The film room was across the hall from the locker room, and the coaches' office was down the hall from the locker room. (*Id.* at p. 11, l. 12-16.) The coaches could not see the locker room from their office. (*Id.* at p. 14, l. 8-11.)

Mr. Haub testified regarding what the State of Oklahoma has dubbed "the ring," stating:

Q. (Mr. Bunn) During your four years on the Kingfisher High School football team were you – were you familiar with something that was called the ring?

A. Yes, sir.

Q. Can you generally tell me what the ring was?

A. It was just a couple kids would wrestle. The rest of the team would circle around.

Id. at p. 8, l. 8-14.

Mr. Haub testified that the wrestling matches were "just fun, I guess...Just high school boys being high school boys." (*Id.* at p. 8, l. 21-22.) When the players would wrestle, they were not trying to hurt each other, they were trying to get a pin. (*Id.* at p. 21, l. 15-19.) Mr. Haub further testified that the wrestling matches began in the Fall of 2018, which was his senior year and

³ Kingfisher High School offers wrestling as a competitive sport. (*Id.* at p. 20, l. 14-19.) During the school years 2015-2021, some of the football players also were competitive wrestlers. *Id.* at p. 20, l. 20-23.

occurred in the football locker room. (*Id.* at p. 8, l. 16-18; p. 10, l. 12-13.) At one point, a player brought boxing gloves; however, Mr. Haub believed that the boxing only occurred once, maybe twice. (*Id.* at p. 13, l. 2-3; p. 30, l. 19-22.) Mr. Haub does not recall anyone wearing towels wrapped around their hands in “the ring.” (*Id.* at p. 13, l. 6-10.) Mr. Haub’s locker was directly next to the area where “the ring” occurred; he had the locker closest to the open area. (*Id.* at p. 106, l. 14-17.)

During his Senior year, Mr. Haub was not aware of any kid ever having to get medical treatment as a result of an injury in “the ring.” (*Id.* at p. 23, l. 2-5.) Further, when shown a photo of the 2018-2019 football team, Mr. Haub testified:

Q. Can you pick out anybody on this football team, from the 2018-2019 football team, that you thought may have been taken advantage of or hurt while being on Coach Myers football team or were they treated fairly?

A. I mean, not that I remember, no. (*Id.* at p. 24, l. 15-19.)

The second witness, Keaton Abercrombie, testified that he played football from 2016 to 2020. (*Id.* at p. 39, l. 20-24.) During his football years, Mr. Abercrombie testified that he saw “the ring” two to three times. (*Id.* at p. 42, l. 4-7.) Mr. Abercrombie remembers two specific players boxing in “the ring;” however, he did not see any blood and he did not see the participants get bruised. (*Id.* at p. 51, l. 10-14.) Further, of the two to three times that he witnessed “the ring,” he did not see anyone get injured or hurt. (*Id.* at p. 51, l. 25 - p. 52, l. 2.)

Mr. Mecklenburg was the third and final witness called by the State of Oklahoma. Mr. Mecklenburg was the Plaintiff in a lawsuit against the school district, which settled for \$5 Million Dollars.⁴ Mr. Mecklenburg’s recollection greatly differed from the other two witnesses. Mr. Mecklenburg participated in football from “2017-2021 or 2020.” (*Id.* at p. 64, l. 16-18.) In the

⁴ At no time did Coach Myers agree to a settlement in the civil lawsuit paid by the School District, nor did he contribute to any settlement.

Fall of 2017, Mr. Mecklenburg was a freshman; he testified that he participated in “the ring,” but it was wrestling. (*Id.* at p. 70, l. 15.) He even admitted that he wrestled an upperclassman “just for fun.” (*Id.* at p. 70, l. 3-4.) Mr. Mecklenburg attempted to detail the ring as a negative experience. He testified that the upperclassmen would call him out during practice to “wrestle or whatever.” (*Id.* at p. 76, l. 13-15.) He testified some of the wrestling matches were voluntary, and some were not voluntary; however, at no time did he testify that coaches made him wrestle. (*Id.* at p. 65, l. 16-19.) He stated that he was forced to wrestle because the other football players would see him as “soft” and call him names, or allegedly worse. (*Id.* at p. 125, l. 14- p. 126, l. 2.) His sophomore year, which was 2018, is the year that someone brought boxing gloves and wrestling changed to boxing. (*Id.* at p. 148, l. 20-22.)⁵ Mr. Mecklenburg did not engage in any ring matches when he was an upperclassman. (*Id.* at p. 82, l. 14-15.) At no time from 2017-2021 did Mr. Mecklenburg report “the ring” to school officials. (*Id.* at p. 84, l. 19-20.) During the time of “the ring,” Mr. Mecklenburg did not seek medical treatment from a doctor related to any purported injury. (*Id.* at p. 150, l. 17-20.)

Upon cross-examination, Mr. Mecklenburg was shown various videos of him engaged in boxing and wrestling at locations other than the football locker room and under the supervision and care of other adults, including track coaches and parents. The videos were taken during Mr. Mecklenburg’s sophomore year. (*Id.* at p. 149, l. 19-20; p. 153, l. 3-4.)

The most glaring failure of the State’s case against the Defendant are the videos of the boxing match at Cason Matthew’s home, in his garage, and the wrestling videos at the track meet. (*Id.* at p. 149, l. 7-17.) When asked about the boxing matches outside of the ring, Mr. Mecklenburg stated:

⁵ During this time, Mr. Mecklenburg also had boxing gloves at his house. (*Id.* at p. 149, l. 2-3.)

A. We were just friends being friends, hanging out, and Cason had gloves and we thought it was a good idea to just go at it.

But there was no animosity towards each other. We were all trying to have a good time, no one seriously got hurt and it was all voluntary. I wasn't forced into it and I had no threats. (*Id.* at p. 151, l. 18-24.)

There are two (2) videos of Mr. Mecklenburg boxing at the Matthews' home. One video depicts Mr. Mecklenburg boxing fellow classmate Cason Matthew, and the other video depicts Mr. Mecklenburg boxing football teammate Cade Stevenson. (*Id.* at p. 150, l. 23 - p. 151, l. 1.) Mr. Mecklenburg testified that he and Cade Stevenson were going at it pretty good, with heavy weighted gloves "We were having a good time." (*Id.* at p. P. 156, l. 15-17.) At one point, one of the videos shows a small child walking next to Mr. Mecklenburg while he is boxing either Cason Matthews or Cade Stevenson. Both videos also show numerous other young people watching and cheering on the boxing match. However, no adult has been charged with child neglect associated with the aggressive boxing that occurred in that garage.

The first video from a track meet shows Mr. Mecklenburg wrestling another student, who was a year older than him. (*Id.* at p. 152, l. 20- p. 153, l. 2.) The second video from the track meet is a matchup between Gunner Snider and Mr. Mecklenburg. (*Id.* at p. 155, l. 7-11.)⁶ The videos depicted young adults in track uniforms in a circle around a mat, and Mr. Mecklenburg was wrestling, even flipping, another opponent while the crowd cheered. (*Id.* at p. 154, l. 20-21.) No school employee has been charged with a crime concerning with the two (2) wrestling matches that occurred during Mr. Mecklenburg's sophomore year.

Here, the Oklahoma Uniform Jury Instruction - Criminal has a standard OUJI that is applicable:

⁶ Mr. Mecklenburg also participated in "the ring" in the fall of his sophomore year with Gunner Snider. (*Id.* at p. 136, l. 10-13.)

“Neglect” **shall not mean a child who engages in independent activities**, except if the person responsible for the child's health, safety or welfare willfully disregards any (harm/threatened harm) to the child, given the child's level of maturity/(physical condition)/(mental abilities). Such independent activities include but are not limited to:

- (1) traveling to and from school including by walking/running/ bicycling,
- (2) traveling to and from nearby commercial or recreational facilities,
- (3) engaging in outdoor play,**
- (4) remaining at home unattended for a reasonable amount of time,
- (5) remaining in a vehicle if the temperature inside the vehicle (is not)/(will not) become dangerously hot/cold, except if [describe applicable conditions in Section 11--1119 of Title 47 of the Oklahoma Statutes, such as that the child is accompanied by a person who is at least twelve years of age], or
- (6) engaging in similar activities (alone/(with other children)).**

OUII- Cr- 4-37A. [Emphasis added.]

Coach Myers is charged with child neglect of the *entire* 2015-2016 football team, the *entire* 2016-2017 football team, the *entire* 2017-2018 football team, the *entire* 2018-2019 football team, the *entire* 2019-2020 football team, the *entire* 2020-2021 football team, and the *entire* 2021-2022 football team.⁷ However, the State of Oklahoma only called three (3) witnesses and elicited testimony that “the ring” began in 2017 and ended in 2018. Further, the testimony of the witnesses does not support that football players from 2015-2016, 2016-2017, 2017-2018, 2018-2019, 2019-2020, and 2020-2021 were “fearful” or “threatened” by “the ring.”

