

**APPLICATION FOR
NOMINATION TO THE 18th
JUDICIAL CIRCUIT
COURT:
KATHLEEN RALLO
REDACTED VERSION**

APPLICATION FOR NOMINATION TO THE 18th JUDICIAL CIRCUIT COURT

Instructions: *Respond fully to the questions asked below. Please make all efforts to include your full answer to each question in this document. You may attach additional pages, as necessary, however it is discouraged. In addition to the application, you must provide a recent color photograph to help identify yourself.*

Full Name: Kathleen Erin Rallo **Social Security No.:** [REDACTED]

Florida Bar No.: 101638 **Date Admitted to Practice in Florida:** 01/02/2013

1. Please state your current employer and title, including any professional position and any public or judicial office you hold, your business address and telephone number.

Office of the Public Defender, 18th Judicial Circuit, Attorney Blaise Trettis
Assistant Public Defender
2725 Judge Fran Jamieson Way
Viera FL 32940
321-617-7373

2. Please state your current residential address, including city, county, and zip code. Indicate how long you have resided at this location and how long you have lived in Florida. Additionally, please provide a telephone number where you can be reached (preferably a cell phone number), and your preferred email address.

[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]
ktrallo@gmail.com

3. State your birthdate and place of birth.

[REDACTED]
[REDACTED]

4. Are you a registered voter in Florida (Y/N)?

Yes

5. Please list all courts (including state bar admissions) and administrative bodies having special admissions requirements to which you have ever been admitted to practice, giving the dates of admission, and if applicable, state whether you have ever been suspended or resigned. Please explain the reason for any lapse in membership.

State of Connecticut Bar, Bar #430779, Admitted 11/6/2009, retired 2/27/2017
US District Court, District of Connecticut, Bar # ct 28791, Admitted 12/12/2011

6. Have you ever been known by any aliases? If so, please indicate and when you were known by such alias.

Maiden name: Kathleen Erin Armstrong

Nickname: Katie Rallo

EDUCATION:

7. List in reverse chronological order each secondary school, college, university, law school or any other institution of higher education attended and indicate for each the dates of attendance, whether a degree was received, the date the degree was received, class standing, and graduating GPA (if your class standing or graduating GPA is unknown, please request the same from such school).

- Western New England College, Springfield, MA
 - August 2005-May 2009
 - Class rank 111/182
 - PPA 81
- Florida Atlantic University, Boca Raton, FL
 - January 2003-December 2004
 - GPA 2.81
- Palm Beach Community College, Summer classes
 - May 2003-July 2003
- Florida Gulf Coast University, Fort Myers, FL
 - August 2001-December 2002
- St. Thomas University, Dual Enrollment, Miami FL
 - Dual Enrolled August 1999-May 2001
- Pope John Paul II High School, Boca Raton FL
 - August 1997-May 2001

8. List and describe any organizations, clubs, fraternities or sororities, and extracurricular activities you engaged in during your higher education. For each, list any positions or titles you held and the dates of participation.

N/A (Worked full time through college and law school)

EMPLOYMENT:

9. List in reverse chronological order all full-time jobs or employment (including internships and clerkships) you have held since the age of 21. Include the name and address of the employer, job title(s) and dates of employment. For non-legal employment, please briefly describe the position and provide a business address and telephone number.
- Quality Swimming
 - Address: 5601 Regional Lakes Blvd, Coconut Creek, FL 33073
 - Title: Swim Instructor
 - Dates of Employment: Approximately from 2003 to 2005
 - Description: Taught swim lessons ages 6 months-10 years
 - Supervisor: Andy Broido (no longer with company)

 - Broward County Public Defender's Office, Internship
 - Address: 201 SE 6th Street, Fort Lauderdale, FL 33301
 - Title: Intern
 - Dates of Internship: Approximately from Jan 2004 to June 2004
 - Description: Assisted during hearings, voir dire, trials, and sentencing in felony criminal matters; client communications including in-jail visits; and motion preparation.
 - Supervising Attorney: Larry Schweiker, Esq.

 - Friday's Restaurant
 - Address: 20465 South State Rd 7, Boca Raton, FL 33498 (out of business)
 - Title: Server
 - Dates of Employment: Approximately from Jan 2002 (started in Fort Myers) to October 2004
 - Description: standard waitress/customer service
 - Supervisor: Manager: Greg last name unknown

 - Stir Crazy
 - Address: 6000 Glades Rd. Boca Raton FL 33431 (out of business)
 - Title: Server
 - Dates of Employment: October 2004-July 2005
 - Description: standard waitress/customer service
 - Supervisor: General Manager Chris last name unknown

 - Facchini & Facchini, PC
 - Address: 824 Liberty Street, Springfield, MA 01104
 - Title: Fulltime paralegal
 - Dates of Employment: Approximately from October 2005 to January 2007

- Description: civil personal injury law firm - drafted demands, legal research, gathered medical records and prepared cases for trial.
- Supervisors: Michael Facchini, Esq. and Anthony Facchini, Esq.

- Bonee Law Firm merged into BoneeWeintraub LLC
 - Title: Fulltime Legal Assistant and Paralegal
 - Dates of employment: Approximately from January 2007 to January 2010
 - Address: 29 South Main Street, West Hartford, CT 06107
 - Description: Civil personal injury, family/dissolution of marriage probate, estate planning and appellate firm - legal research; drafted legal pleadings, motions, briefs, and memoranda; client communications; correspondence between clients, judges and opposing counsel; prepared client billing statements; file review and management for civil litigation, probate matters, commercial litigation and some criminal matters; prepared and reviewed medical reports and expenses for civil litigation personal injury, medical malpractice and tort property liability; evidence preparation for civil litigation; and civil trial preparation. Appellate briefs, legal research and appeal preparation.
 - Supervisors: John Bonee, Esq., Eric Rothauser , Esq. and Jay Weintraub, Esq.

- Watstein & Watstein, PC
 - Title: Attorney
 - Dates: January 2010- February 2011
 - Address: Bristol, CT (out of business, partner deceased)
 - Description: civil, personal injury, workers compensation and criminal law attorney. Full client representation from intake to trial in general practice matters including, but not limited to, personal injury, workers compensation, social security disability appeals, some probate, some criminal, and some foreclosure law; motion preparation and arguments; attended pretrial hearings, trial management conferences and workers compensation hearings; drafted complaints, motions, memoranda, legal research, position papers, demands and preparing trial notebooks; conducted depositions, investigations and general pretrial discovery preparation and review; client communications; communication and settlement negotiations with adjusters and opposing counsel. Staff management.
 - Supervisor: Herb Watstein, Esq., deceased.

- Woolf Law Firm, LLC
 - Title: Attorney
 - Dates: January 2011-January 2015
 - Address: 50 Founders Plaza, East Hartford, CT 06108
 - Description: Criminal trial lawyers and civil personal injury attorneys. Criminal defense trial attorney, personal injury, dissolution of marriages and other miscellaneous matters. Felony & misdemeanor matters handled from intake to

trial to sentencing, if necessary. Post-conviction matters including briefs and arguments in several Connecticut Appellate and Connecticut Supreme Court matters. Appeared for arraignments, bond arguments, bond modifications, negotiating with prosecutors, program applications, evidentiary hearings with witness testimony, judicial pre-trials, expert retention and consultations, sentencing arguments, probable cause hearings, trial notebook preparation, trial preparation, and trials performing jury selection, cross and direct examinations and closing arguments. Some of the charges taken to trial have included Murder, Manslaughter 1st Degree with a Firearm, Home Invasion, Assault (Florida equivalent of Battery) in the First Degree, Assault on the Second Degree, Assault in the Third Degree, Sexual Assault in the First Degree under 13 years of age, Risk of Injury to a Minor, Attempted Murder, Driving While Intoxicated and an upcoming Murder in the First Degree. Have appeared *Pro Hac Vice* on Massachusetts cases involving charges of Rape, Attempted Murder and Sex Assault on Minor less than 14 years of age. Several of our matters were high profile and frequently covered by the media. Management of the firm's entire personal injury & workers compensation litigation caseload from intake to suit and through the litigation process. Staff management.

- Supervisor: Brian J. Woolf, Esq.
- Brevard County Public Defender's Office, 18th Judicial Circuit
 - Title: Assistant Public Defender
 - Dates: January 2015 to present
 - Address: 2725 Judge Fran Jamieson Way, Bldg. E, Viera FL 32940
 - Description: Felony criminal trial attorney. Daily representation of all felony matters assigned to my caseload/division which includes initial appearances at the jail, case investigation, client conferences/meetings, meeting with assistant state attorneys and/or judges on various issues, calendar management, docket management of high caseloads, depositions of witnesses including eyewitnesses, victims, and children. Preparation of motions, motion filing, legal research, bond hearings, and argument of motions filed at hearings including but not limited to motions to dismiss, motions to suppress, and motions for new trials. Demands for Speedy Trial, pretrial, jury selection, and trials. Over twenty-five felony trials tried to verdict.
 - Brevard County Judge assignments: Hon. Charlie Roberts, Hon. Morgan Reinman, Hon. Jeffrey Mahl and currently Hon. Lisa Davidson.
 - Supervisors: Hon. Blaise Trettis and Michael Pirolo, Esq.

10. Describe the general nature of your current practice including any certifications which you possess; additionally, if your practice is substantially different from your prior practice or if you are not now practicing law, give details of prior practice. Describe your typical clients or former clients and the problems for which they sought your services.

Currently, I am with the Public Defender's Office as a felony criminal trial attorney. I represent indigent clients throughout the criminal process. I occasionally cover initial appearances however the majority of my assignment and caseload is trial preparation to including meeting with clients, reviewing discovery, conducting depositions, docket management, mental health evaluation screening, negotiating pleas, jury selection, trial and sentencing.

One of the best skills I have obtained working at the Public Defender's Office is managing high caseloads and large dockets whether it be the daily docket in court or the overall felony docket assigned to me. Daily dockets can be 50 clients or more at various court appearances and working with the clients, assistant state attorneys, deputies and the judge to make sure everything not only gets addressed but gets addressed in a timely manner. Knowing how to do that day in and day out would be helpful for me in managing the courtroom as a judge as well.

Before working for the Public Defender's Office I was a private attorney with Woolf Law Firm for the majority of my legal career practicing 60 percent criminal trial law in both state and federal courts and 40 percent civil personal injury law with the occasional dissolution of marriage cases. I practiced in Connecticut and had several criminal *pro hoc vice* cases out of Massachusetts during that time, as well.

Throughout law school I worked full-time at law firms. For the majority of that time I worked with BonneeWeintraub law firm in West Hartford where I gained experience in civil, personal injury, probate administration, probate litigation, wills, trusts, estate drafting, family law and appellate law. Prior to BoneeWeintraub I worked for the law firm of Facchini & Facchini, a civil personal injury litigation firm, handling personal injury insurance PIP and BI claims from intake through settlement and trial preparation.

11. What percentage of your appearance in court in the last five years or in the last five years of practice (include the dates) was:

	Court		Area of Practice
Federal Appellate	_____ %	Civil	_____ %
Federal Trial	_____ %	Criminal	<u>100</u> %
Federal Other	_____ %	Family	_____ %
State Appellate	_____ %	Probate	_____ %
State Trial	<u>100</u> %	Other	_____ %
State Administrative	_____ %		
State Other	_____ %		
TOTAL	<u>100</u> %	TOTAL	<u>100</u> %

If your appearance in court the last five years is substantially different from your prior practice, please provide a brief explanation:

The majority of my experience is criminal trial law, however prior to joining the Public Defender's Office my practice involved civil personal injury and dissolution of marriage cases. I have prior experience in probate litigation and workers compensation, as well.

12. In your lifetime, how many (number) of the cases that you tried to verdict, judgment, or final decision were:

Jury?	<u>Apx. 28</u>	Non-jury?	<u>One non-jury in Connecticut</u>
Arbitration?	_____	Administrative Bodies?	<u>Workers compensation hearings in Connecticut (quantity unknown)</u>
Appellate?	<u>personally argued one to the Connecticut Court of appeals. Authored several appellate briefs in Connecticut.</u>		

13. Please list every case that you have argued (or substantially participated) in front of the United States Supreme Court, a United States Circuit Court, the Florida Supreme Court, or a Florida District Court of Appeal, providing the case name, jurisdiction, case number, date of argument, and the name(s), e-mail address(es), and telephone number(s) for opposing appellate counsel. If there is a published opinion, please also include that citation.

