IN THE CIRCUIT COURT OF THE TWELFTH JUDICIAL CIRCUIT
IN AND FOR MANATEE COUNTY, FLORIDA
CRIMINAL DIVISON

STATE OF FLORIDA,

Plaintiff,

Vs. **CASE NO.:2020-CF-3014**

ASHELY C. BENEFIELD,

Defendant.

_____/

MOTION TO DISMISS, REQUEST FOR DECLARATION OF IMMUNITY, AND INCORPORATED MEMORANDUM OF LAW

Ms. Benefield, by and through undersigned counsel and pursuant to *Rule 3.190(b)* of the *Florida Rules of Criminal Procedure*, *Florida Statutes §§776.032(1),(4)*, *776.012(2)*, *776.013(1)(b)(2)*, *776.031(2)*, and *Dennis v. State*, 51 So. 3d 456, 462 (Fla. 2010), hereby moves for the following relief: (1) A judicial declaration of immunity, and (2) Dismissal of the instant charges. As grounds in support thereof, Ms. Benefield submits as follows:

HISTORY

After meeting in 2016, Douglas Benefield (the decedent) and Ashley were married, following a 13 day "whirlwind romance". Thirty years her senior, Mr. Benefield portrayed himself as, "Everything [Ms. Benefield] was waiting for her entire life." In reality, Mr. Benefield's presentation was a complete fraud. On the day of the homicide, September 27, 2020, Ms. Benefield knew the following about her then husband:

A. He fired a handgun into the ceiling of their kitchen in an effort to intimidate her (Exhibit **1**);

B. He threw a loaded gun at her (Exhibit **2**);

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C. He punched their dog in the face hard enough to render the canine unconscious (Exhibit **3**);

D. He regularly carried a loaded, concealed firearm;

E. He unlawfully placed a tracker on her car, and Ms. Benefield frequently observed him tailing her car (Exhibit **4**);

F. He was caught by a neighbor, at night, standing in her backyard and peering into Ms. Benefield's home (Exhibit **5**);

G. He punched numerous holes in the wall of their home (Exhibit **6**);

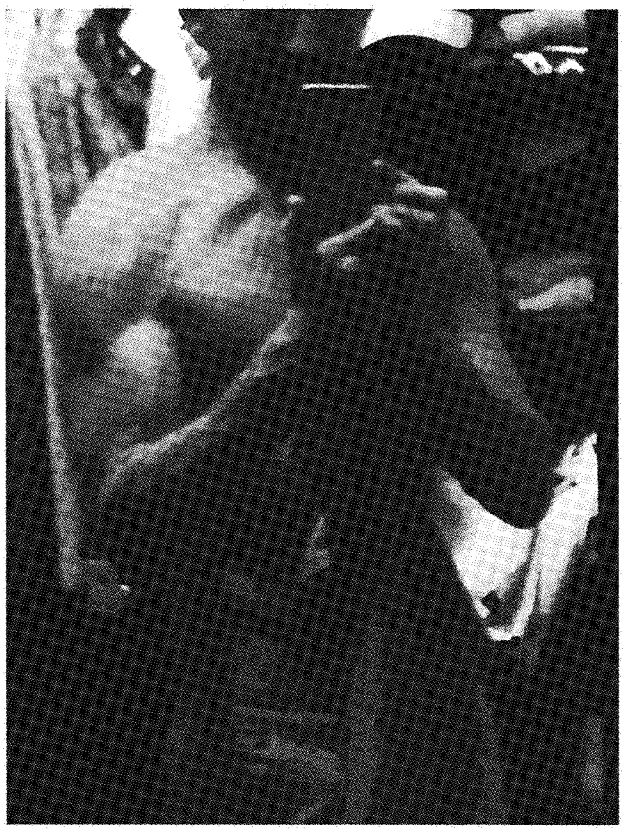
H. His previous marriage had a history of domestic violence (Exhibit **7**).

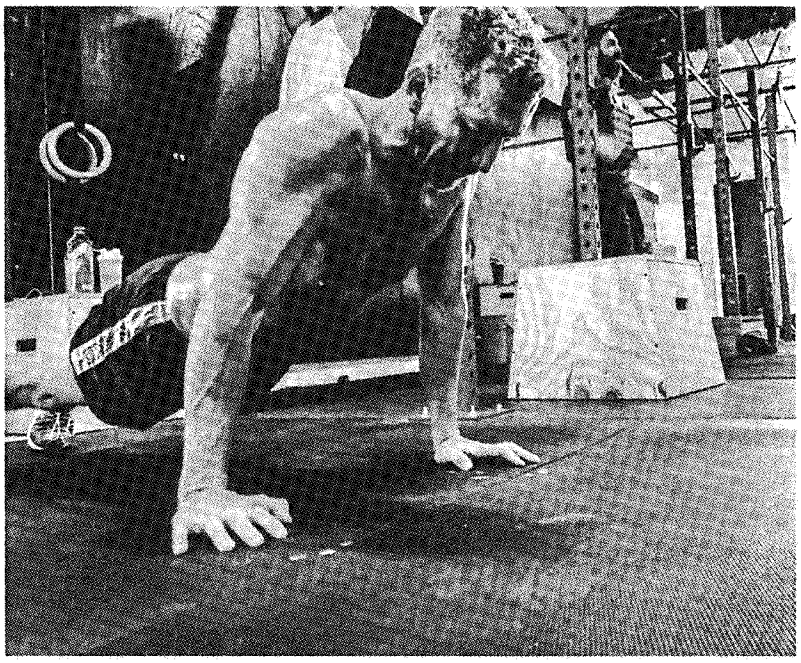
PERCEPTION

Following Ms. Benefield's initial departure from the marital home, in Charleston, South Carolina, on August 28, 2017, she returned to gather her belongings and moved into a home owned by her mother, in Manatee County, where the homicide took place. It is not difficult, given the history detailed above, to appreciate and understand why Ms. Benefield feared her husband.

While physical conditioning played a large role in Ms. Benefield's career as a ballerina, she was no match for Douglas Benefield. In sharp contrast to Ms. Benefield's lithe structure, Mr. Benefield was a former naval officer, admittedly skilled in hand to hand combat, who stood 5' 9", weighed 169 pounds, and was in prime shape (Exhibit **8**, incorporated, below).

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During their relationship, the Deceased frequently represented to Ms. Benefield that he worked for government agencies, such as the CIA, was a technical expert in advanced, classified fields (that required a security clearance), and trained with both active and retired Special Forces, in hand-to hand and close quarters' combat, at a secret location in the United States called, "The Ranch" (Exhibit **9**). Moody and unpredictable, he would all too frequently vacillate between calm and rage, Ms. Benefield never knowing what would "set him off." He would often tell Ms. Benefield, "You haven't seen the warrior side of me and you never want to."

HOMICIDE

On Sunday, September 27, 2020, the deceased arrived at Ms. Benefield's residence, driving a U-Haul Truck, at approximately 5:30 pm. Ms. Benefield resided at

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11331 White Rock Terrace, in Bradenton, with their minor daughter, and mother (Alicia Byers). In the weeks preceding the incident, Ms. Benefield, her mother, and daughter were preparing to move to Maryland. Mr. Benefield had taken a temporary, local apartment and he, too, was moving to Maryland, although it was made clear to him, and he understood, the parties would not be cohabitating upon their arrival at the new destination.

MATERIAL FACTS

1. As the Decedent arrived, Ms. Byers and the minor child were leaving the residence to walk to the neighborhood splash park. A brief acknowledgement between them and the Decedent took place.

2. Ms. Benefield was in the garage, packing items into boxes. After greeting one another, they engaged in a brief discussion about the pre-staged furniture and boxes in the garage that were ready to be loaded into the U-Haul.

3. While the Decedent began moving the pre-staged furniture and boxes into the U-Haul, Ms. Benefield started packing items that were in the rear of the garage (shelf area).

4. The Decedent's mood was consistent with his prior history; happy, hyper, and animated (arms and legs flailing) one moment, then agitated, sullen, and intimidating the next (annoyed that they had not already moved, with fixed, intense stares at Ms. Benefield).

5. A discussion ensued about the order the furniture should be loaded, to facilitate Ms. Benefield's belongings being unloaded first, since they would be residing in different residences upon arrival in Maryland. This annoyed the Decedent and he expressed frustration and anger by stating, '...it should not be a "your house, my house"

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arrangement. We are moving together, as a family, making a fresh start, but you're dividing us....'

6. Things began to escalate immediately thereafter. Mr. Benefield exclaimed that, "It is time [Ms. Benefield] began acting like a wife", otherwise he "would have to pack her in the POD" (an anaerobic, non-mobile secondary container, ranging in size from eight to 16 feet, and used for storing and/or moving inanimate objects by flatbed truck). In short, non-survivable transportation, that Ms. Benefield clearly took as a threat, in retaliation for her lack of submission. It was a refrain Mr. Benefield had echoed before, on several occasions, when he would remark, "If you do not cooperate, I will ship you in the POD, and you won't like it because it will be hot and slow. If you're going to be difficult, you are going to go the slow way to Maryland."

7. Expressing that he then needed to make room in the POD[1], the Deceased was not dissuaded by Ms. Benefield telling him the POD was full, packed to the brim. Instead, he attempted to gain access to the POD, but found it locked. He demanded the key, insisting that he needed to make room in the POD. Ms. Benefield denied having the key or knowing where her mother put it. The Decedent continued to insist that Ms. Benefield unlock the POD.

8. Ms. Benefield's inability to provide the deceased with the key to the POD angered him. Confronting Ms. Benefield, the Deceased moved in close, crossed his arms, and glared at Ms. Benefield. Concluding she was defiant, he grew tense; shoulders raised, fists clenched, heavy breathing, and sharp, staccato, derisive comments spewed forth. As

[1] Ms. Byers rented the POD to pack and transport her and Ms. Benefield's household belongings to Maryland. Mr. Benefield had no personal property in the POD and had no reason to access the POD.

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in South Carolina, Ms. Benefield was concerned for her safety, and wanted to avoid antagonizing the Decedent. Ms. Benefield attempted to de-escalate the situation by redirecting the conversation and calm him by speaking softly and positively. He would have none of it and, in an effort to protect herself, she moved away from him, to the rear of the garage, and resumed packing.

CRITICAL MASS

9. Her efforts having been rejected, the Deceased responded by growing increasingly aggressive and threatening. The Decedent began to hover over the top of Ms. Benefield, in an intimidating manner, while she was bent over, packing boxes in the garage. Fists clenched, arms jiggling as if getting ready for physical contact, Ms. Benefield feared he was going to lash out. In an effort to extract herself from the situation, she attempted to persuade the Deceased to leave by remarking, very gently, that she was exhausted and was finished for the day. It fell on deaf ears. Mr. Benefield acknowledged her comment but kept on packing and loading.

10. Afraid to command him to leave, in another effort to put even more distance between them, Ms. Benefield left the garage and entered the house, where she continued to pack boxes and move them into the garage.

ASSAULT AND BATTERY

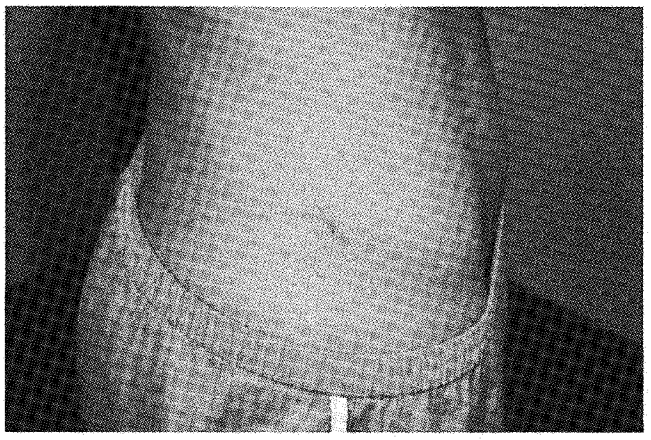
11. While walking through the living room, the Deceased "body checked" Ms. Benefield. Approaching Ms. Benefield from the kitchen area, instead of going around her, the Decedent's shoulder/chest/arm made contact with Ms. Benefield. Anxious but nonetheless caught off guard, the contact was sufficient to cause her to lose her footing, stumble, and almost fall. She could not help but notice the Deceased was mumbling under

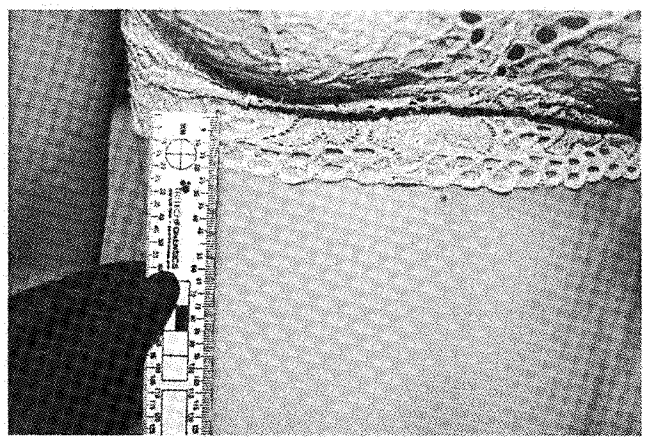
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his breath and clearly hostile. Scared, Ms. Benefield realized the pattern of contentious behavior toward her was escalating quickly.

12. Again, while in the garage, emphatically exclaiming she was done for the day and wanted to continue the following day, the Deceased (while facing the Laundry Room) and Ms. Benefield (while facing the opening of the garage), made physical contact ("body check") with Ms. Benefield, while grumbling about the delay and her being difficult. With no apology for the contact this time, either, Ms. Benefield was then certain that both instances were intentional. Once again, trying to stop any escalation, she apologized to him.

13. Finally, while Ms. Benefield was entering the house from the garage and the Decedent was heading into the garage from the residence, the two met in the hall, while the Decedent was holding a medium size, assembled, cardboard box. Ms. Benefield stepped to the side (right) and the Deceased deliberately drove the box into Ms. Benefield in an upward motion, resulting in considerable pain and scratches to her right side (Exhibit **10**, incorporated, below).

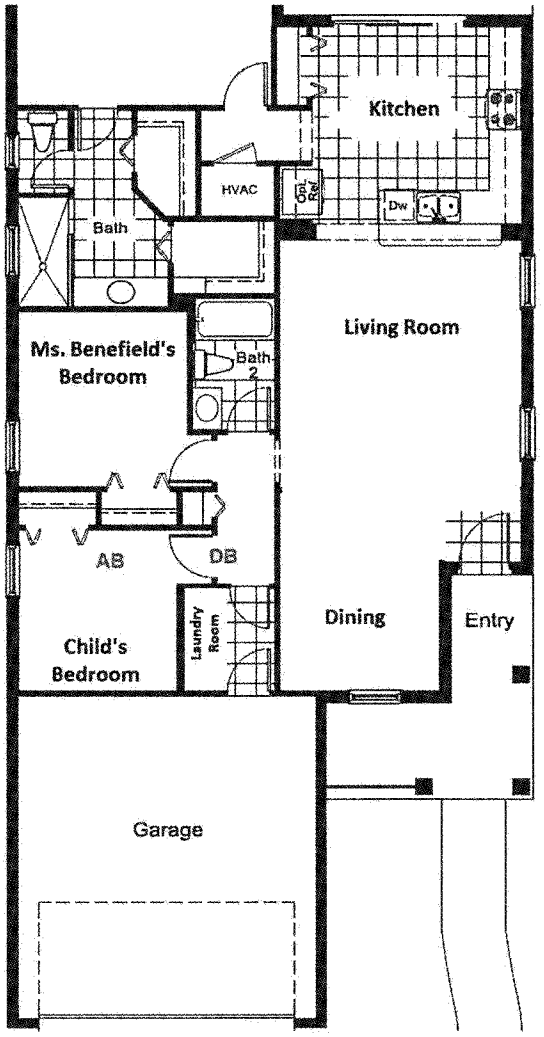




14. After again ignoring her entreaties to finish, i.e., "OK, last chair, last table", etc., in a final effort to rationalize ending the day's activity, Ms. Benefield entered their

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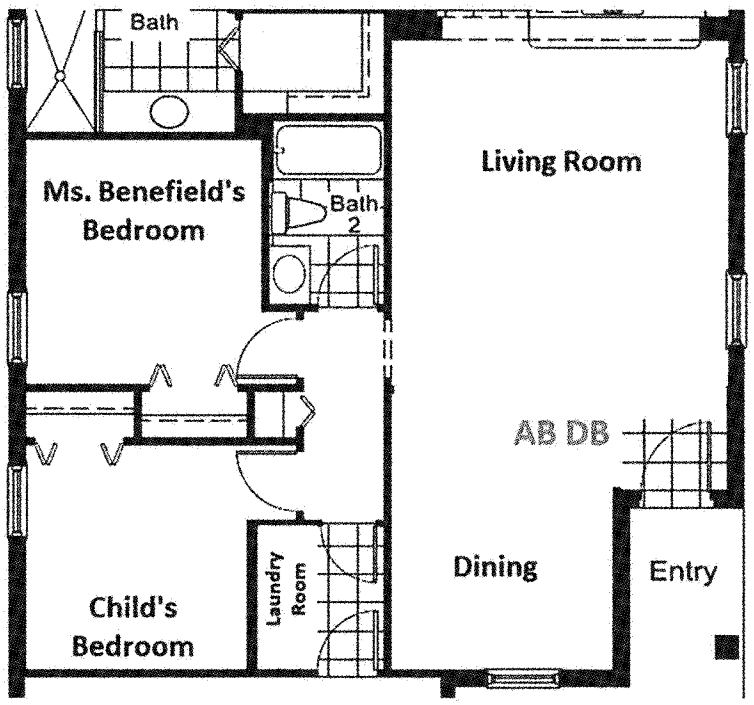
child's bedroom to show Decedent there was little left to pack and move. Standing in the doorway to the child's room, the Decedent blocked Ms. Benefield's exit while puffing his chest, clenching his fists, and glaring at her. Trapped (Exhibit **11**, incorporated, below) and frightened, she backed up further into the room to put some distance between them, but sensed an attack was imminent. At that point, Mr. Benefield shouted, 'He knew what she was doing' and accused her of trying to force him to leave, get rid of him, and that he was not leaving, he could stay if he wanted to, and 'spend the night if he wanted to, because he was her husband.'