Mr. Haub testified that the players were having fun, and Mr. Abercrombie only remembers “the ring” as depicted on a video that was widely shown, and no one got hurt. (*Id.* at p. 51, l. 23-p. 52, l. 1.) Mr. Mecklenburg testified that he did not want to be seen as soft by the other players. (*Id.* at p. 72, l. 16-19.) However, videos were shown to Mr. Mecklenburg of him participating in

⁷ Undersigned counsel would offer, a standard school year is August to May; therefore, the 2015-2016 football team would represent that school year.

a wrestling match in a ring at a track meet on two (2) occasions and boxing at a peer's home on two (2) other occasions. Indeed, the instances on the video are much more aggressive than any description or video that depicts what occurred in the football locker room.

The wrestling in the ring was voluntary and fun; it was just high school kids being high school kids.

Q. Now, you said the wrestling would occur voluntarily, high school kids being high school kids having fun, before you all would go into film?

A. Yes, sir. (*Id.* at p. 28, ln 9-12.)

Further, as Mr. Mecklenburg testified, the same activity outside of the football locker room is "friends being friends," "just hanging out," and "trying to have a good time." (*Id.* at p. 151, l. 18-22.)

This is exactly the type of activity the exception of Neglect speaks to - kids "engaging in outdoor play" and "engaging in similar activities alone or with other children." OUJI-CR-4-37A (3) and (6). The State of Oklahoma cannot meet its burden that a crime was committed when taking into consideration 1) this was an independent activity of the young men on the football team; 2) the maturity and intellect of the football players; and 3) that this was an activity the young men engaged in whether at school or at home. The football players wrestled with each other regularly, and some of the players competed in the Kingfisher High School wrestling program. The track participants wrestled with each other on at least two (2) separate occasions. The same boys also boxed with each other at home. However, no one is charged with child neglect from the track program or a parent who allowed Mr. Mecklenburg and his peers to box at their home. No one is charged, because it is not a crime -- it is play between boys. It fits the exclusion.

B. The Felony Information Must be Quashed Because the State Did Not Meet Its Burden of Proof, and, as a Matter of Law, the Defendant Did Not Willfully and/or Maliciously Commit Child Neglect.

Based on the evidence presented at Preliminary Hearing, the State of Oklahoma cannot meet its burden of proof that Mr. Myers violated Title 21, Section 843.5(C), nor can the State demonstrate that Mr. Myers possessed the requisite intent to violate said statute as is required under the law.

Criminal intent constitutes “the essence of all criminal liability.” *Finley v. State*, 1947 OK CR 67, 181 P.2d 849, 859. The “requirement of a culpable state of mind” is an “ancient” hallmark of the criminal law. *Morissette v. United States*, 342 U.S. 246, 250 (1952).

The contention that an injury can amount to a crime only when inflicted by intention is no provincial or transient notion. It is as universal and persistent in mature systems of law as belief in freedom of the human will and a consequent ability and duty of the normal individual to choose between good and evil.

Wolf v. State, 2012 OK CR 16, ¶ 7, 292 P.3d 512, 515 (Okla. Crim. App. 2012), quoting *Liparota v. United States*, 471 U.S. 419, 425 (1985); see also *Staples v. United States*, 511 U.S. 600, 605 (1994) (“[T]he existence of a *mens rea* is the rule of, rather than the exception to, the principles of Anglo-American criminal jurisprudence”) (citation omitted). An individual who “acted without any criminal intent [] cannot be regarded as an accomplice,” *Finley*, 84 Okla. Crim. at 326, because “a crime is not committed *if the mind of the person doing the act is innocent*,” *Williams v. State*, 1977 OK CR 119, ¶ 7, 565 P.2d 46, 48 (Okla. Crim. App. 1977), *overruled* (emphasis added).

The Oklahoma Uniform Jury Instruction- Criminal for Child Neglect states:

No person may be convicted of neglect of a child unless the State has proved beyond a reasonable doubt each element of the crime. These elements are:

First, a person responsible for the child's health, safety, or welfare;

Second, willfully/maliciously;

Third, failed/omitted to provide;

Fourth, [supervision to protect the child from harm/(threatened harm) of which any reasonable and prudent person responsible for the child's health, safety or welfare would be aware];

Fifth, for a child under the age of eighteen.]

OUII-CR 4-37.

As referenced above, Mr. Haub described the layout of the locker room; specifically, that the coaches' office was down the hall from the locker room. Further, Mr. Myers was not the only coach that was present at practice and after practice. During the Fall of 2018, which was Declan Haub's senior season and Mr. Mecklenburg's sophomore season, someone brought boxing gloves to the locker room. Boxing in the wrestling ring, according to Mr. Haub, only occurred once or twice, which is supported by Mr. Abercrombie's testimony of only remembering "the ring" two or three times. About three weeks into the season, Coach Myers discovered the football players brought the boxing gloves to the locker room, and Defendant Myers told the players to stop. (*Id.* at p. 15, l. 22 - p. 16, l. 6.) After Coach Myers told the players to stop, "the ring" stopped. (*Id.* at p. 16, l. 15-17.)

Further, during Declan Haub's football career at Kingfisher, he felt Coach Myers cared about him, protected him, and cared about his health, safety, and welfare. (*Id.* at p. 19, l. 17-25.) Mr. Haub also felt like Coach Myers had the best interest of his teammates at heart and cared about their health, safety, and welfare. (*Id.* at p. 20, l. 3-10.)

The above-referenced child neglect standard OUJI is not a stand-alone Jury Instruction; there is an exception that, as discussed above, also plays a vital role. The evidence bears out that wrestling and/or boxing for fun at home, school athletic events, and practices occurs. There was no showing by the State of Oklahoma that Coach Myers willfully or maliciously failed to protect the **hundreds** of players that played football at Kingfisher from 2015-2021. The State did not present any witnesses or other evidence to support its burden of proof at preliminary hearing.

The State of Oklahoma called only three (3) witnesses at the preliminary hearing that testified that wrestling and some boxing occurred in the football locker room in Fall of 2017 and Fall of 2018. However, there was also testimony that wrestling and boxing among the same group

of young men occurred at track meets and private residences. Despite Mr. Mecklenburg complaining about “the ring” at football practice, at the same time he was participating in the same activity away from football practice. Mr. Mecklenburg, a person who was in civil litigation with Kingfisher School District and received a \$5 Million settlement from the School District, was the only witness the State called at the preliminary hearing to testify that had any purported complaint. One witness out of hundreds of potential witnesses.

When considering whether a crime has been committed, the State is required to prove each of the elements of the crime. *State v. Rhine*, 1989 OK CR 19, 773 P.2d 762, 764. Here, the State cannot make a reasonable inference that Mr. Myers had the requisite intent necessary to commit the alleged crime of child neglect. Therefore, the child neglect charge should be quashed and dismissed.

CONCLUSION

As shown above, the Felony Information fails as a matter of law for the following reasons: (1) The State of Oklahoma did not meet its burden that a crime was committed; and (2) the State of Oklahoma did not meet its burden that Mr. Myers willfully and/or maliciously committed child neglect. The evidence, taken in the light most favorable to the State, does not meet the elements of child neglect of OUJI-CR-47 and fall squarely within the exception of OUJI-CR-47A (3) and (6). Thus, the State of Oklahoma has failed to establish that the crime of child neglect was committed, and it is unreasonable to believe that Jeffrey Myers committed the crime of child neglect. The facts of this case do not constitute a crime.

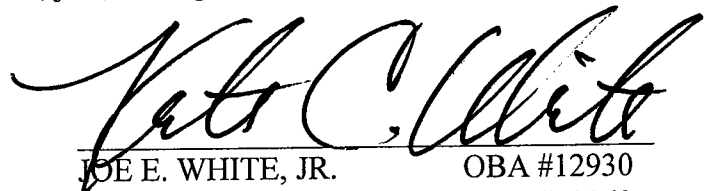
After weighing the testimony and evidence that was presented live in her courtroom, Judge Lafferty made a finding that the State did not meet its burden to bind over Coach Myers on child neglect. (See Exhibit 2.) On appeal, Judge Newby did not make any findings that supported the

decision that the State had, in fact, met its burden. However, curiously, without any specific findings, he ordered Judge Lafferty to amend her Order and bind over Coach Myers. (See Exhibits 3 and 4.)

The question was asked by Mr. White at the bind-over hearing, "I don't know why we are here, but there was no ruling. He [Judge Newby] just said, I find there is evidence. But here we are." (Exhibit 6, p. 5, l. 5-7). Mr. White's question remains. A crime was not committed. Coach Myers does not have the requisite intent to commit the crime of child neglect. The State can never meet its burden with this set of facts. This case is a waste of taxpayer money and should be dismissed. Let the community heal.

WHEREFORE, above premise considered, Defendant Jeffrey Myers requests that after considering the evidence presented at the Preliminary Hearing and the legal arguments made in this motion that this Honorable Court enter an Order quashing the Information due to insufficient evidence and the State of Oklahoma's failure to prove each element of the charge of (1) Child Neglect, and for any other relief this Court deems, just, and right.