- United States Circuit Court, Circuit of Connecticut:
 - I handled approximately 5-10 Federal cases alongside the managing partner Brian J. Woolf, Esq. in the United States District Court, District of Connecticut. None to jury trial, all resolved via plea/sentencing.
 - [Case names, numbers and opposing counsel no longer known nor do I have access to, it was all through former firm in Connecticut.]
 - Reference: Attorney Brian J. Woolf bjw@woolflaw.com 860-559-6454
- Connecticut Appellate and Supreme Court cases:
 - *State v. Allen* 140 Conn. App. 423 (Jan 29, 2013)
 - *State v. Allen* 308 Conn 934 (May 1, 2013)
 - *State v. James R.* 307 Conn. 940 (Dec 12, 2012)
 - *State v. James R.* 138 Conn. App. 181 (Sept 18, 2012)
 - On the brief *Corneroli v. D'Amico* 116 Conn. App. 59 (July 28, 2009)

14. Within the last ten years, have you ever been formally reprimanded, sanctioned, demoted, disciplined, placed on probation, suspended, or terminated by an employer or tribunal before which you have appeared? If so, please state the circumstances under which such action was taken, the date(s) such action was taken, the name(s) of any persons who took such action, and the background and resolution of such action.

No

15. In the last ten years, have you failed to meet any deadline imposed by court order or received notice that you have not complied with substantive requirements of any business or contractual arrangement? If so, please explain full.

No

16. For your last six cases, which were tried to verdict or handled on appeal, either before a jury, judge, appellate panel, arbitration panel or any other administrative hearing officer, list the names, e-mail addresses, and telephone numbers of the trial/appellate counsel on all sides and court case numbers (include appellate cases). *This question is optional for sitting judges who have served five years or more.*

**I am including my past seven (7) trials I was second chair on one of them (Tyner); all of the others I was first chair.

1. *State v. Michael Hamlin*

Jury Trial January 2021

Charge: Manslaughter

Verdict: Not Guilty, found guilty of MM Battery

Case Number: 05-2017-CF-043644-AXXX-XX

- Opposing Counsel: Ann Perrin, Esq. and Greg Hansen, Esq.
 - Emails: aperrin@sa18.org and ghansen@sa18.org
 - Tel: 321-617-7510
- Judge: Hon. Jeffry Mahl
 - Tel: 321-617-7260
- Co-Counsel: Jessica Hicks, Esq.
 - Email: jhicks@pd18.net
 - Tel: 407-257-5295

2. *State v. Anthony Honeycutt*

Jury Trial October 2020

Charge: Felony DWLS 3d or Subsequent Offense

Outcome: JOA Granted

Case Number: 05-2020-CF-013793-AXXX-XX

Opposing Counsel: Shantanu Patel, Esq. and Clarissa Harrell, Esq.

- Shantanu Patel, Esq.:
 - Email: shantanupatel1@gmail.com
- Clarissa Harrell, Esq.:
 - Email: Charrell@sa18.org
 - Tel: 321-617-7510
- Judge: Hon. Jeffry Mahl
 - Tel: 321-617-7260

3. *State v. Tyray Turner* (2nd Chair)

Jury Trial October 2019

Charge: Sexual Battery by Familial Authority x3

Verdict: Not Guilty to all counts (pled to a DWLS ahead of trial)

Case number: 05-2017-CF-017370-AXXX-XX

- Lead Co-counsel: Michael Chauvin, Esq.
 - Email mchauvin@pd18.net
 - Tel: 321-617-7373 ext 2 then 6
- Second co-counsel: Geoffrey Golub, Esq.
 - Email: geoffgolubpa@aol.com
 - Tel: [REDACTED]
- Opposing Counsel: Ann Perrin, Esq. and Jeffrey Schlemmer, Esq.
 - Emails: aperrin@sa18.org (Attorney Schlemmer's contact is unknown)
 - Tel: 321-617-7510
- Judge: Hon. Jeffrey Mahl
 - Tel: 321-617-7260

4. *State v. Ronald Howard*

Jury Trial October 2018

Charges: Sale of Cocaine and Possession of Cocaine

Outcome: Hung Jury/mistrial

(eventually resolved prior to retrial)

Case Number: 05-2016-CF-052589-AXXX-XX

- Co-counsel: Sara Goodin, Esq.
 - Email sgoodin@circuit9.org
 - Tel: [REDACTED]
- Opposing Counsel: Jason Andersen, Esq. and Greg Hansen, Esq.
 - Emails: ghansen@sa18.org and jandersen@sa18.org
 - Tel: 321-617-7510
- Judge: Hon. Charles Holcomb, retired judge

5. *State v. Reginald Hardy*

Jury Trial March 2019

Charges: Possession Firearm by felon, Resisting an Officer w/o Violence, Possession Cannabis, Possession Paraphernalia

Case Number: 05-2017-CF-055600-AXXX-XX

Verdict: Guilty as charged

- Co-counsel: Ryan McCarville
 - Email: rmccarville@forthepeople.com
 - Tel: [REDACTED]
- Opposing Counsel: Samantha Barrett
 - Emails: sbarrett@sa18.org
 - Tel: 321-617-7510
- Judge: Lisa Davidson
 - Email: lisa.davidson@flcourts18.org
 - Tel: 321-617-7281

6. *State v. Curtis Hooks*

Jury Trial March 2018

Charges: Burglary of a Dwelling and Grand Theft

Verdict: Guilty as charged

Case Number: 05-2017-CF-048192-AXXX-XX

- Co-counsel: Dayna Rivera
 - Email: drivera@pd18.net
 - Tel: 321-617-7373
- Opposing Counsel: Samantha Barrett
 - Emails: sbarrett@sa18.org
 - Tel: 321-617-7510
- Judge: Morgan Laur Reinman
 - Email: morgan.reinman@flcourts18.org
 - Tel: 321-617-7272

7. *State v. Jose Villar Hernandez*

Jury Trial March 2018

Charges: Lewd and Lascivious Molestation 12-18 years old, Lewd and Lascivious conduct under 16 x2, Tampering w/ witness

Verdict: Not guilty all counts

Case Number 05-2016-CF-062745-AXXX-XX

- Co-counsel: Dayna Rivera, Esq.
 - Email: drivera@pd18.net
 - Tel: 321-617-7373
- Opposing Counsel: Jason Andersen, Esq.
 - Emails: jandersen@sa18.org
 - Tel: 321-617-7510
- Judge: Hon. Morgan Laur Reinman
 - Email: morgan.reinman@flcourts18.org
 - Tel: 321-617-7272

17. For your last six cases, which were either settled in mediation or settled without mediation or trial, list the names and telephone numbers of trial counsel on all sides and court case numbers (include appellate cases). *This question is optional for sitting judges who have served five years or more.*

1. *State v. Redrick Hill*

20CF014976A

Negotiated Plea 11/4/21

Opposing Counsel: ASA Clarissa Harrell charrell@sa18.org 321-617-7510

2. *State v. Darrien Alves*

21CF024940A

Negotiated Plea 11/4/21

Opposing Counsel: ASA Nicole Hosey nhosey@sa18.org 321-617-7510

3. *State v. Jared Windham*

21CF016032A, 21CF024009, 21CF050634

Negotiated Global Plea 11/8/21

Opposing Counsel: ASA Elizabeth Garvey egarvey@sa18.org 321-617-7510

4. *State v. Terrence Harris*

20CF025638A

Negotiated Plea 10/14/21

Opposing Counsel: ASA Nicole Hosey nhosey@sa18.org 321-617-7510

5. *State v. Mister Hawk*
03CF031368A
Negotiated VOP Plea 10/14/21
Opposing Counsel: ASA Clarissa Harrell charrell@sa18.org 321-617-7510

6. *State v. Nicole Pannorfi*
20CF052120A and 20CF029572
Negotiated VOP Plea 10/14/21
Opposing Counsel: ASA Nicole Hosey nhosey@sa18.org 321-617-7510

18. During the last five years, on average, how many times per month have you appeared in Court or at administrative hearings? If during any period you have appeared in court with greater frequency than during the last five years, indicate the period during which you appeared with greater frequency and succinctly explain.

During the last five years I appear in court on average twice a day, 3-5 times a week for the morning and afternoon dockets. Even when I am not on trial I still appear daily for bond and other standard court appearances. I would say I am in court approximately 15-20 days a month at least.

19. If Questions 16, 17, and 18 do not apply to your practice, please list your last six major transactions or other legal matters that were resolved, listing the names, e-mail addresses, and telephone numbers of the other party counsel.

N/A

20. During the last five years, if your practice was greater than 50% personal injury, workers' compensation or professional malpractice, what percentage of your work was in representation of plaintiffs or defendants?

N/A

21. List and describe the five most significant cases which you personally litigated giving the case style, number, court and judge, the date of the case, the names, e-mail addresses, and telephone numbers of the other attorneys involved, and citation to reported decisions, if any. Identify your client and describe the nature of your participation in the case and the reason you believe it to be significant.

1. *State v. Michael Hamlin*

- Criminal Jury Trial January 2021
- Charge: Manslaughter
- Verdict: Not Guilty, found guilty of MM Battery
- Case Number: 05-2017-CF-043644-AXXX-XX
- This case was important as the client sat in jail for three years accused of manslaughter for a case where factually everyone could agree it was a sad scenario. He was accused of getting drunk and going single punch for punch with his best friend where his friend hit him. He returned the hit but when he did, the friend lost his balance, fell backwards and hit his head on the ground causing lineal skull fracture and hemorrhaging resulting in death. The defense was successful and the jury acquitted him of everything except a simple misdemeanor battery. It is significant not only for what the client was facing, but the factual scenario was one a lot of people could relate to more so than most cases. The client is still doing well upon release and remains in touch with updates.
 - Opposing Counsel: Ann Perrin, Esq. and Greg Hansen, Esq.
 - Emails: aperrin@sa18.org and ghansen@sa18.org
 - Tel: 321-617-7510
 - Judge: Hon. Jeffrey Mahl
 - Tel: 321-617-7260
 - Co-Counsel: Jessica Hicks, Esq.
 - Email: jhicks@pd18.net
 - Tel: [REDACTED]

2. *State v. Jose Villar Hernandez*

- Criminal Jury Trial March 2018
- Charges: Lewd and Lascivious Molestation 12-18 years old, Lewd and Lascivious conduct under 16 years old x2, Tampering w/ witness
- Verdict: Not guilty all counts
- This case stands out because the allegation stemmed from a divorce and the mother using the kids against the father. The daughter accused father of putting his hand on his daughter's thigh while talking to her. Asking her to sit on his lap to teach her to drive and crawling over her to look out window; none of which was ultimately proven to have been done in a lewd manner. It was also a lost in translation scenario for the police interrogation. All witnesses spoke Spanish and the trial included approximately four interpreters at various points in the courtroom throughout the proceedings. The Defendant was found not guilty by the jury; but due to an immigration hold was still

held and transported to Miami, where he still underwent a full ICE hearing prior to his release. He lost custody of all of his children as a result of the allegations, as well. The collateral consequences, despite the not guilty, have stayed with me of what defendant's go through when accused. I should note I was about nine months pregnant during this trial making it that much physically harder but worth it to get him out of custody prior to my maternity leave.

