

**APPLICATION FOR NOMINATION TO THE       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:** Robin L Hutcheson **Social Security No.:** REDACTED

**Florida Bar No.:** 0026246 **Date Admitted to Practice in Florida:** 9/18/2006

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 State Attorney, 7<sup>th</sup> Judicial Circuit, Assistant State Attorney  
251 N Ridgewood Avenue, Daytona Beach, FL 32114  
386-239-7710

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 Volusia County. (April 2020- present)

Residence in Florida: 42 years

REDACTED

hutchesonr@sao7.org

3. State your birthdate and place of birth.

REDACTED. Daytona Beach, FL

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.

Member of the Florida Bar since September 18, 2006.

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

No.

**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).

Barry University School of Law  
2003- 2006  
Juris Doctorate, May 20, 2006  
Class Standing: 15/92  
G.P.A.: 3.16

Florida State University  
2000-2003  
Bachelor of Science, Psychology, August 2003  
Class Standing: unknown  
G.P.A.: 3.5

Spruce Creek High School  
1996-2000  
High School Diploma

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.

Kappa Alpha Theta, 2000-2001

**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.

Office of the State Attorney, 7<sup>th</sup> Judicial Circuit  
 251 N. Ridgewood Avenue, Daytona Beach, FL 32114  
 Assistant State Attorney, August 1, 2006 - present

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.

The nature of my current practice is criminal law. I am currently an Assistant State Attorney with the Office of the State Attorney, 7<sup>th</sup> Judicial Circuit. As an intake attorney, I am responsible for reviewing and making filing decisions on criminal cases originating from the Daytona Beach Police Department and the Edgewater Police Department. When making filing decisions, I have to think from the prosecutorial position, defense position, and the judicial position I have to decide if there is sufficient evidence to file charges. I also have to look at any potential legal issues that would prohibit charges being filed. Additionally, I review search and arrest warrants for officers. I have been in this assignment since September 17, 2018.

I am on a rotation to also handle Baker Act hearings once a month and first appearance hearings a few times a year.

Prior to becoming an intake attorney, I was on a trial docket. I have been previously been assigned to Drug Unit handling trafficking and sale cases from intake through resolution either by plea or trial. I was also previously assigned to the Career Criminal Unit handling serious felony cases, which included sexual offenses, prison releasee reoffenders, habitual felony offenders, and offenses that fall under 10-20-Life. In the Career Criminal Unit I also handled the cases from intake through resolution through trial or plea.

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	<u>          </u> %
State Administrative	<u>          </u> %		
State Other	<u>          </u> %		
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:

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

Jury?	<u>35</u>	Non-jury?	<u>Approximately 15</u>
Arbitration?	<u>          </u>	Administrative Bodies?	<u>          </u>
Appellate?	<u>          </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.

N/A

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.*

Joshua Mott  
386-822-5770  
[mott.joshua@pd7.org](mailto:mott.joshua@pd7.org)  
2014-101332CFDL

Courtney Davison  
386-822-5770  
[davison.courtney@pd7.org](mailto:davison.courtney@pd7.org)  
2013-102996CFDL

Danny Philpott  
386-873-2884  
[danny@philpott-law.com](mailto:danny@philpott-law.com)  
2012-002264CFAWS

Samantha Zaleski  
386-801-5655  
[samantha.zaleski@dot.state.fl.us](mailto:samantha.zaleski@dot.state.fl.us)  
2012-002236CFAWS

Steven Burk  
954-295-2972  
[burkslaw@gmail.com](mailto:burkslaw@gmail.com)  
2011-003245CFAWS

Christine Aung  
386-279-7070  
[christine.aung@aunglaw.com](mailto:christine.aung@aunglaw.com)  
2011-002777CFAWS

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.*

N/A

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.

September 2018-present, I do not appear in Court on a regular basis. I appear for Baker Act Hearings every four weeks. Prior to September 2018, I appeared in Court approximately 20 times a month due to being assigned to a trial division.

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.

State v. Jermaine Littles 2009-003275CFAWS, 68 So.3d 976. A Motion to Suppress was filed by the defense attorney. A hearing was held on the Motion to Suppress and it was granted by the Court. The State appealed the ruling and that ruling was reversed by the 5th District Court of Appeal. This case was significant to me because it was the first time I had appealed a ruling and that appeal resulted in case law being made. David Damore was opposing Counsel during the suppression hearing. The suppression hearing was heard in front of Judge James R. Clayton. David Damore, 386-281-5454, david@daviddamorelaw.com

State v. Jason Tucker 2010-001324CFAWS. This case involved an officer involved shooting. This case was significant to me because it was the first officer involved shooting case I handled. I was assigned this case shortly after an Information was filed and prosecuted the case until it was resolved by a plea. Through the pendency of this case I learned how FDLE handles officer involved shootings and what the officer is required to do as a result of the shooting. In participating in the depositions and also meeting with the SWAT Team, I learned a lot about SWAT procedures and what the officers experience. At the time of the plea and sentence Nicole

Jordan was opposing counsel and Judge Randall H. Rowe presided.  
Nicole Jordan, 941-388-8232, nicole@nicole-jordan.com

State v. Lincoln Woods 2010-000670CFAWS. This case is significant to me due to the facts of the case and the victim. This case involved a 65 year old woman being forced into her own car at gunpoint and being beaten in the head with a the firearm. The victim was able to force her way out of the moving car and the defendants fled in her vehicle. I spent countless hours on the phone with the victim explaining the court procedures and hearings. During my phone conversations with the victim I learned how her life completely changed as a result of this case and how much just having someone listen to her was important. This case resolved with an open plea to Judge James R. Clayton with Samantha Zaleski as opposing counsel.  
Samantha Zaleski, 386-801-5655, Samantha.zaleski@dot.state.fl.us