Respectfully submitted,



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Attorneys for Jeffrey Kent Myers

CERTIFICATE OF SERVICE

On this 7th day of October, 2024, a true and correct copy of the within and foregoing Defendant Jeffrey Myers' Motion to Quash Information was transmitted via email to the following:

Tommy Humphries, Esq. [Tommy.Humphries@dac.state.ok.us]
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KATE C. WHITE

EXHIBIT “1”

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IN THE DISTRICT COURT OF KINGFISHER COUNTY
STATE OF OKLAHOMA

STATE OF OKLAHOMA,)
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Plaintiff,)
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VS) Case No. CF-23-61
)
JEFFREY KENT MYERS,)
)
Defendant,)

STATE OF OKLAHOMA,)
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Plaintiff,)
)
VS) Case No. CF-23-62
)
MICAH NALL,)
)
Defendant,)

PRELIMINARY HEARING
IN THE MATTER OF
JEFFREY KENT MYERS AND MICAH NALL,
TAKEN JUNE 27, 2024
IN FRONT OF THE HONORABLE JUDGE LAFFERTY

REPORTED BY: CANDI MILLER, CSR

DIRECT EXAMINATION

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BY MR. BUNN:

Q. Mr. Haub, would you state and spell your full name for the record, please?

A. Declan, D-e-c-l-a-n, Haub, H-a-u-b.

Q. Thank you very much.

Q. You ever enrolled in Kingfisher High School system?

A. Yes, sir.

Q. What years were you -- did you attend Kingfisher High School?

A. 2015 to 2019.

Q. So all four years were spent in Kingfisher High School?

A. Yes, sir.

Q. During your time in Kingfisher High School were you ever a member of the football team?

A. Yes, sir, all four years.

Q. All four years, 2015 to 2019?

A. Yes, sir.

Q. Did you have the same head coach all four years of your time?

A. Yes, sir.

Q. Who was that?

A. Coach Myers.

1 Q. Do you see -- and that would be Jeff Myers?

2 A. Yep.

3 Q. Do you see Coach Jeff Myers in the courtroom --

4 MR. WHITE: We'll stipulate he can identify Coach
5 Myers.

6 MR. BUNN: Thank you.

7 THE COURT: Okay.

8 Q. (Mr. Bunn) During your four years on the
9 Kingfisher High School football team were you -- were
10 you familiar with something that was called the ring?

11 A. Yes, sir.

12 Q. Can you generally tell me what the ring was?

13 A. It was just a couple kids would wrestle. The
14 rest of the team would circle around.

15 Q. Okay. When did the ring begin?

16 A. It started my -- it was my senior year, so '20--
17 Fall of 2018. I don't remember exactly. I think pretty
18 early in the season.

19 Q. Okay. What was the purpose of these wrestling
20 matches, as you have said?

21 A. I mean, just fun, I guess, you know. Just high
22 school boys being high school boys.

23 Q. How was the decision reached with regards to whom
24 engaged in those ring matches?

25 MR. WHITE: As he understands it?

1 at least once during that year?

2 A. I mean, not everybody. I would say maybe 50
3 percent, 75 percent would be my guess.

4 Q. Fifty percent of the team, in your estimation.

5 Do you recall what the ages of your teammates on
6 the team were at that time?

7 A. 16.

8 Q. 16 to?

9 A. Well, I mean, freshmen would be like 14 to 18.

10 Q. All right.

11 A. I guess.

12 Q. Where did these ring matches occur?

13 A. In the locker room.

14 Q. That is the -- tell me about the physical makeup
15 of the locker room and how it is organized.

16 So like I'm assuming you -- I haven't been there.
17 I'm assuming you have got the lockers and then you maybe
18 have another gathering area.

19 Are the coach's offices in the locker room?

20 A. No.

21 Q. Do they office somewhere else?

22 A. So, I mean, --

23 Q. Can you tell me a little bit about how it is set
24 up?

25 A. Locker room was -- you had a big space at the

1 front of the locker rooms where the ring would occur.
2 You know, you would meet up there as a team, whatever
3 pre-game stuff. It is where -- and then two or three
4 different locker rows, I can't remember.

5 Wall here, wall here on the south side, and then
6 maybe one down the middle. I can't remember for sure.
7 It has been a while. Go in. We had -- so that was all
8 separate.

9 Go up the hall, there was like an equipment room
10 kind of connected to the locker room.

11 Then you go out, there is like the main hallway.

12 Across, directly across from the locker room, was
13 a film room.

14 On down the hallway a ways was a weight room over
15 here and then Coach's office was right here. I guess
16 you would say the front of the field house.

17 Q. I believe you just testified previously that you
18 engaged in a ring match at one time?

19 A. Yeah.

20 Q. How old were you when you did that?

21 A. I was a senior, so probably 17, I would say.

22 Q. Did you turn 18 during your senior year?

23 A. Yeah.

24 Q. What is your birthday?

25 A. February 2nd.

1 Q. February 2nd. So that would have been after
2 football season is over?

3 A. Yeah.

4 Q. Correct?

5 A. Yes, sir.

6 Q. What do you recall about -- do you recall whom
7 you engaged in such a match with?

8 A. Yeah.

9 Q. Who was that?

10 A. Cade Stephenson.

11 Q. Cade Stephenson.

12 Tell us what happened during that match?

13 A. I mean, just kind of just messing around. He had
14 called me out, said, hey, I just want to wrestle you.
15 We just wrestled.

16 Q. Did he tell you why he called you out or he
17 wanted to wrestle you?

18 A. Just for fun.

19 Q. All right. How long did the wrestling match
20 take?

21 A. Maybe two minutes tops. I don't know.

22 Q. All right. You have mentioned that the ring
23 involved wrestling.

24 To your knowledge did these ring matches ever
25 involve striking, punching?

1 A. After a while, yeah.

2 I don't remember who, but somebody just showed up
3 with boxing gloves one day. It turned into that.

4 But I don't remember that lasting very long. I
5 think there was only once or twice maybe that happened.

6 Q. All right. Did it ever happen or was there ever
7 striking where the -- one of the two individuals in the
8 ring wasn't wearing gloves but rather towels wrapped
9 around their hands?

10 A. Not that I remember.

11 Q. Not that you remember. So where were your
12 coaches -- Let me ask this.

13 Strike that.

14 When in relation to practice would this ring
15 occur?

16 A. After.

17 Q. After practice. Did you do anything after
18 practice like watch film or anything else --

19 A. Yeah.

20 Q. -- typically?

21 When would you be called to watch film?

22 A. We would usually have about 15, 30 minutes
23 probably.

24 Q. Is that when the ring occurred, during that
25 period of time after practice, before film occurred?

1 A. Yes.

2 Q. All right. Where were your coaches when the ring
3 was being held?

4 A. I'm assuming their office.

5 Q. Could -- Let me ask this question.

6 You have described the physical makeup of the
7 locker room.

8 If the coaches were in their offices would they
9 be able to see what was going on where the ring
10 occurred?

11 A. No.

12 Q. In your experience with that would they be able
13 to hear what was going on?

14 MR. WHITE: Speculation, Your Honor. I
15 object.

16 MR. BUNN: If you know.

17 THE COURT: Yeah, if he knows.

18 THE WITNESS: I don't know if they could
19 hear or not.

20 Q. (Mr. Bunn) Did you ever encounter a situation
21 where you were in the coach's office and heard something
22 occurring in the locker room?

23 A. Not that I remember it, no.

24 Q. Do you ever recall any of your coaches observing
25 or watching the ring matches?

1 A. Maybe once.

2 Q. Tell me about that.

3 A. I know Coach Nall was in there one time.

4 Q. Anybody else?

5 A. Not necessarily that I remember, no.

6 Q. Tell me about that ring match where Coach Nall
7 was there?

8 A. He had just come in. He called out, I believe it
9 was Gunner Snider, and just proceeded to wrestle Gunner.

10 Q. In the ring?

11 A. Yeah.

12 Q. And it is your recollection that Coach Nall
13 called Gunner out to wrestle?

14 A. I think so.

15 Q. All right. Did you see any other times when a
16 coach participated in the ring?

17 A. No.

18 Q. Do you recall any conversations between coaches
19 and the team that you observed where they told them to
20 knock it off with regards to the ring or anything like
21 that?

22 A. Yeah. I mean, Coach Myers told us to stop after
23 we brought in the boxing gloves.

24 Q. When was that?

25 A. I mean, three weeks into the season maybe, you

1 know.

2 Q. Do you recall when it happened?

3 A. No.

4 MR. WHITE: Can we get a season? Your
5 senior season?

6 THE WITNESS: Yeah. Yes, sir, yeah.

7 Q. (Mr. Bunn) You don't recall, however, I believe
8 you just testified, when exactly within your senior
9 season Coach Nall told you to knock it off?