- Case Number 05-2016-CF-062745-AXXX-XX
 - Co-counsel: Dayna Rivera, Esq.
 - Email: drivera@pd18.net
 - Tel: 321-617-7373
 - Opposing Counsel: Jason Andersen, Esq.
 - Emails: jandersen@sal8.org
 - Tel: 321-617-7510
 - Judge: Hon. Morgan Laur Reinman
 - Email: morgan.reinman@flcourts18.org
 - Tel: 321-617-7272

3. *State v. Shalema Brown*

- Criminal Jury Trial February 2016
- Charges: Aggravated Battery while Inflicting Great Bodily Harm or Death, Shooting into Vehicle w/ Firearm and Discharging Firearm from Vehicle
- Verdict: Guilty all counts
- Ms. Brown's defense was Not Guilty by Reason of Insanity. She spent most of my representation in-and-out of competency and the state hospital. She ultimately was deemed competent, and so we proceeded with our insanity defense. It was emotional to hear her back story and to present to a jury. The jury was crying during closing arguments, and most nights during the trial we were there until 8:00 or later presenting evidence from the doctors regarding the insanity defense. It was mentally and physically exhausting. Ms. Brown was competent, but her mental health issues were chronic and her childhood PTSD was always going to stay with her (fear of being chained up and touched, etc.). Ultimately the jury did find she was sane at the time of the crime; they deliberated apparently mostly on her ability to form intent, but ultimately she was found guilty as charged and due to the firearm and nature of the charge, the minimum was the maximum - 25 years. This trial taught me a lot about the insanity defense, and it is indeed more complex than it appears on paper. The caselaw and legal issues throughout that trial were fascinating, albeit exhausting at times.
- Case Number 05-2016-CF-062745-AXXX-XX
 - Co-counsel: Jessica Hicks, Esq.
 - Email: jhicks@pd18.net
 - Tel: [REDACTED]

- Opposing Counsel: Donald Loughran, Esq. and Samantha Barrett, Esq.
 - Emails: dloughran@sa18.org and sbarrett@sa18.org
 - Tel: 321-617-7510
- Judge: Charles Roberts
 - Email: [REDACTED]
 - Tel: [REDACTED]

4. *State of Connecticut v. Eric Chihan Chyung*

- Criminal Jury Trial February 2014
- Charge: Murder and Manslaughter
- Verdict: Guilty
- Connecticut Case Number: KNL -CR09-0108545-T
- Ultimately reversed and remanded based on my motion for new trial - Supreme Court Citation: 325 Conn. 236
- This case was interesting because the State charged the defendant with one single act but two counts: one count intentional murder and second count reckless manslaughter and submitted both counts to the jury. The jury came back guilty as charged and we filed a motion for inconsistent verdicts and new trial. The factual issue was that the murder allegation was that the defendant killed his wife with one single bullet, one single act and that act could not be both intentional and reckless. Ultimately the trial judge denied the motion and upheld the jury's inconsistent verdict. The Defendant appealed and the case went to the Connecticut Appellate Court where it won. The state then appealed to the Connecticut Supreme Court where the Appellate Court's ruling was upheld and it was all reversed and remanded for a new trial based upon the initial motion for a new trial. It taught me a lot about the intricacies of preserving a case for appeal and how slight words can make all of the difference in a case and/or verdict for jury instructions. It was also significant as the charges were serious.

- Opposing Counsel: David Smith, Esq.
 - Email: David.j.smith@ct.gov
 - Tel: 860-443-2835
- Judge: Hon. Barbara Bailey Jongbloed
- Co-Counsel: Brian J. Woolf, Esq.
 - Email: bjw@woolflaw.com
 - Tel: 860-290-8690

5. *State v. Stuart Hickson*

- Criminal Jury Trial September 2017
- Charge: Robbery w/ Firearm x4 Burglary of Dwelling w/ Firearm, Flee and Elude – high speed, Grand Theft Firearm x4
- Verdict: Guilty as Charged
- Case Number: 05-2016-CF-012325-AXXX-XX
- This case will always stay with me as the defendant was only 18 or 19 at time of crime and was already Prison Releasee Reoffender due to being sent to prison at age of 17. As a result, the felonies were minimum mandatory life sentences. We had youthful offender to argue, but nothing was a guarantee and the client was fully aware. There were no offers leading up to trial other than life; he was given no real choice. The day of trial they offered him 30 years, which sadly he rejected (we all knew the ultimate verdict would be guilty due to the overwhelming evidence) but he was hopeful for the youthful offender sanctions. Additionally, was on probation so the Defendant was exposed to an additional 15 years. We ultimately lost the trial, which was expected. The victims testified at sentencing, in support of the youthful offender sentence combined with the probation's prison exposure, however, ultimately the judge imposed a life sentence. The judge made a hard decision that day, including the victim's indicating he was young and didn't deserve life. It's a case I will never forget. Factually, the Defendant fled the location of the home robbery, crashed his car and ultimately hid in the Brevard Zoo making the evidence and testimony an interesting one to try, as well.
 - Opposing Counsel: Bill Respass, Esq. and Greg Hansen
 - Emails: brespess@sa18.org and ghansen@sa18.org
 - Tel: 321-617-7510
 - Judge: Jeffrey Wohn, retired judge
 - Co-Counsel: Jessica Hicks
 - Email: jhicks@pd18.net
 - Tel: [REDACTED]

22. Attach at least two, but no more than three, examples of legal writing which you personally wrote. If you have not personally written any legal documents recently, you may attach a writing sample for which you had substantial responsibility. Please describe your degree of involvement in preparing the writing you attached.

Attached. Personally prepared and filed.

PRIOR JUDICIAL EXPERIENCE OR PUBLIC OFFICE

23. Have you ever held judicial office or been a candidate for judicial office? If so, state the court(s) involved, the dates of service or dates of candidacy, and any election results.

N/A

24. If you have previously submitted a questionnaire or application to this or any other judicial nominating commission, please give the name(s) of the commission, the approximate date(s) of each submission, and indicate if your name was certified to the Governor's Office for consideration.

No.

25. List any prior quasi-judicial service, including the agency or entity, dates of service, position(s) held, and a brief description of the issues you heard.

N/A

26. If you have prior judicial or quasi-judicial experience, please list the following information:

N/A

- (i) the names, phone numbers and addresses of six attorneys who appeared before you on matters of substance;
- (ii) the approximate number and nature of the cases you handled during your tenure;
- (iii) the citations of any published opinions; and
- (iv) descriptions of the five most significant cases you have tried or heard, identifying the citation or style, attorneys involved, dates of the case, and the reason you believe these cases to be significant.

27. Provide citations and a brief summary of all of your orders or opinions where your decision was reversed by a reviewing court or where your judgment was affirmed with significant criticism of your substantive or procedural rulings. If any of the opinions listed were not officially reported, attach copies of the opinions.

N/A

28. Provide citations for significant opinions on federal or state constitutional issues, together with the citation to appellate court rulings on such opinions. If any of the opinions listed were not officially reported, attach copies of the opinions.

N/A

29. Has a complaint about you ever been made to the Judicial Qualifications Commission? If so, give the date, describe the complaint, whether or not there was a finding of probable cause, whether or not you have appeared before the Commission, and its resolution.

N/A

30. Have you ever held an attorney in contempt? If so, for each instance state the name of the attorney, case style for the matter in question, approximate date and describe the circumstances.

N/A

31. Have you ever held or been a candidate for any other public office? If so, state the office, location, dates of service or candidacy, and any election results.

N/A

NON-LEGAL BUSINESS INVOLVEMENT

32. If you are now an officer, director, or otherwise engaged in the management of any business enterprise, state the name of such enterprise, the nature of the business, the nature of your duties, and whether you intend to resign such position immediately upon your appointment or election to judicial office.

N/A

33. Since being admitted to the Bar, have you ever engaged in any occupation, business or profession other than the practice of law? If so, explain and provide dates. If you received any compensation of any kind outside the practice of law during this time, please list the amount of compensation received.

No.

POSSIBLE BIAS OR PREJUDICE

34. The Commission is interested in knowing if there are certain types of cases, groups of entities, or extended relationships or associations which would limit the cases for which you could sit as the presiding judge. Please list all types or classifications of cases or litigants for which you, as a general proposition, believe it would be difficult for you to sit as the presiding judge. Indicate the reason for each situation as to why you believe you might be in conflict. If you have prior judicial experience, describe the types of cases from which you have recused yourself.

The only potential conflicts would include extensive prior representation and close personal friends or family.

PROFESSIONAL ACCOMPLISHMENTS AND OTHER ACTIVITIES

35. List the titles, publishers, and dates of any books, articles, reports, letters to the editor, editorial pieces, or other published materials you have written or edited, including materials published only on the Internet. Attach a copy of each listed or provide a URL at which a copy can be accessed.

N/A

36. List any reports, memoranda or policy statements you prepared or contributed to the preparation of on behalf of any bar association, committee, conference, or organization of which you were or are a member. Provide the name of the entity, the date published, and a summary of the document. To the extent you have the document, please attach a copy or provide a URL at which a copy can be accessed.

N/A

37. List any speeches or talks you have delivered, including commencement speeches, remarks, interviews, lectures, panel discussions, conferences, political speeches, and question-and-answer sessions. Include the date and place they were delivered, the sponsor of the presentation, and a summary of the presentation. If there are any readily available press reports, a transcript or recording, please attach a copy or provide a URL at which a copy can be accessed.

N/A

38. Have you ever taught a course at an institution of higher education or a bar association? If so, provide the course title, a description of the course subject matter, the institution at which you taught, and the dates of teaching. If you have a syllabus for each course, please provide.

No

39. List any fellowships, honorary degrees, academic or professional honors, honorary society memberships, military awards, and any other special recognition for outstanding service or achievement. Include the date received and the presenting entity or organization.

No

40. Do you have a Martindale-Hubbell rating? If so, what is it and when was it earned?

No

41. List all bar associations, legal, and judicial-related committees of which you are or have been a member. For each, please provide dates of membership or participation. Also, for each indicate any office you have held and the dates of office.

- Florida Bar Association 2013-present
- Florida Association of Criminal Defense Lawyers Apx 2015-present
- Brevard Bar Association 2019-present
- Connecticut Bar Association 2009-2015
- Connecticut Criminal Defense Lawyers Association 2010-2015
 - Connecticut Department of Corrections Liaison to Defense Bar

42. List all professional, business, fraternal, scholarly, civic, charitable, or other organizations, other than those listed in the previous question to which you belong, or to which you have belonged since graduating law school. For each, please provide dates of membership or participation and indicate any office you have held and the dates of office.

- Indialantic Elementary School Advisory Committee 2021-2022
- Parking Foundation for Autism, participation in programs and fundraisers since 2016.

43. Do you now or have you ever belonged to a club or organization that in practice or policy restricts (or restricted during the time of your membership) its membership on the basis of race, religion (other than a church, synagogue, mosque or other religious institution), national origin, or sex (other than an educational institution, fraternity or sorority)? If so, state the name and nature of the club(s) or organization(s), relevant policies and practices and whether you intend to continue as a member if you are selected to serve on the bench.

No

44. Please describe any significant pro bono legal work you have done in the past 10 years, giving dates of service.

None, as an Assistant Public Defender for last 6+ years.

None, prior to that in Connecticut private sector; firm did not allow it.

45. Please describe any hobbies or other vocational interests.

Our family's hobbies are mostly centered outdoor activities kayaking, camping and going to the beach.

My oldest son has autism and through his diagnosis we have been able to participate in several charities and with organizations that host various events for children on the spectrum and their siblings in and around Brevard. The major organization we participate with is the Parker Foundation as they have programs that are inclusive of not only our

oldest son on the autism spectrum but also our other two children. The program, Speak Through Sports, hosts weekly sporting events with volunteer “buddies” and there are various fundraisers throughout the year that we attend as well.

I additionally have an interest in helping the homeless, gathering food and clothing for public defender clientele either once released from jail or just those who need it, or those with children or expecting children who need the help. I am in the process of trying to organize an area or point of contact to better serve these individuals and their needs.

46. Please state whether you have served or currently serve in the military, including your dates of service, branch, highest rank, and type of discharge.

N/A

47. Please provide links to all social media and blog accounts you currently maintain, including, but not limited to, Facebook, Twitter, LinkedIn, and Instagram.

