

IN THE CIRCUIT COURT OF THE EIGHTEENTH
JUDICIAL CIRCUIT OF THE STATE OF
FLORIDA, IN AND FOR BREVARD COUNTY

STATE OF FLORIDA
VS.
JOSEPH KYLE LA MAY

PALM BAY POLICE DEPARTMENT
CASE NUMBER: 14-009340

ARREST WARRANT

IN THE NAME OF THE STATE OF FLORIDA, TO ALL AND SINGULAR THE SHERIFFS AND LAW ENFORCEMENT OFFICERS OF THE STATE OF FLORIDA:

WHEREAS, an affidavit has been made by Detective Nicole Caroffino of the Palm Bay Police Department, Brevard County, Florida, and it appearing to the court that there is sufficient probable cause to believe that on or about the date of September 26th, 2014, the defendant, **Joseph Kyle La May**, herein after called the defendant, did violate the laws of the State of Florida, to wit:

- **First Degree FELONY MURDER** Contrary to section 782.04 (1)(a)(2)(h),
Florida Statute

Defendant is described as: **JOSEPH KYLE LA MAY**
WHITE MALE
07/23/1990
HOMELESS



You are, Therefore, commanded to arrest instanter the said defendant and bring him before the court to be dealt with according to law.

FIRST DEGREE FELONY MURDER

BOND AMOUNT - *NO BOND* *REL*

DONE AND ORDERED this 4 day of October 2014

Dave E. Filvesman

JUDGE OF THE COUNTY/CIRCUIT COURT

**IN THE CIRCUIT COURT OF THE EIGHTEENTH
JUDICIAL CIRCUIT OF THE STATE OF
FLORIDA, IN AND FOR BREVARD COUNTY**

STATE OF FLORIDA

VS.

JOSEPH KYLE LA MAY

CHARGE:

- **FIRST DEGREE FELONY MURDER CONTRARY TO SECTION 782.04 (1)(a)(2)(h) Florida Statute**

AFFIDAVIT

COUNTY OF BREVARD
STATE OF FLORIDA

PALM BAY POLICE DEPARTMENT
CASE NUMBER: 14-009340

- Before me, DAVID E SILVEMAN, a judge of the county/circuit court, in and for Brevard County, personally appeared Nicole Caroffino, who being duly sworn, deposes and says that she is a Detective with the Palm Bay Police Department, and in that capacity did investigate a complaint of **FIRST DEGREE FELONY MURDER CONTRARY TO SECTION 782.04 (1)(a)(2)(h), FLORIDA STATUTE** occurring on the date of September 26th, 2014 within the city limits of Palm Bay, Brevard County, Florida.

On September 26th, 2014, at approximately 0145hrs Detective Cowan was working as the Special Victim's Unit on-call detective. Detective Cowan was contacted by the Palm Bay Police Department communications center and advised to contact Cpl J Spears, #198. Upon making contact with Cpl Spears, Detective Cowan was advised that patrol units had responded to a report of a child not breathing and bleeding from the nose. Cpl Spears advised that a 4 month old child (later determined to be Lorenzo Hernandez) was being watched by his mother's paramour while the mother was at work at Sebastian River Medical Center. The paramour, Joseph LaMay, had told units that Lorenzo had fallen off of the couch onto the ground causing him to become unresponsive. Lorenzo had been transported by fire rescue crews to Palm Bay Emergency Room as a "code." Cpl Spears advised that the hospital had been able to regain a pulse

Palm Bay Police Department

DR# 14-009340

ORIGINAL: Court Clerk

COPIES:

Page 1 of 9
Sheriff, SAO, Palm Bay PD

Detective Cowan made contact with the on-call Major Crimes detective, Detective Jones, #89. Detective Jones and I determined that he would respond to the scene, 780 Wildbriar Rd #201.

Upon Det. Cowan's arrival she made contact with units who directed her towards Joseph, who had been sitting on the steps outside of the apartments. Joseph was asked about the events of the night. Joseph advised that he and Lorenzo had been in the bedroom for most of the night. He then advised that he took Lorenzo out into the living room and placed him on the couch. Joseph stated that he sat down next to Lorenzo for a few minutes while he was on his phone. Joseph then advised that he got up to go into the kitchen for a drink. Joseph stated that Lorenzo was awake at the time. Joseph stated that Lorenzo doesn't roll, then stated that Lorenzo doesn't normally move very much. Joseph advised that he was in the kitchen for a couple of minutes and heard a thud. He advised he wasn't sure if Lorenzo hit a table, or not, because it was close to the couch. Joseph advised that when he ran to pick up Lorenzo, who was face down on the carpet, he was limp and not moving. Joseph advised he picked him up and his eyes were closed and taking breaths erratically every few seconds. Joseph advised he called 9-1-1.

Joseph was then asked about his relationship with Lorenzo's mother, Chastity Citron. Joseph advised they had been together a little over 1 month and he had been living in the house that entire time. Joseph advised that he watches Lorenzo all the time. Det. Cowan then inquired about illnesses, and Joseph advised that Lorenzo had not been sick. Lorenzo was last fed approximately an hour or two prior to the incident. Joseph advised that he and Lorenzo were in the living room for approximately 10 minutes before he went to the kitchen. Joseph was asked about how Lorenzo was positioned on the couch, and he advised he was laid long-wise on the couch with a small, thin blanket under his head like a pillow. During this time Joseph took Detective Cowan went the apartment to continue the account of the story. Joseph was asked if he moved anything, and he advised that he had not. Joseph continued saying that he just "grabbed" Lorenzo (presumably off the ground). Joseph then advised that he carried Lorenzo into the bedroom because he had his phone in the bedroom. Joseph then advised that "they," presumably the dispatcher, told him to lay Lorenzo flat, so he laid him on the bed.

The sliding rear door was observed to be open approximately 2 feet. Joseph advised that he usually left that door open for a breeze. Joseph then walked me into the kitchen and stated he believed that he was in the kitchen for approximately 2 minutes. Joseph advised he was going to get himself a drink and a "bite to eat." Joseph showed a foil covered food container and advised that he had taken food out to heat it up. Joseph advised that this was when he heard a thud. It was requested at this time if Joseph would mind if we took pictures of the apartment, and he advised that he didn't mind. Det. Cowan then asked if Joseph would mind completing a written statement of what happened. He advised that he did not mind. Joseph was then sworn to his statements. Joseph was left in the apartment with Officer Snedeke, r #62, while he completed his statement.

During this time, it was determined that Palm Bay hospital was going to be sending Lorenzo via helicopter to Arnold Palmer Hospital.

Detective Cowan spoke to Joseph again to ask him a few follow-up questions. Joseph was asked where Lorenzo was when they were in the bedroom. Joseph advised that Lorenzo was lying next to him in the bed. Detective Cowan then addressed the initial information received that blood had been coming from Lorenzo's nose. Joseph advised when he began CPR that blood began to come out of Lorenzo's nose after he administered a rescue breath. Joseph stated that prior to CPR no blood was coming out of Lorenzo's nose or mouth. Joseph was asked about Lorenzo's color and he advised

that he was normal color but started to get pale. Joseph stated that after he began CPR, Lorenzo's color began to improve. Joseph then stated that it looked like Lorenzo's face was getting bruised but he thought it was just because he couldn't breathe. The interview concluded at this time until later in the morning when a reenactment was conducted with him, which was videotaped.

Detective Cowan then responded to Palm Bay ER to request permission for us to enter into the apartment from Chastity. While at the hospital, I spoke to Chastity and she advised that she left for work at 6pm for her 7pm shift at Sebastian River Medical Center. She confirmed that she and Joseph had been together a little over a month (since the 22nd of August). It was asked if there had been any domestic violence issues in the home. Chastity advised that there had not been any domestic violence against her or her kids, but that he had a domestic violence charge from an incident that happened between him and his ex-girlfriend/child's mother. Chastity advised that her pregnancy with Lorenzo was normal except she had a c-section due to his large size. Chastity advised that Lorenzo had been teething and could be a little fussy, but otherwise there were no issues with illnesses. Detective Cowan then advised Chastity that we would like to take pictures and search the residence as part of our investigation. Chastity advised she would give consent to the search. I then read over the consent to search form with Chastity and advised her of her rights. Chastity continued to agree and signed the Consent to Search form.

Detective Cowan then responded back to 780 Wildbriar Rd, #201, and made contact with Joseph again. Prior to making contact with Joseph, Detective Cowan spoke to CSI Clendenin who advised that Joseph had walked away from the area where two patrol officers were supposed to be watching him. Joseph was then found walking out of the apartment. Joseph stated to them that he was checking on the dog, who was in a crate in the dining area.

Detective spoke to Joseph and readdressed the request for entry into the apartment for scene documentation. Joseph again agreed and signed the same Consent to Search Form that Chastity signed. Prior to his signature, Detective Cowan read over the form and advised Joseph his rights in regard to the search. Joseph requested to allow the dog out so he could let him go to the bathroom. I asked Joseph about Lorenzo teething, and Joseph advised that he really didn't get fussy that much and denied that Lorenzo cried this evening for any reason.

As CSI was finishing up processing the scene, we walked past Joseph in the stairwell. Joseph stopped us to advise that he had given Lorenzo a bath afterward and advised that as he had gone to pick Lorenzo up out of the baby bath, he slipped a little and slid down into the bath tub. Joseph advised that he didn't fall, but just slipped. Then Joseph advised that he did fall a little bit, hitting his butt on the bottom of the bathtub. Joseph advised he made sure he didn't hit his head though. Detective Cowan then asked what he and Lorenzo were doing in the bedroom, and Joseph advised he was playing a video game, and Lorenzo was next to him. Detective Cowan asked if anything else had happened, and Joseph told Detective Cowan that he had told Detective Jones that Lorenzo had thrown up a clear liquid that Joseph described as "a lot." Joseph advised this happened after Lorenzo's father had left. Joseph advised that at this time is when he gave Lorenzo a bath because he had the vomit all over him.

At this time it should be noted that Detective Jones spoke to Lorenzo's father, Elizier Hernandez, while at the hospital and was advised that he had stopped by the apartment the previous evening around 10:30pm to drop off money as well as see Lorenzo. It was advised that Elizier was at the residence only a short time, fed him, held him, and then placed him in his bassinet in the master bedroom.

The emergency room doctor advised that they only had time to do an X-ray of Lorenzo before he was sent to Arnold Palmer Hospital. The doctor indicated that the x-ray showed that Lorenzo had splinter hemorrhaging behind his eyes, indicative of being shaken.

Detective Jones and Detective Cowan returned to the scene, and Detective Jones conducted an interview with Joseph in his vehicle. During this conversation he discusses the events of the evening to include that Elizier came over to see Lorenzo at 10:30pm. Joseph advised he was there for about 10 minutes. Joseph advised that he took Lorenzo out of the bassinet so Elizier could hold him. Joseph advised that he was with Elizier except for a short time when he was in the bedroom. Joseph advised that he held the baby for a while and then put him in the bassinet. Joseph advised that he then took the baby out of the bassinet because he was still awake. Joseph advised after this visit, Lorenzo never went back to sleep.

At approximately 0530hrs, Detective Cowan and Detective Jones, began the reenactment of the evening and incident with Joseph. This reenactment was video recorded. Due to a low battery, the video was overlapped and finished recording with another recorder. The reenactment starts in the master bedroom. A stuffed animal was used to simulate Lorenzo. Joseph advised that for most of the evening, he and Lorenzo were in the bedroom, he laid Lorenzo with his head on the pillow next to him. Looking at the bed from the foot of the bed, Lorenzo was lying on the left, and Joseph on the right. The television was directly in front of Joseph in the corner of the room. Joseph advised he was playing video games, which was evident as the video game Diablo III was still on the screen with the caption advising to reconnect the controller. Joseph stated that when Lorenzo threw up, he threw up "a bunch of clear liquid." Joseph then demonstrated rolling Lorenzo toward him, on Lorenzo's right side, and patting him on the back. Joseph advised that next he took him into the bathroom and gave him a bath. Joseph then walked us into the bathroom in the hallway to the apartment. He stated that he put Lorenzo into the bathtub. I observed a baby bath tub inside of the regular bath tub. The baby bath tub was filled with water to the top, and there was standing water inside the tub. I then addressed the statement he made earlier about Lorenzo slipping, and he advised that he had slipped down into the baby bath tub. Joseph then stated that he didn't give Lorenzo a bath with the tub that full and stated, "I know that's way too full." I asked how it got so full and he stated that he left the water on after he gave him a bath. I then asked Joseph what he did after the bath. Joseph stepped to the outside of the bathroom and paused. He stated, "I'm not sure what we did after that," and advised they may have gone into the bedroom for a little bit before coming back out to the living room. I asked what he did about clothes for Lorenzo, and he advised that they came back to the bedroom, and he put a onesie on Lorenzo. I asked Joseph where he dried him off or what he dried him off with, and he looked around the room and advised that he wasn't sure, paused, and then stated, "probably in the bathroom." I asked what happened next, and he advised they hung out while he played video games and stated he had moved Lorenzo closer to his body this time. Joseph stated he decided to move because he was hungry and moved to the living room. Joseph stated he laid Lorenzo down on the couch, and simulated laying him down parallel to the edge of the couch, in the middle of the area between the cushions and the edge. He stated that he then sat on the couch with Lorenzo playing on an application called "ifunny." He then stated that he went into the kitchen and was looking for something to eat, found the earlier referenced foiled cover dish in the refrigerator, and was going to heat up rice that was already on the stove. He advised "That's when I heard him fall." I then asked about the drink he told me that he had gone into the kitchen for. Joseph stated that it was a Mountain Dew. I asked where it was, and he stated it was in the bedroom. I asked how it got into the bedroom, and he stated, "I don't know...I took it in there, probably." I inquired about his previous statement that he heard a thump from the kitchen and ran to him. He stated, "Yeah..." I then asked what he did

next, and he stated that he "ran" to where he found Lorenzo on the ground face down. Joseph then stated that he picked Lorenzo up off the ground, and he was limp. Joseph then stated that he pulled his phone out of his back pocket and demonstrated reaching with his right hand around to his left back pocket and demonstrated that he called 9-1-1. He stated that he then went back to the bedroom because it was "dimmer" in the living room, because the lights weren't on. He advised he then rushed back to the bedroom with Lorenzo. Joseph advised that this is where he did CPR, and showed laying him on the far side of the bed, opposite the door. Joseph advised that he had the dispatcher on speaker phone. Joseph advised she then asked him if the door was unlocked and he advised it wasn't. Joseph then stated that he picked Lorenzo up, took him to the living room, put him on the couch, unlocked the door, and then went back to Lorenzo and continued with CPR. I then asked about the fluid coming out of Lorenzo's nose. Joseph advised that this occurred in the bedroom, and that he wiped the blood off with a towel. A towel was located prior to the reenactment that had a reddish substance on it consistent with blood. This towel was taken into evidence. I asked if any blood came out of Lorenzo's nose when he was doing CPR in the living room, and he advised that it did. He stated he thought he wiped it off with the blanket that had been used for a pillow (also taken into evidence). I asked what happened next, and Joseph stated that this is when "they," presumed to be fire rescue, came in and took over. I asked Joseph what he did while they worked on Lorenzo. He stated that he stood while they worked on him, and then the police officers asked him a bunch of questions. Then he was asked to wait outside (to preserve the crime scene). I then inquired about the text he sent to Chastity about Lorenzo throwing up. Joseph offered to show me the text conversation, and I agreed. Joseph then showed me the text conversation. He was unable to show me the time stamp for each text. After looking through the text conversation, I again asked about how his soda ended up in the bedroom. He stated that he isn't sure and that during all of the commotion he must have had it in his hand. It should be noted that it is unlikely that he would have been able to hold a soda, the baby, and call 9-1-1 all at the same time as suggested by his statement.

Detective Jones then asked about the clothing that Lorenzo was wearing when he brought him out to the couch before going into the kitchen. Joseph advised that Lorenzo was wearing a onesie, which he later described as a dark blue onesie. Detective Jones confirmed that Joseph had never seen Lorenzo roll over before. Joseph stated "no," and stated that Lorenzo would sometimes come up on his side, but had never fully rolled over before. Joseph was sworn to his statement in the reenactment. CSI Clendenin inquired as to the onesie. Joseph stated that it was a dark blue onesie. CSI Clendenin then advised that there was a dark blue onesie in the bassinet. Joseph then advised that he thinks he might have taken the onesie off to do CPR. However, there is no indication during the 9-1-1 call that a onesie was ever removed. Additionally, the hospital staff advised that the only clothing worn by Lorenzo when he arrived at their hospital was a t-shirt. The t-shirt was cut off by hospital staff and disposed of.

Detective Cowan and Detective Jones then discussed the text messages again with Joseph. Detective Cowan and Detective Jones determined that the text messages had evidentiary value. Detective Cowan and Detective Jones advised Joseph that they would be seizing his phone. Detective Cowan advised Joseph that they could get a search warrant, or if he wanted to give permission to search the phone; this was his option. Joseph advised that he would give permission and asked if he could contact Chastity first to let her know he would be away from his phone for a while. He then contacted Chastity in my presence. Detective Cowan heard Chastity pick up the phone and say, "Why did you kill my baby?" Joseph asked her what she was talking about and asked, "He's not ok?" Chastity said, "He's not ok." Chastity then said, "I can't...I can't..." Shortly after, he hung up the phone. Joseph became visibly upset after the phone call and wouldn't explain what else was said on the phone. Joseph became antsy and requested to sign the consent form so that he

could leave the apartment. We completed the cell phone consent form, and Joseph signed it. After the cell phone exam was completed, Detective Jones and Detective Cowan attempted to contact Joseph to return the phone. Joseph previously advised he would be going to his father's house, on Southover Dr. It was determined that Joseph is not welcomed at his father's house.

Detective Cowan was contacted at 1800hrs on September 26th and was advised that Lorenzo had died at Arnold Palmer Hospital. Detective Cowan was advised by DCF investigator Sagastizabal that she had received information from the hospital that Lorenzo was showing injuries consistent with Shaken Baby Syndrome. Detective Cowan responded to Arnold Palmer Hospital with CSI Wolfe to document the body and remained with the body until the Brevard County Medical Examiner's transport arrived to transport the body to the Brevard ME's office.

Detective Cowan observed multiple bruises all over Lorenzo's body to include his forehead. Detective Cowan was advised that the medical records indicated that Lorenzo had sustained a frontal parietal hemorrhage, subdural hemorrhage, and bilateral retinal hemorrhage. All of these injuries, are consistent with shaken baby syndrome.

On September 29th, 2014, at 11:00am Detective Cowan attended the autopsy of Lorenzo Hernandez. The autopsy was performed by Dr. K. Podjaski. Dr. Podjaski advised that there was a rather large bruise to Lorenzo's left lower leg indicative of a blunt force injury. Further Detective Cowan was advised that Lorenzo had hemorrhage to the brain. The brain was quite unstable, and Dr. Podjaski advised that a brain study would be conducted to confirm what areas of the brain the hemorrhage were coming from. Lastly, it was determined that there were retinal hemorrhages that Dr. Podjaski advised were "extensive." Dr. Podjaski stated that this was clearly shaken baby syndrome.

On September 29th, 2014, Detective Cowan met with Chastity at the Palm Bay Police Department for an interview. Chastity consented to allowing Palm Bay PD to complete a forensic examination of her cell phone as well. While the exam was being completed, Detective Cowan and DCF CPI Sagastizabal interviewed Chastity, then Chastity and her mother, Betty Leach-Watson. Chastity's statement was consistent with the previous interview. Detective Cowan asked Chastity if Lorenzo had any marks or bruises on him prior to her leaving for work on Friday. Chastity stated that Lorenzo had a mark on his eye and forehead from where her 2 year-old son had scratched Lorenzo. She advised that her elder son had been jealous over something that was denied to him and scratched Lorenzo. Chastity advised that that Lorenzo had no other marks. A recent picture from earlier in the evening on September 25th, obtained from Chastity's phone, would substantiate that there were no bruises such as those seen during the autopsy.

On September 30th, 2014, Detective Jones and Detective Cowan made contact with Elizier at the scene to conduct a reenactment. The reenactment was consistent with his previous statements as well as text messages between Elizier and Chastity stating that he was there for a short time and held, fed, and put Lorenzo to sleep. Elizier advised when he left, Lorenzo was asleep. Elizier advised Lorenzo fell asleep in his arms and he put him in the bassinet. After placing him in the bassinet he began to wake up. Elizier advised that he then gently stroked Lorenzo's face and he fell back asleep.

Investigation revealed that on September 28th, 2014, Joseph La May boarded a Greyhound bus and travelled to Anaheim, California. It was determined that Joseph was at a relative's house in Garden Grove, CA. Prior to learning his whereabouts, Joseph's probation officer, Officer Mclin, issued a warrant for Joseph's arrest for a probation violation. Detective Jones made contact with law enforcement in the surrounding areas, including Garden Grove. Surveillance was done on the house.

Later, a traffic stop was affected on a car that Joseph was riding in. Joseph was taken into custody for the VOP warrant.

On October 4th, 2014, Detective Cowan made contact with Joseph at the Huntington Beach Jail, in Huntington Beach, California. Detective Cowan spoke to Joseph in the investigations interview room. The interview room was recorded with audio and video recording. Upon first making contact with Joseph, he spontaneously uttered that he didn't want Detective Cowan to think that he was running. Joseph stated that he came to California because "everyone hates [him]," and because he had nowhere else to go. Detective Cowan read Joseph his Miranda rights, stopping after each right to ensure he understood his rights. Joseph initialed each right indicating he understood his rights. When Detective Cowan asked Joseph if he understood his rights and wished to talk to her without an attorney present, Joseph advised he did want to talk to her.

Initially Joseph told a similar account of events as before. However, after presenting him with evidence, Joseph began to weep and advised that it was an accident. Joseph went on to advise that Lorenzo had in fact fallen earlier in the evening; however, it was not as he said. Joseph advised he was present and was sitting next to Lorenzo on the couch. Joseph advised he was playing a game on his phone. Lorenzo began to fall head first, and Joseph attempted to catch him, but did not. Joseph advised that Lorenzo hit his head on the coffee table's bottom shelf. Joseph advised that he picked Lorenzo up; however he never lost consciousness at that time. Joseph advised that Lorenzo acted very odd after this fall. Joseph advised that Lorenzo would fall asleep and then wake up screaming and continue doing this for a while. Joseph advised that he didn't tell anyone because he didn't want Chastity to think that he couldn't be trusted to watch Lorenzo. Joseph advised that later in the evening, just prior to the 9-1-1 call, he was playing with Lorenzo. Joseph described and demonstrated that he was straddled over Lorenzo on his hands and knees with Lorenzo under him. Joseph began to make the bed jump, where both he and Lorenzo would leave the bed, bouncing in the air. Joseph advised that both he and Lorenzo would bounce completely off the bed. Lorenzo would leave the bed with approximately 5-6 inches of air between Lorenzo and the bed. Joseph advised that Lorenzo seemed to like this, and he continued doing it until Lorenzo stopped moving. This is when Joseph picked Lorenzo up and tried to wake him. Joseph advised that he attempted to wake Lorenzo by shaking him. Joseph advised that he "didn't shake him hard." Joseph demonstrated how he shook Lorenzo using a tissue box where he shook him quickly 3 times in succession and advised he may have done that a couple of times. Joseph advised that he didn't tell the truth before because he didn't want anyone to think that he purposefully hurt Lorenzo.

Based on the interviews with Joseph La May, Chastity Cintron, and Elizier Hernandez, it is determined that the injuries sustained occurred during the time that Lorenzo Hernandez was under the care, custody and control of Joseph La May. It is determined that the injuries sustained caused his death. Therefore, there is sufficient evidence to support the charge of **FIRST DEGREE FELONY MURDER, contrary to section 782.04(1)(a)(2)(h), Florida Statutes.**

- Whereas your affiant, Detective Nicole Caroffino, has established probable cause to believe that the defendant, **Joseph Kyle La May** did commit **FIRST DEGREE FELONY MURDER** **contrary to section 782.04 (1)(a)(2)(h), Florida Statutes**, and against the peace and dignity of the State of Florida.

Wherefore your affiant requests the issuance of a warrant for the arrest of **Joseph Kyle La May** for the said offense.



Detective Nicole Caroffino
AFFIANT

Sworn to and subscribed before me
This 4 day of 1, 2014
OCTOBER



COUNTY/CIRCUIT COURT JUDGE