10 THE WITNESS: Coach Myers?

11 MR. BUNN: I'm sorry. Coach Myers. That's
12 correct.

13 THE WITNESS: No, I don't know when exactly,
14 no.

15 Q. (Mr. Bunn) Did the ring stop after Coach Myers
16 said knock it off?

17 A. Yes.

18 MR. BUNN: Okay. I don't believe I have any
19 further questions.

20 THE COURT: Thank you, Mr. Bunn.

21 Mr. White?

22 MR. WHITE: Thank you, Your Honor.

23 **CROSS-EXAMINATION**

24 BY MR. WHITE:

25 Q. Good morning.

1 A. Yes, sir.

2 Q. The drills you go through in college similar to
3 what Coach Myers put y'all through in high school?

4 A. Pretty much, yeah.

5 Q. As you sit here today did you have a great
6 experience playing football for the Kingfisher High
7 School football program?

8 A. Yeah, I did.

9 Q. On a scale of one to ten, how would you rank it?

10 A. I would say it was an eight.

11 Q. An eight?

12 A. Yeah.

13 Q. And in terms of Coach Myers, did you admire Coach
14 Myers as it relates to his leadership skills in teaching
15 the sport, the contact sport, of football?

16 A. I did, yes.

17 Q. Did you feel as though Coach Myers cared about
18 you as a football player?

19 A. Yes.

20 Q. Did you feel that Coach Myers cared about your
21 health, safety and welfare?

22 A. Yes.

23 Q. Did you feel protected when you were under Coach
24 Myers when he was coaching football?

25 A. Yeah.

1 Q. That he had your best interest at heart?

2 A. Yeah.

3 Q. And as it relates to the other football players,
4 whether it was your teammates, did you feel that Coach
5 Myers had the football players that played with you from
6 2015 through 2019, their best interest at heart?

7 A. Yes.

8 Q. That he cared about their health, safety and
9 welfare?

10 A. Yep.

11 Q. Now, there has been much to do in the newspaper
12 and from a few about this issue called the ring, right?

13 A. Yep.

14 Q. Now, the ring, do you know if Kingfisher High
15 School offers wrestling as a competitive sport?

16 A. Yes.

17 Q. And did they offer wrestling as a competitive
18 sport from 2015 to 2019?

19 A. Yes, sir.

20 Q. Did any of the football players that were
21 teammates of yours also compete in high school
22 wrestling?

23 A. Yeah.

24 Q. And did you ever observe your fellow teammates
25 who also competed in wrestling, did you ever observe

EXHIBIT “4”

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IN THE DISTRICT COURT OF KINGFISHER COUNTY
STATE OF OKLAHOMA

STATE OF OKLAHOMA,)
)
Plaintiff,)
)
Vs.) Case No. CF-2023-61
)
JEFFREY KENT MYERS,)
)
Defendant.)

* * * * *

RULE 6 HEARING

HELD ON THE 19th DAY OF JULY, 2024

IN FRONT OF THE HONORABLE JUDGE NEWBY

* * * * *

REPORTED BY: CANDI MILLER, CSR

1 pertaining to questions, Line Number 5, I believe.

2 MR. WHITE: Next one is the ring.

3 MS. WHITE: Yes, yes.

4 (Whereupon video was played.)

5 THE COURT: That's the I show for videos.

6 Would both parties agree?

7 MR. WHITE: I do.

8 MR. BUNN: Yes, Your Honor.

9 THE COURT: I need the thumb drive back,
10 please. Thank you.

11 There was sufficient evidence presented at
12 the Preliminary Hearing to bind the Defendant over. I
13 am directing the magistrate to correct her ruling and
14 bind the Defendant over for Preliminary Hearing.

15 I need to get the date for that appearance,
16 and I do not know what Judge Lafferty's calendar may so
17 provide. So let's go off the record for just a moment
18 and I will find out that information.

19 (Whereupon a break was had.)

20 THE COURT: We are back on the record in
21 CF-2023-61. Parties and Counsel are present.

22 We went off of the record to determine the
23 date for the Defendant's appearance, for bond appearance
24 and bind over. That date will be August 6th, 2024, at
25 9:00 a.m. before Judge Lafferty here at the Kingfisher

EXHIBIT “2”

IN THE DISTRICT COURT OF KINGFISHER COUNTY
STATE OF OKLAHOMA

Kingfisher County Oklahoma

FILED

JUN 28 2024

LISA MARKUS, COURT CLERK
BY *[Signature]* DEPUTY

STATE OF OKLAHOMA)
Plaintiff,)
VS.)
JEFFREY KENT MYERS)
Defendant,)

CASE NO. CF-2023-61

ORDER

This case came on for hearing on the 27TH day of JUNE, 2024. The state appears by Assistant District Attorney, JIMMY BUNN. Defendant appears in person and with counsel, JOE WHITE, KATE WHITE AND AMBER WALKER.

The Court after considering the evidence presented, enters the following order:

- The public offense(s) named in the within complaint and mentioned [or amended], has not [have not] [has/have] been committed.
- There is not [is] sufficient cause to believe the within named Defendant guilty thereof.

___ It appearing to me that the offense(s) named in the within complaint(s) mentioned [has] [have] been committed, and that there is sufficient cause to believe the within named Defendant guilty thereof, I order that the Defendant be held to answer the same and this order be endorsed on the complaint(s).

It appearing that a public offense(s) has [have] not been committed or that a public offense(s) has [have] been committed, but there is not sufficient cause to believe the Defendant guilty thereof, I order the defendant be discharged.

___ I have admitted the Defendant to bail, to answer, by the undertaking reflected in the court file.

___ Bond is continued.

___ Arraignment is set at ___ o'clock ___m. on the ___ day of _____, 2024 before the Honorable _____.

IT IS SO ORDERED.

[Signature]

Judge of the District Court

EXHIBIT “3”

IN THE DISTRICT COURT OF THE FOURTH JUDICIAL DISTRICT OF THE STATE OF
OKLAHOMA SITTING IN AND FOR KINGFISHER COUNTY

THE STATE OF OKLAHOMA,
Plaintiff,

vs.

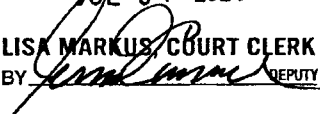
JEFFREY KENT MYERS
Defendant,

Case No. CF-2023-61

Kingfisher County Oklahoma

FILED

JUL 31 2024

LISA MARKUS, COURT CLERK
BY  DEPUTY

ORDER REVERSING ADVERSE RULING OF PRELIMINARY HEARING MAGISTRATE

COMES NOW, on the 19th day of July, 2024 the undersigned assigned Judge, having reviewed the record of the Honorable Judge's Allison Lafferty's adverse ruling entered on the 27th day of June, 2024, hereby finds and orders as follows:

1. On the 27th day of June, 2024, the Honorable Judge Lafferty issued a finding that the evidence submitted by the State at preliminary hearing was insufficient to find probable cause that the crime of child neglect occurred and that the Defendant committed said crime.
2. At that time, the State announced its intent to appeal said adverse ruling pursuant to 22 Oklahoma Statutes §1089.2(A) in open court.
3. The State filed its Application to Appeal the Adverse Ruling of the Honorable Judge Lafferty on the 1st day of July, 2024.
4. Based upon the record developed before the Honorable Judge Lafferty, her ruling on the 27th day of June, 2024 was in error.
5. Based upon the record developed before the Honorable Judge Lafferty, there was sufficient evidence submitted on the 27th day of June, 2024 to find probable cause to believe that the crime of child neglect occurred and was committed by the defendant.
6. This cause is remanded back to the Honorable Judge Lafferty with directions to find that such probable cause existed and to bind over the Defendant as charged.
7. The Defendant is ordered to appear before the Honorable Judge Lafferty on the 6th day of August, 2024 at 9:00 a.m. whereupon the Honorable Judge Lafferty will correct her error as directed herein and bind over the Defendant as charged.

IT IS SO ORDERED.

DATED: 


THE HONORABLE JUDGE TOM NEWBY
JUDGE OF THE DISTRICT COURT

1 them on the wrestling mats practicing the art of
2 wrestling?

3 A. Not practicing, but, I mean, saw a couple of
4 tournaments.

5 Q. All right. That were teammates of yours?

6 A. Yeah.

7 Q. Now, whenever you all would wrestle in the ring
8 in the locker room, are you with me?

9 A. Yep.

10 Q. Football players come around and two of them come
11 out, you and Cade, for instance, y'all are on the mat?

12 A. Yeah.

13 Q. Was Cade a wrestler?

14 A. Not that I remember, no.

15 Q. All right. And when you two were wrestling each
16 other, were you all trying to hurt each other, trying to
17 get ahold on each other?

18 How would you describe it?

19 A. Not trying to hurt each other, just pin.

20 Q. Right. And I think you said it was high school
21 boys being high school boys having fun?

22 A. Yeah.

23 Q. And is that your description?

24 A. That is how I would describe it, yeah.

25 Q. And did you ever see, from your time as an

1 A. No.

2 Q. For instance, any participant in the ring, are
3 you aware of any kid ever having to go get some kind of
4 medical treatment as a result of an injury in the ring?