Facebook: Katie Rallo <https://www.facebook.com/ktrallo/>

Instagram: ktrallo <https://www.instagram.com/ktrallo/>

LinkedIn: Katie Rallo <https://www.linkedin.com/in/katierallo/>

FAMILY BACKGROUND

48. Please state your current marital status. If you are currently married, please list your spouse’s name, current occupation, including employer, and the date of the marriage. If you have ever been divorced, please state for each former spouse their name, current address, current telephone number, the date and place of the divorce and court and case number information.

Currently Married: [REDACTED]

Employed: [REDACTED]

Married: [REDACTED]

49. If you have children, please list their names and ages. If your children are over 18 years of age, please list their current occupation, residential address, and a current telephone number.

3 [REDACTED]

[REDACTED]
[REDACTED]
[REDACTED]

CRIMINAL AND MISCELLANEOUS ACTIONS

50. Have you ever been convicted of a felony or misdemeanor, including adjudications of guilt withheld? If so, please list and provide the charges, case style, date of conviction, and terms of any sentence imposed, including whether you have completed those terms.

No

51. Have you ever pled nolo contendere or guilty to a crime which is a felony or misdemeanor, including adjudications of guilt withheld? If so, please list and provide the charges, case style, date of conviction, and terms of any sentence imposed, including whether you have completed those terms.

No

52. Have you ever been arrested, regardless of whether charges were filed? If so, please list and provide sufficient details surrounding the arrest, the approximate date and jurisdiction.

No.

53. Have you ever been a party to a lawsuit, either as the plaintiff, defendant, petitioner, or respondent? If so, please supply the case style, jurisdiction/county in which the lawsuit was filed, case number, your status in the case, and describe the nature and disposition of the matter.

Defendant for a credit card dispute.

Brevard County, [REDACTED] settled.

54. To your knowledge, has there ever been a complaint made or filed alleging malpractice as a result of action or inaction on your part?

No.

55. To the extent you are aware, have you or your professional liability carrier ever settled a claim against you for professional malpractice? If so, give particulars, including the name of the client(s), approximate dates, nature of the claims, the disposition and any amounts involved.

No.

56. Has there ever been a finding of probable cause or other citation issued against you or are you presently under investigation for a breach of ethics or unprofessional conduct by any court, administrative agency, bar association, or other professional group. If so, provide the particulars of each finding or investigation.

No.

57. To your knowledge, within the last ten years, have any of your current or former co-workers, subordinates, supervisors, customers, clients, or the like, ever filed a formal complaint or accusation of misconduct including, but not limited to, any allegations involving sexual harassment, creating a hostile work environment or conditions, or discriminatory behavior against you with any regulatory or investigatory agency or with your employer? If so, please state the date of complaint or accusation, specifics surrounding the complaint or accusation, and the resolution or disposition.

No.

58. Are you currently the subject of an investigation which could result in civil, administrative, or criminal action against you? If yes, please state the nature of the investigation, the agency conducting the investigation, and the expected completion date of the investigation.

No.

59. Have you ever filed a personal petition in bankruptcy or has a petition in bankruptcy been filed against you, this includes any corporation or business entity that you were involved with? If so, please provide the case style, case number, approximate date of disposition, and any relevant details surrounding the bankruptcy.

No.

60. In the past ten years, have you been subject to or threatened with eviction proceedings? If yes, please explain.

No.

61. Please explain whether you have complied with all legally required tax return filings. To the extent you have ever had to pay a tax penalty or a tax lien was filed against you, please explain giving the date, the amounts, disposition, and current status.

Always filed, on time. No issues to best of my knowledge ever.

HEALTH

62. Are you currently addicted to or dependent upon the use of narcotics, drugs, or alcohol?

No.

63. During the last ten years have you been hospitalized or have you consulted a professional or have you received treatment or a diagnosis from a professional for any of the following: Kleptomania, Pathological or Compulsive Gambling, Pedophilia, Exhibitionism or Voyeurism? If your answer is yes, please direct each such professional, hospital and other facility to furnish the Chairperson of the Commission any information the Commission may request with respect to any such

hospitalization, consultation, treatment or diagnosis. ["Professional" includes a Physician, Psychiatrist, Psychologist, Psychotherapist or Mental Health Counselor.] Please describe such treatment or diagnosis.

No.

64. In the past ten years have any of the following occurred to you which would interfere with your ability to work in a competent and professional manner: experiencing periods of no sleep for two or three nights, experiencing periods of hyperactivity, spending money profusely with extremely poor judgment, suffering from extreme loss of appetite, issuing checks without sufficient funds, defaulting on a loan, experiencing frequent mood swings, uncontrollable tiredness, falling asleep without warning in the middle of an activity. If yes, please explain.

No.

65. Do you currently have a physical or mental impairment which in any way limits your ability or fitness to properly exercise your duties as a member of the Judiciary in a competent and professional manner? If yes please explain the limitation or impairment and any treatment, program or counseling sought or prescribed.

No.

66. During the last ten years, have you ever been declared legally incompetent or have you or your property been placed under any guardianship, conservatorship or committee? If yes, provide full details as to court, date, and circumstances.

No.

67. During the last ten years, have you unlawfully used controlled substances, narcotic drugs, or dangerous drugs as defined by Federal or State laws? If your answer is "Yes," explain in detail. (Unlawful use includes the use of one or more drugs and/or the unlawful possession or distribution of drugs. It does not include the use of drugs taken under supervision of a licensed health care professional or other uses authorized by Federal or State law provisions.)

No.

68. In the past ten years, have you ever been reprimanded, demoted, disciplined, placed on probation, suspended, cautioned, or terminated by an employer as result of your alleged consumption of alcohol, prescription drugs, or illegal drugs? If so, please state the circumstances under which such action was taken, the name(s) of any persons who took such action, and the background and resolution of such action

No.

69. Have you ever refused to submit to a test to determine whether you had consumed and/or were under the influence of alcohol or drugs? If so, please state the date you were requested to submit to such a test, the type of test required, the name of the entity requesting that you submit to the test, the outcome of your refusal, and the reason why you refused to submit to such a test.

No.

70. In the past ten years, have you suffered memory loss or impaired judgment for any reason? If so, please explain in full.

No.

SUPPLEMENTAL INFORMATION

71. Describe any additional education or experiences you have which could assist you in holding judicial office.

I have been a trial attorney for the past 12 years. After graduating law school I was hired by a very busy trial firm and within my first month I was sitting on a home invasion case, and the very next month a sex assault case; it has been steady trials/trial preparations ever since. My knowledge of the rules of evidence, case law and courtroom decorum surpasses most in this field.

Additionally, being an Assistant Public Defender I have years of experience managing a high felony docket and caseload. My case and client management impacts daily courtroom schedule and the court's overall docket and would be valuable knowledge in running a large fast paced court docket. My daily court appearances also gives me extended knowledge on all sides and angles of the courtroom and what helps it move smoothly from the attorneys, to the deputies and the clerks.

In addition to my criminal experience I have experience in other areas of law. I have practiced in federal court, civil personal injury litigation, probate, probate litigation, dissolution of marriages and custody disputes. I have legal experience in multiple states which has expanded my knowledge and application of the law not just locally, but in other jurisdictions.

My experiences prior to joining the Public Defender's Office developed me a well rounded attorney but my experience since joining the Public Defender's Office has equally helped shape who I am as an attorney. I have daily experience in the courtroom arguing unique case facts, law, and circumstances and presenting those arguments not just to juries but to state attorneys in negotiations and to judges in sentencing. Sometimes you end up working just as hard to get a case dropped pretrial as you do trying the case to a jury and it requires investigators and all of the tools at your disposal to do so. The Public Defender's Office has been a wonderful location for me to transition from Connecticut law to Florida law to where I am more than comfortable with the Florida statutes, rules of evidence and case law.

My experiences prior to joining the Public Defender's Office developed me a well rounded attorney but my experience since joining the Public Defender's Office has equally helped shaped who I am as an attorney. It has put me into the trenches day in and day out of the courtroom arguing unique case facts, law and circumstances and presenting those arguments not just to juries but to state attorneys in negotiations and to judges in sentencing. Sometimes you end up working just as hard to get a case dropped pretrial as you do trying the case to a jury and it requires investigators and all of the tools you can get your hands on. The Public Defender's Office has been a wonderful location for me to transition from Connecticut Law to Florida law to where I am more than comfortable with the Florida Statutes, Rules of Evidence and case law.

72. Explain the particular contribution you believe your selection would bring to this position and provide any additional information you feel would be helpful to the Commission and Governor in evaluating your application.

REFERENCES

73. List the names, addresses, e-mail addresses and telephone numbers of ten persons who are in a position to comment on your qualifications for a judicial position and of whom inquiry may be made by the Commission and the Governor.

1. **Hon. Morgan L. Reinman**
 - 2825 Judge Fran Jamieson Way, Viera, FL 32940
 - Morgan.reinman@flcourts18.org
 - 321-617-7272
2. **Hon. Jeffrey Mahl**
 - 2825 Judge Fran Jamieson Way, Viera, FL 32940
 - Theresa.novak@flcourts18.org
 - 321-617-7260
3. **Hon. Charles Roberts**
 - c/o Lori Todd, 2825 Judge Fran Jamieson Way, Viera, FL 32940
 - justice1@att.net
4. **Hon. Lisa Davidson**
 - 2825 Judge Fran Jamieson Way, Viera, FL 32940
 - Lisa.davidson@flcourts18.org
 - 321-617-7281

5. **Hon. Aaron Peacock**
 - 2825 Judge Fran Jamieson Way, Viera, FL 32940
 - Aaron.peacock@flcourts18.org
 - 321-617-7236
6. **Hon. Samuel Bookhardt**
 - 2825 Judge Fran Jamieson Way, Viera, FL 32940
 - Samuel.bookhardt@flcourts18.org
 - 321-617-7289
7. **Hon. Charles Crawford**
 - 2825 Judge Fran Jamieson Way, Viera, FL 32940
 - Charlie.crawford@flcourts18.org
 - 321-617-7258
8. **Hon. Blaise Trettis, Public Defender 18th Judicial Circuit and Michael Mario Pirolo, Chief Assistant Public Defender, 18th Judicial Circuit**
 - 2725 Judge Fran Jamieson Way, Viera, FL 32940
 - btrettis@pd18.net and mpirolo@pd18.net
 - 321-617-7373
9. **Chief Clerk Rachel Sadoff, 18th Judicial Circuit**
 - 2825 Judge Fran Jamieson Way, Viera, FL 32940
 - rmsadoff@brevardclerk.us
 - 321-637-5413
10. **Assistant State Attorney Donald Loughran and/or Assistant State Attorney Clarissa Harrell**
 - 2825 Judge Fran Jamieson Way, Viera, FL 32940
 - dloughran@sa18.org and/or charrell@sa18.org
 - 321-617-7510

CERTIFICATE

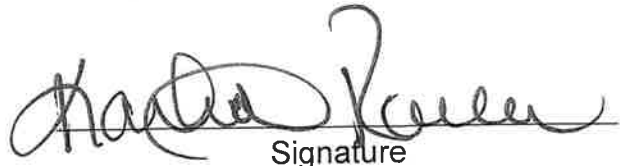
I have read the foregoing questions carefully and have answered them truthfully, fully and completely. I hereby waive notice by and authorize The Florida Bar or any of its committees, educational and other institutions, the Judicial Qualifications Commission, the Florida Board of Bar Examiners or any judicial or professional disciplinary or supervisory body or commission, any references furnished by me, employers, business and professional associates, all governmental agencies and instrumentalities and all consumer and credit reporting agencies to release to the respective Judicial Nominating Commission and Office of the Governor any information, files, records or credit reports requested by the commission in connection with any consideration of me as possible nominee for appointment to judicial office. Information relating to any Florida Bar disciplinary proceedings is to be made available in accordance with Rule 3-7.1(l), Rules Regulating The Florida Bar. I recognize and agree that, pursuant to the Florida Constitution and the Uniform Rules of this commission, the contents of this questionnaire and other information received from or concerning me, and all interviews and proceedings of the commission, except for deliberations by the commission, shall be open to the public.

Further, I stipulate I have read, and understand the requirements of the Florida Code of Judicial Conduct.

Dated this 12 day of November, 2021.