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"REMAINING IN" BURGLARY, WITH AN ASSAULT AND BATTERY

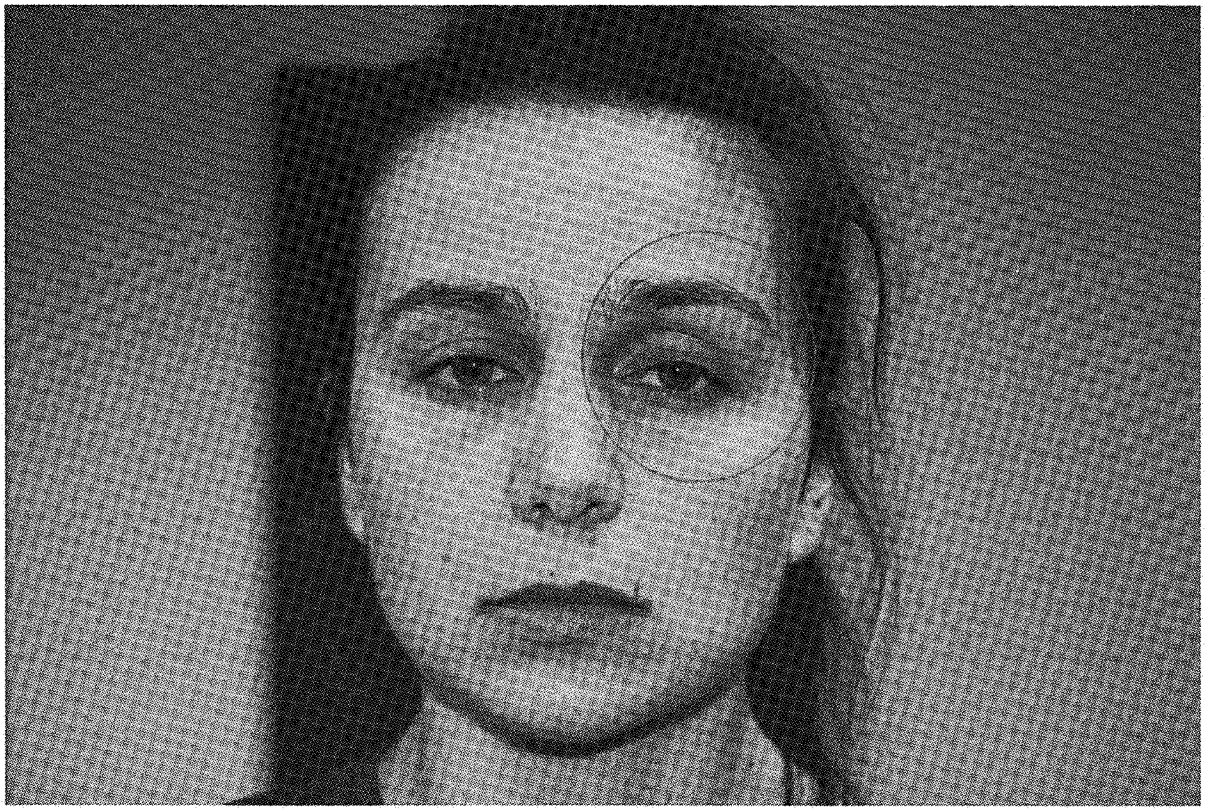
15. Momentarily rationale, the Deceased stepped back into the hallway, allowing Ms. Benefield to escape their daughter's room, where she headed down the hallway, into the living room, and toward the front door. Right behind her, the Deceased grabbed Ms. Benefield by the left hand and yanked her back, stopping her in her effort to leave the residence, shouting "where do you think you're going?" Moving around her, so that his back was to the front door, he once again aggressively confronted her, thereby blocking her path to the front door, while wagging his finger in her face and exclaiming, "You can't leave me!" (Exhibit **12**, incorporated, below). Ms. Benefield found the strength to then tell him, outright, "I am done. You need to leave, now!" Her command was ignored (which, at that point, rendered the Decedent's status to that of a burglar). Now terrified, Ms. Benefield braced for what she believed would be certain physical impact. Her instincts were correct.



16. Raising his right hand, with a closed fist, the Decedent drove his knuckles, at the second joint (Exhibit **13**), into the left side of Ms. Benefield's head, i.e., temporal

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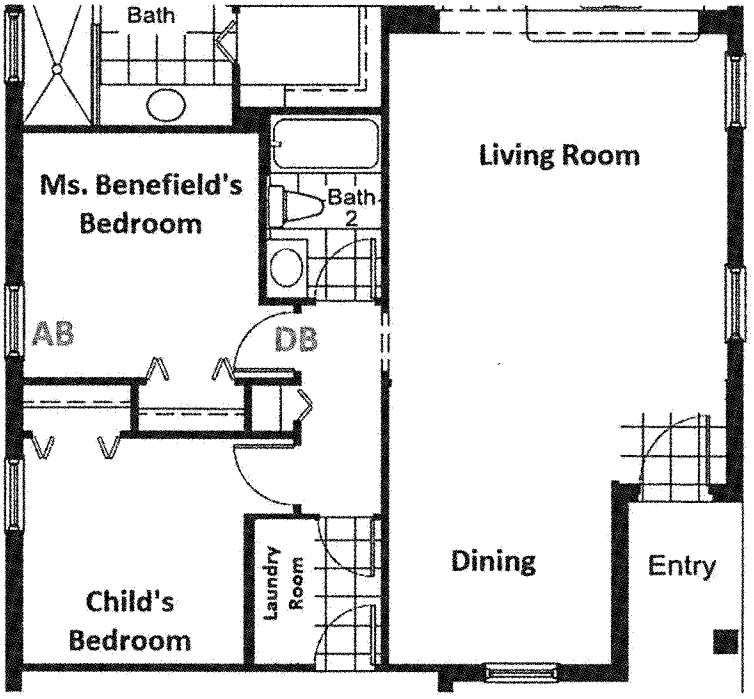
area/face (Exhibit **14**, incorporated, below), while exclaiming, "I am not done!" The impact resulted in a sharp, numbing pain, which caused Ms. Benefield to stumble to her right side, after which she fled to her bedroom. Her worst fears realized, Ms. Benefield now believed her life was in danger. Never before had the Deceased actually struck her. In the past, he psychologically abused her and sought to intimidate her by, among other things, holding her against her will, punching holes in the wall, harming their domestic animals, and shooting and throwing guns in the house. But, this was different; any restraint had been abandoned. As she entered her bedroom, Ms. Benefield swung the door behind her in an unsuccessful effort to close it; the door remained ajar.



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LIFE OR DEATH DECISION

17. In the west corner of her bedroom was a laundry basket and a cloth storage bin (Exhibit **15**), which rested on top of the laundry basket. Inside the storage bin was a firearm that was legally owned by Ms. Benefield (Exhibit **16**). Ms. Benefield retrieved the firearm, just as she simultaneously heard the unmistakable sound of the door bounce off the door stop. She turned and saw the Decedent in the doorway to her bedroom (Exhibit **17**, incorporated, below), with a fierce scowl. Pointing the firearm at the Deceased, she nervously ordered him to, "Stop!."



18. The Deceased did not stop. Rather, he postured like a mixed martial arts fighter (blading, hands parallel with his chest/shoulders, moving his arms/hands in small circular motions) and advanced toward her. Now terrified and believing she was about to suffer great bodily harm, if not death, she fired the weapon. The Deceased, undeterred, continued advancing. Ms. Benefield, in fear for her life, frantically moved in an effort to put more distance between them. Still, he did not stop coming toward her and she continued firing.

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In what seemed like slow motion, she saw the Deceased's legs go up in the air, as if his feet slipped out from underneath him, and he fell backward.

19. Ms. Benefield immediately fled her residence, seeking help from her next door neighbor, John Sant, of 11327 White Rock Terrace (Exhibit **18**). According to Amy and Herbert Carlton, two neighborhood residents who were out walking their dogs, less than 30 seconds after hearing gun shots, they observed Ms. Benefield running out of the garage, gun in hand, crying and screaming what sounded like "Help!", run to the house next door, and heard pounding on the door (Exhibit **19**).

MEMORANDUM OF LAW

In *Dennis v. State*, 51 So.3d 456,462 (Fla. 2010), the Florida Supreme Court acknowledged the vehicle for bringing a request for a declaration of immunity from prosecution for the use of deadly force, was a Motion to Dismiss pursuant to *Rule 3.190(b)* of the *Florida Rules of Criminal Procedure*. *Florida Statute §776.032(1)*, entitled ***Immunity from criminal prosecution and civil action for justifiable use of force***, states:

> A person who uses or threatens to use force as permitted in s. 776.012, s. 776.013, or s. 776.031 is justified in such conduct and is immune from criminal prosecution and civil action for the use or threatened use of such force...against whom the force was used or threatened...

Accord, *State v. Egido*, 113 So. 3d 88, 89 (Fla 2d DCA 2013) (stand your ground defense properly invoked by Motion to Dismiss).

The burden of weighing the evidence in "Stand Your Ground" hearings is placed squarely upon the trial judge's shoulders. *State v. Gallo*, 76 So. 3d 407 (Fla. 2d DCA 2011).

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As explained in *Jefferson v. State*, 264 So. 3d 1019, 1028-29 (Fla. 2d DCA 2018), to raise a claim of immunity under section 776.032,

> ...an accused must simply allege a facially sufficient prima facie claim of justifiable use of force under chapter 776 in a motion to dismiss filed under Florida Rule of Criminal Procedure 3.190(b) and present argument in support of that motion at a pretrial immunity hearing.

Further clarifying the required procedure, the *Jefferson* court went on to state:

> The trial court is then to determine whether, at first glance and ***assuming all facts as true***, the alleged facts set forth in the motion support the elements of self-defense in either section 776.012, 776.013, or 776.031. If the trial court determines that the defendant's claim of self-defense satisfies the requirements set forth in the applicable self-defense statute raised by the accused, the State shall then present clear and convincing evidence to overcome the self-defense claim (emphasis added).

Jefferson, at 1029. *See also*, *Casanova v. State*, 335 So. 3d 1231, 1232 (Fla. 3d DCA 2021) ("...a defendant's motion to dismiss under Florida's Stand Your Ground law can establish a prima facie claim of self-defense immunity from criminal prosecution even though the motion to dismiss is not sworn to by someone with personal knowledge or supported by evidence or testimony establishing the facts in the Motion to Dismiss"). *Accord*, *Riggens v. State*, 344 So. 3d 625, 626 (Fla. 2d DCA 2022) ("...trial court is to assume all facts as true...").

The *Jefferson* court also addressed what, exactly, the term, *prima facie* means. Rejecting the State's position that the person asserting the immunity claim had the burden to prove it, the *Jefferson* court noted:

> Prima facie is defined as '[s]ufficient to establish a fact or raise a presumption unless disproved or rebutted; based on what seems to be true on first examination, even though it may be later proved to be untrue.' Prima facie, Black's Law Dictionary

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> (10th ed. 2014); see also, The American Heritage Dictionary, 1398 (5th ed. 2011) (defining 'prima facie' as '[a]t first sight; before closer inspection"). So, the type of claim yet to be proven as true is one that, on first examination, is presumed to be true unless it is later disproved or rebutted. The phrase 'prima facie claim,' then, is an assertion that, at first glance, is sufficient to establish a fact or right but is yet to be disproved or rebutted by someone.

Id. at 1027.

According to *Florida Statute §776.032(4)*, upon the recitation of a *prima facie* claim by the Defense, the burden of persuasion is shifted to the State, to refute by "clear and convincing evidence," that the defendant is **not** entitled to immunity (*Jefferson v. State*, 264 So.3d 1019 (Fla. 2nd DCA 2018). *§776.032(4) of Florida Statutes* states:

> (4) In a criminal prosecution, once a prima facie claim of self-defense immunity from criminal prosecution has been raised by the defendant at a pretrial immunity hearing, the burden of proof by clear and convincing evidence is on the party seeking to overcome the immunity from criminal prosecution provided in subsection (1).

In *Peterson v. State*, 983 So. 2d 27, 29 (Fla. 1st DCA 2008) (affirmed by the Florida Supreme Court in *Dennis*, *supra*.), the appellate court held that factual disputes do **not** defeat a criminal defendant's Motion to Dismiss predicated upon immunity under the statute. The State's mere filing of a traverse that raised factual disputes, the court, in *Peterson*, concluded, was not sufficient to deny a defendant's motion under §776.032. The Second District has cautioned trial courts "...to remain mindful that the legislature has placed a heightened burden of proof on the State, not the defendant, for Stand Your Ground proceedings." *Cummings v. State*, 310 So.3d 155, 160, Ft.n 4 (Fla. 2nd DCA 2021).

The *Cummings* case saw the Second District Court of Appeal address an issue quite relevant to the instant proceedings. The deceased initiated a drunken brawl against Ms.

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Cumming's boyfriend in the trailer home she and her boyfriend shared. Acknowledging that burglary is a forcible felony as it relates to a claim of immunity, and analyzing *Florida Statutes §810.02(1)(b)(2)(b)* as it relates to "remaining in", the court concluded the deceased, having committed a battery upon Ms. Cumming's boyfriend, "...his invitation to remain in the trailer was implicitly withdrawn as a matter of law." *Id.* at 159.

Granting the accused's *Writ of Prohibition*, the *Jefferson* court, feeling compelled to acknowledge the circumstances wherein the State found themselves without sufficient evidence to rebut the claim of immunity, said the following:

> We are mindful that there will be situations where the accused is the only available witness to the events leading to an act that is claimed to be justifiable use of force. This may result in great difficulty for the State to overcome the accused's prima facie claim by clear and convincing evidence. But our result here is mandated by the text of section 776.032(4).

Jefferson, *supra.* at 1029.

Florida Statue §776.012(2), entitled: ***Use or threatened use of force in defense of person***, specifically states:

> A person is justified in using or threatening to use deadly force if he or she reasonably believes that using or threatening to use deadly force is necessary to prevent imminent death or great bodily harm to himself or herself [ ] or to prevent the imminent commission of a forcible felony. A person who uses or threatens to use deadly force in accordance with this subsection does not have a duty to retreat and has the right to stand his or her ground if the person using or threatening to use the deadly force is not engaged in a criminal activity and is in a place where he or she has a right to be.[2]

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[2] "Statutory interpretation begins with consideration of the plain meaning of the words as used in the relevant statutes. *Diamond Aircraft Indus., Inc. v. Horowitch*, 107 So. 3d 362, 367 (Fla. 2013). We note that Merriam-Webster defines "imminent" as 'ready to take place: happening soon.' Imminent, Merriam-Webster Dictionary Online, https://www.merriam-webster.com/dictionary/imminent (last visited Sept. 14, 2022). This definition implies that an "imminent" act requires no further measures to manifest; imminence also has a temporal dimension, developing quickly relative to the events that define it. In other words, very little time or preparation may stand between the present moment and an 'imminent' event." *State v. Woodson*, 349 So.3d 510, 511-12 (Fla. 5th DCA 2022).

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The determination of whether the use of force is justified under section *776.012(2)* is to be made "...in accord with the objective, reasonable person standard by which claims of justifiable use of deadly force are measured." *Montanez v. State*, 24 So. 3d 799, 803 (Fla. 2d DCA 2010); *see also*, *Florida Standard Criminal Jury Instruction 3.6(f)*. The question under this objective evaluation of a defendant's conduct is "...whether, based on the circumstances ***as they appeared to the defendant***, a reasonable and prudent person situated in the same circumstances and ***knowing what the defendant knew*** would have used the same force as did the defendant" (emphasis added). *Garcia v. State*, 286 So. 3d 348, 351 (Fla. 2nd DCA 2019); *see also*, *Mobley v. State*, 132 So. 3d 1160, 1164-65 (Fla. 3d DCA 2014).