State v. Tony Owens 2010-034976CFAES. This case was a First Degree Murder case. I was asked by another prosecutor to second chair the case with him. This case was significant to me because it was the first homicide case I was able to be involved with. Ed Davis was the prosecutor I tried the case with. Judge Margaret Hudson was the presiding judge. Fernando Iglesias was opposing counsel.  
Fernando Iglesias, 386-860-1140, iglesiasesquire@yahoo.com

State v. Thomas Fleming 2012-002672CFAWS and 2012-002660CFAWS. This defendant was charged with five counts of Sexual Battery on Person less than 12 Years of Age and Lewd and Lascivious Exhibition on a Person Less than 16 in these two cases. These cases the first sexually motivated case I was assigned. The prosecution of these cases depended on being successful at a Motion to Suppress previously filed. The suppression issue involved the search of a cell phone and whether the defendant had the standing to challenge the search of the cell phone. The search of the cell phone was also during the time when the case law was not fully settled on whether an officer could search through a cell phone incident to arrest. The suppression was denied. The defendant was unsuccessful on his appeal and ultimately received five life sentences. The case was presided over by Judge Margaret Hudson with John Revis as opposing counsel.  
John Revis, 386-253-3677, john@johnrevispa.com

State v. Jarod Hartshorne 2013-102996CFDL. This case was Sexual Battery on a Person less than 12 Years of Age. This case was significant to me because it was the first time I worked with a young child who had to testify in a trial. This case was tried in front of Judge Margaret Hudson with Courtney Davison as opposing counsel.  
Courtney Davison, 386-822-5770, davison.courtney@pd7.org

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.

See attached.

### **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.

No

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.

Seventh Circuit Judicial Nominating Commission

April 2012. I was not certified to the Governor's Office.

November 2017. I was not certified to the Governor's Office.

December 2017. I was not certified to the Governor's Office.

March 2022. I was certified to the Governor's Office.

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:

- (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.

Robin Lynne Designs, LLC.

I am the manager of Robin Lynne Designs, LLC. It is a sole person LLC for the purpose of designing digital art to be listed for sale on my own website and Etsy. I would dissolve the LLC if necessary.

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.

Robin Lynne Designs, LLC.  
November 29, 2017 – present  
Approximately \$200

Zyia Active, LLC  
Independent Representative  
August 2021 – present  
\$5,867.92

#### **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.

N/A

#### **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.

N/A

- 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.

N/A

- 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.

Volusia County Bar Association, approximately 2007- present

- 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.

Junior Service League of DeLand (active member)

April 2011- March 2017, Board Member (Treasurer) April 2015 – March 2017

Junior Service League of DeLand (sustaining member)

March 2017 – present

Civic Ballet of Volusia County, Recording Secretary

September 2015 – present

- 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.

I was an active member of the Junior Service League of DeLand from March of 2011-March of 2017. I am now a sustaining member of the League. Junior Service League of DeLand restricts its membership to females. JSL of DeLand began in 1929 as an all female organization. The League does a great amount of community service, fundraising, and charity work throughout the year. Almost every penny the League raises goes back into the community through service projects or grant requests.

As a sustaining member of JSL, I do not have the same requirements as when I was an active member. Sustaining members are required to pay dues and can chose to attend the two Sustainer meetings a year. Sustaining members have the ability to cover an active members duties at or attend any events the active members hold. I would like to continue as a Sustaining Member of the Junior Service League of DeLand.

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

N/A.

45. Please describe any hobbies or other vocational interests.

Hand lettering, Surface Pattern Design and Graphic Design, Jogging, Paddle boarding

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: Robin Lynn

LinkedIn: Robin Hutcheson

Instagram: @robinlh81 and @robinlynnedesigns and @leggingsandlattes\_robin

Tik Tok: @robinlynnedesigns and @tiredmommyjd

Twitter: @tiredmommyjd

Website: [www.robinlynnedesigns.com](http://www.robinlynnedesigns.com)

Etsy: <https://etsy.me/2USZZ43>

## **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.

Single

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.

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.

No

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.

Yes

## 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.

Throughout the course of my career I have come into contact with many people who are very interested in my job. Many of these people themselves have had to appear in court, or have had friends or family members who have had to appear in court for a variety of reasons. Positive or negative, many the comments I have heard have been about how their experience was with the Judge. These experiences seem to affect their opinions of the court system. During my time with the State Attorney's Office I have been assigned to six separate judges. I have also had the occasion to appear in front of many other judges in this circuit through first appearances or conflict cases or covering judges. In seeing the different styles of each judge and listening to



comments I have heard from different people, I feel as though I have learned qualities that are important for a judge to possess.

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.

Although my legal experience has been limited to criminal prosecution, I feel as though I have the ability to see both sides of cases and can be fair minded. In reviewing cases at the intake phase, I have to evaluate the strengths and weakness and possible defenses to the cases to determine if an Information should be filed. I try to make fair offers on cases, taking into account the facts of the cases, the Defendant's criminal history or lack thereof, and information gained from defense counsel or learned through the course of the pending case. I am hardworking and accept that the job does not necessarily end when the courthouse closes.

