

APPEARANCE FORM (CRIMINAL)

State of Indiana

Case Number: 41

1. Name of Defendant: Mitchell Thomas Westerman

2. Case Type of proceeding: Criminal Misdemeanor

3. Prosecuting Attorney information (as applicable):

Lindsey Holden-Kay
234 Washington Street
Columbus, IN 47201

Attorney No. 32010-49
Phone:(812) 379-1670
FAX: n/a
Computer Address: n/a

Deputy assigned case (optional):

4. Will the State accept service by FAX: Yes ___ No X

5. Arrest report number (Originating Agency Case Number):
23ISPC016405, Indiana State Police District 14

6. Transaction Control Number: Not Available
State I.D. Number: Not Available

7. Additional information required by state or local rules:

n/a

Authority: Pursuant to Criminal Rule 2.1(A), this form shall be filed at the time a criminal proceeding is commenced. In emergencies, the requested information shall be supplied when it becomes available. Parties shall advise the court of a change in information previously provided to the court. This format is approved by the Division of State Court Administration.

STATE OF INDIANA)
) SS:
COUNTY OF JOHNSON)

IN THE JOHNSON CIRCUIT/SUPERIOR COURT
CAUSE NUMBER. 41

STATE OF INDIANA

v.

MITCHELL THOMAS WESTERMAN

**MOTION TO KEEP ARREST
WARRANTS AND CHARGING
INFORMATION CONFIDENTIAL**

Comes now the State of Indiana, by its Deputy Prosecuting Attorney of the Eighth Judicial District, and pursuant to I.C. 35-34-1-1(d) and Access to Court Records (ACR) Rule 5, moves the court to Order that the charging information and request for arrest warrant be sealed and held confidential until the defendant has been arrested or otherwise brought within the custody of the court. In support, the State shows the following:

1. Due to the sensitivity of the case, it is important to keep information within the probable cause affidavit and charging information confidential.
2. The new on-line court access has made it possible for suspects and defendants and/or their agents to discover the issuance of warrants before said warrants are able to be served by law enforcement. Public disclosure prior to service of the arrest warrant could increase the risk of flight by the defendant, create an undue risk of harm to the community or a law enforcement officer, and/or jeopardize an on-going criminal investigation.

WHEREFORE, the state requests the above listed cause be sealed until such a time that officers can execute upon the warrants issued. Pursuant to ACR Rule 5(E)(1)(b), an order excluding public access shall expire immediately upon the arrest of the defendant.

Respectfully submitted,

/s/ Lindsey Holden-Kay

Lindsey Holden-Kay, #32010-49
Special Prosecutor

STATE OF INDIANA)
) SS:
COUNTY OF JOHNSON)

IN THE JOHNSON CIRCUIT/SUPERIOR
COURT

CAUSE NUMBER.

STATE OF INDIANA

INFORMATION FOR:
CONVERSION

v.

MITCHELL THOMAS WESTERMAN

I.C. 35-43-4-3(a)

a Class A Misdemeanor

skdybeskdjvksjiv vsnv
hpsdyshdvnshpvyksbv
Westfield, IN 46074
DOB: 7/31/1982
sdvshsbvn
SSN: XXX-XX-XXXX

The undersigned affiant, being duly sworn upon his oath, says that she is informed and verily believes that:

Between August 1, 2023 and October 5, 2023 in Johnson County, State of Indiana, Mitchell Thomas Westerman did knowingly or intentionally exert unauthorized control over the property of Andrew Baldwin, to-wit: images.

All of which is contrary to the laws of the State of Indiana.

I affirm under the penalties of perjury as specified by I.C. 35-44.1-2-1 that the foregoing representations are true.

/s/ Lindsey Holden-Kay

Special Prosecuting Attorney

Witnesses:

- Jerry Holeman
- Benjamin Rector
- Andrew Baldwin
- Bradley Rozzi

Any person named in the Information, Affidavit of Probable Cause, case file, or discovery materials filed in the above-captioned cause.

