

IN THE SUPREME COURT OF FLORIDA

CITY OF TALLAHASSEE, FLORIDA

Petitioner,

CASE NO.: SC21-651

L.T. Nos.: 1D20-2193

v.

37-2020-CA-001011

FLORIDA POLICE BENEVOLENT
ASSOCIATION, INC., JOHN DOE 1,
and JOHN DOE 2,

Respondents.

**VOLUSIA SHERIFF MICHAEL J. CHITWOOD'S UNOPPOSED
MOTION FOR LEAVE TO FILE AMICUS CURIAE BRIEF**

Michael J. Chitwood, Sheriff of Volusia County, Florida, moves under Florida Rule of Appellate Procedure 9.370(a) for leave to file an Amicus Curiae Brief in support of the Petitioner, City of Tallahassee, Florida. All parties consent to the filing of the amicus brief.

1. Sheriff Chitwood's Interest in the Appeal.

The Volusia Sheriff's Office, ("VSO"), is the independent constitutional sheriff's office of Volusia County, Florida. VSO is accredited by the Commission on Accreditation for Law Enforcement Agencies, Inc. (CALEA), and employs over 800 personnel including approximately 400 sworn deputies. Under the leadership of Sheriff

Michael J. Chitwood, VSO makes a concerted effort to be transparent and accountable to the citizens that it provides law enforcement services to, especially, as it relates to de-escalation, deputy-involved shootings and the use of body worn cameras (BWC). VSO has, in the past, at the earliest opportune time, disclosed the names of deputies involved in shootings in their official capacity.

VSO is interested in this appeal as it believes that the citizens should know the names of deputies who are involved in the use of deadly force while carrying out their official duties. This disclosure of the deputies' names not only promotes transparency and accountability but helps to rebuild the eroding public trust in law enforcement. VSO desires to continue disclosing the names of deputies who are involved in the use of deadly force while in the execution of their official duties in order to continue promoting transparency and accountability.

2. The Particular Issue Sheriff Chitwood Will Address.

Sanctity of human life is VSO's highest priority when its deputies don the badge and uniform every day to protect and serve the citizens. Deputies are trained in the use of force continuum and de-escalation. They understand that they are only authorized to use the

amount of force that is proportional, reasonable and necessary under the circumstances, to protect themselves and/or others while performing their lawful duties. Deputies are fully aware before and after they become deputies that, although relatively rare, they may face circumstances that dictate that they use deadly force. This is a risk that deputies accept when they take the oath to serve and to protect. In cases where deputies use deadly force, Sheriff Chitwood supports the deputies involved and ensures they receive due process protections. On balance, Sheriff Chitwood, at the earliest opportune time, discloses the names of the involved deputies to be transparent and accountable to the citizens VSO serves.

The deputies who use deadly force in the execution of their lawful duties stand in the position of the “accused.” The deputy involved does not suffer a direct physical harm under Fla. Const. art. I, § 16(e), even if force is used against the deputy. The person/suspect who the deadly force is used against would be the “victim” of the deputy’s use of force. Deputies accept the risk that at some point in their careers they may have to use deadly force to protect themselves or others. They are afforded all due process protections. A finding is ultimately made as to whether the use of deadly force was authorized, justified,

or excessive. However, the deputy who uses deadly force while performing official duties was never contemplated and should never be contemplated as a “victim” under Marsy’s Law.

3. How Sheriff Chitwood Can Assist the Court in the Disposition of the Appeal.

Sheriff Chitwood’s amicus brief will seek to provide the Court with a law enforcement perspective that will show that transparency and accountability are imperative in rebuilding public trust in law enforcement and extending the protections of Marsy’s Law to law enforcement officers performing their official duties would further erode that trust.

4. All Parties Consent to the Filing of Sheriff Chitwood’s Amicus Brief.

Philip Padovano, counsel for Petitioner, Luke Newman, counsel for Respondents and Mark Caramanica, counsel for the Intervenors/Petitioners News Media Coalition, have authorized the undersigned counsel for Sheriff Chitwood to represent that they consent to his filing of an amicus brief, should the Court grant leave.

WHEREFORE, Sheriff Chitwood respectfully requests leave to appear as amicus curiae in support of the Petitioner, City of Tallahassee, Florida.

Respectfully submitted,

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CERTIFICATE OF SERVICE

I certify that on February 14, 2022, I electronically filed this motion with the Clerk of the Court by using the Florida Courts E-Filing Portal and that a true and correct copy of this brief was served by E-Mail on below listed counsel:

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