## 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.

R.J. Larizza  
251 N. Ridgewood Avenue  
Daytona Beach, FL 32114  
Larizzar@sao7.org

Honorable James R. Clayton  
101 N. Alabama Avenue  
DeLand, FL 32724  
386-740-5270  
jclayton@circuit7.org

Honorable Raul Zambrano  
PO Box 290034  
Port Orange, FL 32129  
386-257-6097  
N8101d@aol.com

Honorable Randall H. Rowe, III  
101 N. Alabama Avenue  
DeLand, FL 32724  
386-736-5946

[rrowe@circuit7.org](mailto:rrowe@circuit7.org)

Honorable Matthew Foxman  
101 N. Alabama Avenue  
DeLand, FL 32724  
386-626-6590  
[mfoxman@circuit7.org](mailto:mfoxman@circuit7.org)

Honorable Kathryn Weston  
101 N. Alabama Avenue  
DeLand, FL 32724  
386-943-7060  
[kweston@circuit7.org](mailto:kweston@circuit7.org)

Amy Walker  
101 N. Alabama Avenue  
DeLand, FL 32724  
386-822-6400  
[walkera@sao7.org](mailto:walkera@sao7.org)

Erica Kane  
251 N. Ridgewood Avenue  
Daytona Beach, FL 32114  
386-239-7710  
[kaneec@sao7.org](mailto:kaneec@sao7.org)

Christopher Walker  
251 N. Ridgewood Avenue  
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Shannon Peters  
1361 Ohio Ave N  
Live Oak, FL 32064  
386-688-5054  
[Shannon.peters@gal.fl.gov](mailto:Shannon.peters@gal.fl.gov)

**CERTIFICATE**

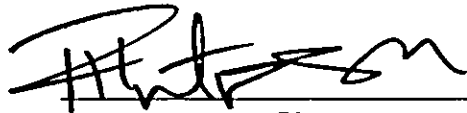
I have read the foregoing questions carefully and have answered them truthfully, fully and completely. I hereby waive notice by and authorize The Florida Bar or any of its committees, educational and other institutions, the Judicial Qualifications Commission, the Florida Board of Bar Examiners or any 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 5 day of January, 2024.

Rubin L Hutcherson

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.

**Current Year-To-Date:** \$0

**Last Three Years:** \$99,999.96 (2023) \$88,982.74 (2022) \$76,708.34 (2021)

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.

**Current Year-To-Date:** \$0

**Last Three Years:** \$99,999.96 (2023) \$88,982.74 (2022) \$76,708.34(2021)

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:** \$0

**Last Three Years:** \$871.64 (2023, Zvia Active and Robin Lynne Designs, LLC)  
\$2,677.69 (2022) \$2,318.59 (2021)

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:** \$0 (Zvia Active, LLC)

**Last Three Years:** \$971.64 (2023, Zvia Active and Robin Lynne Designs, LLC)

\$2,677.69 (2022) \$2,318.59 (2021)

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:** \$0 (Zvia Active, LLC)

**Last Three Years:** \$971.64 (2023, Zvia Active and Robin Lynne Designs, LLC)

\$2,677.69 (2022)

\$2,318.59 (2021)

**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 12/31, 2023 was \$ 315,818.85.

**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 \$ 50,000

**ASSETS INDIVIDUALLY VALUED AT OVER \$1,000:**

DESCRIPTION OF ASSET (specific description is required – see Instructions p. 3)

VALUE OF ASSET

Florida Retirement Pension Plan	\$25,217.27
State of Florida Deferred Compensation Plan	\$9,616.34
Truist Money Market Account	\$29,008.08
Truist Checking Account	\$2,986.02
Truist Children Savings Accounts	\$5,356.64
Florida Prepaid Accounts	\$19,964.74
<b>REDACTED</b>	\$410,700

**PART C - LIABILITIES**

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

NAME AND ADDRESS OF CREDITOR

AMOUNT OF LIABILITY

Mr.Cooper, 800 State Highway 121 Bypass, Lewisville, TX 75067 (mortgage)	\$237,030.24

JOINT AND SEVERAL LIABILITIES NOT REPORTED ABOVE:

NAME AND ADDRESS OF CREDITOR

AMOUNT OF LIABILITY

N/A	

--	--

**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	200 E Gaines Street, Tallahassee, FL 32399	\$115,500

**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
N/A			

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

	BUSINESS ENTITY #1	BUSINESS ENTITY #2	BUSINESS ENTITY #3
NAME OF BUSINESS ENTITY	N/A		
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

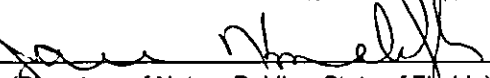
**OATH**

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 Volusia

Sworn to (or affirmed) and subscribed before me this 5<sup>th</sup> day of Jan, 2024 by Robin Hutcheson

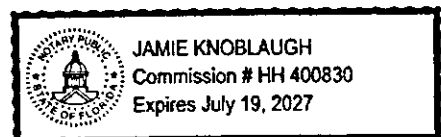
  
 (Signature of Notary Public—State of Florida)

Jamie Knoblauch  
 (Print, Type, or Stamp Commissioned Name of Notary Public)

Personally Known  OR Produced Identification

Type of Identification Produced \_\_\_\_\_

  
 SIGNATURE





## INSTRUCTIONS FOR COMPLETING FORM 6:

**PUBLIC RECORD:** The disclosure form and everything attached to it is a public record. Your Social Security Number is not required and you should redact it from any documents you file. If you are an active or former officer or employee listed in Section 119.071(4)(d), F.S., whose home address is exempt from disclosure, the Commission is required to maintain the confidentiality of your home address if you submit a written request for confidentiality.