5 A. Not that I remember, no.

6 Q. Did you ever see any kid get hurt in the ring,
7 other than this incident with the black eye?

8 A. Not that I remember, no.

9 MR. WHITE: Who were the two kids? Mason
10 and who?

11 Q. (Mr. White) Did you have a teammate named
12 Matson?

13 A. I don't remember. Maybe.

14 Q. How about Mecklenburg. Was Mason a teammate of
15 yours?

16 A. Yes, sir.

17 Q. Did you ever see Mason Mecklenburg boxing other
18 kids?

19 A. I don't remember.

20 Q. Have you ever been in Mason Mecklenburg's garage
21 where boxing was going on?

22 A. No, sir.

23 Q. I'm sorry?

24 A. No, I did not.

25 MR. WHITE: May I approach the witness?

1 THE COURT: Yes, you may.

2 Q. (Mr. White) Mr. Haub, I want to show you what I
3 believe to be a picture of the Kingfisher High School
4 football team 2018, 2019.

5 Do you see that?

6 A. Yep.

7 Q. Now, where are you in the picture?

8 A. Right there. (Indicating.)

9 Q. Right in the middle?

10 A. Yep.

11 Q. Number 55?

12 A. Yes, sir.

13 Q. And let's see. And these are your teammates?

14 A. Yep.

15 Q. Can you pick out anybody on this football team,
16 from the 2018-2019 football team, that you thought may
17 have been taken advantage of or hurt while being on
18 Coach Myers football team or were they treated fairly?

19 A. I mean, not that I remember, no.

20 Q. Football from -- Who taught you how to tackle?

21 A. My dad.

22 Q. How did he teach you how to tackle?

23 A. By tackling drills, tackling drills in practice.

24 Q. All right. And this was when you were in third
25 and fourth grade?

1 Q. All right. When y'all would go play the private
2 school, Heritage Hall, you would buckle your chin straps
3 and get with it, so to speak?

4 A. Yeah.

5 Q. And did you feel good about the comradery of your
6 teammates while you were on the high school football
7 team at Kingfisher?

8 A. Yeah.

9 Q. Now, you said the wrestling would occur
10 voluntarily, high school kids being high school kids
11 having fun, before you all would go into film?

12 A. Yes, sir.

13 Q. When you would go into film session would the
14 film session be separated into groups by position or
15 would you all be together?

16 A. Not that I remember. I think we were all in
17 there together.

18 Q. All right. Do you recall, and I know you are
19 being caught cold and you don't know what I'm going to
20 ask you, do you recall going into film session at any
21 time after a ring match occurred between two of your
22 teammates?

23 A. I mean, yeah. I don't remember like specifically
24 but I'm sure it happened.

25 Q. And was everyone, the football team, in the film

1 A. Not that I remember, no.

2 Q. And in terms of your involvement with the
3 football team I would assume you were a captain or a
4 leader?

5 A. Yes, sir, I was.

6 Q. And you were aware of what was going on?

7 A. Yep.

8 Q. I mean, you had the pulse of the team?

9 A. Yeah.

10 Q. Jett Matson. Jett Matson. Do you remember a
11 Jett Matson?

12 A. Maybe if I saw him.

13 Q. Fair enough. All right.

14 Do you have any idea whose idea it was to box?

15 A. No.

16 Q. And that occurred, best you know, one time?

17 A. Yeah, once, maybe twice. I don't remember
18 exactly, no.

19 Q. And best you know, when Coach Myers found out
20 about the boxing, Coach Myers put an end to all aspects
21 of the ring, not only the boxing, but the wrestling?

22 A. Yes.

23 Q. At no time did you ever hear Coach Myers tell two
24 players to get in the ring, fair?

25 A. Not that I remember, no.

1 backs.

2 Q. All right. And tell me a little bit about the
3 organizational structure, as you understand it, of the
4 coaches.

5 So Jeff Myers is the head coach?

6 A. Yeah.

7 Q. Right?

8 Thinking about an organization tree, who falls
9 under him?

10 A. I mean, it would have been Coach Myers, head
11 coach.

12 Coach Nall was the offensive coordinator.

13 Coach Blundell was defensive coordinator.

14 Q. Then you had position coaches after that?

15 A. Yeah, I guess, yeah.

16 Q. So in that situation do you know whether or not
17 -- I would assume, and I don't want to assume, the
18 position coaches are reporting progress and training and
19 drills that are going on to the coordinators and it goes
20 all the way up the line to Coach Myers, is that
21 accurate?

22 A. Yeah.

23 Q. These ring matches, they didn't have any
24 supervision from any coaches, did they?

25 A. No.

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KEATON ABERCROMBIE,

Of lawful age, being first duly sworn, deposes and says
in reply to the questions propounded as follows:

THE COURT: Okay. If you will have a seat.
Mr. Bunn, whenever you are ready.

DIRECT EXAMINATION

BY MR. BUNN:

Q. Would you state and spell your full name for the
record, please, sir?

A. Keaton Abercrombie. K-e-a -- do I need to spell
it for you?

Q. Yes, please.

A. K-e-a-t-o-n A-b-e-r-c-r-o-m-b-i-e.

Q. Thank you.

Were you ever enrolled in Kingfisher High School?

A. Yes.

Q. When was that, what years were you enrolled in
Kingfisher High School?

A. 2016 through 2020.

Q. Ever part of the Kingfisher football high school
football team?

A. Yes.

Q. What years were that?

A. 2016 through 2020. Yes.

Q. So all four years you were on the football team?

1 Q. (Mr. Bunn) So in your experience in viewing --
2 how many times did you -- how many times --

3 Let me ask it this way.

4 During your years between 2016 and 2020, did you
5 see the ring going on?

6 A. Maybe two, three times.

7 Q. Two or three times total?

8 A. That I seen.

9 Q. Yeah. Are you aware of it occurring at other
10 times that you were not personally presently there?

11 A. I'm sure it did.

12 Q. During these -- so you testified just now that
13 you saw the actual ring two or three times?

14 A. Yes.

15 Q. Is that accurate?

16 Do you recall what year the first time you viewed
17 the ring was?

18 A. No.

19 Q. Do you recall if it was in your freshman year or
20 sophomore year, junior year?

21 A. (Witness shakes head.)

22 Q. You have no idea?

23 A. I don't know.

24 Q. That time, what did you see occur in the ring?

25 MR. WHITE: Can we get the identity of who

1 A. No.

2 Q. Do you know why they were in the ring?

3 A. I don't know.

4 Q. Now, you indicated that you believed Coach
5 Patterson and Coach Myers were there?

6 A. Yes.

7 Q. And do you know if Coach Myers or Coach Patterson
8 saw them throwing punches at each other?

9 A. I don't know that part.

10 Q. Did you ever see any kind of blood?

11 A. No.

12 Q. Did you ever see if either one of the two
13 participants, Mr. Velarde or Mr. Pine, got bruised?

14 A. Not then, no.

15 Q. Not then?

16 A. No.

17 Q. Did they go at it another time?

18 A. I think that was the only time that they did it.

19 Q. Now, you indicated you had seen two or three
20 times the ring in the locker room?

21 A. Yes.

22 Q. And the other times were there any coaches
23 around?

24 A. I don't know.

25 Q. Did you ever see anyone get injured in the ring,

1 get hurt?

2 A. No.

3 Q. Now, Mr. Bunn asked about a video, a video, I
4 take it, somebody is on a cell phone, videoing two of
5 the participants in the ring?

6 A. Yes.

7 Q. And on the video I think you indicated they had
8 their hands wrapped in towels?

9 A. One of them did.

10 Q. And your brother was in the video, to your
11 knowledge?

12 A. Standing there, yes.

13 Q. You have seen the video?

14 A. Yes.

15 Q. In the video was there any coach that was seeing
16 what the boys were doing?

17 A. In that video?

18 Q. Yes.

19 A. Yes.

20 Q. Who was the coach that was there?

21 A. Coach Myers and Derek Patterson.

22 Q. Is this the one that -- is this Velarde and Pine
23 or a different one?

24 A. Velarde and Pine.

25 Q. So this is the one you talked about, those two

1 A. Kingfisher High School.

2 Q. What year did you start your high school
3 attendance?

4 A. 2017.

5 Q. 2017 was your freshman year?

6 A. Yes, sir.

7 Q. What year did you graduate?

8 A. 2021.

9 Q. What have you been doing since then?

10 A. I've been at college at Oklahoma State.

11 Q. Go Pokes.

12 A. Yes, sir.

13 Q. While you were at Kingfisher High School were you
14 a member of the high school football team?

15 A. Yes, sir.

16 Q. What years were you a member of the high school
17 football team?

18 A. All four, sir, 2017 through 2021 or 2020.

19 Q. Who was your head coach during that time?

20 A. Jeff Myers.

21 Q. Are you familiar with something called the ring
22 that allegedly occurred during your time at Kingfisher
23 High School?