STATE OF INDIANA)	IN THE:
)	SS:
COUNTY OF JOHNSON)	CAUSE NO:
STATE OF INDIANA)	
)	
VS.)	
)	
MITCHELL WESTERMAN)	

AFFIDAVIT OF PROBABLE CAUSE

I, Benjamin Rector, being duly sworn upon oath, states that:

1. I am employed as a law enforcement officer with the Indiana State Police (ISP). My current assignment is a detective in the Criminal Investigations Division.
2. Law enforcement was advised that on or about October 5th, 2023, that evidence from the murder case of State of Indiana v. Richard Allen had been released to the public. There is currently an Order from the Court in that case prohibiting the release of evidence to the public. Law Enforcement was made aware that this evidence may have been obtained illegally and began an investigation. Law enforcement was able to retrieve the evidence from the creators of a podcast who stated that they got the evidence from an individual in Texas. Indiana State Police First Sergeant Jerry Holeman was able to identify the individual in Texas as Mark Robert Cohen. Mark Cohen was interviewed, and law enforcement obtained screenshots of a messages between Mark Cohen and an individual named Robert Fortson. Robert Fortson and Mark Cohen have various discussions about various pieces of evidence involved in the Richard Allen case. I, Indiana State Police Detective, Ben Rector, was assigned to assist in the investigation.
3. As part of the investigation. Affiant completed interviews with Attorneys Brad Rozzi and Andrew Baldwin on October 12th, 2023, concerning the evidence that was taken without consent in regards to the representation of Richard Allen. Affiant previously knew that Rozzi and Baldwin were attorneys which were assigned to represent Richard Allen in his criminal charges.
4. During the course of the interview with Andrew Baldwin, Detective Rector learned that Baldwin is an associate of Mitchell Westerman. Baldwin has known Westerman for several years and Westerman was previously employed by Baldwin’s law firm. Westerman is no longer employed by the law firm however he still routinely stops by the firm to visit with staff and Baldwin.

5. On Monday, October 9, 2023, Westerman contacted Baldwin around 4PM and requested to meet with him. They met at Baldwin's office shortly afterwards. Westerman told Baldwin that he had used his cellular phone to take photographs of photographs, which were in Baldwin's conference room area. The photographs depicted the crime scene related to the criminal charges against Richard Allen. Westerman stated that he had done this a couple of months prior and that he had shared them with an individual named Robert Fortson. Through the course of the investigation, law enforcement learned that Fortson shared these photos with another individual in Texas, Mark Cohen. Cohen then shared them with various creators of Youtube channels and podcasts.
6. Baldwin stated that based on the timing of events he believed that there were in fact crime scene photos from the Richard Allen case in the conference room when Westerman visited his office. He also stated that there would have been side by side photographs which were previously used by the defense team in depositions. The photographs that Baldwin described are consistent with photographs that affiant has viewed which were released of the crime scene. Baldwin stated that he did not authorize Westerman to take these photographs.
7. During an interview with Rozzi he also indicated that he did not authorize Westerman to take the photographs. Rozzi further concluded that he believed that Westerman's taking of the photographs constituted theft because he did not believe that anyone had authorized Westerman to take the photographs.
8. An affidavit was also provided to Allen County Judge Gull which states the following: "Comes now Mitchell Westerman being first duly sworn, under oath, and states that the following information is within his personal knowledge and is true to the best of his knowledge: 1. I was in Attorney Andrew Baldwin's Office Building waiting to visit with Andrew. He was in his office either meeting with a client or on a telephone call with the door closed. I went into the conference room to wait. 2. I observed printed copies of photo evidence on the conference room table. I took pictures of a few of them. 3. Andrew Baldwin did not give me permission to take the photos of the printed copies, he was not present and he did not have any knowledge that I took pictures of the evidence photos. 4. I am freely and voluntarily typing and signing this affidavit on my own accord because it is the truth." This document indicates it was signed on October 18, 2023, by Mitchell Westerman and was also notarized.
9. Affiant further believes that the above-mentioned facts establish probable cause to believe that Mitchell Westerman has committed the act of Conversion (Indiana IC Code 35-43-4-3).

FURTHER AFFIANT SAITH NOT.

I affirm under the penalties of perjury that the foregoing representations are true.

/s/ Ben Rector

Benjamin Rector

STATE OF INDIANA)
) SS:
COUNTY OF JOHNSON)

IN THE JOHNSON CIRCUIT/SUPERIOR COURT
CAUSE NUMBER. 41

STATE OF INDIANA

v.

MITCHELL THOMAS WESTERMAN

FILED

November 21, 2023
CLERK, JOHNSON CIRCUIT
& SUPERIOR COURTS

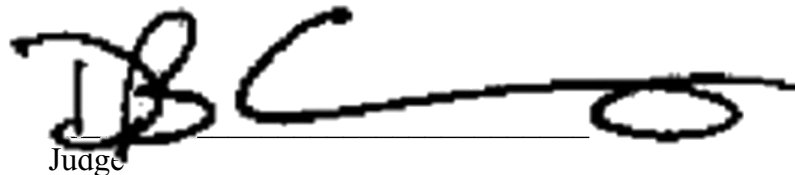
**ORDER SEALING ARREST
WARRANTS AND CHARGING
INFORMATIONS CONFIDENTIAL**

Comes now the State of Indiana on it's motion to keep Arrest Warrants and Charging Information Confidential.