In *Jefferson, supra.* the Second District Court of Appeal addressed the significance of the statutory phrase requiring a defendant to "raise" a "prima facie claim of self-defense immunity" and noted the following:

> Utilization of "raised," coupled with the aforementioned ordinary meaning of "prima facie claim," yields clear textual support that the legislature did not intend the person asserting Stand Your Ground immunity to first prove that prima facie claim of self-defense. Instead, the text indicates that the legislature intended that the person simply bring that yet to be disproven prima facie claim of self-defense to a pretrial immunity hearing for the trial judge to determine, at first glance, if all elements required to demonstrate the particular self-defense statute are present. This is confirmed by the legislature's refusal to prescribe an evidentiary "burden of proof" to the person asserting immunity in the Stand Your Ground statute.

Id. at *1027*.

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Nevertheless, and as noted in *Jefferson*, a defendant is still required to "allege a facially sufficient prima facie claim of justifiable use of force under chapter 776 in a motion to dismiss filed under rule 3.190(b) and present argument in support of that motion at a pretrial immunity hearing." *Id.* at *1028-29*. *See also, Langel v. State*, 255 So. 3d 359, 362 (Fla. 4th DCA 2018) ("To raise a 'prima facie claim of self-defense immunity from criminal prosecution' under section 776.032(4), a defendant must show that the elements for the justifiable use of force are met.").

Accordingly, Ms. Benefield must allege specific facts that show or tend to show that she (1) used deadly force; (2) that she reasonably believed that such conduct was necessary to prevent death or great bodily harm or the imminent commission of a forcible felony[3]; (3) was not otherwise engaged in criminal activity; and (4), was in a place she had a right to be. Florida Standard Criminal Jury Instruction 3.6(f).

Florida Statutes §810.02(1)(b), 2.b.,c., provides the following definition for what is often referred to as "remaining in" burglary:

> Notwithstanding a licensed or invited entry, remaining in a dwelling, structure, or conveyance ... [a]fter permission to remain therein has been withdrawn, with the intent to commit an offense therein [or] to commit or attempt to commit a forcible felony, as defined in s. 776.08.

The permission to remain may be withdrawn expressly by the property owner. *See State v. Herron*, 70 So. 3d 705, 707 (Fla. 4th DCA 2011). Permission to remain can also be deemed revoked if the invitee commits a subsequent criminal act against the owner. *See Sparre v. State*, 164 So. 3d 1183, 1200-01 (Fla. 2015) (holding the defendant's

[3] Florida Statutes §776.08, entitled: ***Forcible felony***, specifically includes the crime of burglary.

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invitation to enter the victim's home was effectively rescinded when he attacked her therein).

According to *Florida Statute §776.031(2)*, entitled: **Use or threatened use of force in defense of property**, "A person is justified in using or threatening to use deadly force only if he or she reasonably believes that such conduct is necessary to prevent the imminent commission of a forcible felony."

Florida Statutes § 776.013(1)(b), entitled: **Home protection; use or threatened use of deadly force; presumption of fear of death or great bodily harm**, states:

> A person who is in a dwelling or residence in which the person has a right to be has no duty to retreat and has the right to stand his or her ground and use or threaten to use: Deadly force if he or she reasonably believes that using or threatening to use such force is necessary to prevent imminent death or great bodily harm to himself or herself or another or to prevent the imminent commission of a forcible felony.

If Ms. Benefield was in a [dwelling] [residence] in which she had a right to be, she had no duty to retreat and had the right to stand her ground and use force, including deadly force, if she reasonably believed that such conduct was necessary to prevent imminent death or great bodily harm to herself or the imminent commission of (applicable forcible felony listed in § 776.08, Fla. Stat.) against herself. *Florida Standard Criminal Jury Instruction 3.6(f)*.

Wherefore, Ms. Benefield, having raised a *prima facie* claim of justifiable use of deadly force, prays the Court entertain an evidentiary hearing, at which the State is tasked with the burden of establishing, by clear and convincing evidence, that the deadly force she was compelled to use was **not** justified.

Respectfully submitted,

"2020CF003014AX" 165924719 Filed at Manatee County Clerk 02/01/2023 02:36:26 PM EST

/s/ Neil G. Taylor
Neil G. Taylor, Esquire
Florida Bar No. 283029
For the Firm
GRIMES GALVANO, P.L.
1023 Manatee Building
Bradenton, FL 34205
Tel: (941) 748-0151
NTaylor@grimesgalvano.com

CERTIFICATE OF SERVICE

I hereby certify that a true and correct copy of the foregoing **Motion to Dismiss, Request for Declaration of Immunity, and Incorporated Memorandum of Law** has been furnished to ASA Suzanne M. O'Donnell, Manatee County State Attorney's Office, through the e-portal, on this 1st day of February, 2023.

/s/ Neil G. Taylor
Neil G. Taylor, Esquire

"2020CF003014AX" 165924719 Filed at Manatee County Clerk 02/01/2023 02:36:26 PM EST

EXHIBIT 1

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IN THE CIRCUIT COURT OF THE TWELFTH JUDICIAL CIRCUIT
IN AND FOR MANATEE COUNTY, FLORIDA

IN RE: THE MATTER OF:

ASHLEY CHRISTINA BENEFIELD,

Petitioner,

and CASE NO.: 2018-DR-01823

DOUGLAS GLASS BENEFIELD,

Respondent.

_____/

DEPOSITION OF: DOUGLAS GLASS BENEFIELD

TAKEN BY: Petitioner Herein

BEFORE: MELISSA GROMKO
Notary Public
State of Florida

DATE: July 17, 2018
Commencing at 10:03 a.m.

PLACE: Vincent Lucente & Associates

526 12th Street West

Bradenton, Florida

"2020CF003014AX" 165924719 Filed at Manatee County Clerk 02/01/2023 02:36:26 PM EST

Q. I'm not asking what Ashley did. What happens with the gun?

A. After a few maybe -- maybe another minute to two minutes, I couldn't tell you the exact time.

Q. Of Ashley talking about Eva?

A. Of Ashley talking, and I am begging her to stop talking and to please stop.

Q. And your head's on the counter?

A. My head's on the counter.

Q. What happens with the gun?

A. She wouldn't stop, just completely would not stop, and so out of complete and utter frustration, no anger whatsoever, I don't remember feeling a single iota of anger, it was purely utter frustration, and so --

Q. What happened?

A. I -- literally the gun's sitting in front of me and I pull it out of the sleeve and I shot at the ceiling.

Q. Did you say anything before you did it?

A. Did I saying anything?

Q. Yeah.

A. About -- I said nothing except for I was, up to that point, asking her to please stop talking and please give it a rest.

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somebody to do something stupid, which was represented by her standing there with black eyes and her arms crossed as if mission accomplished, that tells me something.

Q. Okay. Did she somehow egg you on with the gun at any point in time? I didn't hear anything about that.

A. She egged me on in the argument, not stopping.

Q. She didn't bring the gun into the house, you did, right?

A. No.

Q. You were the one that threw the gun against the wall, correct?

A. Absolutely, and I admitted to that.

Q. You were the one that pulled the gun out of the sleeve and discharged it?

A. Absolutely, and I admitted it.

Q. But you think that was her fault?

A. Absolutely. There's two parties. She had the ability to stop arguing.

Q. And she should have stopped when you told her to, correct?

A. Any one of the hundred times I asked her to.

Q. All right.

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A. There's that (indicating), and then.

Q. So --

A. That shows where we're sitting.

Q. All right. The box that has Ashley's photograph with the teddy bear is where she was sitting? Even though there's not a seat there, that's where she was sitting?

A. The picture covers the seat up.

Q. 3 is where your head was?

A. Yes, 3's where I set the gun and laid my head. Here's the shadowbox (indicating).

Q. Hold on a second.

A. Okay.

Q. When you threw the gun the effort was to make her shut up?

A. No, that's not what was going on in my head. My head was pure expression of frustration.

Q. Do you see where it says right here in your own document that's now part of Exhibit 3, I threw it to make her shut up; do you see you wrote that?

A. Yes.

Q. This is your writing?

A. Uh-huh.

Q. Yes?

A. Yes.

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Q. When you shot, it was to make her stop fussing again?

A. I'd say that was the result, but I wouldn't say that, thinking back.

Q. I'm asking what you said here. I picked it up and I just shot it to make her stop fussing.

A. Yeah, that's what I said there.

Q. When did you write this?

A. Back when the first -- the beginning of the injunction case, when I started putting all the stuff together for it.

Q. Do you think you have an accident -- I mean an anger problem?

A. No. Absolutely not.

Q. Have you ever attended an anger class?

A. I've never had an anger issue to attend an anger class.

Q. Sully's the dog?

A. Yes.

Q. That's the dog that's in the picture in Exhibit 3, first page?

A. Yes.

Q. You hit Sully that day?

A. Sully is protective. He was under the table.

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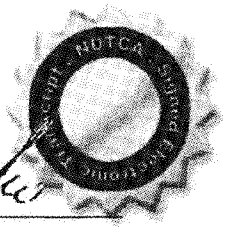
CERTIFICATE OF OATH

STATE OF FLORIDA)

COUNTY OF MANATEE)

I, the undersigned authority, certify that the witness in this matter personally appeared before me and was duly sworn on the 17th day of July, 2018.

WITNESS my hand and official seal this 26th day of July, 2018.



Melissa Gromko, Court Reporter

Notary Public

State of Florida at Large

My Commission Number: GG 051632

Expires: March 15, 2021

"2020CF003014AX" 165924719 Filed at Manatee County Clerk 02/01/2023 02:36:26 PM EST

CERTIFICATE OF REPORTER

STATE OF FLORIDA)

COUNTY OF MANATEE)

I, Melissa Gromko, certify that I was authorized to and did stenographically report the deposition; that a review of the transcript was requested; and that the foregoing pages are a true and complete record of my stenographic notes taken during said deposition.

I further certify that I am not a relative, employee, attorney or counsel of any of the parties, nor am I a relative or employee of any of the parties' attorneys or counsel connected with the action, nor am I financially interested in the action.

Dated this 26th day of July, 2018.

Melissa Gromko, Court Reporter
Vincent Lucente & Associates
526 12th Street West
Bradenton, Florida 34205
(941)748-3289

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EXHIBIT 2

"2020CF003014AX" 165924719 Filed at Manatee County Clerk 02/01/2023 02:36:26 PM EST

IN THE CIRCUIT COURT OF THE TWELFTH JUDICIAL CIRCUIT
IN AND FOR MANATEE COUNTY, FLORIDA

IN RE: THE MATTER OF:

ASHLEY CHRISTINA BENEFIELD,

Petitioner,

and CASE NO.: 2018-DR-01823

DOUGLAS GLASS BENEFIELD,

Respondent.

_____/

DEPOSITION OF: DOUGLAS GLASS BENEFIELD

TAKEN BY: Petitioner Herein

BEFORE: MELISSA GROMKO
Notary Public
State of Florida

DATE: July 17, 2018
Commencing at 10:03 a.m.

PLACE: Vincent Lucente & Associates

526 12th Street West

Bradenton, Florida

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A. There's that (indicating), and then.

Q. So --

A. That shows where we're sitting.

Q. All right. The box that has Ashley's photograph with the teddy bear is where she was sitting? Even though there's not a seat there, that's where she was sitting?

A. The picture covers the seat up.

Q. 3 is where your head was?

A. Yes, 3's where I set the gun and laid my head. Here's the shadowbox (indicating).

Q. Hold on a second.

A. Okay.

Q. When you threw the gun the effort was to make her shut up?

A. No, that's not what was going on in my head. My head was pure expression of frustration.

Q. Do you see where it says right here in your own document that's now part of Exhibit 3, I threw it to make her shut up; do you see you wrote that?

A. Yes.

Q. This is your writing?

A. Uh-huh.

Q. Yes?

A. Yes.

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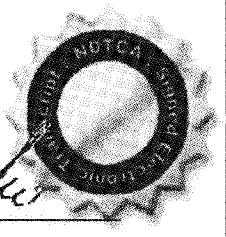
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State of Florida at Large

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Dated this 26th day of July, 2018.

Melissa Gromko, Court Reporter
Vincent Lucente & Associates
526 12th Street West
Bradenton, Florida 34205
(941)748-3289

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EXHIBIT 3

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IN THE CIRCUIT COURT OF THE TWELFTH JUDICIAL CIRCUIT
IN AND FOR MANATEE COUNTY, FLORIDA

IN RE: THE MATTER OF:

ASHLEY CHRISTINA BENEFIELD,

Petitioner,

and CASE NO.: 2018-DR-01823

DOUGLAS GLASS BENEFIELD,

Respondent.

_____/

DEPOSITION OF: DOUGLAS GLASS BENEFIELD

TAKEN BY: Petitioner Herein

BEFORE: MELISSA GROMKO
Notary Public
State of Florida

DATE: July 17, 2018
Commencing at 10:03 a.m.

PLACE: Vincent Lucente & Associates

526 12th Street West

Bradenton, Florida

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Q. My question is did you hit Sully? Not why. Did you hit Sully?

A. You could call it hit, yes.

Q. You called it hit?

A. Yeah.

Q. He sprung up into it, I guess your lap, and I reacted and hit him.

A. Yeah.

Q. So when you say you could call it, you called it hit, correct?

A. Yes. For lack of better words, yes. The dog sprung up on my lap, all instantaneously, trying to crawl on my lap, sharp claws, I've got on shorts, and --

Q. How did you hit him?

A. I honestly --

Q. You don't remember?

A. I don't remember exactly. This is -- again, our dog is like, you know, family, and I just wanted everything to stop and I wanted him to stop and he wouldn't. He would not stay under the table and he kept --

Q. He wouldn't stop either so you hit him, correct?

A. Yes, I hit, my dog.

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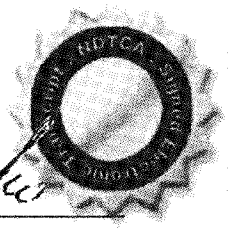
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Dated this 26th day of July, 2018.

Melissa Gromko, Court Reporter
Vincent Lucente & Associates
526 12th Street West
Bradenton, Florida 34205
(941)748-3289

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EXHIBIT 4

"2020CF003014AX" 165924719 Filed at Manatee County Clerk 02/01/2023 02:36:26 PM EST

Manatee County Sheriff's Office

Incident Sheet

ORI: FL0410000

Incident Number # : 2019032868 **Printed Date:** 10/13/2022 14:02

Incident Information

Incident # : 2019032868
Reported Date : 12/06/2019 08:20
Investigating Officer :
Reporting Officer : LINDSEY, SCOTT L
Occured From : 10/01/2019 09:00 TU
Location : 11231 WHITE ROCK TER BRADENTON,FL 34211
Occured To : 11/01/2019 09:00 FR

Incident Details

Case Status : ACTIVE - ASSIGNED PATROL
Disposition : OPEN
Status Date : 12/06/2019 08:21
Disposition Date : 12/06/2019 08:21
Record Date :
Remarks :

Associated Name Summary

FULL NAME	TYPE	INVOLVEMENT	DOB
BENEFIELD, ASHLEY CHRISTINA	INDIVIDUAL	REPORTING PARTY	12/05/1991
BENEFIELD, DOUGLAS GLASS	INDIVIDUAL	INVOLVED OTHER	10/02/1961

Offense Information

Offense Code : <95001-950-950> INFORMATION ONLY
Location : RESIDENCE-SINGLE FAMILY
Primary Offense : ☑
Attempt : COMMITTED

Incident Name

Incident/Name Info :

Involvement : REPORTING PARTY

Name Information :

Name Unknown : ☐
Home Address : 6551 WATERSIDE LN, BRADENTON, FL, 34211
Last Name : BENEFIELD
Mailing Address :
First Name : ASHLEY
Home Phone :
Middle Name : CHRISTINA
Work Phone :
Suffix :
Other Phone :
Name Type : INDIVIDUAL
Cell Phone :
Race : WHITE
Email :
Ethnicity : NON-HISPANIC
Secondary Email :
Gender : FEMALE
State ID :
DOB : 12/05/1991

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Age :	28 to	**Eye Color :**	BROWN
Driver's License # :	B514003919450	**Hair Color :**	BROWN
Driver's License Expiration Date :		**Glasses :**	
		Height :	5'9" to
Driver's License State :	FLORIDA	**Weight :**	135 to
Driver's License Class :		**Juvenile :**	☐
SSN :		**Date Issued :**	
Passport # :			
Country Of Issuance :		**Passport Expiration Date :**	

Incident Name

Incident/Name Info :

Involvement : INVOLVED OTHER

Name Information :

Name Unknown :	☐	**Home Address :**	11645 MONUMENT DR #1116, BRADENTON, FL, 34211
Last Name :	BENEFIELD	**Mailing Address :**	
First Name :	DOUGLAS	**Home Phone :**	
Middle Name :	GLASS	**Work Phone :**	
Suffix :		**Other Phone :**	
Name Type :	INDIVIDUAL	**Cell Phone :**	
Race :	WHITE	**Email :**	
Ethnicity :	UNKNOWN	**Secondary Email :**	
Gender :	MALE	**State ID :**	
DOB :	10/02/1961	**Eye Color :**	BLUE
Age :	58 to	**Hair Color :**	BROWN
Driver's License # :		**Glasses :**	
Driver's License Expiration Date :		**Height :**	5'9" to
Driver's License State :		**Weight :**	160 to
Driver's License Class :		**Juvenile :**	☐
SSN :		**Date Issued :**	
Passport # :			
Country Of Issuance :		**Passport Expiration Date :**	

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Narratives

Report #: 2019032868-0000 **Type:** SYNOPSIS **Author :** LINDSEY, SCOTT L (11004812)

Title : **Entered On :** 12/06/2019 08:20

Narrative : Information

11231 White Rock Ter
Bradenton, FL 34211

I met with Ashley Benefield in TRU and received a summary of the incident. Ashley is documenting the fact that her estranged husband admitted in a text message that he placed a tracking device on her vehicle in the past. Ashley has observed her husband driving behind her vehicle on multiple occasions in the past which concerns her. Ashley wanted this information documented due to the couples long history of disturbances and child custody incidences. According to Ashley, she brought her vehicle to a local auto dealer but a tracker could not be found. Due to the fact a tracking device was never observed on the vehicle, an Information report was completed. Ashley was also advised she could add information to the report at any time.