24 A. Yes, sir.

25 Q. Can you tell me -- can you explain generally to

1 me what the ring was?

2 A. Of course. So, you know, usually it was -- maybe
3 it was between people that had beef in practice, you
4 could say.

5 Or it would just be upperclassmen that wanted to
6 see a good show and they would pit two younger classmen
7 usually against each other and it would just be a fight,
8 whether it be wrestling, or could be kind of a MMA
9 format of boxing, and people would crowd around and
10 watch.

11 Q. When you say MMA format, what do you mean?

12 A. So it could be necessarily like MMA gloves or
13 they would tie towels on their hands as gloves to soften
14 the blows and it would be a mixture of wrestling and
15 boxing.

16 Q. All right. Was the ring voluntary?

17 A. To some extent it was. For some people, no. Not
18 all of the time was it voluntary. Most often for me it
19 was not voluntary, no.

20 Q. Explain what you mean sometimes yes and sometimes
21 no.

22 A. Most of the time I was forced into it. Like I
23 said, for some people, it was to settle beef. Some
24 people voluntarily did it but not often.

25 A lot of times it was usually, you know, they

1 upperclassmen a little bit. So, for example, let me
2 think. 2017, trying to think specifics.

3 As kind of, just for fun, I had to wrestle Rigo
4 Padilla. That didn't end well for me, obviously.

5 I'm trying to think of some more specific names.
6 Let me think here.

7 Q. Let me ask it this way. In 2017 did you have any
8 matches that involved striking?

9 MR. WHITE: Any matches that involved what?

10 MR. BUNN: Striking.

11 THE WITNESS: 2017?

12 MR. BUNN: Yes.

13 THE WITNESS: I think 2018 is really when I
14 only had my striking matches.

15 2017 I only had real wrestling.

16 Q. (Mr. Bunn) Okay. How many wrestling matches did
17 you engage in in the ring in 2017?

18 A. About ten.

19 Q. Did you receive any injuries during that time?

20 A. Like I had stated earlier, it was mainly a bunch
21 of strawberries, welts, kind of bruises where it would
22 tear the skin open a little bit just from the rubber
23 floor, stuff like that.

24 I didn't have any significant broken bones or
25 anything like that, of that nature.

1 during 2017.

2 Do I have that right?

3 A. Yes, sir.

4 Q. And I believe you also testified that there were
5 matches during 2017 that you engaged in that you were --
6 that you did not do so voluntarily?

7 A. Yes, sir.

8 Q. Can you tell me what you mean -- if you engaged
9 in a match involuntarily how were you forced to engage
10 it?

11 A. Yeah, absolutely.

12 So usually it would be out on the practice field
13 where someone would just have a call out of, what do you
14 guys think of Mason verse (sic) said person after this,
15 and obviously I would not want to do that.

16 And it would get down to the point of where they
17 are like, you have to do this, you know. It is common
18 and if you don't you are kind of a, and they would use
19 slang terms to call me soft.

20 MR. WHITE: Object on hearsay.

21 MR. BUNN: Not being offered to --

22 MR. WHITE: Can we just get speakers as to
23 who they might be?

24 Are these football players he is talking
25 about?

1 about the tasing, so I'm going to strike that part.

2 If that comes up as of the part of the
3 evidence of the ring, I mean, I don't know. It has to
4 be placed in some context.

5 At this point, I'm not going to take that
6 into consideration, unless you bring it up and it is
7 testified about.

8 I don't know what he is talking about.

9 Q. (Mr. Bunn) All right. Was the nature of the
10 forcing you to go into the ring individuals physically
11 forcing, pushing you, into the ring?

12 A. No. Well, it was more of the manner of you get
13 back to the locker room and, in my case, obviously, if I
14 was called out at practice by upperclassmen that they
15 wanted me to wrestle or whatever it was, I would try and
16 shower real quick and change and get ready for film.

17 But usually they did not forget that and they
18 would create a circle within the locker room and they
19 would start trying to get you to, you know, call you in
20 there verbally and then, if not, then, you know, kind of
21 start pushing you in there to just try and get you to
22 wrestle.

23 Q. Let's get back on track here.

24 2017, how old were you?

25 A. I was 14 in the summer and I turned 15 in the

1 we stopped right after that.

2 Q. Were any coaches around to observe that fight?

3 A. I believe some coaches came in there right after
4 that, because someone said, you know, Jett has a black
5 eye. I don't know if they talked to Jett about it.
6 They didn't talk to me about it.

7 I think it was Coach Eaton and Coach Myers came
8 in there after, shortly after. It might have been just
9 to tell us to get ready for film. I can't remember the
10 specifics of why they came in.

11 Q. 2019, how many -- did the ring occur in 2019?

12 A. Yes.

13 Q. How many ring matches did you engage in in 2019?

14 A. When I was an upperclassman I didn't engage in
15 any.

16 Q. So 2019 you did not engage in any?

17 A. No, sir.

18 Q. Did you observe ring matches in 2019?

19 A. Yes, sir.

20 Q. How often would you observe ring matches in the
21 2019 season?

22 A. I felt like there was not as many. I would say
23 there were probably six or seven I remember.

24 Q. Six or seven total?

25 A. Yeah, or that I remember observing that I can

1 A. I knew there was -- they would not do anything.
2 There was no hope in that. Be nothing done to stop it,
3 prevent it.

4 Q. How did you know that?

5 A. Because that is not my duty to report that. That
6 would be the coaches duty.

7 Q. And you have testified that the coaches were
8 there --

9 A. Yes.

10 Q. -- at least on occasion?

11 MR. WHITE: Leading. I have not heard
12 anything about coaches being there in 2019 or 2020, and
13 he thinks maybe there was a coach there on the issue
14 with Jett Matson. I will cover that on Cross, but I
15 haven't heard anything about coaches in '19 or '20 being
16 there.

17 THE COURT: Okay.

18 Q. (Mr. Bunn) At any point did you report the ring
19 to school officials?

20 A. No.

21 Q. And to be clear, you have testified to coaches
22 being there during 2017 and 2018 --

23 A. Yes.

24 Q. -- is that correct?

25 You didn't report it then?

1 Q. Was he a football team leader?

2 A. He might have been a captain. I'm sure he was.

3 Q. What does it take to become a captain of the
4 Kingfisher High School football team?

5 A. Well, usually they would have a vote.

6 Q. Players vote?

7 A. Yes.

8 Q. And is it by written ballot, secret vote, is it
9 an open vote where everybody knows who is voting, what
10 is it?

11 A. Written ballot, I believe.

12 Q. And do you have to be a senior to be eligible to
13 be a captain?

14 A. Yes.

15 Q. Do you recall Declan Haub being present at any of
16 these matches you are talking about that occurred in the
17 ring?

18 A. Yes.

19 Q. I mean, some of those matches had to be fun,
20 right?

21 A. They weren't very fun.

22 Q. They weren't?

23 A. No. I mean, they weren't if you are in it, of
24 course.

25 Q. I'm sorry?

1 A. Yes.

2 Q. And that is because the players put you two
3 together?

4 A. Yes. Someone at practice that day, the day the
5 ring happened, asked if I was any better from the day --
6 I think he said Calvin sunned me, I think it was Declan
7 that said it.

8 Q. That Declan Haub said it?

9 A. I believe it was Declan, uh-huh.

10 Q. And so are you blaming Declan for putting Calvin
11 in the ring with you?

12 A. I'm not blaming. I mean, he was an instigator to
13 it. I'm not blaming Declan for it.

14 Q. Was Declan there when you and Calvin wrestled?

15 A. I'm sure he was. His locker was directly next to
16 where it all happened. He had a private locker that was
17 the closest one to the open area.

18 Q. And so Declan would have seen you and Calvin
19 going at it in the ring?

20 A. If he was there, unless he was showering.

21 Q. For about two minutes?

22 A. Unless he was showering but...

23 Q. Did Calvin hurt you in the ring?

24 A. In a sense. He picked me up and, you know,
25 slammed me pretty hard but then we stopped just right

1 A. Usually, yes.

2 Q. And then you get to the locker room where the
3 call out comes in real time?

4 A. Yes.

5 Q. Okay. How does that happen?

6 A. Say some people are shying (phonetic), I'm at my
7 locker, I will just give this scenario for example.
8 You know, people start saying, hey, don't we have, you
9 know, Mason and Kolby today, and people start cheering
10 and kind of form a ring.

11 And then sometimes I would try and hide and that
12 wouldn't work, and they would force me into it, either
13 push me into it, like I'm not doing it.

14 They are like, do you realize how soft you look,
15 how stupid you look. Everyone, stop being a, you know,
16 and use some slang, some term.