Kathleen Erin Rallo

Printed Name



Signature

(Pursuant to Section 119.071(4)(d)(1), F.S.), . . . The home addresses and telephone numbers of justices of the Supreme Court, district court of appeal judges, circuit court judges, and county court judges; the home addresses, telephone numbers, and places of employment of the spouses and children of justices and judges; and the names and locations of schools and day care facilities attended by the children of justices and judges are exempt from the provisions of subsection (1), dealing with public records.

FINANCIAL HISTORY

1. State the amount of gross income you have earned, or losses you have incurred (before deducting expenses and taxes) from the practice of law for the preceding three-year period. This income figure should be stated on a year to year basis and include year to date information, and salary, if the nature of your employment is in a legal field.

Public Defender Set Salary Gross Income:

Current Year-To-Date: 2021: \$64,612.76

Last Three Years: 2020: \$75,389.25 2019: \$70,850.79 2018: \$61,086.79

2. State the amount of net income you have earned, or losses you have incurred (after deducting expenses but not taxes) from the practice of law for the preceding three-year period. This income figure should be stated on a year to year basis and include year to date information, and salary, if the nature of your employment is in a legal field.

Public Defender Set Salary Net Income:

Current Year-To-Date: 2021: \$52,106.31

Last Three Years: 2020: \$61,773.36 2019: \$53,429.53 2018: \$51,974.60

3. State the gross amount of income or losses incurred (before deducting expenses or taxes) you have earned in the preceding three years on a year by year basis from all sources other than the practice of law, and generally describe the source of such income or losses.

Current Year-To-Date: NA

Last Three Years: NA NA NA

4. State the amount you have earned in the preceding three years on a year by year basis from all sources other than the practice of law, and generally describe the source of such income or losses.

Current Year-To-Date: NA

Last Three Years: NA NA NA

5. State the amount of net income you have earned or losses incurred (after deducting expenses) from all sources other than the practice of law for the preceding three-year period on a year by year basis, and generally describe the sources of such income or losses.

Current Year-To-Date: NA

Last Three Years: NA NA NA

FORM 6
FULL AND PUBLIC
DISCLOSURE OF
FINANCIAL INTEREST

PART A – NET WORTH

Please enter the value of your net worth as of December 31 or a more current date. [Note: Net worth is not calculated by subtracting your *reported* liabilities from your *reported* assets, so please see the instructions on page 3.]

My net worth as of November 11, 2021 was \$ [REDACTED]

PART B - ASSETS

HOUSEHOLD GOODS AND PERSONAL EFFECTS:

Household goods and personal effects may be reported in a lump sum if their aggregate value exceeds \$1,000. This category includes any of the following, if not held for investment purposes; jewelry; collections of stamps, guns, and numismatic items; art objects; household equipment and furnishings; clothing; other household items; and vehicles for personal use.

The aggregate value of my household goods and personal effects (described above) is approximately \$ [REDACTED]

ASSETS INDIVIDUALLY VALUED AT OVER \$1,000:

DESCRIPTION OF ASSET (specific description is required – see instructions p. 3)	VALUE OF ASSET
[REDACTED]	[REDACTED]
[REDACTED]	[REDACTED]

PART C - LIABILITIES

LIABILITIES IN EXCESS OF \$1,000 (See instructions on page 4):
NAME AND ADDRESS OF CREDITOR

AMOUNT OF LIABILITY

[REDACTED]	[REDACTED]
[REDACTED]	\$ [REDACTED]
[REDACTED]	\$ [REDACTED]

JOINT AND SEVERAL LIABILITIES NOT REPORTED ABOVE:
NAME AND ADDRESS OF CREDITOR

AMOUNT OF LIABILITY

PART D - INCOME

You may **EITHER** (1) file a complete copy of your latest federal income tax return, including all W2's, schedules, and attachments, **OR** (2) file a sworn statement identifying each separate source and amount of income which exceeds \$1,000 including secondary sources of income, by completing the remainder of Part D, below.

I elect to file a copy of my latest federal income tax return and all W2's, schedules, and attachments.
(if you check this box and attach a copy of your latest tax return, you need not complete the remainder of Part D.)

PRIMARY SOURCE OF INCOME (See instructions on page 5):

NAME OF SOURCE OF INCOME EXCEEDING \$1,000	ADDRESS OF SOURCE OF INCOME	AMOUNT
State of Florida, Public Defender's Office 18 th Judicial Circuit	2725 Judge Fran Jamieson Way, Viera FL 32940	\$79,385.04/year

SECONDARY SOURCES OF INCOME [Major customers, clients, etc., of businesses owned by reporting person—see instructions on page 6]

NAME OF BUSINESS ENTITY	NAME OF MAJOR SOURCES OF BUSINESS' INCOME	ADDRESS OF SOURCE	PRINCIPAL BUSINESS ACTIVITY OF SOURCE

PART E – INTERESTS IN SPECIFIC BUSINESS [Instructions on page 7]

	BUSINESS ENTITY #1	BUSINESS ENTITY #2	BUSINESS ENTITY #3
NAME OF BUSINESS ENTITY			
ADDRESS OF BUSINESS ENTITY			
PRINCIPAL BUSINESS ACTIVITY			
POSITION HELD WITH ENTITY			
I OWN MORE THAN A 5% INTEREST IN THE BUSINESS			
NATURE OF MY OWNERSHIP INTEREST			

IF ANY OF PARTS A THROUGH E ARE CONTINUED ON A SEPARATE SHEET, PLEASE CHECK HERE

OATH

I, the person whose name appears at the beginning of this form, do depose on oath or affirmation and say that the information disclosed on this form and any attachments hereto is true, accurate, and complete.

STATE OF FLORIDA

COUNTY OF _____

Sworn to (or affirmed) and subscribed before me this 12 day of Nov., 2021 by NN

Nicole Nash
(Signature of Notary Public—State of Florida)

Nicole Nash
(Print, Type, or Stamp Commissioned Name of Notary Public)

Personally Known X OR Produced Identification _____

Type of Identification Produced _____

Karen Hoover
SIGNATURE



JUDICIAL APPLICATION DATA RECORD

The judicial application shall include a separate page asking applicants to identify their race, ethnicity and gender. Completion of this page shall be optional, and the page shall include an explanation that the information is requested for data collection purposes in order to assess and promote diversity in the judiciary. The chair of the Commission shall forward all such completed pages, along with the names of the nominees to the JNC Coordinator in the Governor's Office (pursuant to JNC Uniform Rule of Procedure).

(Please Type or Print)

Date: November 11, 2021

JNC Submitting To: _____

Name (please print): Kathleen Rallo

Current Occupation: Assistant Public Defender

Telephone Number: 860-371-6343

Attorney No.: 101638

Gender (check one):

Male

Female

Ethnic Origin (check one):

White, non-Hispanic

Hispanic

Black

American Indian/Alaskan Native

Asian/Pacific Islander

County of Residence: Brevard County

FLORIDA DEPARTMENT OF LAW ENFORCEMENT

DISCLOSURE PURSUANT TO THE
FAIR CREDIT REPORTING ACT (FCRA)

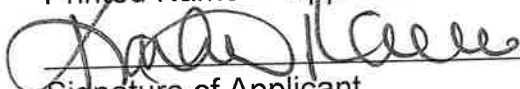
The Florida Department of Law Enforcement (FDLE) may obtain one or more consumer reports, including but not limited to credit reports, about you, for employment purposes as defined by the Fair Credit Reporting Act, including for determinations related to initial employment, reassignment, promotion, or other employment-related actions.

CONSUMER'S AUTHORIZATION FOR
FDLE TO OBTAIN CONSUMER REPORT(S)

I have read and understand the above Disclosure. I authorize the Florida Department of Law Enforcement (FDLE) to obtain one or more consumer reports on me, for employment purposes, as described in the above Disclosure.

Kathleen Erin Rallo

Printed Name of Applicant


Signature of Applicant

Date: 11/3/2021

WRITING SAMPLE #1

WRITING SAMPLE #1 – (EXHIBITS EXCLUDED)

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

CASE NO.: 05-2021-CF-0XXXXX-AXXX-XX

STATE OF FLORIDA,

Plaintiff,

vs.

JOHN DOE,

Defendant.

_____ /

MOTION TO SUPPRESS EVIDENCE

COMES NOW, the Defendant, JOHN DOE, by and through his undersigned counsel, pursuant to Fla. R. Crim. P. 3.190(g), the Fourth and Fourteenth Amendments to the United States Constitution, and Article I, Sections 9 and 12 of the Constitution of the State of Florida, and moves this Honorable Court to enter its order suppressing any and all evidence arising out of the illegal detention, search, and seizure of Mr. Doe and/or the vehicle Mr. Doe was occupying.

EVIDENCE TO BE SUPPRESSED

Any and all tangible or intangible evidence obtained contemporaneous to and following the illegal search and seizure of Mr. Doe and/or the vehicle Mr. Doe was occupying, specifically including any and all evidence of controlled substances and/or paraphernalia.

FACTUAL BASIS

1. According to Officer Tyler Davenport of the Melbourne Police Department he was patrolling with Officer Brandel on May 14, 2021 at 1847 hours, See Davenport's

narrative attached as Exhibit “A”. According to Brandel’s narrative and the Melbourne CAD the stop occurred at 1746 hours, see Brandel’s narrative attached as Exhibit “B” and Exhibit “C”.

2. Officer Davenport’s narrative claims that another unit occupied by Officer Self paced the Defendant’s vehicle at 60 mph in a 45 mph and thus Officer Davenport then effectuated a traffic stop on the vehicle for speeding based upon said information. It is unknown why Officer Self did not effectuate the stop himself since he was the one that paced the vehicle. Officer Brandel’s narrative indicated he was paced at 70 in a 45. The citation was written for 60 in a 45 and was given by Davenport, not Self, see Citation attached as Exhibit “D”.
3. The time stamp on the citation was 5:58 p.m., again see Exhibit “D” which would be 1758 hours.
4. According to the Melbourne Police CAD the stop was initiated by Officer Davenport, not Self at 1746 hours., see Melbourne Police Department CAD attached as Exhibit “C”
5. Officer Davenport and Officer Brandel then made contact with the subject vehicle and the Defendant was the driver. There were three total occupants in the vehicle.
6. Officer Davenport next claims that while at the door of the vehicle he could detect the odor of “fresh cannabis” and asked the defendant if there was any present in the car. It should be noted at this time the Defendant and occupants were all detained for purposes of the traffic stop and Officer Davenport had not read the Defendant *Miranda* warnings at this time.

7. The Defendant at this time in response to the Officer's question **produced his medical marijuana card** and produced a baggie of a green leafy substance from his pants pocket which the officer indicates in his narrative he believed to be cannabis through his training and experience.
8. According to the Melbourne CAD a K9 was requested at 1753 hours, seven minutes after the initial purpose of the stop. The traffic citation that was given is time stamped 1758 hours and according to the BCSO CAD attached as Exhibit "E" the K9 unit arrived on scene at 1810 hours, nearly 25 minutes after the initial traffic stop.
9. Officer Davenport's narrative then takes a leap, it is unknown what occurs after the medical marijuana card is handed over, but the narrative next indicates that a BCSO Deputy Tyler Habart then arrives on scene with his K9 and conducts a free air sniff of the vehicle.
10. Allegedly BCSO K9's are no longer trained to detect marijuana, however they proceed with the free air sniff and the K9 alerts. It is important to note that officers then search the vehicle and discover nothing more than more cannabis within the vehicle. Therefore, the mystery of what, if anything, said K9 was alerting to remains unknown.
11. As a result of the search the officers uncovered more marijuana, apx 89g. A firearm was also located however none of the occupants were charged with any crimes relating to the firearm.

12. The Defendant was arrested, despite his medical marijuana card, with possession of more than 20g cannabis.

13. The Defendant, JOHN DOE has a valid medical marijuana card. Mr. Doe was in possession of this card on May 14, 2021 and produced it to law enforcement upon encountering them at the traffic stop.