### PART A – NET WORTH

Report your net worth as of December 31 or a more current date, and list that date. This should be the same date used to value your assets and liabilities. In order to determine your net worth, you will need to total the value of all your assets and subtract the amount of all of your liabilities. Simply subtracting the liabilities reported in Part C from the assets reported in Part B will not result in an accurate net worth figure in most cases.

To total the value of your assets, add:

- form;
- (1) The aggregate value of household goods and personal effects, as reported in Part B of this form;
  - (2) The value of all assets worth over \$1,000, as reported in Part B; and
  - (3) The total value of any assets worth less than \$1,000 that were not reported or included in the category of “household goods and personal effects.”

To total the amount of your liabilities, add:

- (1) The total amount of each liability you reported in Part C of this form, except for any amounts listed in the “joint and several liabilities not reported above” portion; and,
- (2) The total amount of unreported liabilities (including those under \$1,000, credit card and retail installment accounts, and taxes owed).

### PART B – ASSETS WORTH MORE THAN \$1,000

#### HOUSEHOLD GOODS AND PERSONAL EFFECTS:

The value of your household goods and personal effects may be aggregated and reported as a lump sum, if their aggregate value exceeds \$1,000. The types of assets that can be reported in this manner are described on the form.

#### ASSETS INDIVIDUALLY VALUED AT MORE THAN \$1,000:

Provide a description of each asset you had on the reporting date chosen for your net worth (Part A), that was worth more than \$1,000 and that is not included as household goods and personal effects, and list its value. Assets include: interests in real property; tangible and intangible personal property, such as cash, stocks, bonds, certificates of deposit, interests in partnerships, beneficial interest in a trust, promissory notes owed to you, accounts received by you, bank accounts, assets held in IRAs, Deferred Retirement Option Accounts, and Florida Prepaid College Plan accounts. You are not required to disclose assets owned solely by your spouse.

#### How to Identify or Describe the Asset:

— Real property: Identify by providing the street address of the property. If the property has no street address, identify by describing the property’s location in a manner sufficient to enable a member of the public to ascertain its location without resorting to any other source of information.

— Intangible property: Identify the type of property and the business entity or person to which or to whom it relates. Do not list simply “stocks and bonds” or “bank accounts.” For example, list “Stock (Williams Construction Co.),” “Bonds (Southern Water and Gas),” “Bank accounts(First

National Bank),” “Smith family trust,” Promissory note and mortgage (owed by John and Jane Doe).”

#### **How to Value Assets:**

- Value each asset by its fair market value on the date used in Part A for your net worth.
  
- Jointly held assets: If you hold real or personal property jointly with another person, your interest equals your legal percentage of ownership in the property. However, assets that are held as tenants by the entirety or jointly with right of survivorship must be reported at 100% of their value.
  
- Partnerships: You are deemed to own an interest in a partnership which corresponds to your interest in the equity of that partnership.
  
- Trusts: You are deemed to own an interest in a trust which corresponds to your percentage interest in the trust corpus.
  
- Real property may be valued at its market value for tax purposes, unless a more accurate appraisal of its fair market value is available.
  
- Marketable securities which are widely traded and whose prices are generally available should be valued based upon the closing price on the valuation date.
  
- Accounts, notes, and loans receivable: Value at fair market value, which generally is the amount you reasonably expect to collect.
  
- Closely-held businesses: Use any method of valuation which in your judgment most closely approximates fair market value, such as book value, reproduction value, liquidation value, capitalized earnings value, capitalized cash flow value, or value established by “buy-out” agreements. It is suggested that the method of valuation chosen be indicated in a footnote on the form.
  
- Life insurance: Use cash surrender value less loans against the policy, plus accumulated dividends.

### **PART C—LIABILITIES**

#### **LIABILITIES IN EXCESS OF \$1,000:**

List the name and address of each creditor to whom you were indebted on the reporting date chosen for your net worth (Part A) in an amount that exceeded \$1,000 and list the amount of the liability. Liabilities include: accounts payable; notes payable; interest payable; debts or obligations to governmental entities other than taxes (except when the taxes have been reduced to a judgment); and judgments against you. You are not required to disclose liabilities owned *solely* by your spouse.

You do not have to list on the form any of the following: credit card and retail installment accounts, taxes owed unless the taxes have been reduced to a judgment), indebtedness on a life insurance policy owned to the company of issuance, or contingent liabilities. A “contingent liability” is one that will become an actual liability only when one or more future events occur or fail to occur, such as where you are liable only as a partner (without personal liability) for partnership debts, or where you are liable only as a guarantor, surety, or endorser on a promissory note. If you are a “co-maker” on a note and have signed as being jointly liable or jointly and severally liable, then this is not a contingent liability.

#### **How to Determine the Amount of a Liability:**

- Generally, the amount of the liability is the face amount of the debt.
  
- If you are the only person obligated to satisfy a liability, 100% of the liability should be listed.
  
- If you are jointly and severally liable with another person or entity, which often is the case where more than one person is liable on a promissory note, you should report here only the portion of the liability that corresponds to your percentage of liability. *However*, if you are jointly and severally liable for a debt relating to property you own with one or more others as tenants by the entirety or jointly, with right of survivorship,

report 100% of the total amount owed.

— If you are only jointly (not jointly and severally) liable with another person or entity, your share of the liability should be determined in the same way as you determined your share of jointly held assets.