17 Q. They would call you the "P" word?

18 A. Yeah, that was one.

19 Q. Or a wimp?

20 A. Or a bitch.

21 Q. Or a b-i-t-c-h?

22 A. Yes. Sorry for that.

23 Q. And that would force you into getting in the
24 ring?

25 A. Well, I had constant fear from other factors that

1 motivated me to get in the ring. I would get it worse
2 if I did not get in the ring.

3 Q. Constant fear from other factors.

4 But inevitably -- by the way, did you ever
5 complain to your parents as of the seventh match about
6 this constant fear you are now telling this court under
7 oath, under the pains and penalties of perjury?

8 A. No, I hid it from them.

9 Q. You hid it from them?

10 A. Yes.

11 Q. Now, you and Mr. Krittenbrink, y'all got in the
12 ring. How long did that match last?

13 A. Honestly, that was a little longer, but then we
14 stopped. He got pretty tired whenever we were on the
15 ground so we just -- there was no clear winner on that
16 really.

17 Q. Did he hurt you?

18 A. He did not. Well, he landed on me awkwardly but
19 it did not, you know, hurt me.

20 Q. Tell me about that. He landed awkwardly. Were
21 y'all standing up?

22 A. Yeah, we were standing up and he tried throwing
23 me and I tripped and I fell and he tripped over me and
24 just landed on me and he is a bigger guy.

25 Q. And what clothing did you have on?

1 A. Yes.

2 Q. You got you a new freshman team under you, right?

3 A. Yes, sir.

4 Q. And you have, let's see, roughly six matches that
5 you say you participated in over the course of August,
6 September, October, November?

7 A. Yes, November.

8 Q. Four months?

9 A. Yes, sir.

10 Q. The first match was with whom your sophomore
11 year?

12 A. Again, I don't remember the exact dates in which
13 order, but I think the first one was with Gunner Snider.

14 Q. Gunner Snider, who called out Micah Nall, Coach
15 Nall?

16 A. Yes.

17 Q. And you told me, I think, earlier, Snider wasn't
18 hurt by Micah Nall?

19 A. No, sir.

20 Q. He wasn't injured?

21 A. Yes, sir. I don't think he was injured that bad.

22 Q. While you are in -- do you know if Gunner
23 wrestled?

24 A. I don't believe so. I'm unsure.

25 Q. While you were in football did you ever observe a

1 coach actively participating in a drill?

2 A. In a football drill?

3 Q. Yes.

4 A. I'm unsure.

5 Q. For instance, you played what position?

6 A. I played running back and corner back on defense.

7 Q. Running back and corner back. Corner back, did
8 you ever observe a coach trying to teach back pedaling?

9 A. Yes.

10 Q. And moving the hips, back pedal, drop leg, move
11 the hips, keeping your eye on the player?

12 A. Yes, sir.

13 Q. And did you consider that a moment of teaching?

14 A. Yes, trying to, of course, yeah, moment of
15 teaching.

16 Q. As a running back, who was your running backs
17 coach?

18 A. It depended on the year. My freshman year it was
19 Coach Eaton and then after that it was Coach Blundell.

20 Q. And as a corner back who was your position coach?

21 A. Derek Patterson.

22 Q. Did you like Coach Patterson?

23 A. I'm not sure like was a correct term. You know,
24 I respect him on the field, but...

25 Q. If you saw him at the diner, say you go to --

EXHIBIT “5”

IN THE DISTRICT COURT OF KINGFISHER COUNTY
STATE OF OKLAHOMA

Kingfisher County Oklahoma

FILED

AUG - 6 2024

LISA MARKUS, COURT CLERK
BY _____ DEPUTY

STATE OF OKLAHOMA)
Plaintiff,)
VS.)
JEFFREY KENT MYERS)
Defendant.)

CASE NO. CF-2023-61

ORDER

This case came on for hearing on the 6th day of August, 2024. The state appears by Assistant District Attorney, JIMMY BUNN. Defendant appears in person and with counsel, JOE WHITE, KATE WHITE AND AMBER WALKER.

The Court after considering the evidence presented, enters the following order:

- The public offense(s) named in the within complaint and mentioned [or amended], [has not/have not] has/have been committed,
- There [is not] is sufficient cause to believe the within named Defendant guilty thereof.
- It appearing to me that the offense(s) named in the within complaint(s) mentioned has/have been committed, and that there is sufficient cause to believe the within named Defendant guilty thereof, I order that the Defendant be held to answer the same and this order be endorsed on the complaint(s).
- It appearing that a public offense(s) [has/have] not been committed or that a public offense(s) [has/have] been committed, but there is not sufficient cause to believe the Defendant guilty thereof, I order the defendant be discharged.
- I have admitted the Defendant to bail, to answer, by the undertaking reflected in the court file.
- Bond is continued.
- Formal arraignment is set at 9:30 o'clock a.m. on the 9th day of October, 2024 before the Honorable PAUL K. WOODWARD.

IT IS SO ORDERED.

Lisa Markus
Judge of the District Court

EXHIBIT “6”

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IN THE DISTRICT COURT OF KINGFISHER COUNTY
STATE OF OKLAHOMA

STATE OF OKLAHOMA,)
)
Plaintiff,)
)
VS.) Case No. CF-2023-61
)
JEFFREY KENT MYERS,)
)
Defendant.)

* * * * *

BIND OVER ORDER HEARING
HELD ON THE 6th DAY OF AUGUST, 2024
IN FRONT OF THE HONORABLE JUDGE LAFFERTY

* * * * *

REPORTED BY: CANDI MILLER, CSR

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APPEARANCES

ON BEHALF OF THE STATE OF OKLAHOMA

MR. JIMMY BUNN, JR.
Assistant District Attorney
101 South Main
Kingfisher, Oklahoma 73750

ON BEHALF OF THE DEFENDANT:

MR. JOE WHITE
MS. KATE WHITE
Attorney at Law
630 N.E. 63rd Street
Oklahoma City, Oklahoma 73105

1 (Whereupon the following was held in open court:)

2 THE COURT: We'll go on the record in
3 Kingfisher County Case CF-23-61. It is entitled the
4 State of Oklahoma vs. Jeffrey Kent Myers.

5 He is present. He is out on bond. He is
6 here with his attorneys, Joe White and Kate White, and
7 legal assistant, Amber -- Walker?

8 MR. WHITE: Walker.

9 THE COURT: Walker. I didn't write it very
10 well.

11 And the State is represented by the
12 Assistant District Attorney, Jimmy Bunn.

13 We were here earlier on June 27th of '24.
14 We had a Preliminary Hearing, and at that hearing, I
15 found there was insufficient evidence to bind Mr. Myers
16 over on the one count of felony child neglect.

17 The State appealed and on 7-19-24, Judge
18 Newby conducted a hearing wherein he reversed my
19 decision on that date.

20 My office was contacted and the parties were
21 set to reconvene on 8-6-24 at 9:00 a.m., and we are all
22 here.

23 So pursuant to the Code of Criminal
24 Procedure, Title 22, Chapter 18, Section 1089.6, I have
25 been ordered to enter a proper Order binding Mr. Myers

1 over on the sole count of felony child neglect.

2 I have prepared a Bind Over Order, and it
3 will be filed in this case, as directed by Judge Newby.

4 Does anyone have anything they want to put
5 on the record?

6 MR. BUNN: No, Your Honor, other than
7 setting the District Court Arraignment.

8 THE COURT: Yes. Do you know Judge
9 Woodard's --

10 MR. BUNN: We do, Your Honor, and I think we
11 have an agreement. Judge Newby (sic) has one docket
12 here a month. His next --

13 MR. WHITE: Woodward.

14 MR. BUNN: I'm sorry. Judge Woodward, has
15 one docket a month here. His next one is tomorrow. His
16 one after that is September 4th, which would still be
17 within the 30-day requirement for District Court
18 Arraignment.

19 However, to my understanding, the parties
20 have agreed to waive that 30-day requirement and his
21 next docket would be October 9th.

22 THE COURT: Does he do criminal at 9:30 here
23 as well?

24 MR. BUNN: He does them at 9:30, Your Honor,
25 that is correct.

1 THE COURT: So you all are waiving the
2 30-day formal arraignment, is that correct, Mr. White?

3 MR. WHITE: Yes, Your Honor, we'll waive 30.

4 THE COURT: Anything else?

5 MR. WHITE: No. I don't know why we are
6 here, but there was no ruling. He just said, I find
7 there is evidence. But here we are.

8 THE COURT: With a smile on our faces.
9 Thank you all. Good luck to both sides.

10 (Whereupon the record was concluded.)
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CERTIFICATE OF REPORTER

DISTRICT COURT OF OKLAHOMA

COUNTY OF KINGFISHER

STATE OF OKLAHOMA,)	
)	
Plaintiff,)	
)	
-vs-)	Case No. CF-2023-61
)	
JEFFREY KENT MYERS,)	
)	
Defendant,)	

I, Candi A. Miller, Certified Shorthand Reporter for the State of Oklahoma, do certified that the foregoing transcript is a true, correct and complete transcript in the above-styled case taken by me on August 6th, 2024, in Kingfisher County in front of the Honorable Judge Lafferty.