GROUNDS FOR SUPPRESSION

This Motion is based upon the following grounds:

1. The Defendant provided officers with a valid medical marijuana card, thus any search based upon the odor of cannabis is invalid.
2. The K9 alert was invalid either because the K9 was trained to detect the odor of marijuana or because the K9 was defective. The only drug located within the vehicle after the search was cannabis and the driver produced his valid medical marijuana card and informed officers of such upon questioning. No PC existed for the K9 alert to justify search the vehicle.
3. The length of time for the K9 to respond to the scene was unreasonable.

I. THE K9's RELIABILITY IS CALLED INTO QUESTION RENDERING THE ALERT INVALID AND THE SEARCH UNCONSTITUTIONAL

The significant constitutional and statutory changes in Florida demand a new probable cause standard. Until hemp and medical marijuana became legally accessible in Florida, an odor of marijuana indicates inherent criminality because the possession of cannabis is per se illegal. However, this factual premise is no longer true. Since probable cause requires "a fair probability that contraband or evidence of a crime will be found in a particular place," *Illinois v. Gates*, 462

U.S. 213, 214 (1983), the change of cannabis' legal status necessarily impacts the probability calculus. In the captioned matter Mr. Doe provided officers with a valid medical marijuana card.

Given the wide availability of hemp, and the rapidly increasing number of qualifying individuals and businesses for medical marijuana, the change in probability is immense. And since the amount of hemp flowers being sold is unmeasured, and the amount of low-THC cannabis flowers being dispensed is unpredictable, this Court cannot surmise the likelihood of a crime simply based on an odor. This is precisely why the odor-alone standard must be changed. An odor of unburnt marijuana or an alert by a K9 without first determining whether or not the occupants of the vehicle had a valid, legal prescription for items the K9 may alert to, without additional indicia of criminality, no longer provides probable cause for a search of either a vehicle or its occupants for two reasons:

- 1) Section 7606 of the Agriculture Act of 2014 (codified as 7 U.S.C. s. 5940) legalized the cultivation, harvesting, and commercialization of hemp, which shares an indistinguishable odor with marijuana;
- 2) The 2017 "Medical Use of Marijuana" Statute (Fla. Stat. 381.986) legalized the production, distribution, and consumption of marijuana by a growing number of licensed Floridians and businesses.

Since a police officer nor its K9 cannot differentiate hemp flowers from marijuana flowers based on the odor alone, nor can they determine if an individual has a prescription for marijuana or not they cannot determine the legality of the odor without further inquiry, here no further inquiry was needed, Mr. Doe provided the officers with a valid prescription for the marijuana. Therefore, a mere odor without other indicia of criminality can no longer provide probable cause to justify an arrest or a search. Here the K9 is supposedly not trained to alert to marijuana,

however after an extensive search of the vehicle no other drugs were located other than marijuana.

The supreme court adopted a “totality of the circumstances approach” that places the burden of producing evidence to establish the dog's reliability on the State. *Harris v. State*, 71 So.3d 756 at 771 (Fla.2011). Part of this new burden is to show what the dog was trained to alert to and how that impacts their qualification to constitute probable cause.

“The State's presentation of evidence that the dog is properly trained and certified is the beginning of the analysis. Because there is no uniform standard for training and certification of drug-detection dogs, the State must explain the training and certification so that the trial court can evaluate how well the dog is trained and whether the dog falsely alerts in training (and, if so, the percentage of false alerts). Further, the State should keep and present records of the dog's performance in the field, including the dog's successes (alerts where contraband that the dog was trained to detect was found) and failures (‘unverified’ alerts where no contraband that the dog was trained to detect was found). The State then has the opportunity to present evidence explaining the significance of any unverified alerts, as well as the dog's ability to detect or distinguish residual odors. Finally, the State must present evidence of the experience and training of the officer handling the dog. Under a totality of the circumstances analysis, the court can then consider all of the presented evidence and evaluate the dog's reliability.” *Id.*

The instant case included unverified false alerts for this particular K9 in this particular situation. It allegedly alerted to the vehicle however nothing other than marijuana, which the defendant had a prescription for, was located. The court placed special emphasis on the dog's field records, explaining that a dog's alert to residual odor, though different from a false alert, may not indicate that drugs are actually present at the time. *Id.* at 769

This matter has been addressed in Colorado which has recently legalized the personal possession of marijuana. *People v. McKnight*, 452 P.3d 82 (Colo. 2019) and while the legalization laws differ from medicinal to recreational the issues of the K9 sniffs remain similar. **The Court**

in *McKnight* recognized that the legal landscape has changed and K9 sniffs “can no longer be said to detect ‘only’ contraband. Thus, an exploratory sniff of a car from a dog trained to alert to a substance that may be lawfully possessed violates a person’s reasonable expectation of privacy.” *Id* at 408. (emphasis added).

The K9 sniff alert was invalid, a false alert and led to an illegal unconstitutional search of the Defendant’s vehicle. On this basis alone anything located within the vehicle as a result of the search should be suppressed as having been seized as a result of a illegal search.

II. THE LENGTH OF TIME FOR K9 TO ARRIVE WAS EXCESSIVE AND VIOLATED THE DEFENDANT’S RIGHTS

In *Whren v. United States*, 517 U.S. 806, 809 (1996) the Court states that “[t]emporary detention of individuals during the stop of an automobile by the police, even if only for a brief period and for a limited purpose, constitutes a ‘seizure’ of the person within the meaning” of the Fourth Amendment. It is well settled that a police officer may only stop a person driving a motor vehicle if the police has probable cause to believe that the person violated a traffic law or if the officer has reasonable suspicion that the person is committing or about to commit a crime. *Id.* at 810; see also *Terry v. Ohio*, 392 U.S. 1 (1968); *Holland v. State*, 696 So. 2d 757 (Fla. 1997)).=“The Fourth Amendment’s requirement that searches and seizures be founded upon an objective justification governs all seizures of the person, including seizures that involve only a brief detention short of traditional arrest.” *U.S. v. Mendenhall*, 446 U.S. 544, 552 (1980).In the captioned matter officers didn’t even call for the K9 for six (6) minutes into the stop, didn’t begin the citation until twelve (12) minutes into the stop and the K9 didn’t arrive on scene until twenty-five (25) minutes into the stop.

In *Riley*, a vehicle was stopped after it made a right turn onto the highway without signaling. The officers effectuating the stop both testified that no other vehicle was affected by the turn. Because no other vehicle was affected, the trial court determined the stop was illegal and suppressed the evidence obtained during the stop. *State v. Riley*, 638 So.2d 507 (Fla.1994). The Fifth District affirmed, and the Florida Supreme Court agreed with the Fifth District's reasoning, explaining that subsections (1) and (2) of section 316.155 must be read in pari materia to require a signal only when another vehicle "is affected by a turn from the highway." *Id.* (emphasis added); accord *State v. Mae*, 706 So.2d 350 (Fla. 2d DCA 1998); *Frierson v. State*, 851 So.2d 293 (Fla. 4th DCA 2003); see also *Crooks v. State*, 710 So.2d 1041, 1043 (Fla. 2d DCA 1998) (comparing section 316.155 with the statute requiring vehicles to stay within their proper lanes and interpreting both as requiring "evidence that the driver's conduct created a reasonable safety concern" before a vehicle may be stopped).

In the captioned matter the Defendant is accused of speeding via another officer pacing the Defendant. There is a report that he was paced going 60 in a 45 and an allegation that he was paced going 75 in a 45. Officer Self, the Officer who allegedly did the pacing, did not complete a narrative nor did he fill out the traffic citation. It is unknown why Officer Self did not just effectuate the stop himself. The arresting officer then proceeded by delaying the stop for the K9. See citation attached as Exhibit "D".

In *Whitfield v. State*, 33 So.3d 787 (2010) the court evaluated a very similar scenario.

Whitfield court stated:

“Once a vehicle is lawfully stopped, a law enforcement officer may conduct an investigation reasonably related in scope to the circumstances that justified the traffic stop. This investigation may include asking the driver for an operator's license, insurance and registration. See *State v. Robinson*, 756 So.2d 249 (Fla. 5th DCA 2000). Also, the officer may run a computer check to determine whether the vehicle involved in the stop has been stolen and whether the driver has any outstanding warrants. See *State v. Brooks*, 662 So.2d 440, 440–41 (Fla. 5th DCA 1995) (Sharp, J., dissenting.). However, absent an articulable suspicion of criminal activity, the time an officer takes to issue a citation should last no longer than is necessary to make any required license or registration checks and to write the citation. *Maxwell v. State*, 785 So.2d 1277 (Fla. 5th DCA 2001) (citing *Cresswell v. State*, 564 So.2d 480 (Fla.1990)); *Sands v. State*, 753 So.2d 630 (Fla. 5th DCA 2000). See also *Illinois v. Caballes*, 543 U.S. 405, 407, 125 S.Ct. 834, 160 L.Ed.2d 842 (2005).

...

In *Sparks v. State*, 842 So.2d 876, 877 (Fla. 2d DCA 2003), the deputy had finished writing a citation for driving with a broken headlight before the canine unit arrived twenty minutes after the initial stop, and the court found an illegal detention. Similarly, in *Williams v. State*, 869 So.2d 750 (Fla. 5th DCA 2004), an officer stopped *Williams* for a traffic violation, issued a citation thirty-five minutes later and then conducted a dog sweep, leading to *Williams*' arrest. The court found the delay to be unreasonable, and further said that, even if the time had been reasonable, because the officer had already issued the citation before commencing the dog sniff, the detention for the sniff was illegal. See *State v. Brown*, 691 So.2d 637 (Fla. 5th DCA 1997) (officer permitted to run drug sniff until traffic stop concluded, unless unreasonably prolonged to do so). See also *Nulph v. State*, 838 So.2d 1244 (Fla. 2d DCA 2003).

...

In *Caballes*, the Court specifically noted a distinction between a dog sniff occurring during a routine traffic stop and one occurring during an ‘unreasonably prolonged traffic stop.’ 543 U.S. at 407, 125 S.Ct. 834 (citing to *People v. Cox*, 202 Ill.2d 462, 270 Ill.Dec. 81, 782 N.E.2d 275 (2002)). In *Caballes*, because the dog sniff was performed by one officer while a second officer was writing the warning ticket, and the entire episode lasted less than ten minutes, the duration of the traffic stop was not extended. Referring to *Cox* 's holding that a dog sniff and subsequent discovery of contraband during an unreasonably prolonged traffic stop was the product of an unconstitutional seizure, the *Caballes* court said: ‘We may assume that a similar result would be warranted in this case if the dog sniff had been conducted while respondent was being unlawfully detained.’ 543 U.S. at 408, 125 S.Ct. 834.

This suggests that there is a constitutionally significant line of demarcation between a routine traffic stop that includes a dog sniff and one in which a dog sniff is conducted after the investigative procedures incident to the traffic stop have been completed.” Id.

Ultimately the *Whitfield* court ruled: “Here, this traffic stop should have been concluded by the issuance of the written warning long before it was. It was indisputably over when Whitfield finally got his warning for speeding—almost thirty minutes after being stopped. The fact that the dog sniff began a short period of time—a de minimis amount of time—after the traffic stop was concluded, does not save the search.” The same applies in Mr. Doe’s case where the stop was initiated at 1747 hours aka 5:47 p.m. Officers appear, according to CAD to call for K9 at 1753. Switching then to the BCSO K9 CAD the K9 appears “on scene” at 1810. The traffic citation, which was not written for the traffic offense that supposedly initiated the stop, was written at 5:58 pm.

Once a police officer stops a car for a traffic infraction, the officer is then justified in detaining the driver “only for the time reasonably necessary to issue a citation or warning” *Sanchez v. State*, 847 So. 2d 1043, 1046 (Fla. 4th DCA 2003) (quoting *State v. Moore*, 791 So. 2d 1246, 1249 (Fla. 1st DCA 2001)). The scope of the detention must be carefully tailored to its underlying justification... An investigative detention must be temporary and last no longer than is necessary to effectuate the purpose of the stop. *State v. Diaz*, 850 So. 2d 4358, 438 (Fla. 2003) (citing *Florida v. Royer*, 460 U.S. 491, 498 (1983)).

In *Rodriguez v. United States*, 135 S. Ct. 1609 (2015), the Supreme Court held that absent reasonable suspicion to extend, conducting a dog sniff after the initial traffic stop is concluded violates the Constitution’s shield against unreasonable seizures. If a driver is stopped for a traffic infraction, he may be “subjected to a canine search of the vehicle so long as it is done within the time required to issue a citation.” *Eldridge*, 817 So. 2d 884 at 887 (emphasis added); *Whitfield v. State*, 33 So. 3d 787, 791 (Fla. Dist. Ct. App. 5th Dist. 2010). Further, a seizure justified only by a police-observed traffic violation, therefore “becomes unlawful if it is prolonged beyond the time reasonably required to complete the ‘mission’” of issuing a ticket for the violation. *Illinois v. Caballes*, 543 U.S. 405 (2005); *Rodriguez*, 135 S. Ct. at 1612.

A dog sniff is not part of a normal traffic stop and lacks a close connection to roadway safety. Thus, it cannot be fairly characterized as part of the police officer’s traffic “mission.” *Rodriguez*, 135 S. Ct. at 1610; *Jones v. State*, 187 So. 3d 346 (Fla. Dist. Ct. App. 4th Dist. Mar. 9, 2016). Courts across the country have uniformly interpreted *Rodriguez* as requiring a particularized review of the individual stop to determine, sometimes on a minute-by-minute basis, whether time has been added to the stop through a dog sniff. See *U.S. v. Evans*, 786 F.3d 779 (9th Cir. 2015); *Underhill v. State*, 197 So. 3d 90, 92 (Fla. Dist. Ct. App. 4th Dist. July 13, 2016).

In *Jones*, 187 So.3d at 346 (2016), a man was stopped for not wearing a seatbelt by an officer. The officer chose not to issue a seatbelt violation but called a drug dog to come sniff the vehicle. The court held this violated defendant’s Fourth Amendment rights because the purpose of stop was complete and holding the defendant was not justified. Further, in *Underhill v. State*, 197 So.3d 90 (2016) the court held there was an unreasonable seizure when an officer had

obtained all the necessary information from dispatch and completed investigation but waited for a dog sniff before writing the ticket. In the instant case officers waited nearly 12 minutes before they even began writing the ticket.

In a comparable case, *Nulph v. State*, 838 So. 2d 1244 (Fla. 2d DCA 2003), the officer stopped the driver for careless driving. He then called in a canine unit because he suspected drug activity. The officer took 15 minutes to run the license and registration, then busied himself until the canine unit arrived two minutes later. The stop had by then lasted 20 minutes. The court concluded that the detective detained the vehicle "based on a suspicion of drug possession rather than for the issuance of a citation for a traffic infraction," which was improper because the officer had no founded suspicion that the driver had committed, was committing, or would commit a crime. The court in *Napoleon v. State*, 985 So. 2d 1170, 1173 (Fla. Dist. Ct. App. 1st Dist. June 30, 2008) rejected the State's attempt to support a 20-minute delay from the initial stop for a dog sniff where the initial contact was a traffic stop. Accordingly, the court reversed the lower court's denial of a motion to suppress. An officer who conducts a traffic stop may extend the period reasonably necessary to issue a citation or warning only where he or she has a reasonable suspicion based on articulable facts of criminal activity. See *Maxwell v. State*, 785 So. 2d 1277, 1279 (Fla. 5th DCA 2001) (stating that unless there is a reasonable suspicion of criminal activity, an officer may not detain a vehicle any longer than is necessary to issue the citation); *Moore*, 791 So. 2d at 1249; *Thomas v. State*, 614 So. 2d 468 (Fla. 1993); *Cresswell v. State*, 564 So. 2d 480 (Fla. 1990).

However, an officer needs more than a mere hunch before he can detain a suspect past the time reasonably required to write a citation. *Eldridge*, 817 So. 2d at 888-89 (Fla. 5th DCA

2002). A stopped driver being nervous can be consistent with legal behavior and thus on its own, nervousness does not justify reasonable suspicion to extend a traffic stop; it is merely a factor to be considered. *Cresswell*, 564 So. 2d at 483; *State v. Taylor*, 826 So. 2d 399, 400 (Fla. Dist. Ct. App. 3d Dist. 2002).

In the captioned matter he was stopped based on pacing by another officer. That is loose PC to start. Officers then take 6 minutes to even call for a K9. K9 then takes 25 minutes to arrive on scene. It was excessive detention beyond the purpose of the stop. Combined with the false alert to the subject vehicle and the defendant's vehicle was searched in violation of his constitutional rights and as such everything located therein should be suppressed.

WHEREFORE, Defendant respectfully moves this court to suppress any and all evidence, resulting from the illegal detention, search, and seizure of Mr. Doe including any and all evidence of controlled substances and paraphernalia and/or statements derived therefrom.

WRITING SAMPLE

Kathleen Rallo
Assistant Public Defender
Florida Bar Number: 101638

WRITING SAMPLE #2

WRITING SAMPLE #2 – (EXHIBITS EXCLUDED)

IN THE COUNTY COURT OF THE
18TH JUDICIAL CIRCUIT IN AND
FOR BREVARD COUNTY, FLORIDA

STATE OF FLORIDA,

CASE NO. 05-2019-CF-010397-AXXX XX

Vs.

JOHN DOE
Defendant.

MOTION TO DISMISS PURSUANT TO “STAND YOUR GROUND” IMMUNITY

COMES NOW the Defendant, **JOHN DOE**, by and through the undersigned attorney, pursuant to Fla. Stat. s. 776.032, (2017), and Fla. R. Crim P. 3.190(b), moves this Honorable Court to dismiss the information filed in the above-styled cause for the Defendant is immune from criminal prosecution. As grounds for this Motion, the Defendant states as follows:

STATEMENT OF FACTS

1. On January 1, 2019 the Defendant was in his residence where he had a right to be located at 169 Ulster Court Melbourne Florida.
2. Zachary Bowers contacted Mr. Doe and asked if he could go to his residence for New Years Day with a few people. Mr. Doe agreed.
3. All parties had been drinking throughout the day when Mr. Doe and Zachary Bowers engaged in a mutual jovial game of arm wrestling. After said game the two began arguing in a verbal argument regarding cheating during said arm wrestling match.

4. After the verbal altercation continued Mr. Doe asked the complainant to leave several times.
5. Also present during this encounter was George Mahdesian and a female named “Lyla” or “Lola”.
6. Mr. Doe repeated several times that he wanted Mr. Bowers to leave his residence, Mr. Bowers refused each time.
7. Mr. Bowers then escalated the situation when he knocked Mr. Doe’ 50 inch flat screen TV off the stand and kicked it several times shattering it. Mr. Doe again warned Mr. Bowers to leave his residence.
8. Mr. Bowers then looked over at Mr. Doe, picked up a dining room chair and threw it at Mr. Doe.
9. Mr. Doe was able to dive out of the way of the chair. There was a large hole in the wall next to Mr. Doe where the chair landed.
10. During this entire time Mr. Doe kept repeating for Mr. Bowers to get out and leave Mr. Doe’ residence, to which he refused.
11. After Mr. Bowers threw the chair, Mr. Doe threw a bottle of liquor he was holding in the direction of Mr. Bowers in an effort to get him to leave.
12. Instead of leaving Mr. Bowers charged at Mr. Doe and Mr. Doe was forced to engaged in self-defense.
13. Mr. Doe took a defensive stance and put his arms up in an effort to restrain Mr. Bowers. On contact they both fell to the floor and Mr. Bowers was on top of Mr. Doe when they first landed on the floor.
14. Mr. Bowers began to strike Mr. Doe multiple times in his face and head.

15. After several hard blows to the head, Mr. Doe was able to maneuver himself out from under Mr. Bowers and get on top of him for a short period. At one point they were against the sofa and Mr. Doe had Mr. Bowers pinned Mr. Bowers on the sofa in an effort to calm and restrain him.
16. Mr. Bowers began swinging and punching and was able to get back on top of him for a period. As they continued to roll around and wrestle Mr. Bowers got about ten more punches in on Mr. Doe' head before Mr. Doe, out of fear for his own physical safety and inability to subdue Mr. Bowers reached out and grabbed the first thing he could, which was a piece of glass from the bottle thrown earlier. Mr. Doe swung the glass and struck Mr. Bowers in the back with said piece of glass, however he didn't even flinch and continued striking Mr. Doe.
17. Mr. Bowers continued striking Mr. Doe for an unknown amount of time when Mr. Doe again swung the hand holding the glass and it struck the ear area of Mr. Bowers. At this time Mr. Bowers stopped restraining and punching Mr. Doe, let go of his grip and both parties disengaged.
18. Mr. Bowers then got up where all parties observed the injury to his ear. Mr. Bowers indicated he was calling the police, Mr. Doe and George Mahdesian assisted in gathering Mr. Bowers' belongings (skateboard and backpack) and Mr. Bowers then left the residence and sat out front and waited for a ride.
19. It appears he did not immediately call for an ambulance or the police as his friend eventually arrived and picked him up and he left the apartment area.
20. It is unknown when Lyla left during the altercation but she was gone prior to the end of the altercation.

21. Mr. Doe was in a place he had a right to be as it was his legal residence.
22. Mr. Bowers was the primary aggressor and attacked Mr. Doe first in Mr. Doe' own home.
23. Mr. Doe reasonably believed his conduct was necessary to defend himself and potentially his guests against Mr. Bowers' imminent use of force against him and Mr. Doe had a reasonable well founded fear for his safety and the safety of his other guests as Mr. Bowers refused to leave after being requested by Mr. Doe to leave and Mr. Bowers refusal to stop punching Mr. Doe in the head and face region.

ARGUMENT

Where a criminal defendant files a motion to dismiss pursuant to Fla. Stat. s. 776.032, (2017), the "Stand Your Ground" statute, which relates to justified use of force, the trial court should conduct a pretrial evidentiary hearing and decide the factual question of the applicability of the statutory immunity. Dennis v. State, 51 So.3d 456 (Fla. 2010). Under Florida's Stand Your Ground Law, a person who is not engaged in an unlawful activity and who is attacked in any other place where he or she has a right to be has no duty to retreat and has the right to stand his or her ground and meet force with force, including deadly force, if he or she reasonably believes it is necessary to do so to prevent death or great bodily harm to himself or herself or another or to prevent the commission of a forcible felony. Fla. Stat. § 776.013(3).

Pursuant to section 776.032(4). See Ch. 2017-72, § 1-2, Laws of Fla. as amended, the statute now provides that once a defendant raises a claim of entitlement to self-defense immunity, the burden of proof is upon the State to overcome that immunity claim, which the State must do by a standard of clear and convincing evidence.

Section 776.032(4), Florida Statutes (2017), enacted by Chapter 2017-72, Laws of Florida, became effective June 9, 2017, and provides: “(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).” Fla. Stat. § 776.032(4). An affidavit notarized and sized by Mr. Doe asserts facts which establish a prima facie claim to self defense immunity is attached as Exhibit “A”.

When immunity under this law is properly raised by a defendant, the trial court must decide the matter by confronting and weighing only factual disputes. The court may not deny a motion simply because factual disputes exist. Dennis at 459, *citing Peterson v. State*, 983 So.2d 27, 29 (Fla. 1st DCA 2008). “The first district held that ‘when immunity under this law is properly raised by a defendant,’ the trial court ‘may not deny a motion [to dismiss] simply because factual disputes exist.’” *Id.* Faced with a factual conflict, a court must hold a hearing to confront and weigh the factual disputes, so that it can “determine whether the defendant has shown by a preponderance of the evidence that the immunity attaches.” *Id.* “Peterson's procedure for a contested evidentiary hearing fits within the framework of rule 3.190.” Bretherick v. State, 170 So.3d 766 (Fla. 2015).

If the defendant was not engaged in an unlawful activity and was attacked in any place where he had a right to be, he had no duty to retreat and had the right to stand his ground and meet force with force, including deadly force if he reasonably believed that it was necessary to do so to prevent death or great bodily harm to himself and/or others or to prevent the commission of a forcible felony. The defendant in this case had no duty to retreat under such circumstances.

In the case at bar Mr. Doe was located in his residence. He should not be subjected to trial, as his force was legally justified, as he was attacked in a place in which he had a legal right

to be and was placed into fear for his safety and for the safety of his guests. It was reasonable to infer his actions were necessary to prevent further injury to himself as Mr. Bowers refused to leave when asked and began forcefully and repetitively punching the defendant in the face and head while he had the defendant pinned to the floor. Mr. Doe gave several verbal commands for the Complainant to leave his residence, to which the Complainant refused. The Complainant proceeded to break Mr. Doe' property by smashing his 50 inch flat screen TV and then throwing a metal dining room chair at Mr. Doe. The Complainant then charged at Mr. Doe, got on top of him and then began to injure Mr. Doe by striking his face and head multiple times. Due to Mr. Doe' reasonable well-founded belief that the Complainant would not stop striking his head and serious injury could occur and the fact that the Complainant was the primary aggressor in the altercation, Mr. Doe has established entitlement to the statutory immunity provided by Fla. Stat. section 776.032.

WHEREFORE, the Defendant respectfully requests this Honorable Court grant this Motion to Dismiss, pursuant to the "Stand Your Ground" statute, and find the Defendant is immune from further prosecution dismissing the charges against him.

WRITING SAMPLE
KATHLEEN RALLO, ESQ.
Assistant Public Defender
Attorney for the Defendant

WRITING SAMPLE #3

WRITING SAMPLE #3 – (EXHIBITS EXCLUDED)

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

STATE OF FLORIDA,
Plaintiff,

CASE NO. 05-2018-CF- 054909-AXXX-XX

vs.

JOHN DOE,
Defendant.

MOTION TO DISMISS

COMES NOW, the DEFENDANT, JOHN DOE, by and through undersigned counsel pursuant and pursuant to Florida Constitution Article 1, Section 9, and Amendment 5 to the Constitution of the United States, moves to dismiss counts three, four, five, and six on the basis of violating the Defendant's due process rights by way of outrageous police misconduct in engaging in sentencing manipulation by setting up additional drug sales without any additional legitimate government interest in excess of what was necessary to prosecute the Defendant in the original sale listed in count one.

FACTUAL BACKGROUND

On August 16, 2018 Brevard County Sheriff's Office Agents Amick and Williams entered the 7 Days Convenience Store located in Cocoa, Florida as undercover officers. They were equipped with audio and video surveillance and were monitored by live surveillance as well. They made contact with a black male in the parking lot, requested a "40" and ultimately purchased 0.3 grams of cocaine in the amount of \$40.00. All evidence was preserved and uploaded.

On August 22, 2018 Brevard County Sheriff's Office Agents Amick and Williams entered the 7 Days Convenience Store located in Cocoa, Florida as undercover officers. They were equipped with audio and video surveillance and were monitored by live surveillance as well. They made contact with a black male in the parking lot, again requested a "40" and ultimately purchased 0.5 grams of cocaine in the amount of \$40.00. All evidence was preserved and uploaded.

On August 29, 2018 Brevard County Sheriff's Office Agents Amick and Williams entered the 7 Days Convenience Store located in Cocoa, Florida as undercover officers. They were equipped with audio and video surveillance and were monitored by live surveillance as well. They made contact with a black male in the parking lot, again requested a "40" and ultimately purchased 0.5 grams of cocaine in the amount of \$40.00. All evidence was preserved and uploaded.

Proper video and audio was captured during the first transaction thus not requiring more evidence for the arrest. There was no governmental purpose for proceeding with the subsequent transactions. There was no further investigation, inquiries or otherwise that would justify the future purchases.

ARGUMENT

The due process defense based upon governmental misconduct is an objective question of law for the trial court, as opposed to the subjective predisposition question submitted to the jury in the usual entrapment defense. *United States v. Graves*, 556 F.2d 1319 (5th Cir.1977), cert. denied, 435 U.S. 923, 98 S.Ct. 1485, 55 L.Ed.2d 516 (1978); *United States v. Quinn*, 543 F.2d 640 (8th Cir.1976). In *United States v. Russell*, 411 U.S. 423, 93 S.Ct. 1637, 36 L.Ed.2d 366 (1973), the Court appeared to recognize the due

process defense, regardless of the defendant's predisposition, where “the conduct of law enforcement agents is so outrageous that due process principles would absolutely bar the government from invoking judicial processes to obtain a conviction.” *Id.* at 431-32, 93 S.Ct. at 1642-43.

If the grounds for Downward Departure in *Johnson, supra* and *Steadman, supra* are based upon outrageous conduct of the officers in participating in sentence manipulation, then the same police egregious sentence manipulating behavior calls for a violation of the Defendant’s Due Process Rights and a dismissal of the subsequent sale charges under *Glosson, supra* because the collateral consequences of the subsequent sales if they ultimately become convictions go far beyond this one sentencing/one scoresheet. There are court costs associated with those charges, there are future sentencing enhancements that could be added based upon those charges (Habitual Felony Offender, etc).

The Court in *Williams v. State* 623 So.2d 462 (1993) discussed *Glosson*:

“In *State v. Glosson*, 462 So.2d 1082 (Fla.1985), this Court developed its own due process analysis based on article I, section 9 of the Florida Constitution. In *Glosson*, the State and an informant entered a contingent-fee agreement in which the informant would receive ten percent of all civil forfeitures resulting from criminal prosecutions in which the informant provided testimony and cooperation. *Id.* at 1083. As this Court stated:

We can imagine few situations with more potential for abuse of a defendant's due process right. The informant here had an enormous financial incentive not only to make criminal cases, but also to color his testimony or even commit perjury in pursuit of the contingent fee. The due process rights of all citizens require us to forbid criminal prosecutions based upon the testimony of vital state witnesses who have what amounts to a financial stake in criminal convictions.

Accordingly, we hold that a trial court may properly dismiss criminal charges for constitutional due process violations in cases where an informant stands to gain a contingent fee conditioned on cooperation and testimony in the criminal prosecution when that testimony is critical to a successful prosecution.” *Id*, supra.

In *State v. Glosson*, the Court ruled that governmental misconduct which violates the constitutional due process right of a defendant, regardless of that defendant's predisposition, requires the dismissal of criminal charges. Due process is a general principle of law that prohibits the government from obtaining convictions “brought about by methods that offend ‘a sense of justice.’” *Rochin v. California*, 342 U.S. 165, 173 (1952).

Actions like those committed by the officers and detectives with the Brevard County Sheriff's Office have been discussed in cases circling around sentence mitigation, particularly in regard to setting up excessive drug buys simply to enhance a defendant's sentence or exposure. These Courts have ruled that setting up the subsequent buys, instead of making the arrest, without a legitimate government purpose was done in bad faith and that it constituted outrageous conduct which rose to the level of qualifying those defendants for downward departure at their ultimate sentencing. In the instant case in taking those cases and that rationale one step further, it should not just be a “downward departure” basis but rather a dismissal of the subsequent sale charges so that they do not appear on his criminal history or cause subsequent collateral consequences to the Defendant.

Florida's courts first addressed the issue of sentence manipulation when dealing with multiple drug buys without an arrest in *State v. Steadman*, 827 So.2d 1022 (Fla. 3d DCA 2002). In *Steadman*, there were six transactions on six different dates; transactions

principally initiated by, and made exclusively to, undercover officers; transactions all for similar prices, substances, and quantities; and transactions all at the same location. *See* 827 So.2d at 1023–24. The court in *Steadman* reasoned that the legislature's purpose in enacting sentencing guidelines “is undermined when law enforcement is allowed discretion to determine what a criminal's sentence will be.” Finally, the court held that “**a trial court has discretion to impose a downward departure sentence when law enforcement allows a defendant to continue criminal activities for no reason other than to enhance his or her sentence.**” (emphasis added) *Steadman*, 827 So.2d at 1025.

The 2nd District Court of Appeal very recently discussed the multiple buy and officer conduct issue at length in *State v. Johnson* 224 So 3d 877, August 16, 2017. The decision in *Johnson* explained the test that has been established is: “was the sting operation continued only to enhance the defendant's sentence or did legitimate law enforcement reasons exist to support the police conduct, such as to determine the extent of the criminal enterprise, to establish the defendant's guilt beyond a reasonable doubt, or to uncover any co-conspirators?” *Id.* Here, the officers involved never took the investigation another step forward. They purchased the same product, the same amount, from the same person at the same location on three (3) separate occasions.

In *Johnson*, after a jury found Henry Johnson, Jr. guilty of four counts of sale of cocaine and two counts of sale of cannabis in violation of sections 893.13(1)(a)(1), and (1)(a)(2), Florida Statutes (2014), the trial court imposed concurrent downward departure sentences of ten months' jail on each count. Citing *State v. Steadman*, 827 So.2d 1022 (Fla. 3d DCA 2002), the court based the departure on its finding that **law enforcement officers engaged in sentence manipulation by making multiple purchases over the**

course of their sting operation for no reason other than to increase Johnson's

potential sentence. The State argued that because the officers did not admit to sentence manipulation it could not be used as grounds for downward departure. The court disagreed. *State v. Johnson*, 224 So 3d 877, August 16, 2017. In response the Court in *Johnson* said:

“First, contrary to the State's suggestion, the *Steadman* court did not limit its holding to scenarios where law enforcement officers candidly confess their intent to engage in sentence manipulation. To be sure, imposing such a standard would nearly eviscerate the doctrine and incentivize officers to develop pretextual excuses for behavior that would otherwise constitute sentence manipulation.”

In support for the Court’s findings for downward departure it found:

“Although the trial court observed that there was no testimony that the officers deliberately engaged in sentence manipulation, it determined that because legitimate law enforcement concerns did not exist, the downward departure was warranted as ‘the purpose obviously was to conduct these sales with this defendant, not pursue anyone else.’ The trial court emphasized the officer's failure to investigate any of the other suspects, and the fact that the officer admitted that he knew Johnson was simply an addict and not a mid-level dealer.” *Id.*

The crossover here between the due process argument and the sentence mitigation argument is the conduct of the officers. The point is, that if the police misconduct is so outrageous as to set aside convictions for sentencing purposes and should not be used to enhance that particular sentence, then it should be wholly dismissed under the Due Process theory so that it may not enhance future sentences by being convictions on a potential future scoresheet and/or a future sentencing enhancement. By ignoring the scoresheet points at the one sentencing you are not curing the police misconduct. The defendant still faces court costs, costs of prosecution and defense and future potential sentencing enhancements by having multiple felony convictions (i.e. could result in the

defendant being labeled HFO and will enhance future sentences by being a prior conviction).

The theories in *Johnson* and *Steadman* are that the defendant should be sentenced as if the behavior of the officers had not occurred, thus ignoring, for purposes of downward departing on a scoresheet, the subsequent sale charges, arguably because the behavior of the officers was so outrageous. The same theory must then be used when looking at the same officer behavior in applying that to the Due Process standards. If the behavior isn't valid to enhance the current sentence, then it shouldn't be valid to constitute a conviction at all. It shouldn't be valid to enhance future sentences as a prior conviction on potential future scoresheets, to enhance a Defendant potentially as HFO for the subsequent convictions, to subject the defendant to multiple court costs etc... As such, before even getting to the sentencing phase, this court needs to look at the officer's behavior in moving forward with subsequent sales, where no legitimate government interest existed to do so.

This Court needs to determine if the officer's behaviors were in fact outrageous as outlined in *Johnson* and *Steadman* and then it must determine if those subsequent sale charges should be dismissed and not prosecuted as subsequent crimes which ultimately would result in convictions. The actions in the subsequent sales were done in bad faith with the sheer intent to impact the Defendant's ultimate sentence. The charges in the subsequent counts should be dismissed as a result of the violation of the Defendant's due process rights.

WHEREFORE, the Defendant respectfully requests that this Honorable Court Dismiss counts two through six on the basis of outrageous police misconduct that violates the defendant's due process rights.

WRITING SAMPLE
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