**Examples:**

— You owe \$10,000 to a bank for student loans, \$5,000 for credit card debts, and \$60,000 with your spouse to a saving and loan for the mortgage on the home you own with your spouse. You must report the name and address of the bank (\$10,000 being the amount of that liability) and the name and address of the savings and loan (\$60,000 being the amount of this liability). The credit cards debts need not be reported.

— You and your 50% business partner have a \$100,000 business loan from a bank and you both are jointly and severally liable. Report the name and address of the bank and \$50,000 as the amount of the liability. If your liability for the loan is only as a partner, without personal liability, then the loan would be a contingent liability.

**JOINT AND SEVERAL LIABILITIES NOT REPORTED ABOVE:**

List in this part of the form the amount of each debt, for which you were jointly and severally liable, that is not reported in the “Liabilities in Excess of \$1,000” part of the form. Example: You and your 50% business partner have a \$100,000 business loan from a bank and you both are jointly and severally liable. Report the name and address of the bank and \$50,000 as the amount of the liability, as you reported the other 50% of the debt earlier.

**PART D – INCOME**

As noted on the form, you have the option of either filing a copy of your latest federal income tax return, including all schedules, W2's and attachments, with Form 6, or completing Part D of the form. If you do not attach your tax return, you must complete Part D.

**PRIMARY SOURCES OF INCOME:**

List the name of each source of income that provided you with more than \$1,000 of income during the year, the address of that source, and the amount of income received from that source. The income of your spouse need not be disclosed; however, if there is a joint income to you and your spouse from property you own jointly (such as interest or dividends from a bank account or stocks), you should include all of that income.

“Income” means the same as “gross income” for federal income tax purposes, even if the income is not actually taxable, such as interest on tax-free bonds. Examples of income include: compensation for services, gross income from business, gains from property dealings, interest, rents, dividends, pensions, IRA distributions, distributive share of partnership gross income, and alimony, but not child support. Where income is derived from a business activity you should report that income to you, as calculated for income tax purposes, rather than the income to the business.

**Examples:**

— If you owned stock in and were employed by a corporation and received more than \$1,000 of income (salary, commissions, dividends, etc.) from the company, you should list the name of the company, its address, and the total amount of income received from it.

— If you were a partner in a law firm and your distributive share of partnership gross income exceeded \$1,000, you should list the name of the firm, its address, and the amount of your distributive share.

— If you received dividend or interest income from investments in stocks and bonds, list only each individual company from which you received more than \$1,000. Do not aggregate income from all of these investments.

— If more than \$1,000 of income was gained from the sale of property, then you should list as a source of income the name of the purchaser, the purchaser's address, and the amount of gain from the sale. If the purchaser's

identity is unknown, such as where securities listed on an exchange are sold through a brokerage firm, the source of income should be listed simply as “sale of (name of company) stock,” for example.

— If more than \$1,000 of your income was in the form of interest from one particular financial institution (aggregating interest from all CD’s, accounts, etc., at that institution), list the name of the institution, its address, and the amount of income from that institution.

#### **SECONDARY SOURCE OF INCOME:**

This part is intended to require the disclosure of major customers, clients, and other sources of income to businesses in which you own an interest. It is not for reporting income from second jobs. That kind of income should be reported as a “Primary Source of Income.” You will *not* have anything to report *unless*:

- (1) You owned (either directly or indirectly in the form of an equitable or beneficial interest) during the disclosure period, more than 5% of the total assets or capital stock of a business entity (a corporation, partnership, limited partnership, LLC, proprietorship, joint venture, trust, firm, etc., doing business in Florida); and
- (2) You received more than \$1,000 in gross income from that business entity during the period.

If your ownership and gross income exceeded the two thresholds listed above, then for that business entity you must list every source of income to the business entity which exceeded 10% of the business entity’s gross income (computed on the basis of the business entity’s more recently completed fiscal year), the source’s address, the source’s principal business activity, and the name of the business entity in which you owned an interest. You do not have to list the amount of income the business derived from that major source of income.

Examples:

- You are the sole proprietor of a dry cleaning business, from which you received more than \$1,000 in gross income last year. If only one customer, a uniform rental company, provided more than 10% of your dry cleaning business, you must list the name of your business, the name of the uniform rental company, its address, and its principal business activity (uniform rentals).
- You are a 20% partner in a partnership that owns a shopping mall and your gross partnership income exceeded \$1,000. You should list the name of the partnership, the name of each tenant of the mall that provided more than 10% of the partnership’s gross income, the tenant’s address and principal business activity.

#### **PART E – INTERESTS IN SPECIFIED BUSINESS**

The types of businesses covered in this section include: state and federally chartered banks; state and federal savings and loan associations; cemetery companies; insurance companies; mortgage companies, credit unions; small loan companies; alcoholic beverage licensees; pari-mutuel wagering companies; utility companies; and entities controlled by the Public Service Commission; and entities granted a franchise to operate by either a city or a county government.

You are required to make this disclosure if you own or owned (either directly or indirectly in the form of an equitable or beneficial interest) at any time during the disclosure period, more than 5% of the total assets or capital stock of one of the types of business entities listed above. You also must complete this part of the form for each of these types of business for which you are, or were at any time during the year an officer, director, partner, proprietor, or agent (other than a resident agent solely for service of process).

If you have or held such a position or ownership interest in one of these types of businesses, list: the name of the business, its address and principal business activity, and the position held with the business (if any). Also, if you own(ed) more than a 5% interest in the business, as described above, you must indicate that fact and describe the nature of your interest.