Witness my hand and seal this 17th day of September, 2024.

Candi A. Miller
Certified Shorthand Reporter
#01646

1 Q. I mean, was it magic, that they disappeared?

2 A. No, I'm just saying we didn't have them my senior
3 year.

4 Q. Did you ever ask Coach Myers, Coach, why aren't
5 we going to have a vote on captains this year?

6 A. No.

7 Q. Okay. So, black eye. You and Jett are boxing.
8 How long did this boxing match last?

9 A. I'm unsure. It was, you know, a couple of
10 minutes. I didn't time it really.

11 Q. Whose idea was it to put towels around Jett's
12 hands?

13 A. That was Easton that had towels around his hands,
14 not Jett.

15 Q. What did Jett have?

16 A. Jett had MMA gloves. We both had MMA gloves at
17 that time.

18 Q. You what?

19 A. Both had MMA gloves.

20 Q. Who brought the gloves?

21 A. I'm unsure who brought them. I know (inaudible)
22 were in the locker room at that time.

23 Q. Did you have a pair of MMA gloves?

24 A. Given to me for that fight. I didn't bring them.

25 Q. Did you have some at home?

1 A. I don't think so, no.

2 Q. Did you have boxing gloves?

3 A. I have boxing gloves at my house, yeah.

4 Q. How many boxing matches do you think you
5 participated in outside the ring your sophomore year?

6 A. Two.

7 Q. Where were they?

8 A. Cason Matthews' house.

9 Q. Who?

10 A. Cason Matthews. He is a kid in my grade.

11 Q. Cason. C-a-s-o-n?

12 A. Yes.

13 Q. Matthews?

14 A. Yes, sir.

15 Q. And both of those were at his house?

16 A. Yes, sir.

17 Q. In his garage?

18 A. Yes, sir.

19 Q. Your sophomore year?

20 A. Yes.

21 Q. The same year you boxed Jett Matson?

22 A. Yes.

23 Q. And you boxed Easton Pine?

24 A. Yes.

25 Q. Those were the two boxing matches you had while

1 you were at Kingfisher as part of the football team,
2 true?

3 A. Yes, true.

4 Q. And outside of those two matches with the
5 Kingfisher football team, you had two in the garage of
6 Cason Matthews?

7 A. Well, I would like to be clear that the striking
8 matches were more of an MMA format within the locker
9 room, so you could kick and wrestle as well. It wasn't
10 just striking, just boxing.

11 Q. So you and Jett could get on the ground and roll
12 around?

13 A. We could if we wanted to, yes.

14 Q. Did you?

15 A. I think we stayed up the whole time. There was
16 some kicks thrown but I don't think we ever wrestled.

17 Q. At any time in these any of these ring matches
18 did you ever seek any kind of medical treatment from a
19 doctor?

20 A. No, sir.

21 Q. In the garage at Cason Matthews' house, who were
22 you boxing on the first occasion?

23 A. I can't remember who I boxed first but I think it
24 was Cason.

25 Q. And on the second?

1 A. Cade Stephenson.

2 Q. Cade?

3 A. Yes, sir.

4 Q. Which one was filmed?

5 A. I'm unsure. I think either both of them or maybe
6 -- I'm not sure which one was filmed. Maybe both of
7 them. I don't know who filmed it.

8 Q. You ever box a kid smaller than you?

9 A. If I was forced, which I was pretty small my
10 sophomore year, but if I was forced to. But I was
11 pretty small my sophomore year so there was really no
12 one else that was that much smaller than me.

13 Q. I'm asking did you ever box anybody outside the
14 ring that was smaller than you?

15 A. Maybe an inch or two. That's pretty small.

16 Q. How does a boxing match happen outside of the
17 ring?

18 A. We were just friends being friends, hanging out,
19 and Cason had gloves and we thought it was a good idea
20 to just go at it.

21 But there was no animosity towards each other.
22 We were all trying to have a good time, no one seriously
23 got hurt and it was all voluntary. I wasn't forced into
24 it and I had no threats.

25 Q. Now, whenever you were in these boxing matches

1 outside of the ring at the Matthews home, were there any
2 adults present or was it just you and other kids?

3 A. I believe it was just us and other kids.

4 Q. Do you know who was filming?

5 A. No, sir.

6 MR. WHITE: Kate, you got that stuff pulled
7 up.

8 What I would like to do is identify, first.

9 Before you play it, I want to see maybe the
10 thumb of it.

11 (Whereupon video was played.)

12 Q. Is that you? (Indicating.)

13 A. Yes, that is me.

14 Q. Stop that right there. It looks like you are
15 wrestling?

16 A. Yes, sir.

17 Q. Are those different rubber mats?

18 Is this in the ring?

19 A. No, that is at a track meet, sir.

20 Q. That is at a track meet.

21 Who is this fellow you are wrestling?

22 A. John. I can't remember John's last name. I
23 wasn't too great of friends with him but I ran track
24 with him. His name is John though. I can't think of
25 his last name.

- 1 Q. Was he younger or older?
- 2 A. He was a year older than me, I think.
- 3 Q. Do you know what year that was?
- 4 A. That would have been my sophomore.
- 5 Q. Sophomore year.
- 6 And track is after football?
- 7 A. Yes, sir.
- 8 Q. So would that be a spring sport?
- 9 A. Yes, sir.
- 10 Q. And football was a fall sport?
- 11 A. Yes.
- 12 Q. So this would be in the year 20 --
- 13 A. '19.
- 14 Q. 20 -- the Spring of 2019?
- 15 A. Yes.
- 16 Q. Yep. And do you remember where this track meet
- 17 was?
- 18 A. No, sir, not the exact location.
- 19 Q. Who is that red-headed fellow?
- 20 A. Looks like Zane Buck.
- 21 Q. Is he a coach?
- 22 A. No, that is a player or a student runner.
- 23 Q. Shot putter?
- 24 A. Shot putter, yeah, throw.
- 25 Q. He doesn't look like he is going to run a hundred

1 yard dash?

2 A. Yeah, probably not.

3 Q. All right. Let's run this and see. You got
4 video -- audio?

5 (Whereupon video was played.)

6 Q. And so you weren't hurt in that one?

7 A. No.

8 MR. WHITE: Let's go to next one, Kate.

9 Q. (Mr. White) But you and I can agree from time to
10 time you would wrestle on your own outside the confines
11 of the ring?

12 A. When I had no threats against me, yes, sir.

13 If I may ask, what does that have to do with this
14 at all?

15 THE COURT: It is not appropriate, unless
16 you want to answer, it is not appropriate to ask him
17 questions.

18 Thank you.

19 (Whereupon video was played.)

20 Q. Is that you doing the flipping?

21 A. I'm the one -- I'm not the one with my butt in
22 the air, no.

23 Q. All right. Looks like you pinned him?

24 A. If that is what you call it. I'm not a very good
25 wrestler.

1 Q. Were you hurt there?

2 A. No.

3 Q. That wasn't in the ring, was it?

4 A. That was not in the ring, no.

5 Q. Next one.

6 Who was with you in that match?

7 A. That was Gunner Snider.

8 Q. That was Gunner?

9 A. Uh-huh.

10 Q. And that was at a track meet during 2019?

11 A. Yes, sir.

12 Q. Okay. Can you approximate how many other
13 wrestling events you did outside the ring in 2019?

14 A. No, sir. Only ones that happened are the ones
15 that are filmed.

16 Q. No others. It just so happens the ones you did
17 do, they were filmed?

18 A. Absolutely.

19 Q. Who is here?

20 A. I can't tell yet.

21 Q. Okay. Play that through.

22 (Whereupon video was played.)

23 Q. Is that you, Mason Mecklenburg?

24 A. Yeah, I'm the one in the gray.

25 Q. Who is in the red?

- 1 A. Cason Matthews, I think.
- 2 Q. That is at the Matthews' garage?
- 3 A. Yes, sir.
- 4 Q. Who was the other fellow?
- 5 A. Cade Stephenson.
- 6 Q. That was Cade Stephenson?
- 7 A. Yes.
- 8 Q. Is he older or younger?
- 9 A. He is my age.
- 10 Q. How long did that boxing match last?
- 11 A. Again, I did not time those, so about the same
- 12 length as that one with Cason.
- 13 Q. Yeah. Either one of you hurt?
- 14 A. Not really, no. No, sir.
- 15 Q. But y'all were going at it pretty good?
- 16 A. Yeah, with heavy weighted gloves we were. We
- 17 were having a good time.
- 18 Q. Were those the kind of boxing gloves you used
- 19 earlier when you told me you were using boxing gloves on
- 20 Easton?
- 21 A. It wasn't the exact same boxing gloves. It may
- 22 have been smaller ounce. I'm not sure, but it wasn't
- 23 the exact same gloves.
- 24 Q. Do you know where these gloves came from?
- 25 A. I think Cason's house.