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829.pdf

2019-032868

married we moved too quickly both pretending everything was ok.

I will promise you going forward I won't do anything stupid, embarrassing and insulting like I did with Waterworks, or back early in year when put Eva's tracker on your car. And I ask you to let's deal with these murder and poisoning accusations. If you want another autopsy then we will do that. I'm ok with that. Whatever you need to do over next year to fix beliefs and this broken trust ... you just tell me and we will do it.

The fundamental thing for me is I believe in you. Even in middle of all the accusations regardless of how they started, I know in my heart you are not only a good and Godly woman, you are an extremely intelligent human. I tell everyone I believe you are a genius. I simply believe in you. You said on day you shut down being together that I had

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EXHIBIT 5

"2020CF003014AX" 165924719 Filed at Manatee County Clerk 02/01/2023 02:36:26 PM EST

IN THE CIRCUIT COURT OF THE
TWELFTH JUDICIAL CIRCUIT
IN AND FOR MANATEE COUNTY, FLORIDA
CRIMINAL DIVISION

CASE NO.: 2020 CF 003014AX

THE STATE OF FLORIDA,

Plaintiff,

vs.

ASHLEY CHRISTINA BENEFIELD,

Defendant.

_____/

DEPOSITION OF

[redacted]

Taken on behalf of the Defendant

DATE TAKEN: Tuesday, October 11, 2022

TIME: Commencing at 2:35 p.m.

PLACE: Manatee County Judicial Center
Deposition Room 2102
1051 Manatee Avenue West
Bradenton, FL 34205

Examination of the witness taken before:

Candace Gabeletto
Registered Professional Reporter

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A. Yes.
Q. Did they respond?
A. Yes.
Q. Did they confront the gentleman that was there?
A. No. He was gone.
Q. Okay. You said it was dark out?
A. Correct.
Q. And he had a baseball cap on?
A. Correct.
Q. You had at the time a general description of him, his approximate height and weight, but you didn't feel comfortable being able to identify a picture; is that correct?
A. Absolutely I could not. It was dark.
Q. Okay. Now, while this had occurred, on the heels of it having occurred, did there come a time where an audio recording was played for you --
A. Yes.
Q. -- of a particular gentleman's voice?
A. Yes.
Q. And did that voice sound familiar?
A. Yes.
Q. When had you heard that voice before?
A. When I asked who was in my yard.
Q. When you asked this gentleman that you did not

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give permission for who was trespassing in your yard what he was doing there?

A. Correct.

Q. And when this audio was played, you recognized the voice as one and the same?

A. Yes.

Q. All right.

A. What I thought I had heard --

Q. Yes.

A. -- yes.

Q. And at the time you were certain of it?

A. Yes.

Q. Okay. Now, that individual turned out, to your knowledge, to be Douglas Benefield; did it not?

A. Correct.

Q. All right. I have another question I'd like to ask you.

Did there come a time -- do you remember when you first confronted him in the yard, and I recognize this is quite a while ago, do you remember disputing with him his statement that he lived there, that you were familiar enough with where he pointed and the neighbors in that immediate area that you knew that wasn't the case and that was what made you alarmed and led to the call to the sheriff's office? Does that jog your memory at all?

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MS. O'DONNELL: Okay.

THE WITNESS: So this is all their yard here. So this is the side. So it would be on my right-hand side.

MR. TAYLOR: If you would, put a stick figure where you saw him.

THE WITNESS: Oh, he was back here.

MR. TAYLOR: Okay.

THE WITNESS: So he was -- this is my backyard and he was -- yeah, he was, like, right here.

MR. TAYLOR: Okay.

THE WITNESS: And then there's a pond here. And there's all kinds of, like, bushes, oak trees. And then the neighbor, my next-door neighbor, has bushes too.

So it's just really creepy at night because -- and the only reason I saw him was because of the moonlight because I have two huge oak trees in the back. But yet he was here which would have -- he would have looked, like, straight onto Ashley and Alicia's. You could see, like, their garage.

BY MS. O'DONNELL:

Q. So based on the drawing that you made, you said this was yard pretty much?

A. Correct.

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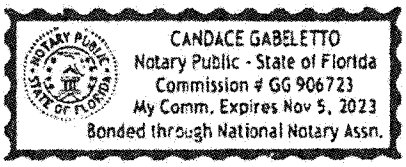
CERTIFICATE OF OATH

STATE OF FLORIDA

COUNTY OF MANATEE

I, Candace Gabeletto, RPR, the undersigned authority, certify that [redacted] personally appeared before me on October 11, 2022, at 2:35 p.m. and was duly sworn.

WITNESS my hand and official seal this 19th day of October, 2022.



Candace Gabeletto

Candace Gabeletto, RPR
Registered Professional Reporter
Notary Public State of Florida
Commission #GG 906723
Expiration: November 5, 2023

Personally Known: No
Produced Identification: Yes
Type of I.D. Produced: Florida Driver's License

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CERTIFICATE OF REPORTER

STATE OF FLORIDA

COUNTY OF MANATEE

I, Candace Gabeletto, Registered Professional Reporter, do hereby certify that I was authorized to and did stenographically report the deposition of [redacted]; that a review of the transcript was not requested; and that the foregoing transcript, pages 1 through 28, is a true record of my stenographic notes.

I further certify that I am not a relative, employee, or attorney, or counsel of any of the parties, nor am I a relative or employee of any of the parties' attorney or counsel connected with the action, nor am I financially interested in the action.

DATED this 19th day of October, 2022, at Manatee County, Florida.

Candace Gabeletto

Candace Gabeletto, RPR
Registered Professional Reporter

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EXHIBIT 6

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IN THE CIRCUIT COURT OF THE TWELFTH JUDICIAL CIRCUIT
IN AND FOR MANATEE COUNTY, FLORIDA

IN RE: THE MATTER OF:

ASHLEY CHRISTINA BENEFIELD,

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and CASE NO.: 2018-DR-01823

DOUGLAS GLASS BENEFIELD,

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_____/

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TAKEN BY: Petitioner Herein

BEFORE: MELISSA GROMKO
Notary Public
State of Florida

DATE: July 17, 2018
Commencing at 10:03 a.m.

PLACE: Vincent Lucente & Associates

526 12th Street West

Bradenton, Florida

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MS. MURPHY: I gave them to Jessica. Do you have your copy?

BY MR. SESSUMS:

Q. Let's back up for a second before we get into this.

A. Okay.

Q. I wasn't sure you told me when you hit the hole in the wall, before or after June 15th?

A. Let's go to Ashley's -- Ashley is saying April 14th.

Q. So before that, correct?

A. Correct.

Q. And you admit that that happened, on or about that day you hit the wall to get her to stop talking?

A. I hit it out of frustration. It had the effect of stopping her for a minute.

Q. And what was -- what were you frustrated about?

A. Same thing. Ashley -- the story is nothing specifically like she said. That was in -- I was the one in the closet, she was standing outside the closet, and we were arguing, once again, about Eva.

Q. Why were you in the closet?

A. I was changing clothes.

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Q. You were arguing about Eva, and did you hit the wall in the closet or someplace else?

A. No. I was in the closet and Ashley was standing at the foot of the bed, which is 10, 15 feet away, 10 feet away.

Q. Okay. I'm sorry. You hit the wall outside of the closet but Ashley was 10 or 15 feet away; is that what you said?

A. No. I was in the closet, sort of in the doorway.

Q. Yeah.

A. And the same exact scenario, she would not stop fussing about Eva.

Q. So you hit the wall where?

A. I was inside the closet and hit it from the -- on the inside of the closet just about where there's an ADT alarm system.

Q. It put a hole in the wall?

A. Yes, it did, and then it went through -- my fist went through the sheetrock and sort of hit the outside. I remember that because that's where I first started to have them put the ADT, so they already started cutting the hole.

Q. Did it ever get repaired?

A. Yes, it did.

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Q. Is this Ashley's fault again because she wouldn't stop?

A. I would say Ashley was -- Ashley was the cause of the argument, yes.

Q. Was Ashley the cause of your putting your first through the sheetrock?

A. No. It was my bad decision, but Ashley was a -- caused the argument. Ashley was the entire cause of the argument.

Q. So Ashley was not the cause for your putting your first through the sheetrock, but she was the cause for you shooting the bullet in the ceiling?

A. Ashley was the cause of both arguments because she would not stop arguing about my daughter.

Q. I'm not asking about the arguments. You misunderstood the question.

A. Okay.

Q. You said that your bad decision caused your fist to go through the sheetrock. Was it your bad decision that caused you to shoot the bullet in this the ceiling or was it Ashley?

A. No. Both were my honest bad decisions in a stressful situation.

Q. All right. Now, was everything you told the

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of -- I was watching it closely --

Q. That's not -- my question is not about the trajectory of the storm. My question is did she ask you to come to Florida when you came to Florida in September or did you come on your own?

A. No. I came on my own because she was not answering the phone very much.

Q. During your arguments in the past, besides shooting a firearm, throwing a firearm and punching a hole in the wall, did you ever throw things besides the gun?

A. I don't ever remember throwing anything. No, I don't remember -- the only thing I remember, one time standing at the sink and there's a glass in the sink and I definitely -- it broke when I put it down too hard. Other than that, I've never thrown anything.

Q. So you were in an argument and you put a glass down too hard and it broke; is that what you're saying?

A. Yeah.

Q. When was that?

A. I don't remember specifically.

Q. Was it before or after June 20 -- I'm sorry. Was it before or after June 15th?

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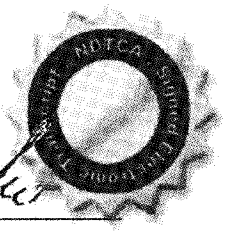
CERTIFICATE OF OATH

STATE OF FLORIDA)

COUNTY OF MANATEE)

I, the undersigned authority, certify that the witness in this matter personally appeared before me and was duly sworn on the 17th day of July, 2018.

WITNESS my hand and official seal this 26th day of July, 2018.



Melissa Gromko, Court Reporter

Notary Public

State of Florida at Large

My Commission Number: GG 051632

Expires: March 15, 2021

"2020CF003014AX" 165924719 Filed at Manatee County Clerk 02/01/2023 02:36:26 PM EST

CERTIFICATE OF REPORTER

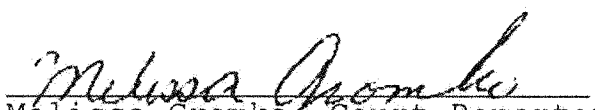
STATE OF FLORIDA)

COUNTY OF MANATEE)

I, Melissa Gromko, certify that I was authorized to and did stenographically report the deposition; that a review of the transcript was requested; and that the foregoing pages are a true and complete record of my stenographic notes taken during said deposition.

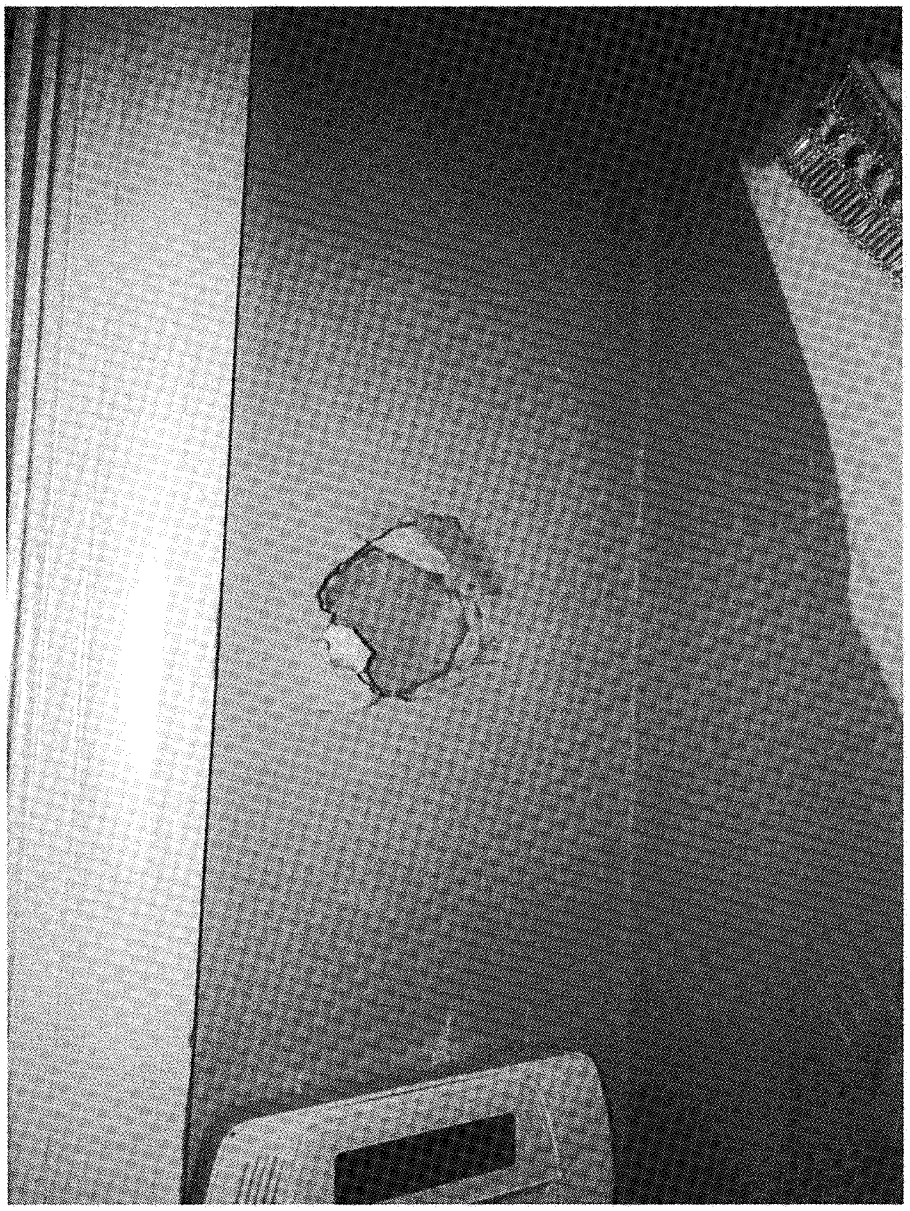
I further certify that I am not a relative, employee, attorney or counsel of any of the parties, nor am I a relative or employee of any of the parties' attorneys or counsel connected with the action, nor am I financially interested in the action.

Dated this 26th day of July, 2018.