## 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: January 5, 2024

JNC Submitting To: Seventh Judicial Circuit Nominating Commission

Name (please print): Robin L. Hutcheson

Current Occupation: Assistant State Attorney

Telephone Number: 386-239-7710 Attorney No.: 0026246

Gender (check one):             Male     Female

Ethnic Origin (check one):     White, non-Hispanic  
    Hispanic  
    Black  
    American Indian/Alaskan Native  
    Asian/Pacific Islander

County of Residence: Volusia

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.

Robin L Hutcherson

Printed Name of Applicant



Signature of Applicant

Date: 1/5/24

**IN THE CIRCUIT COURT, SEVENTH JUDICIAL CIRCUIT  
IN AND FOR VOLUSIA COUNTY, FLORIDA**

**STATE OF FLORIDA**

**CASE NO.: 2011-02385CFAWS  
DIVISION: 08**

**VS.**

**WILLIE F SMITH /  
DEFENDANT**

**STATE'S MEMORANDUM IN SUPPORT OF DENIAL OF THE MOTION TO  
SUPPRESS**

COMES NOW, The State of Florida, by and through the undersigned Assistant State Attorney and files this Memorandum in Support of the Denial of the Motion to Suppress.

On March 9, 2012 a hearing was held in the above styled cause on the Defendant's Motion to Suppress. Sgt. Thomas Dane, of the Volusia County Sheriff's Office, testified that he was on patrol in the area of the intersection of Parsons and Vermont, in the county area of Volusia County around 9:00 p.m. on August 19, 2011. Sgt. Dane testified that while on patrol he turned down Vermont Avenue and encountered the Defendant's vehicle and another vehicle blocking the roadway making it impossible for him to proceed down the street. Per the testimony of Sgt. Dane the Defendant's vehicle was stopped in the roadway in front of his lane of travel with another vehicle also stopped in roadway parallel to the Defendant's vehicle. Sgt. Dane was unable to drive down the street due to the two vehicles blocking the roadway.

Sgt. Dane testified that he stopped and parked his vehicle and began to approach the vehicles parked in the roadway. Per his testimony, after he stopped his patrol car, Sgt. Dane stated that the vehicle parked parallel to the Defendant's vehicle drove away either while Sgt. Dane was exiting his patrol car or while he was walking up to the two cars. Sgt. Dane testified

that he approached what later turned out to be the Defendant's vehicle for violation of Florida Statute 316.194 and for well-being purposes, stating he was unsure if there had been an accident or something that may require police assistance.

Sgt. Dane testified that upon approaching the Defendant's vehicle he told the Defendant of why he was being contacted and asked for his driver's license. Due to the Defendant's statements and subsequent actions, which were testified to during the hearing on March 9, 2012, the defendant was arrested and charged with various violations of Florida Statutes.

During the hearing, the State submitted Florida Statute 316.194 as the basis for the traffic stop Sgt. Dane conducted. Defense Counsel submitted a Memorandum, case law, argument that the Defendant was not in violation of the statute, and that the statute does not apply when only a law enforcement vehicle is affected by the traffic violation. On March 16, 2012, Defense Counsel submitted another Memorandum and case law.

In support of the Defendant's argument, Defense Counsel submitted *State v. Fitzgerald*, 5 Fla. L. Weekly Supp. (Fla. 17<sup>th</sup> Jud. Cir. Cty. Ct. Aug. 18, 1997) (see attached copy). The State submits this case is not binding on this Court and is factually distinguishable. In *Fitzgerald*, the Defendant was momentarily stopped outside an open local establishment in the lane closest to the curb. There was no testimony that the defendant was actually obstructing traffic, or that he remained stopped for more than a few seconds. In the present case, Sgt. Dane testified that the Defendant's vehicle and the other vehicle were stopped/parked on the roadway preventing him being able to drive down the street and that he had to actually stop his vehicle and exit.



Defense Counsel also cited *Underwood v. State*, 801 So.2d. 200 (Fla. 4<sup>th</sup> DCA 2001). The State submits that *Underwood* is also factually distinguishable from the case at hand. In *Underwood*, the Defendant was stopped for violation of Florida Statute 316.2045, not 316.194. In *Underwood*, the Defendant was stopped in the middle of the roadway and while the deputy approached he had to slow but not come to a complete stop before the Defendant's car drove on. The Court found that as soon as the officer's vehicle approached, appellant moved forward, allowing the officer to continue his travel along the street without having to stop or drive around appellant's vehicle. Although the deputy had to slow down, there was no indication that his "normal use" of the street was hindered or endangered by appellant's conduct.

Per the testimony of Sgt. Dane, due to the actions of the Defendant and the other vehicle he was forced to actually stop his vehicle and was unable to drive down the street. Even if the Defendant's vehicle had been the only vehicle in the roadway, Sgt. Dane still would have had to drive around the Defendant's vehicle due to that vehicle being in his lane of travel. The State submits that unlike *Underwood*, Sgt. Dane's "normal use" of the street was hindered by the Defendant's actions. The State also submits there is no language in *Underwood* that holds that law enforcement vehicle should not be treated the same as any other vehicle on the road.

The Defense also argues *Reid v. State*, 898 So.2d 248 (Fla. 4<sup>th</sup> DCA 2005), in support of their argument that a law enforcement vehicle being hindered by a traffic vehicle insufficient to support a traffic stop. *Reid* also relies on Florida Statute 316.0245. In *Reid*, the Defendant parked his vehicle in the roadway near an intersection which caused another vehicle to drive around the defendant's vehicle. Although in *Reid* there was a vehicle other than a law enforcement vehicle affected by the Defendant's actions, it does not state that a law enforcement officer shall be treated any differently than other vehicles on the road.