The Court, after being duly advised **FINDS** that the same shall be **GRANTED**.

IT IS THEREFORE ORDERED AND ADJUDGED that the charging information and request for warrant be sealed and held confidential until the defendant has been arrested or otherwise brought within the custody of the court.

All of which is ORDERED this _____ day of 11/21/2023, 2023.



Judge
Johnson Circuit/Superior Court

Distribution:
State of Indiana

STATE OF INDIANA)
) SS:
COUNTY OF JOHNSON)

STATE OF INDIANA)
)
 v.)
)
MITCHELL THOMAS WESTERMAN)

IN THE JOHNSON CIRCUIT/SUPERIOR COURT

FILED

November 21, 2023

CLERK, JOHNSON CIRCUIT
& SUPERIOR COURTS

ORDER DETERMINING PROBABLE CAUSE

AND REQUEST FOR WARRANT

Comes now the State of Indiana by its Special Prosecutor, Lindsey Holden-Kay, and files the State's Information and Probable Cause Affidavit and the Court having seen and examined the same and being duly advised in the premises, **NOW FINDS** that probable cause exists for bringing of charge(s) stated in said Information.

IT IS THEREFORE determined by the Court that probable cause exists for the bringing of charge(s) alleged in the Information in the above-entitled cause of action. The Court **NOW ORDERS** the Clerk of this Court to issue a **WARRANT** for the arrest of the above-named defendant, and hereby sets bond on defendant in the sum of:

\$ _____ Cash and \$ **1,000.00** Surety

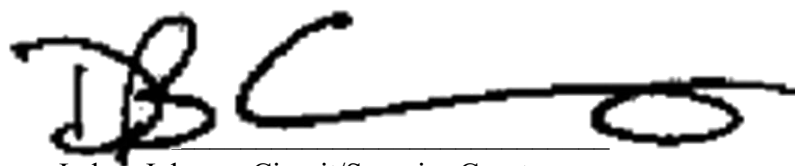
-OR-

\$ **250.00** Cash Only

As an additional condition of bond/pre-trial release under this cause of action, the Defendant:

1. shall not be arrested or charged with a new criminal offense;
2. is prohibited from using illegal drugs or any prescription drug for which the Defendant does not possess a valid prescription;
3. is subject to random drug screens by the Court;
4. is subject to random alcohol screens by the Court;

IT IS SO ORDERED.

A handwritten signature in black ink, appearing to be 'D. C.', written over a horizontal line.

Judge, Johnson Circuit/Superior Court

DATE: 11/21/2023

DISTRIBUTION:

Deputy Prosecuting Attorney
Johnson County Jail

STATE OF INDIANA)
) SS:
COUNTY OF JOHNSON)

IN THE JOHNSON SUPERIOR COURT, Johnson County, Indiana
CAUSE NUMBER. 41D03-2311-CM-001119

STATE OF INDIANA

v.

MITCHELL THOMAS WESTERMAN

MOTION TO UN-SEAL ARREST WARRANT

Comes now the State of Indiana, by it's Special Prosecutor, Lindsey Holden-Kay, and requests the Court to unseal an Arrest Warrant on Mitchell Thomas Westerman, cause number 41D03-2311-CM-001119.

/s/ Lindsey Holden-Kay

Lindsey Holden-Kay
Special Prosecutor
Eighth Judicial Circuit and Superior Courts

Distribution to:

State of Indiana

Clerk

STATE OF INDIANA)
) SS:
COUNTY OF JOHNSON)

IN THE JOHNSON SUPERIOR COURT 3
CAUSE NUMBER. 41D03-2311-CM-001119

STATE OF INDIANA

v.

MITCHELL THOMAS WESTERMAN

FILED
November 22, 2023
CLERK, JOHNSON CIRCUIT
& SUPERIOR COURTS

ORDER UN-SEALING ARREST WARRANT

Comes now the State of Indiana, by it's Special Prosecutor, Lindsey Holden-Kay, and requests the Court to unseal an Arrest Warrant.

The Court, having taken the matter under advisement, and being duly advised in the premises, now orders the Clerk to un-seal the arrest warrant.

ALL OF WHICH IS ORDERED THIS 22 DAY OF November, 2023.

SIGNED THIS 22 DAY OF November, 2023.


Judge

Distribution to:

State of Indiana

Clerk