Melissa Gromko, Court Reporter
Vincent Lucente & Associates
526 12th Street West
Bradenton, Florida 34205
(941)748-3289

"2020CF003014AX" 165924719 Filed at Manatee County Clerk 02/01/2023 02:36:26 PM EST



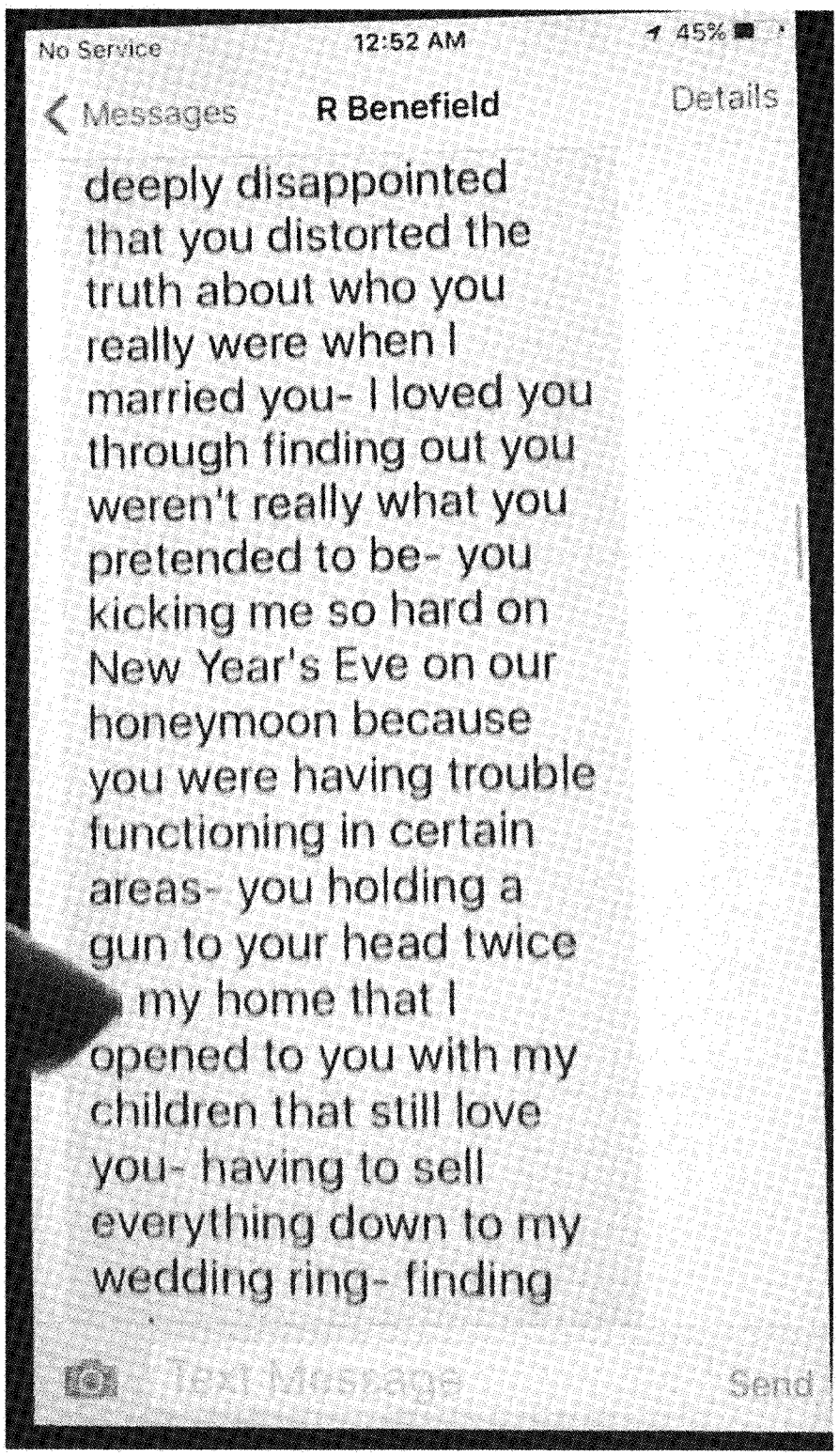
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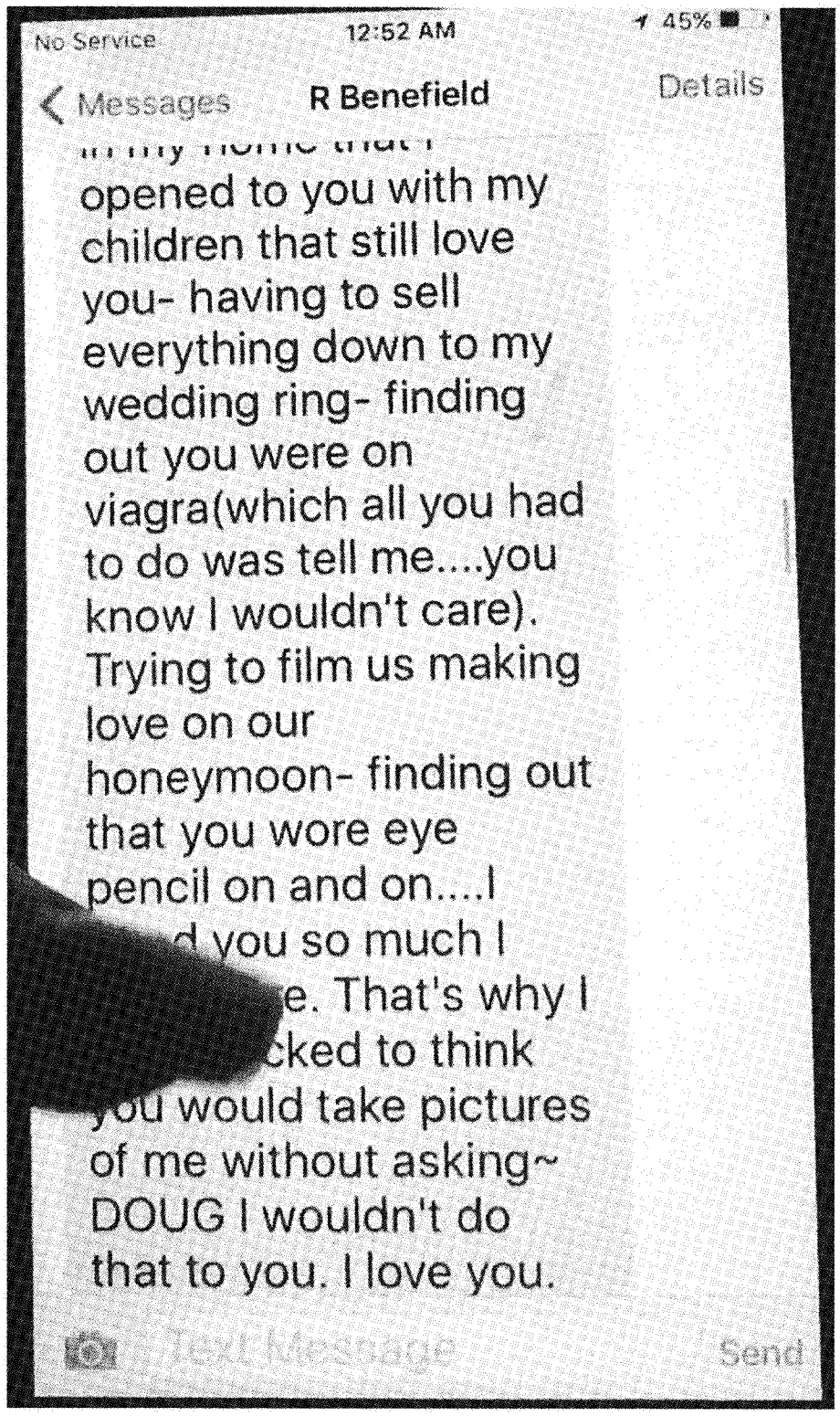
"2020CF003014AX" 165924719 Filed at Manatee County Clerk 02/01/2023 02:36:26 PM EST

EXHIBIT 7

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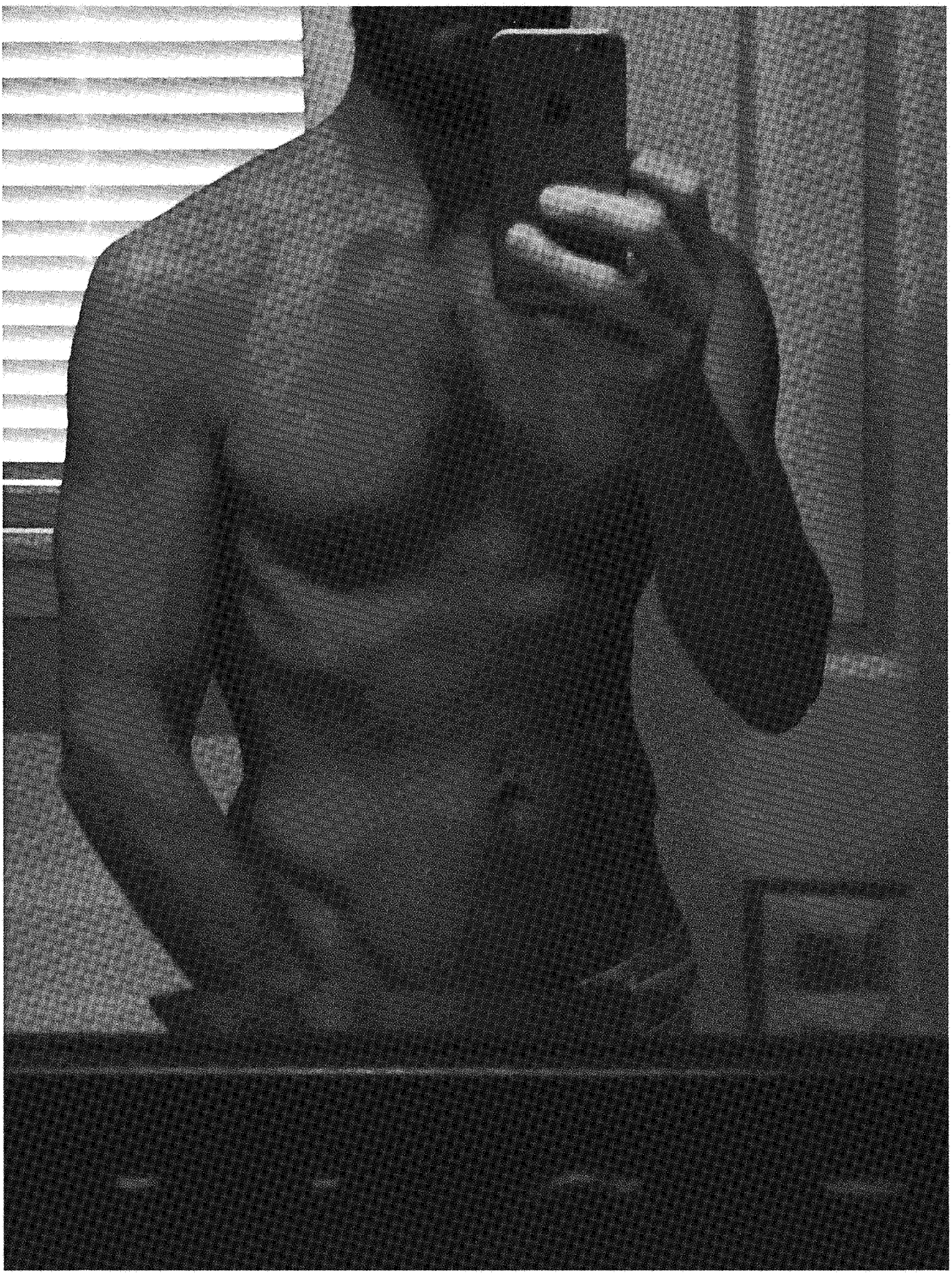
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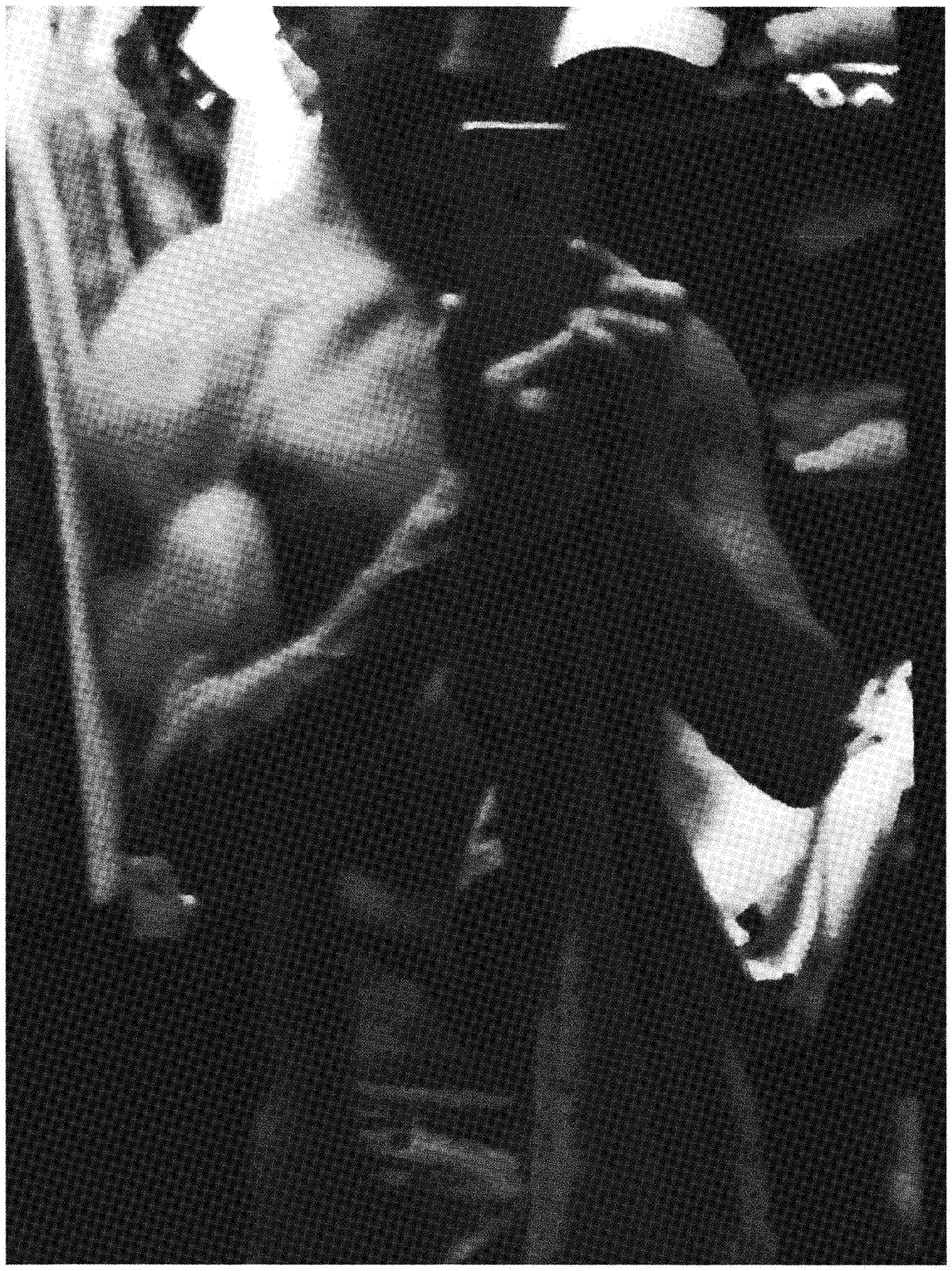
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EXHIBIT 8