In the second Memorandum submitted, the defense cites to *State v. Kullian*, 11 Fla. L. Weekly Supp. 355a (Fla. 16<sup>th</sup> Jud. Cir. (cty ct.)). Per the Defense's Memorandum the court held the "fact that lane change affected following trooper's driving in an insignificant way, by requiring trooper to brake lightly, cannot justify stop." The State would submit this case is not binding on this court and also would be factually different. Sgt. Dane was affected in a significant way. Sgt. Dane was unable to drive down the street due to the vehicles blocking the road way and was actually forced to stop and exit his vehicle.

The State submits there is nothing in *Fitzgerald*, *Underwood*, or *Reid*, which differentiates law enforcement vehicles from other vehicles on the roadway which may be affected by traffic violations. Sgt. Dane testified that the Defendant violated Florida Statute 316.194 which makes reference to other vehicles. Sgt. Dane's vehicle was affected by the Defendant's violation of Florida Statute 316.194 just as any other vehicle would have been traveling down Vermont Avenue. In the reading of Florida Statute 316.194, the State submits there is no language which precludes law enforcement vehicles from being affected by violations of this statute (please see attached copy of Florida Statute 316.194).

Defense Counsel asserts in his second memorandum that the case law in regard to failure to use a turn signal before changing lanes supported the proposition of law in that where an officer is affected by a driver's failure to use his traffic signal it does not constitute a traffic violation. To the State's knowledge the Defense has not submitted any case law to support this contention and the State was unable to find any case law with that holding. The State ask the Court to review the attached copies of Florida Statute 316.155, *State v. Hurd*, 958 So.2d 600 (Fla. 4<sup>th</sup> DCA 2007), *State v. Riley*, 638 so.2d 507 (Fla. 1994), and *Frierson v. State*, 851 so.2d 293 (Fla. 4<sup>th</sup> DCA 2003) (quashed on other grounds). The State submits that in reading Florida

Statute 316.155 and the cases there is nothing that differentiates law enforcement vehicles from other vehicles on the road.

In Defense Counsel's second memorandum, he asks the Court to look at the Disorderly Conduct cases and hold that these cases are in line with law enforcement vehicles not being other traffic. The State submits that the Disorderly Conduct statute does make an attempt to distinguish the public from law enforcement by including the word public in its language (please see attached copy of Florida Statute 877.03).

Defense Counsel has also asserted that the Defendant was not in violation of Florida Statute 316.194 because the stop was in the city limits of DeLand. Sgt. Dane testified that he was on patrol in the area of the intersection of Parsons and Vermont and the traffic stop occurred approximately in the 300 block of West Vermont Avenue. That intersection is not within the city limits of DeLand, but in the unincorporated area of Volusia County. If the Court needs clarification on this issue, the State will make Sgt. Dane available to provide clarification. Please also see attached map showing that the intersection of Parsons and Vermont and the 300 block of West Vermont Avenue are outside the city limits of DeLand.

WHEREFORE, the State prays this Honorable Court will deny the Motion to Suppress and uphold the traffic stop and all evidence obtained thereafter.

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ROBIN L HUTCHESON  
ASSISTANT STATE  
ATTORNEY  
FLORIDA BAR NO: 0026246  
101 NORTH ALABAMA  
AVENUE  
DELAND, FL 32724  
PHONE: (386) 822-6400

I HEREBY CERTIFY that a true and correct copy of the foregoing Motion has been furnished by hand delivery/U. S. Mail to CARLUS HAYNES, 5401 SOUTH KIRKMAN ROAD, SUITE 620, ORLANDO, FL 32819

this \_\_\_\_\_ day of March, 2012.

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ROBIN L HUTCHESON  
ASSISTANT STATE ATTORNEY

**IN THE CIRCUIT COURT, SEVENTH  
JUDICIAL CIRCUIT, IN AND FOR  
VOLUSIA COUNTY, FLORIDA**

**STATE OF FLORIDA**

**VS.**

**CASE NO.: 2009-02104CFAWS  
JUDGE JAMES R CLAYTON**

**JOSE M CARRASCO**

**Defendant/**

**MEMORANDUM IN SUPPORT OF THE DENIAL OF THE MOTION TO SUPPRESS**

COMES NOW, R.J. LARIZZA, State Attorney for the Seventh Judicial Circuit of Florida, by and through the undersigned Assistant State Attorney, moves this Honorable Court to deny the Motion to Suppress filed by Defense Counsel. In support the State files this memorandum of law.

**FACTS**

On May 29, 2009, Investigator Toby Schwartz with the West Volusia Narcotics Task Force received an anonymous complaint stating the Jose Carrasco, who lives at 4183 Budd Road, was in the process of dismantling a cannabis grow. Investigators Schwartz, Ryan Mills, Richard Kirkland, and Joseph Mahoney proceeded to the residence to attempt to conduct a knock and talk with Mr. Carrasco.

When Investigators arrived at the residence, they encountered a gate at the driveway entrance to the property. Per Investigator Schwartz's deposition testimony and testimony at the Motion to Suppress there were in fact No Trespassing signs affixed to this gate. Per the testimony of all four Investigators, there was not a lock on this gate nor did any Investigator see a buzzer or doorbell type mechanism. According to all four Investigators the gate was open enough for them to pass through the gate. The Investigators did not jump over the gate or break through it in any way.