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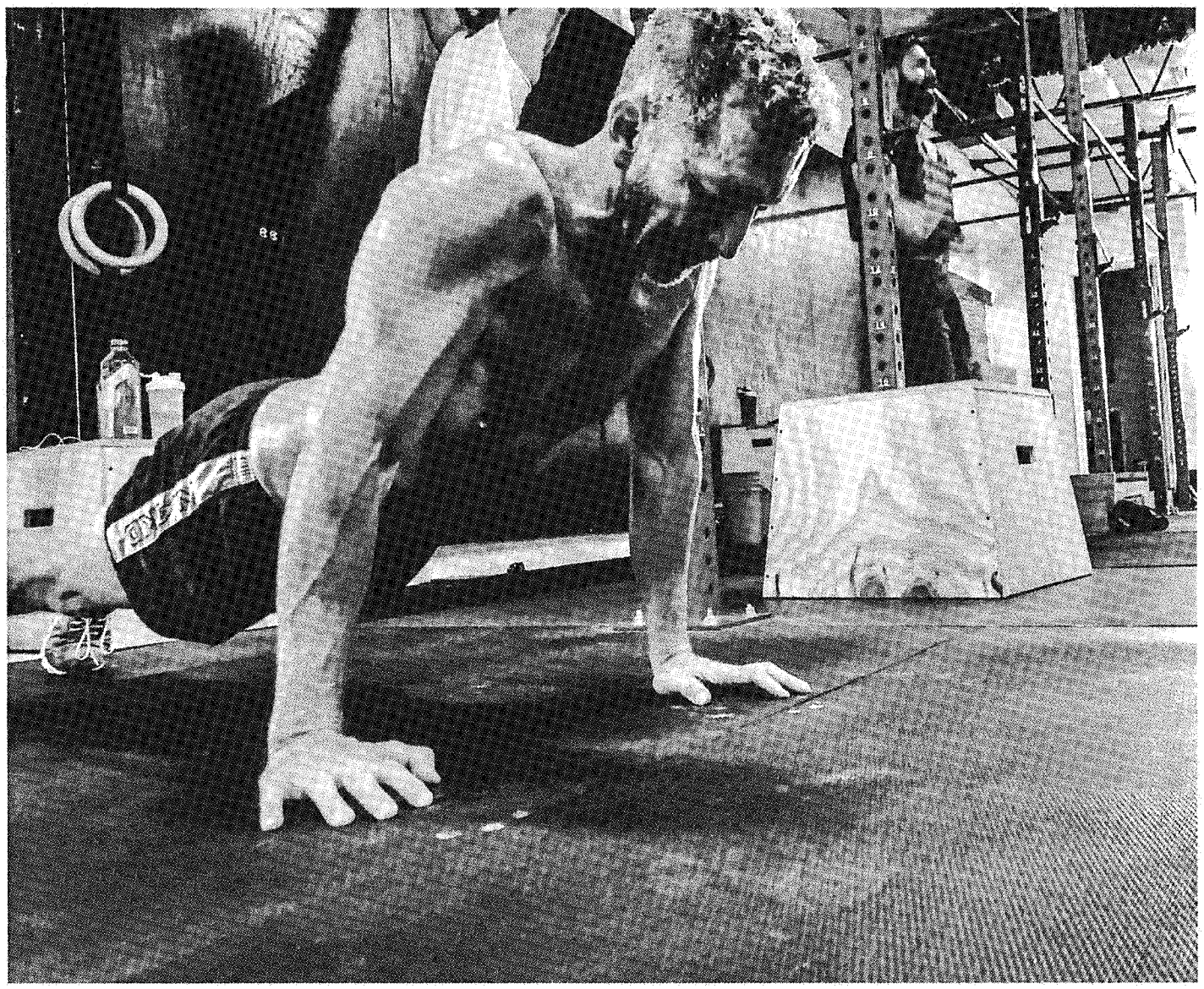
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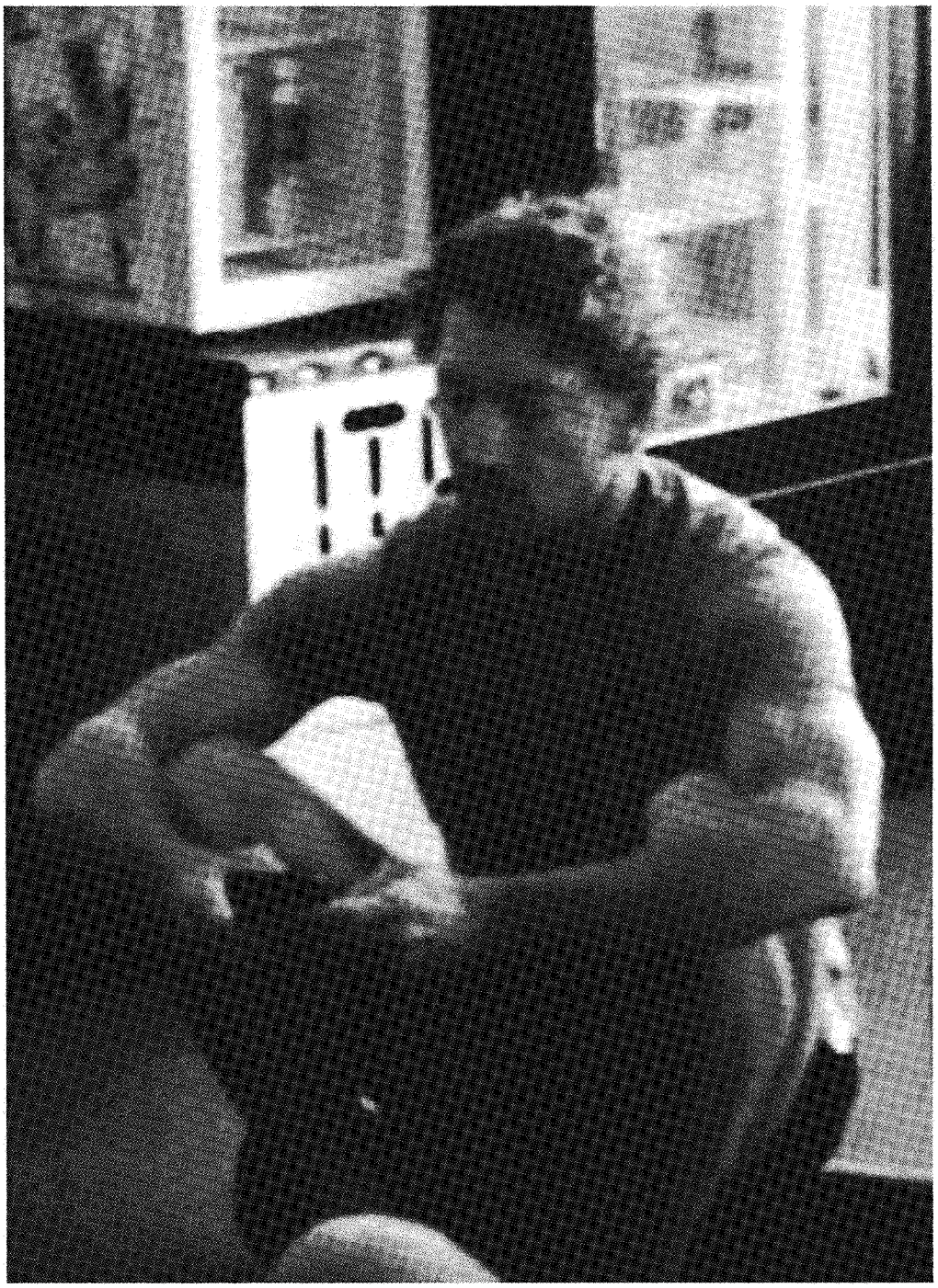


EXHIBIT 9

"2020CF003014AX" 165924719 Filed at Manatee County Clerk 02/01/2023 02:36:26 PM EST

From: 18243145236@s.whatsapp.net Bert (owner)
To: 14105709525@s.whatsapp.net Ashley Benefield

I call some special forces training which often sadly is hardship

Participant	Delivered	Read	Played
14105709525@s.whatsapp.net Ashley Benefield	8/29/2016 5:17:22 PM(UTC-4)	8/29/2016 5:17:23 PM(UTC-4)	

Status: Sent
Platform: Mobile
8/29/2016 5:17:22 PM(UTC-4)

Source Info:
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From: 18243145236@s.whatsapp.net Bert (owner)
To: 14105709525@s.whatsapp.net Ashley Benefield

But know she is concerned about me traveling so much and one of my companies she knows enough to be a little concerned

Participant	Delivered	Read	Played
14105709525@s.whatsapp.net Ashley Benefield	9/1/2016 2:21:57 AM(UTC-4)	9/1/2016 2:21:57 AM(UTC-4)	

Status: Sent
Platform: Mobile
9/1/2016 2:21:56 AM(UTC-4)

Source Info:
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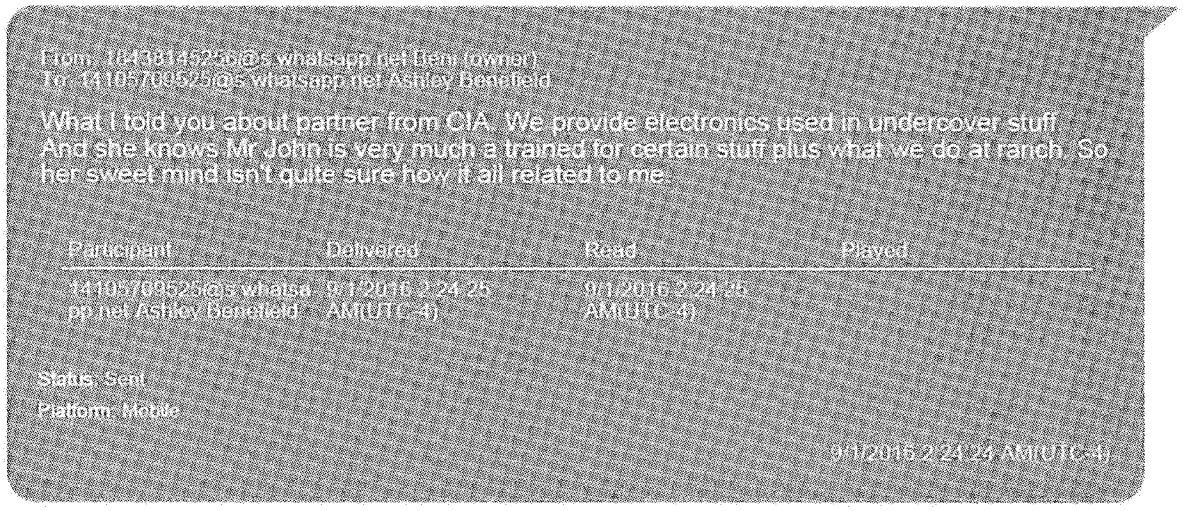
14105709525@s.whatsapp.net Ashley Benefield

What does she know that I don't

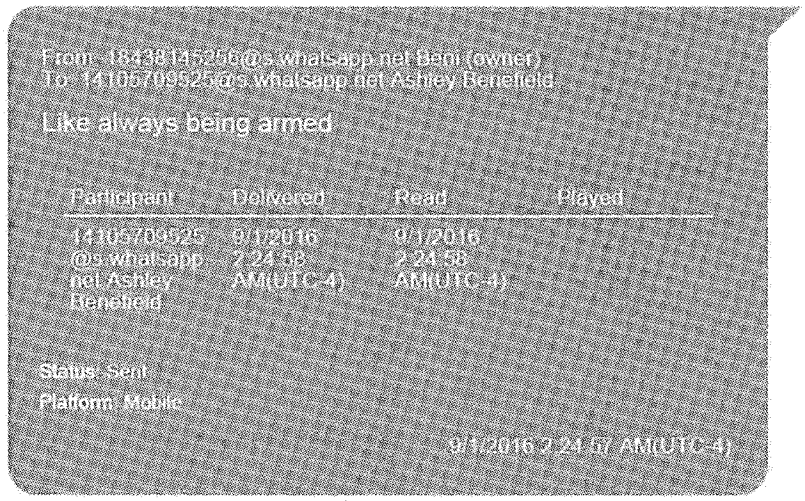
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14105709525@s.whatsapp.net Ashley Benefield

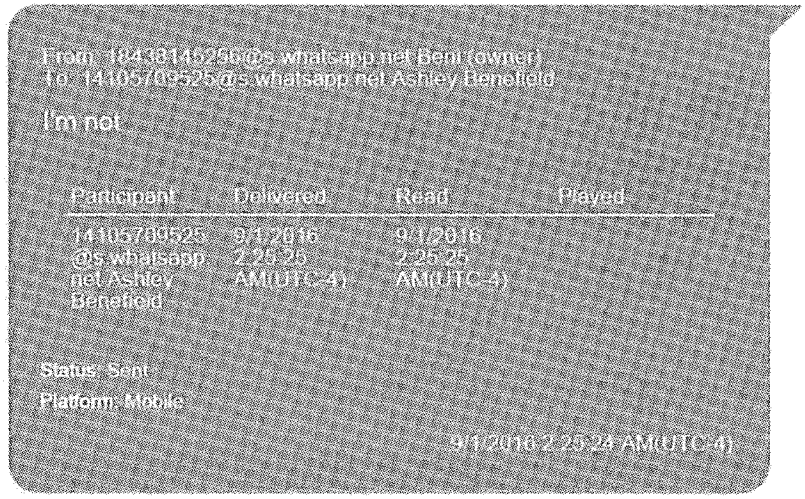
Are you doing things that are dangerous?

Status: Read

Platform: Mobile

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14105709525@s.whatsapp.net Ashley Benefield

Being armed is just being smart

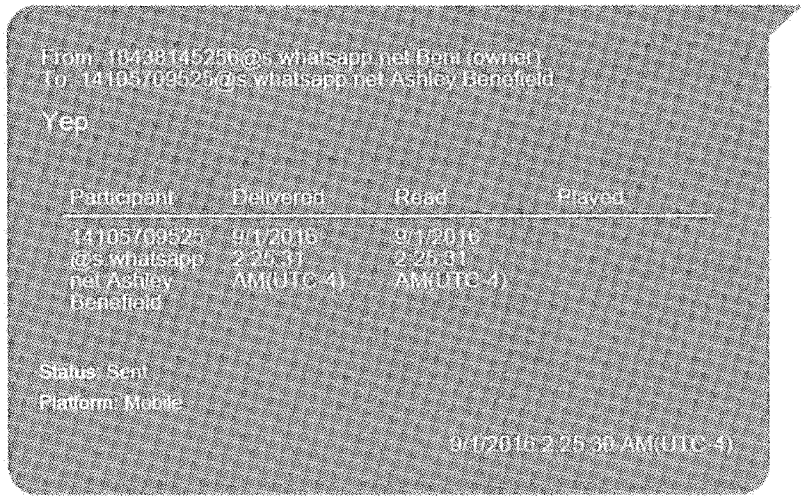
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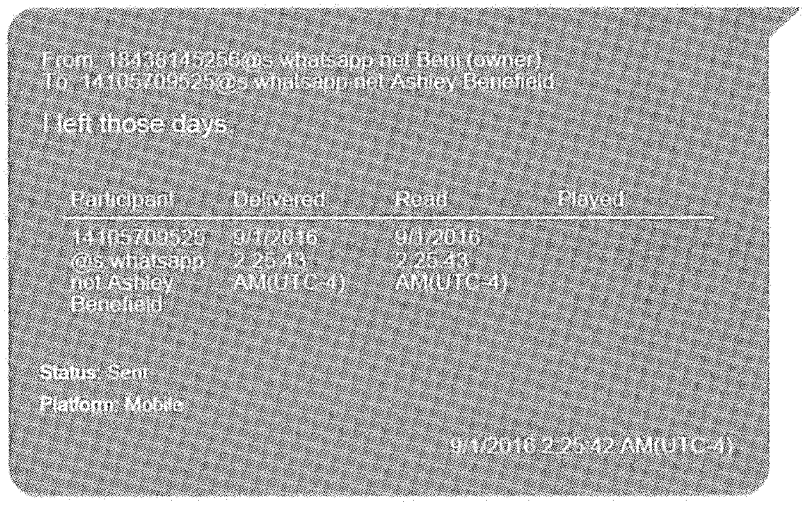
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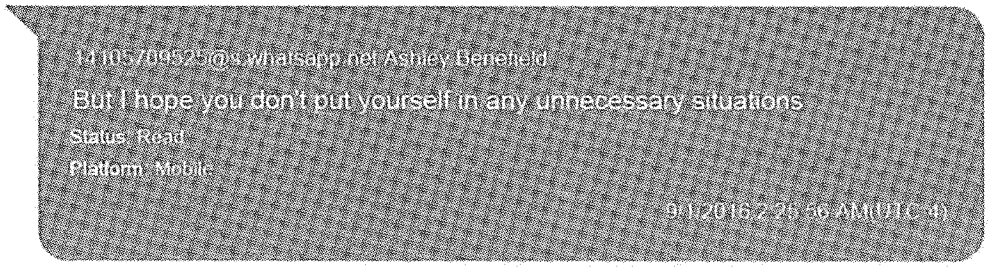


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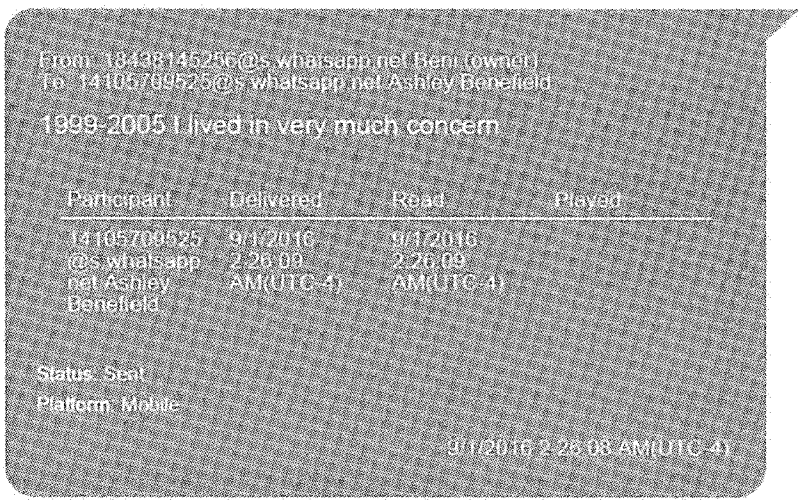


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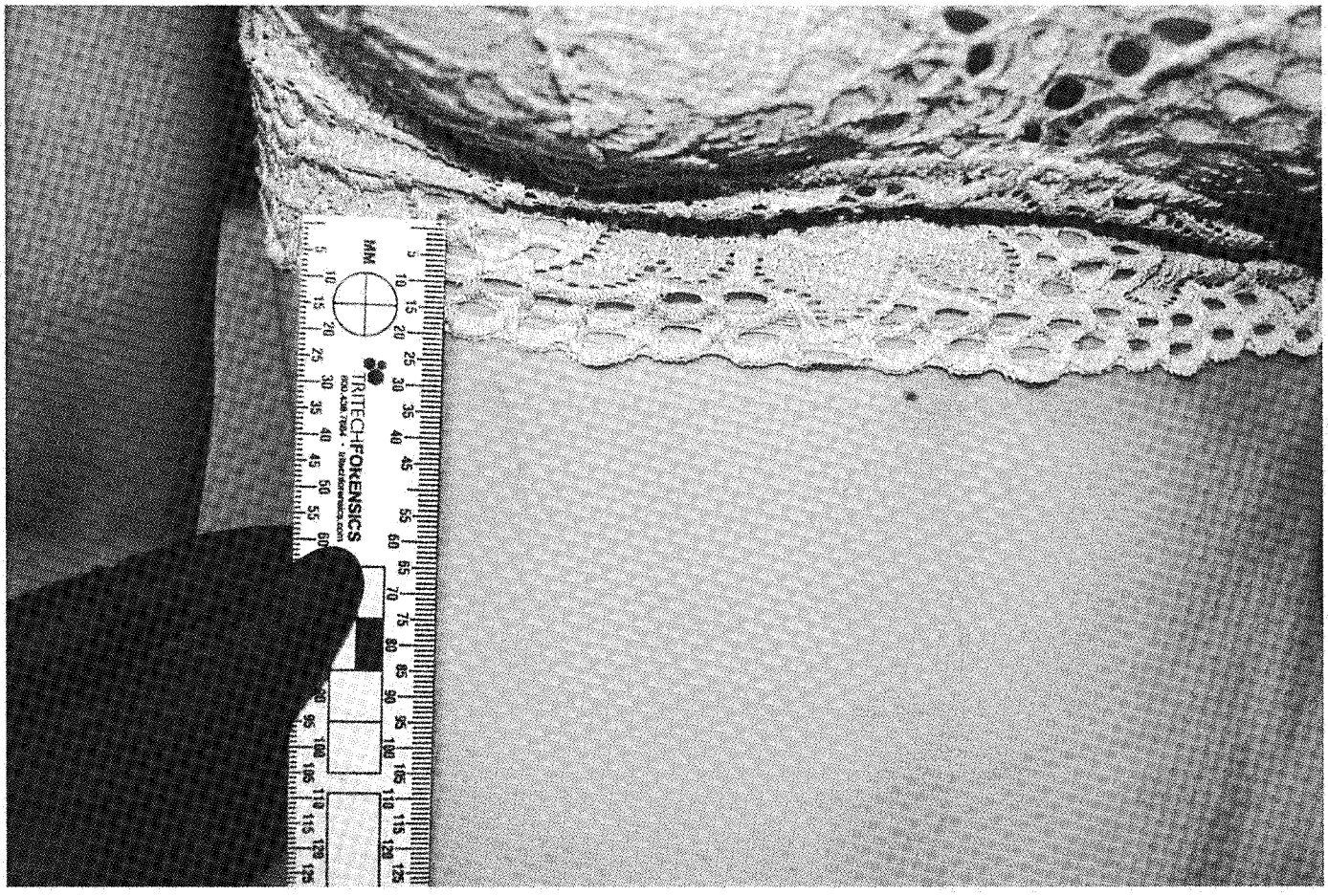
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EXHIBIT 10

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09/27/2020



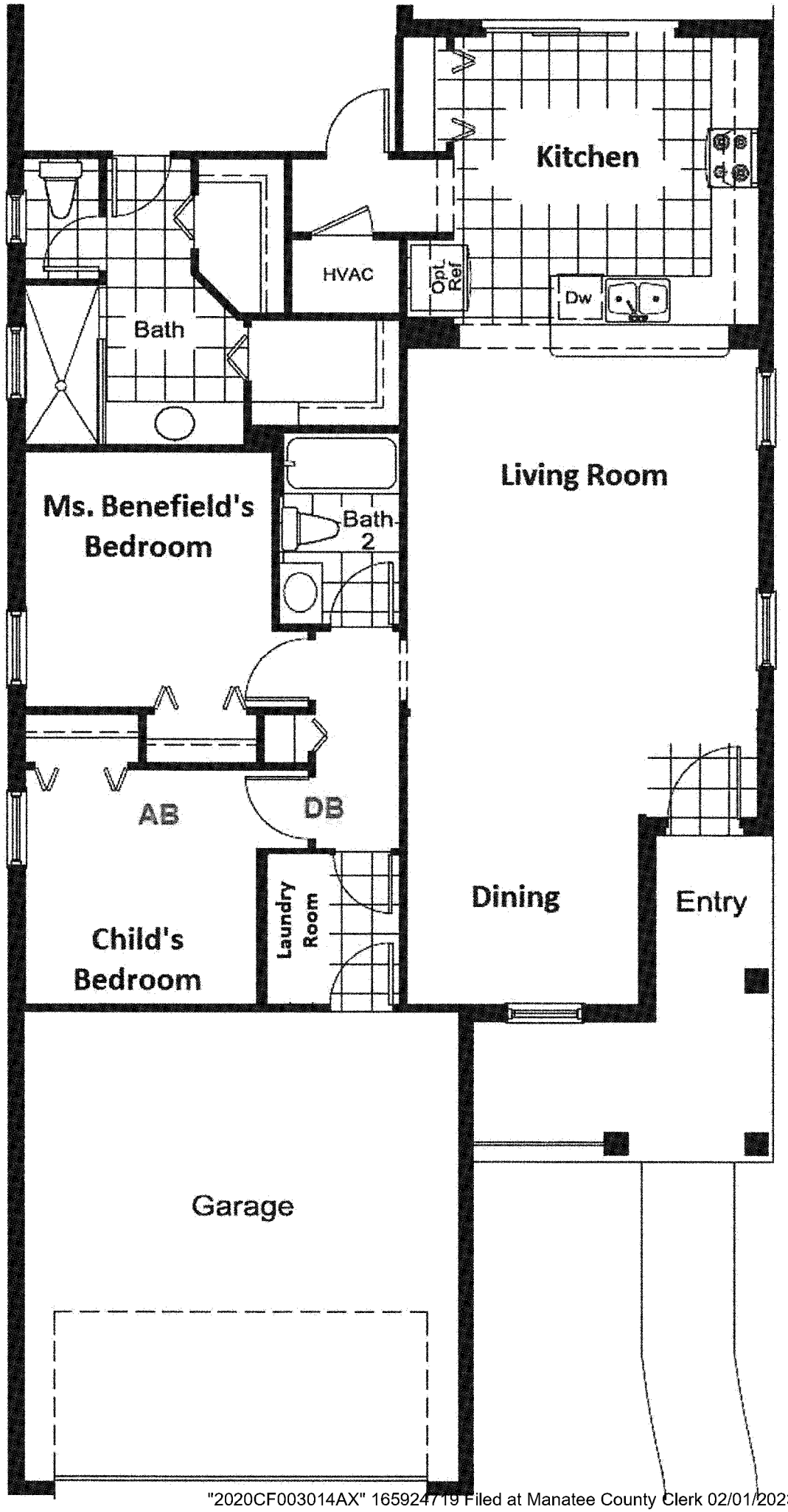
09/27/2020



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EXHIBIT 11

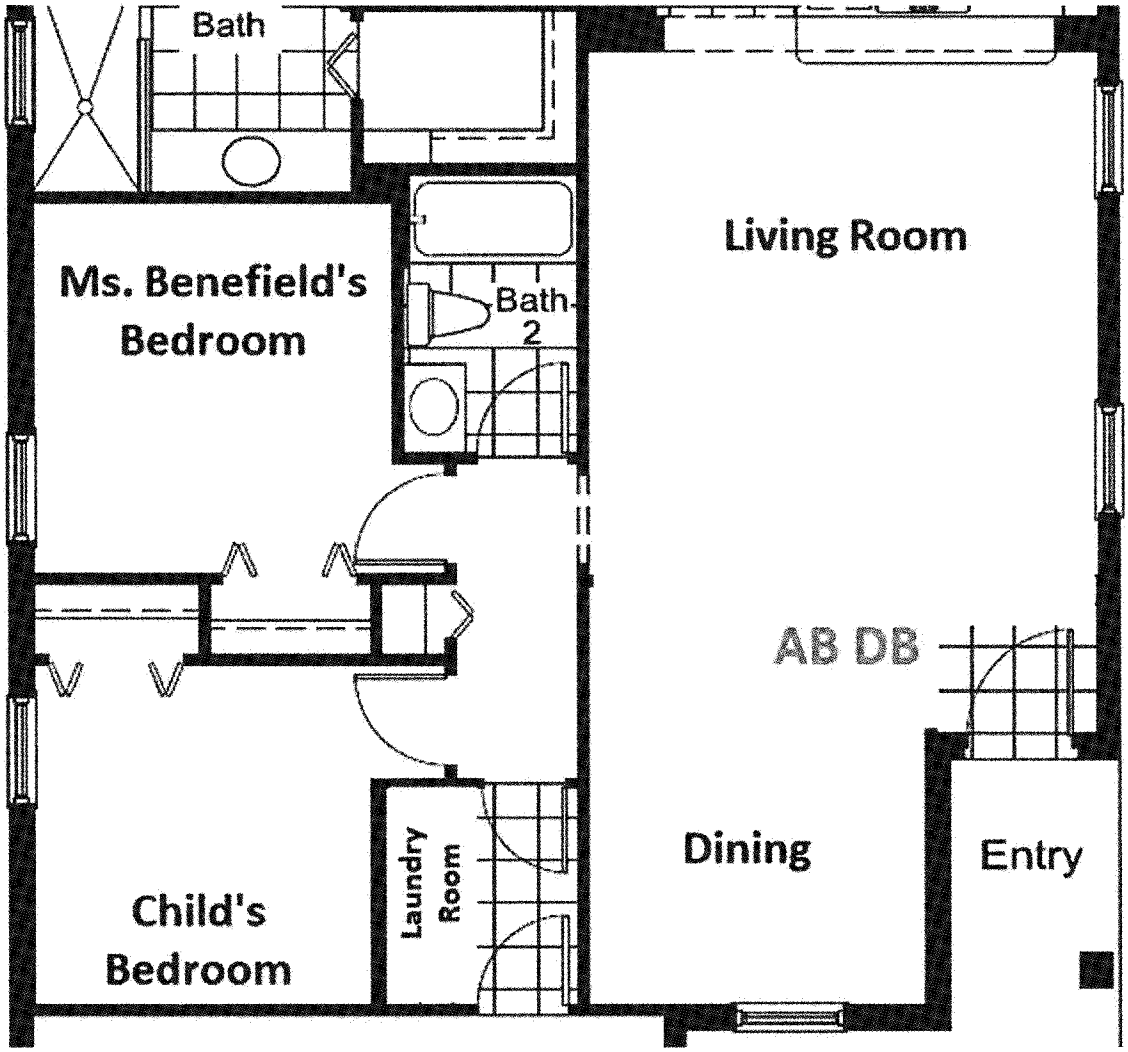
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EXHIBIT 12

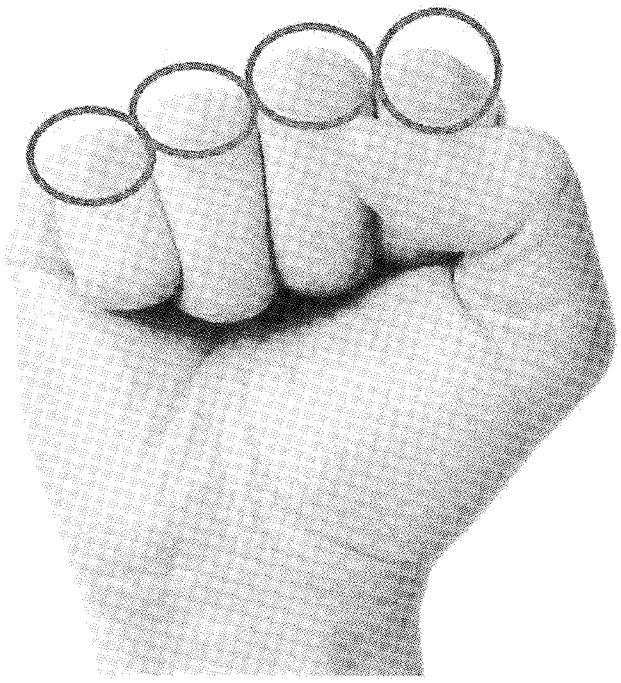
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"2020CF003014AX" 165924719 Filed at Manatee County Clerk 02/01/2023 02:36:26 PM EST

EXHIBIT 13

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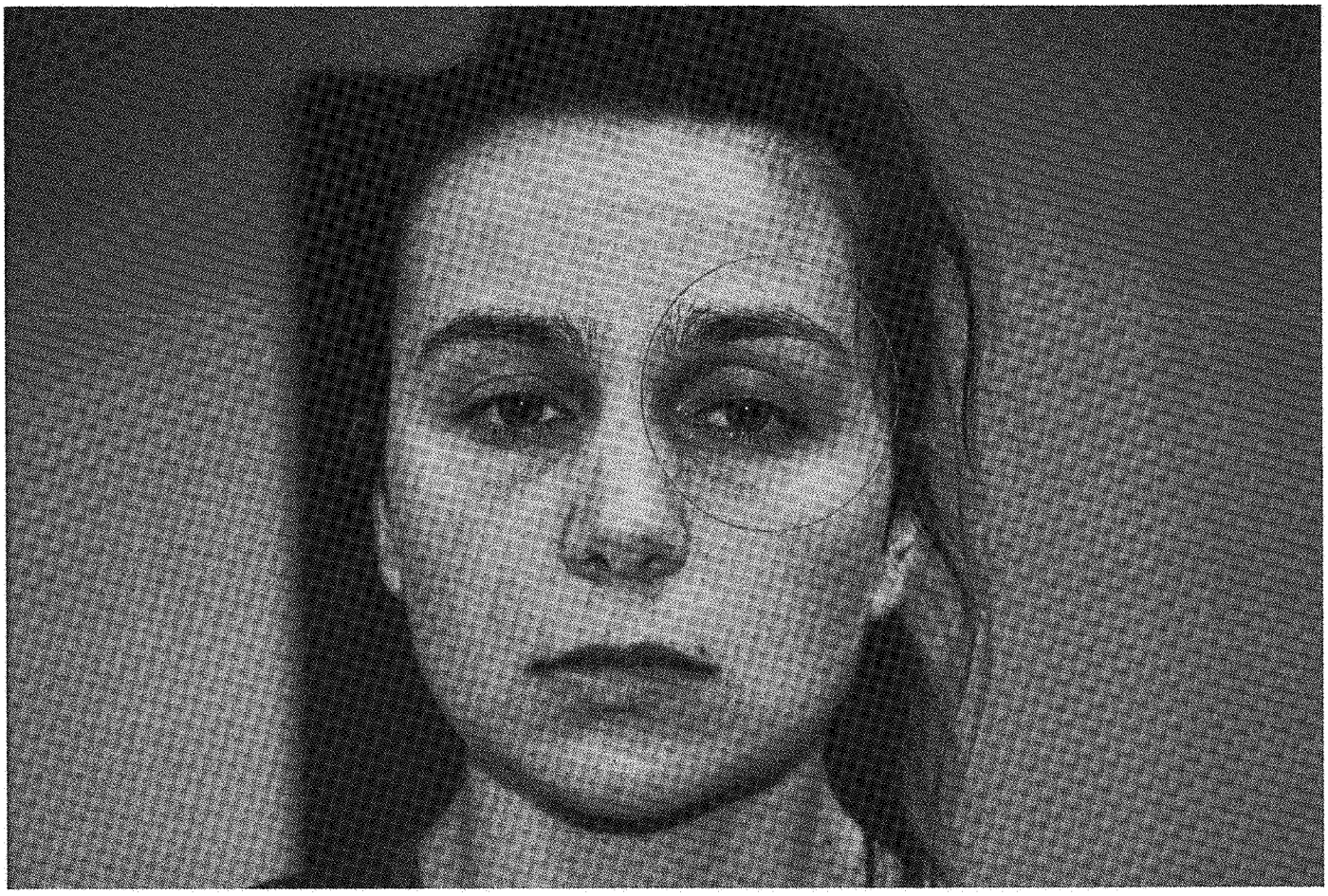
Demonstrative – not photo Mr. Benefield's fist

"2020CF003014AX" 165924719 Filed at Manatee County Clerk 02/01/2023 02:36:26 PM EST

EXHIBIT 14

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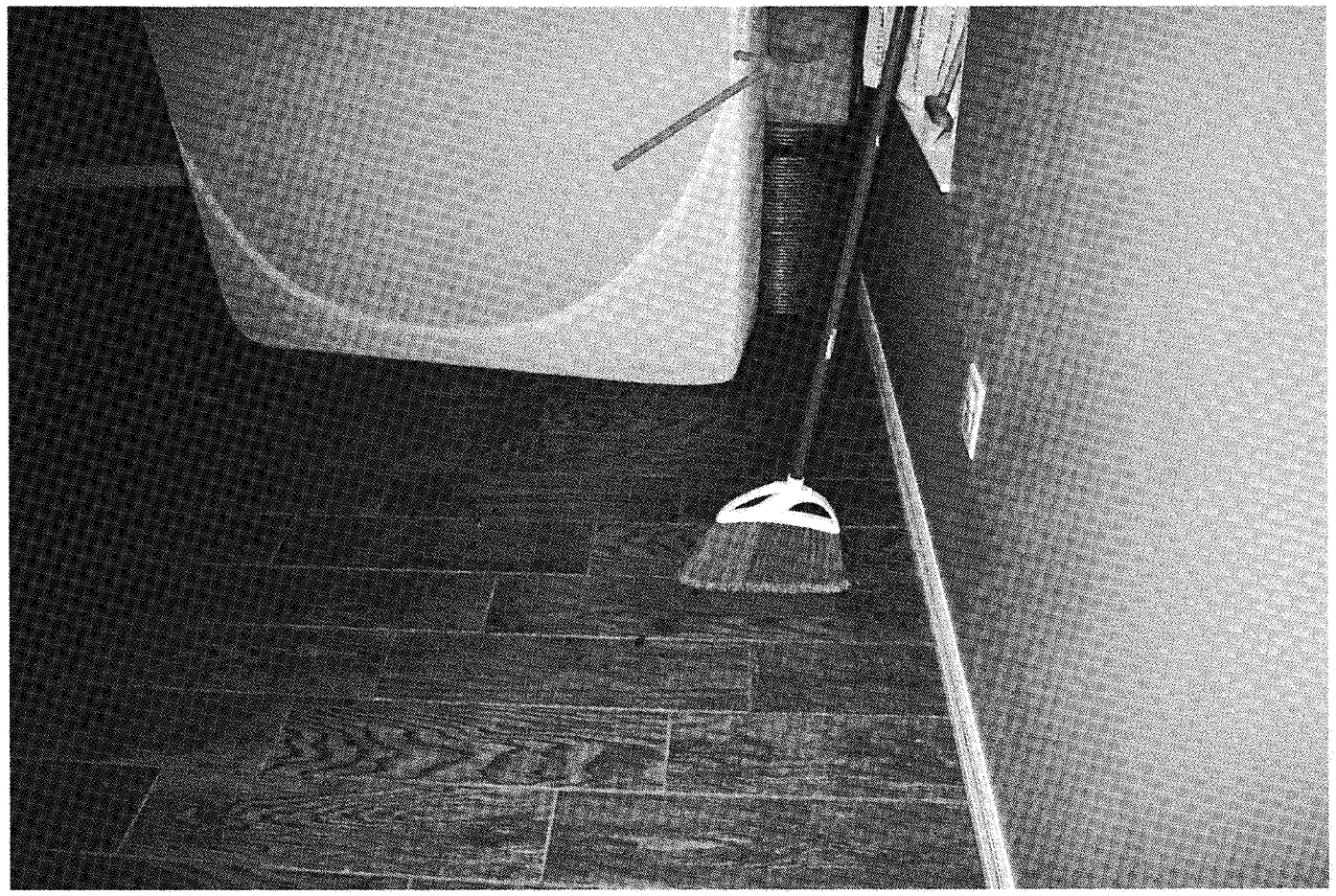
09/27/2020



"2020CF003014AX" 165924719 Filed at Manatee County Clerk 02/01/2023 02:36:26 PM EST

EXHIBIT 15

"2020CF003014AX" 165924719 Filed at Manatee County Clerk 02/01/2023 02:36:26 PM EST





"2020CF003014AX" 165924719 Filed at Manatee County Clerk 02/01/2023 02:36:26 PM EST

EXHIBIT 16

"2020CF003014AX" 165924719 Filed at Manatee County Clerk 02/01/2023 02:36:26 PM EST

DISCOVERY 12/07/20 Page 186 of 1000

Misc 2020-024250 2020024250

DEPARTMENT OF JUSTICE
BUREAU OF ALCOHOL, TOBACCO, FIREARMS AND EXPLOSIVES
NATIONAL TRACING CENTER

Phone:(800) 788-7133 Fax:(800) 578-7223

Dickerman 11/09/2020 08:22:43 Print Date: November 06, 2020

FIREARMS TRACE SUMMARY

Trace Number: T20200403145 **Request Date:** October 13, 2020 **Completion Date:** November 04, 2020

DAN DICKERMAN
MANATEE COUNTY SHERIFFS OFFICE
600 US HWY 301 BLVD W STE 202
BRADENTON, FL 34205
PHONE: (941) 747-3011 Ext:
FAX (941) 741-3756

Badge No: H37
Investigation No: 2020-024250

FIREARM INFORMATION

Manufacturer: HS PRODUKT (JM METAL)
Model: XDS
Caliber: 45
Serial Number: S3144927
Type: PISTOL
Country: CROATIA
Importer: SPRINGFIELD INC (SI), GENES...
Obliterated:
Identifying Marks:
NIBIN:
Gang Name:

RECOVERY INFORMATION

Recovery Date: 09/27/2020
Time to Crime: 2288 days

11331 WHITE ROCK TE
BRADENTON, FL 34205
Possessor: ASHLEY BENEFIELD
DOB: 12/05/1991
POB: UNITED STATES

PURCHASER INFORMATION

Purchase Date: 06/23/2014

ASHLEY CHRISTINA THOMAS
11331 WHITEROCK TE
BRADENTON, FL 34211
DOB: 12/05/1991
POB: CORPUS CHRISTI, TX UNITED STATES
Race: WHITE **Height:** 5 ft 8 in
Sex: Female **Weight:** 125 lbs
ID 1: FL DRIVER'S LICENSE: T520003919450
ID 2: FL CONCEALED WEAPON PERMIT: W1335210
Contact the local ATF office for additional information.

DEALER INFORMATION

FFL: 15920987

AEGIS TACTICAL LLC
4402 S TAMIAMI TRAIL UNIT 3
SARASOTA, FL 34231
Phone: (941) 809-3695 Ext: **Ship-To-Date:** 04/29/2014

ADMINISTRATIVE INFORMATION

SUMMARY OF RESULTS

THIS FIREARM WAS TRACED TO A PURCHASER. FOR ANY QUESTIONS, PLEASE CONTACT ATF NATIONAL TRACING CENTER, FIREARMS TRACING BRANCH AT 1-800-788-7133.

Additional Remarks:

PURCHASER ETHNICITY NOT HISPANIC OR LATINO
THE LAST FOUR DIGITS OF THE PURCHASER SSN [redacted]

Controlled Unclassified Information

11/09/2020 08:22:43

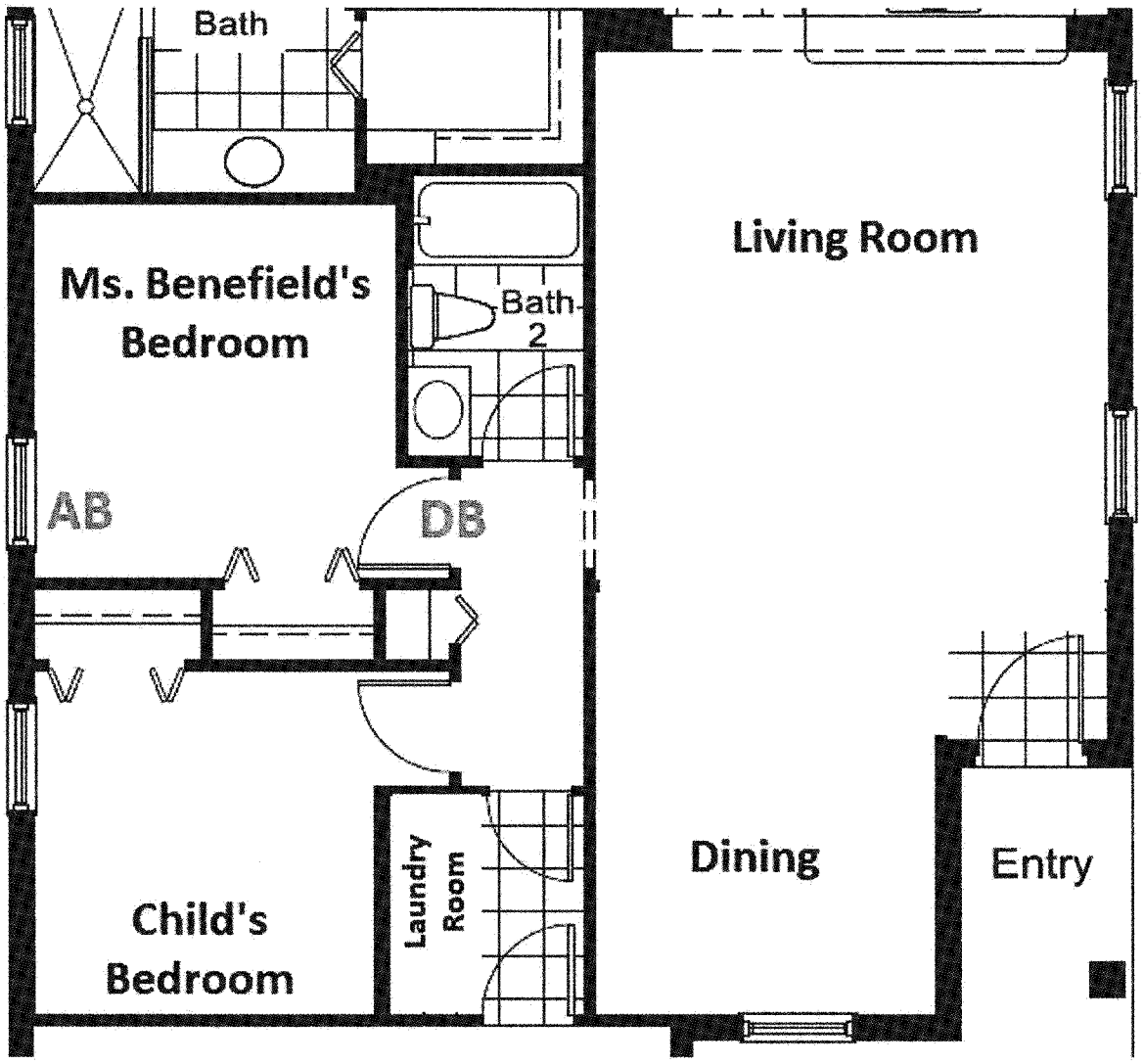
JOC

The information in this report must be validated prior to use in any criminal proceedings.

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EXHIBIT 17

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EXHIBIT 18

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EXHIBIT 19

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IN THE CIRCUIT COURT FOR THE TWELFTH JUDICIAL CIRCUIT
IN AND FOR MANATEE COUNTY, FLORIDA

STATE OF FLORIDA	)	Case No.: 2020-CF-3014
	)	
Plaintiff,	)	
	)	
vs.	)	
	)	
ASHLEY BENEFIELD	)	September 27, 2020
	)	
Defendant.	)	
	)	

INTERVIEW OF HERBERT AND AMY CARLTON

Transcribed by:

Lisa D. Wenger
7015 229th Street East
Bradenton, Florida 34211
(941)704-5608

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INTERVIEW

Q Today is September 27th, 2020. I'm here with Herbert Carlton and Amy Carlton, who were walking by during the, uh, incident and heard some noises. So, I'm gonna go ahead and interview you guys and, so, just do me a favor and one at a time, I'll just have you tell me what you heard.

H Okay. We were walking up the sidewalk and got two houses from the house that's moving.

Q Okay.

H All the sudden I heard like six shots. I was just hoping it was furniture falling. So, I stopped, didn't proceed no closer to the house and all the sudden I seen a female come running out of the garage with a pistol in her hand, running to the house next door, banging on the door, screaming and yelling.

Q Okay.

H At that point, yeah, we went and tucked behind houses because we weren't sure if somebody was chasing her or anything.

Q Okay. So you jump behind the house? Did you see…

H Yeah.

Q do you see her come out or…

H Yeah. I seen her come out. I seen the pistol in her hand.

Q Okay.

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H I seen the hammer back, like I was pretty sure she unloaded the whole thing.

Q Okay.

A So more than I do…

Q And then where did you go, where did she go when you saw her?

H She went into, was it 11327?

A Uh hum.

H She went up to…

A Banging on the door. I heard her banging on the door.

Q 11327.

H Uh hum.

A Help, but, I don't know if she was saying help, she was screaming so bad. It was like a mixture of a cry and a scream.

Q Okay.

A And I just said to him, she had a gun in her hand, because I didn't see, like, I couldn't tell that it was unloaded. I just saw her, I can tell you she had beige shorts on and she had the gun and it was this way. Like she…

Q It was pointed downwards.

A Like facing down. Hand pointed down.

H I think…

A It was, it was pointed down, cause she was so scurrying and I, I could hear crying and, I'll be honest with ya, I was, I

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just, I know it was an active shooter situation, but I was more concerned for him, me and my dogs. So…

Q Yeah. No, I hear ya. Um, so, just to reiterate, so you, you guys heard the shots, right?

H Uh hum. I heard the shots.

Q As you were walking up to the house.

H Yes.

Q And then, shortly after that, what would you say until she popped out?

A She didn't pop out till you guys came…

H It was… No, no, no.

A I mean.

H From this house?

Q Correct.

H It was…

A Oh, oh…

H Less than 30 seconds. I mean it was…

Q It was pretty quick?

A Pretty quick.

Q Okay. So, a couple, you heard some shots, you say about six?

H Yeah.

Q And then you were like whoa,

H Uh hum.

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Q You were hoping it was furniture and then maybe 30 seconds after that, she come running out the front door?

H Yeah.

Q And then she ran over to the neighbor's house. Um, screaming possibly for help?

H Yes.

Q Um, and then, did you see what she did when she got to the neighbor's house?

H I did not, I, at that point, we were one houses down.

Q At that point, you were…

[INAUDIBLE - Talking over each other]

H And we went between them two houses.

Q Okay.

H I didn't go up to see was she able to get in the door or anything.

A I was, I was hollering to him to call 9-1-1. The neighbor across the street saw us and said, is everything okay.

H So, no. Simon, Simon's the one who called 9-1-1.

A And he had. Yeah, he had his phone out.

Q Simon?

H Yes.

Q Okay. And which, who's Simon?

H Simon is…

A He's across from…

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H across from 11327. He's probably out there in his driveway right now.

Q Okay.

A 31 probably. He's the house down.

H But he's the one who called, he's the one who called 9-1-1.

Q Okay. Very good. All right. And, ma'am, I know you kind of said a little bit, but when you were walking down the road what did you hear or see?

A Oh, I heard gun, well, to me it sounded like gunshots too, but I mean, I give the benefit of the doubt, I know they were moving, but…

Q Uh hum.

A I, I mean, we, our other house, we live kind of in the country, so we've heard that.

Q Right, yeah.

A I'm like, okay.

Q So you recognized that as gunshots.

A I was like, well, you know, I just hope, you know, I, oh, you just can only hope only in safety.

Q Uh hum.

A So, but when I saw her panic and run out and she didn't even like look at us. So, um, all she was doing was screaming. I can remember screaming. So I was thinking, if she's scared and

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worried for her life, like he said, I've been taught in my job too, you don't know what's left behind.

Q right.

A I mean, so…

Q Okay.

A Yeah, like I said, I was worried and thinking, I don't want this to go ugly or so, I'm thinking where…

Q Right.

A Where can we go as I'm telling him call 9-1-1, call 9-1-1.

Q Okay. And you, you mentioned the fact that you guys normally live in the country and you're familiar with kind of the sound of gunshots and whatnot?

A Well, I mean, our other house that we rented, we just recently moved into this neighborhood. We've been in this area about a year. Our other house that we rented was more out in like Bent Tree area and passed there.

Q Yeah.

A So we heard that plenty of times that way.

Q Uh hum.

A And, with the, the deer and stuff. So, cause I even have told him, I hope, and he's like, oh, it's nothing, people are probably hunting back there.

Q Yeah. Okay.

A And…

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Q All right. So, definitely startled you when you heard it? You, you were hoping for the best, but it didn't turn out to be the best?

A Yes.

H Yeah. Yeah, yeah.

Q Okay. All right. Um, and then you guys ducked behind cover and then the cops came.

A And that's why I feel bad, because I know Simon probably thought we were in it, but I was like, no, I'm trying to tell him to call 9-1-1.

Q Yeah.

A And I'm like, at the same point, I'm still, I'm gonna be honest with you officer, the same point when Simon's looking at us, I'm worried about him, me and him and my dogs, cause I'm like, we haven't seen any activity.

Q Right.

A We don't know if she's gotten into the house next door or what.

H I mean, that's one reason why I did delay calling 9-1-1 cause I didn't want to draw no more attention to where we were at.

Q Okay.

H Cause way she come out screaming, I assume somebody was fixing to be chasing her.

Q Yeah.

H And I was pretty sure they were coming with one.

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Q Yeah.

H So,

Q Yeah. No, that's fine. You gotta do what's right for you too, you know? At the end of the day.

H Uh hum.

Q Um, all right. Well, I think that'll do it. If you, if you guys remember anything or anything like that, just feel free to call the Sheriff's Office. Just the regular number and say hey, we were involved with this on this street and they'll be able to situate you there, but, um, it sounds pretty, pretty simple.

H Okay.

Q I'm gonna go talk to the lead investigator.

H Okay. I understand.

Q Kind of let him know what you guys saw, see if he has any questions for you.

H Okay.

Q And then I'll let you guys know. Okay?

H I appreciate it.

Q Thank you so much.

A Thank you.

Q Yep. The time is 8:21 and the interview will be concluded at this time.

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I, Lisa D. Wenger do hereby certify that the foregoing 9 pages of this transcript fairly and accurately represent the Interview of Herbert and Amy Carlton recorded on September 27, 2020 in the case of State versus Ashley Benefield, Case Number 2020-CF-3014

Lisa D. Wenger — 9/15/22

Lisa D. Wenger — Date

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