Investigator Ryan Mills' testimony at his deposition and also at the Motion to Suppress was that he smelled the odor of cannabis at the gate before he and the other investigators proceeded through the gate. The other three investigators did not smell the odor at that time, but all did acknowledge that Inv. Mills stated to them he had smelled the odor. Per the testimony of the other Investigators they did not smell the odor of cannabis themselves until they were walking up the driveway to the house, but well before they actually reached the house.

The Investigators eventually made contact with Mr. Carrasco where he consented to allow officers to enter his house. Subsequent to this encounter the Investigators applied for and obtained a search warrant for Mr. Carrasco's residence.

**ARGUMENT**

Defense Counsel has filed a motion to have the court suppress the officer's initial entry onto the Defendant's property. The State submits that the Investigators entry onto the Defendant's property was in fact lawful and should be upheld. The State does agree that Mr. Carrasco demonstrated an interest in keeping his property private, however, the Fourth Amendment does not protect the merely subjective expectation of privacy, but only those expectations that society is prepared to recognize as "reasonable." U.S.C.A. Const. Amend. 4.

The State submits that the Investigators entry onto the Defendant's property was lawful because the area in question was not a part of the curtilage of the house. United States v. Dunn sets out the factors to be used when determining if an area of property fall within the curtilage of the house. 480 U.S. 294, 107 S.Ct.1134 (1987). Dunn holds that the centrally relevant question in determining curtilage is whether the area in question is intimately tied to the home itself that is should be placed under the home's umbrella of Fourth Amendment protection. Dunn, at 301. The factors set out in Dunn to determine curtilage are 1) the proximity of the area to the home, 2) whether the area is within an enclosure surrounding the home, 3) the nature and uses to which the area is put, and 4) the steps taken by the resident to protect the area from observation by passersby. U.S. v. Dunn, 480 U.S. 294, 107 S.Ct. 1134 (1987).

The area in question in Dunn was a barn located 60 yards from the house. Dunn, at 302. In applying the Dunn test to the case at hand it is clear the area in question does not fall within the curtilage of the property. In the case at hand the area in which the Investigators entered was a gate across a driveway which was located at least 200 feet from the home itself. There was in fact an enclosure surrounding the entire property, however Dunn also holds that fencing configurations are important factors in defining curtilage of home protected by the Fourth Amendment, but the nearest fence surrounding fenced house does not necessarily define the extent of curtilage. See also United States v. Taylor where the court held that a perimeter fence around property does not create a constitutionally protected interest in all the open fields on the property under the Fourth Amendment. 458 F.3d 1201 (2006).

The third prong of the test asks the Court to look at the nature and uses to which the area in question is put. The State submits the area in question in this case is a driveway not the house itself as Defense Counsel suggests. While it may be accurate that certain officers, Lonnie Feaster and Kevin Connelly, did not smell the odor of cannabis until they got up to the house they were not the officers initially involved. The four officers that initially arrived at the house smelled the odor of cannabis well before they even reached the house. Investigator Mills in fact smelled the cannabis while outside the enclosure. The anonymous tip that the Defendant was breaking down a cannabis grow was corroborated

as soon as the initial officers smelled the odor of cannabis. The officers had probable cause to apply for a search warrant well before they even reached the house. The nature and use of a driveway, the start of which is over 200 feet from the residence, is not so intimately tied to the home itself that it should fall under the home's curtilage protection.

The fourth prong asks the court to look at the steps a person took to protect the area from the observations of passersby. The State submits that the Defendant really took no steps. The area in question is a drive with a gate. The gate was of such a type that a passerby can clearly see what is on the other side of the gate simply by walking by. Although there were no trespassing signs affixed to the gate, it was not a privacy fence in which a person would not be able to see what was on the other side without looking over the fence. The State again submits that the area in question in this case is the gate area and driveway, not the house itself as Defense Counsel suggests.

When applying the four factors of the Dunn case to the facts of this case, the State submits that the officers clearly did not violate the Defendant's rights in crossing onto his property because the area in which they crossed was not a part of the curtilage of the house and should not fall under its protection. The State also respectfully requests the Court to read the case of Wilson v. State, 952 So.2d 564 (2007), which was provided to the Court during the hearing on the Motion to Suppress. The Wilson case discusses the Dunn factors and also discusses issues regarding consent to search which was also an issue of this Motion to Suppress.

WHEREFORE, the State prays that this Court will enter an order denying the Motion to Suppress.

FOR THE STATE ATTORNEY  
R.J. LARIZZA

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ROBIN L HUTCHESON  
Assistant State Attorney

### CERTIFICATE OF SERVICE

I HEREBY CERTIFY that a true and correct copy of the foregoing has been furnished and/or delivered by U.S. mail/hand delivery/ to KAYLOR, MATTHEW, 3001 Bartow Road, Lakeland, FL 33803 this \_\_\_ day of March, 2010.

ROBIN L HUTCHESON  
ASSISTANT STATE ATTORNEY  
101 NORTH ALABAMA AVENUE  
DELAND, FL 32724  
(386) 822-6400  
FL BAR # 0026246

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I, Robin L. Hutcheson, am an Assistant State Attorney for the Seventh Judicial Circuit. Pursuant to Florida Statute 119.071, I request that my home address, telephone number, date of birth, social security number, and photograph be redacted from public record. I request that the name, date of birth, and home address of my children be redacted from public record also.

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Robin L Hutcheson

Date: