

APPLICATION FOR NOMINATION TO THE Fifth Appellate District 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: Jeb Tolliver Branham

Social Security No.: [REDACTED]

Florida Bar No.: 0296030

Date Admitted to Practice in Florida: 9/14/2000

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.

State of Florida
Circuit Judge, 4th Judicial Circuit
501 West Adams Street
Jacksonville, Florida 32202
(904) 255-1291

Judicial Office:
Circuit Judge, State of Florida, 4th Judicial Circuit

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]
15 years at current residence/22 years in Florida
[REDACTED]
[REDACTED]

3. State your birthdate and place of birth.

[REDACTED] 1970
Knoxville, Tennessee

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 Bar of Georgia, November 28, 1995
United States District Court for the Northern District of Georgia, 1995
Georgia Court of Appeals, 1997
Supreme Court of Georgia, 1997
Florida Bar, September 14, 2000
United States Court of Appeals for the 11th Circuit, 2001
United States District Court for the Middle District of Florida, January 26, 2001 (membership not renewed in 2025 due to holding judicial office)
United States District Court for the Southern District of Florida, February 3, 2012

No suspensions or resignations. State bar admissions are currently on inactive status due to holding judicial office.

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).

University of Tennessee College of Law 1992-95; J.D awarded in May 1995
Cum Laude (Top 15%) – Dean’s List all semesters

Emory University 1988-92; B.A. awarded in May 1992
2.99 GPA

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.

Emory University – Sigma Nu Fraternity 1989-91 (Lieutenant Commander, i.e. vice-president);
Intercollegiate Lacrosse club 1989-92

University of Tennessee College of Law – Law Review 1993

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.

Circuit Judge, State of Florida, 4th Judicial Circuit; February 1, 2021-present
Division of State Human Resource Management
4050 Esplanade Way, Suite 235
Tallahassee, FL 32399-0950

Owner/President; 2002-10 & 2012-1/31/2021
Jeb T. Branham, P.A.
419 3rd Street North
Jacksonville Beach, FL 32250

Partner; 2010-12
Deem Branham
3500 3rd Street South
Jacksonville Beach, Florida 32250

Associate Attorney; 1999-02
McGuireWoods
50 North Laura Street, Suite 3300
Jacksonville, Florida 32202

Associate Attorney; 1998-99
King & Spalding, LLP
1180 Peachtree Street, NE Suite 1600
Atlanta, Georgia 30309

File clerk (1993; then Freeman & Hawkins), summer associate (1994; then Freeman & Hawkins), and associate attorney (1995-98; then Freeman & Hawkins and Hawkins & Parnell)
Hawkins, Parnell & Young
303 Peachtree Street, NE, Suite 4000
Atlanta, Georgia 30308
(404) 614-7400

Iron worker; Summers 1990-1992 (constructed industrial and commercial structures)
Florida Structural Steel
12781 US Hwy 41 South
Gibsonton, Florida 33534
(813) 248-8216

- 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 a circuit judge presiding over a felony docket.

My prior practice consisted of three main components: business litigation, general business counseling, and governmental work. My typical business clients were owners of small and medium-sized businesses. Litigation ran the gamut from commercial landlord-tenant cases to disputes between owners of a business. The general business counseling work arose out of my litigation work. These were clients with whom I developed long-term relationships through the litigation representation that came to me on an ongoing basis for general business law advice. They ranged from local restaurants to a regional chain of auto painting shops.

Most of my governmental work came from serving units of local government. I was the town attorney for both Callahan and Baldwin for well over 15 years. I also represented the Ocean Highway and Port Authority, which operates the Port of Fernandina, and served as Atlantic Beach’s dangerous dog and code enforcement special magistrates. A smaller subset of my governmental work involved representing private clients adverse to governmental entities in land use and code enforcement matters.

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	90 %
Federal Trial	15	%	Criminal	_____ %
Federal Other	_____	%	Family	_____ %
State Appellate	10	%	Probate	10 %
State Trial	75	%	Other	_____ %
State Administrative	_____	%		
State Other	_____	%		
TOTAL	_____	100 %	TOTAL	_____ 100 %

If your appearance in court the last five years is substantially different from your prior practice, please provide a brief explanation: I am currently a member of the judiciary.

- a. *Metropolitan Jax Lofts I, Ltd. v. Bray & Lunsford, P.A. et al.*, Duval County Circuit Court case no. 16-2014-CA-3989, Rosanne P. Perrine, perrinefl@aol.com, (904) 476-4518.
- b. *Ozdemir v. Overlook v. Prof. Office Condo. Ass'n*, St. Johns County case no. CC-17-1244: Alexandra Amador, aamador@flcalegal.com, (904) 396-0090
- c. *Management Specialists Services v. Haile Plantation Association, Inc.*, Alachua County, Florida case no. 01-2017-CA-0003470 (non-binding arbitration): Jack M. Ross, jack@shrc-law.com, and W. Charles Hughes, charlie@shrc-law.com, (352) 375-7700; Aaron Behar, ab@beharbehar.com, and Michael Harper, mh@beharbehar.com, (954) 990-8639
- d. *Douglas L. and Margaret R. Driver v. City of Neptune Beach*, First District Court of Appeals case no. 1D18-571 Karl J. Sanders; kjsanders@kjslawpa.com; (904) 868-7929 and Patrick W. Krechowski, opposing counsel; pkrechowski@balch.com; (904) 393-9000
- e. *Manish K. Gupta, M.D. v. Sports Ortho, LLC and Ortho Florida, LLC*, American Health Lawyers Association claims 2973 and 3040: Matthew S. Sackel, msackel@shutts.com, (561) 650-8545
- f. *Janie Savage v. Royce Thomas*, Duval County Probate Court case no. 16-2011-CP-001033: Reese Marshall, rmarshall_atlaw@yahoo.com, (904) 354-8429

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.*

- a. *Rodsongs et al. v. Works of B&L, et al.*, U.S.D.C. M.D. Fla. case no. 3:20-cv-212-J-39JRK, Frederick D. Page, fpage@bishoppage.com, (904) 598-0034 .
- b. *Buckhead Equities v. Kamiya 86 Corp. et al.*, Duval County Circuit Court case no. 16-2019-CA-003312, Michael A. Abel, michael.abel@abeladr.com, (904) 612-2708.
- c. *Regions Bank v. Sanders et al.*, Duval County Circuit Court case no. 2019-CA-1313, Armando Nozzolillo, anozzolillo@burr.com, (904) 232-7200.
- d. *Sanders v. Jabrusco, LLC et. al*, Duval County Circuit Court case no. 2017-CA-001838, Tyler Oldenburg, toldenburg@marksgray.com, (904) 398-0900
- e. *Sigal v. MAY Management Serv., Inc. et al.*, St. Johns County Circuit Court case no. CA-13-1825; Robert R. Underwood, II, robert@rrulawfirm.com, (877) 465-1350; Cecil L. Davis, Jr., cdavispslam23@gmail.com, (850) 570-3915; Michael L. Glass, mglass@sgc-attorneys.com, (904) 886-1919; Frank H. Cole, Jr., frank.cole.vabyzg@statefarm.com , (904) 493-3407
- f. *Loff v. Genesis Building Corp.*, Duval County Circuit Court case no. 16-2016-CA-005214, Harold S. Lippes, hlippes@bellsouth.net, (904) 686-1500

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.

Daily, due to holding judicial office.

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.

A. *AK El Oso LLC v. Yanmar Marine USA Corp.*, Superior Court of Fulton County, Georgia, case no. 2005-CV-102150, T. Jackson Bedford, Jr. presiding: This matter began with a lawsuit filed by a Costa Rican fishing lodge in 1999. I represented the lodge while I was at McGuireWoods. After I left McGuireWoods, I remained co-counsel on the case with the firm. Eventually, I undertook representation of Alaska El Oso, LLC and AK Santamaria Enterprises, LLC, companies affiliated with an Alaskan lodge, along with the Atlanta-based law firm of Doffermyer, Shields, Canfield, Knowles & Devine as co-counsel. We filed a nation-wide class action alleging that Yanmar 6LP-STE marine diesel engines suffered from a design defect that caused exhaust valves to stick in the open position, eventually destroying the engine. Yanmar had vehemently denied the existence of this alleged defect that generally only manifested itself in high-use commercial applications. A settlement of the class action was reached where Yanmar agreed to compensate owners who had already replaced their failed engines at their own expense and extend the warranties of other owners so that these owners could be assured of a reasonable service life for the engines. The case is significant because these engines represented the life blood of the businesses that bought them. The 6LP-STE was a new, popular engine without a significant service history. Through the class action, we were able to secure protection for owners of the engine against potential future failure and compensation for those who had already experienced it. My co-counsel were Everette L. Doffermyre (edoffermyre@dsckd.com; (404) 881-8900) and David S. Hagy (dhagy@hagylaw.com and (615) 515-7774). Opposing counsel was Jerry W. Blackwell of Blackwell Burke P.A. of Minneapolis, Minnesota (email unknown; (612) 343-3200). Mr. Blackwell later served as a special prosecutor in the Derek Chauvin trial.

B. *Town of Callahan v. Department of Community Affairs*, DOAH case no. DCA03-CDBG-280: In 2002, I began my municipal practice by becoming the Town Attorney for the Town of Callahan. Not long before Callahan hired me, a former Callahan employee had engaged in

numerous illegal activities including serious improprieties associated with a Community Development Block Grant. These improprieties resulted in DCA demanding that Callahan repay \$431,000 and return \$119,000 in undisbursed grant funds. On behalf of Callahan, I instituted administrative proceedings in 2003 challenging DCA's demand. Ultimately, we negotiated a settlement where Callahan paid DCA \$65,000. That \$65,000 was then added to the \$119,000 in undisbursed grant funds, and Callahan was allowed to administer the \$184,000 as housing rehabilitation for low to moderate income residents. I served as Callahan's sole counsel. The matter is significant to me because Callahan has approximately 1,200 residents, many of whom are low to moderate income. Repaying \$431,000 represented a massive burden to the town's residents. Moreover, the residents truly needed the \$119,000 for housing rehabilitation. Identifying some legal errors DCA made allowed the town's residents to benefit from the grant. The town was able to negotiate a penalty it could afford that still benefitted the residents by putting the penalty back into housing for the needy. My records do not show the assigned administrative law judge or the attorney that represented DCA.

C. Blue Stone Construction, Inc. v. City of Jacksonville, Duval County Circuit Court case no. 2009-CA-13917, Russel L. Healey presiding: My client, Blue Stone Construction, owned a historic building near downtown Jacksonville that it used for its office. The building had an old brick façade that began to separate from the frame of the building and tilt towards the street. The City of Jacksonville initiated emergency code enforcement proceedings. Blue Stone promptly had an engineer develop a cabling and bracing system that secured the façade, allowing it to be drawn back to the building's frame, and permanently securing the historic brick fascia to Jacksonville's satisfaction. Regardless, the City of Jacksonville recorded liens against the property. Blue Stone filed suit to discharge the liens. In response, Jacksonville counterclaimed for an injunction requiring Blue Stone to demolish the structure or rebuild the wall and daily fines of \$500. These fines could have totaled \$365,000 by the time of trial. Blue Stone prevailed on all matters after a bench trial. The matter represented the kind of situation that code enforcement can sometimes devolve into, where the interests of public safety, property rights, and historical preservation all get lost for no particularly good reason. Blue Stone's owner was willing to stand up for what he saw as right at significant financial risk. Ultimately, the circuit court agreed with him and ruled completely in his favor. The wall still safely stands today. Jason Teal (jteal@coj.net; (904) 255-5100), now General Counsel for the City of Jacksonville, represented the City of Jacksonville.

D. Estate of Charles Christopher, Jr. v. Samuel Christopher, United States Bankruptcy Court for the Middle District of Florida, case no. 3:09-ap-00212-PMG, Paul M. Glenn presiding: I represented Thelma Christopher, the owner by inheritance of 50% of Christopher's Joy, Inc. and the personal representative of the Estate of Charles Christopher, Jr., her deceased husband. Christopher's Joy was a scallop fishing operation. North Atlantic scallop operations with permits sell for between \$1,000,000 and \$2,000,000 depending on market conditions and are highly liquid. While alive, Charles owned half of Christopher's Joy with his brother, Samuel. After Charles's death, Samuel attempted to take Charles's widow's share of the company for himself and had largely—and illegally—succeeded in doing so. After protracted litigation in state court, the action wound up as an adversary proceeding in bankruptcy court. Eventually, a settlement

was reached where Samuel bought out Thelma's interest in the company for \$1,300,000. Jerrett McConnell (jmconnell@mcconnelllawgroup.com; (904) 570-9180) represented Samuel Christopher in the adversary proceeding. However, that is only the beginning of the story. While young men, Samuel and Charles had traveled to Guyana to fish. There, Charles met and married Thelma, while Sam met and married Thelma's sister, Norma. All four returned to Jacksonville where they lived as neighbors on the same street for decades raising their children. After the \$1,300,000 settlement was reached and while the matter was in probate, Betty Calhoun filed an adversary proceeding in the probate action (Duval County Probate Court case no. 16-2008-CP-00236, Peter L. Dearing presiding) claiming that she was married to Charles before Thelma, and she and Charles were never divorced. This allegedly rendered Charles's marriage to Thelma void, making Calhoun the sole heir to \$1,300,000. Calhoun produced marriage records, and no divorce records could be found. The proceeding was tried in the probate court. The judge found in Thelma's favor due in large part to Guyanese marriage records we were able to find. The case is significant because the family stood to lose over a million dollars and the legacy Charles sought to leave to his many children without legal help. Despite the high value of the business, the Christophers were fisherman, not sophisticated business people. With more than three years of hard work, we were able to secure Charles's legacy for his wife and children. The Christophers all became people I consider my friends, and I remained in touch with the family. To a large extent, the extended family was able to mend fences, given some time. Betsy S. Holton (bshesq@hotmail.com; (833) 945-5631) was opposing counsel in the probate trial.

E. Esplanade at Town Center Condominium Ass'n, Inc. v. Alta Sienna, LLC, Duval County Circuit Court, case no. 16-2011-CA-9730, Jack M. Schemer presiding: I was initially hired in 2007 as local counsel by an Atlanta law firm to assist with a case filed against the developer of the Esplanade at Town Center condominium. The case alleged that construction defects in the condominium resulted in mold within units. Eventually, multiple cases were filed. I took over all the pending cases as sole counsel. Ultimately, the condominium association filed suit. By working with the condominium association, the parties were able to reach a mediated settlement agreement in 2013 that benefitted the residents, brought closure for them, and limited the developer's liability after six years of litigation. The multiple residents' suits, while perhaps helping individual residents, were hurting the community as a whole by depressing the market value of the units over the course of six years of litigation. The matter is significant because it shows how, even over the course of years of litigation, adverse parties can find a path to work together to resolve their disputes in a manner that benefits all parties. Christopher J. Iseley (ciseley@fi-law.com; (904) 396-1800) of Franson & Iseley, P.A. was the lead attorney for the opposing party.

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.

I wrote all three samples as a sitting judge. All were written without assistance.

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.

Yes. State of Florida, Fourth Judicial Circuit. Service began on February 1, 2021. I qualified as a candidate for election to that office on April 22, 2022. I was not opposed.

- 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.

Fourth Judicial Circuit Nominating Commission:

Application for Nomination to the Circuit Court, January 29, 2020 – not certified

Application for Nomination to the Duval County Court, February 26, 2020 – not certified

Application for Nomination to the Duval County Court, April 30, 2020 – certified for consideration

Application for Nomination to the Circuit Court, October 12, 2020 – certified for consideration and appointed

Fifth Appellate District Nominating Commission:

Application for Nomination to the District Court of Appeal, September 28, 2022—certified for consideration

Application for Nomination to the District Court of Appeal, January 20, 2023—certified for consideration

- 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.

3/6/14- 2/12/19: City of Atlantic Beach Dangerous Dog Magistrate

3/12/19-1/31/21: City of Atlantic Beach Code Enforcement Magistrate

As a dangerous dog magistrate, I conducted hearings and issued decisions about whether dogs should be classified as dangerous or euthanized. As a code enforcement magistrate, I conducted hearings and issued decisions about whether residents of Atlantic Beach had violated municipal ordinances and, if so, what compliance measures and fines were warranted.

- 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;

- Cyrus Zomorodian
cyrusz@coj.net
(904) 255-2843
State Attorney's Office - 4th Circuit
311 West Monroe St
Jacksonville, FL 32202-4242
- Alan Mizrahi
amizrahi@coj.net
(904) 255-2988
State Attorney's Office - 4th Circuit
311 West Monroe St
Jacksonville, FL 32202-4242
- Johnna Lessard
johnna.lessard@myfloridalegal.com
(904) 348-2720
OAG Statewide Prosecution
1300 Riverplace Boulevard, Suite 405
Jacksonville, FL 32207
- Katherine Hinchey
khinchey@pd4.coj.net
(904) 255-4673
Public Defenders Office
407 North Laura St
Jacksonville, FL 32202-3109
- Jarahn Newman
newmanlawfirm@gmail.com
(904) 355-8835
4741 Atlantic Blvd Ste B6
Jacksonville, FL 32207-2168
- The Honorable Raymond Forbess, Jr.
forbessr@clayclerk.com
(904) 284-6327
PO Box 1018
Green Cove Springs, FL 32043-1018

(ii) the approximate number and nature of the cases you handled during your tenure;

During 2026, my felony docket typically has 310 active criminal actions. I have tried 67 jury trials to verdict. These include everything from first-degree murder, drug trafficking, and Medicare fraud down to simple drug possession. I am death penalty certified and have conducted two death penalty resentencing proceedings.

I handled 24 code enforcement cases and two dangerous dog proceedings as a special magistrate for the City of Atlantic Beach. Code enforcement proceedings ranged from minor fines to demolition of homes for structural defects. Dangerous dog proceedings concern either declarations of dangerousness or mandatory euthanasia.

Additionally, I oversaw quasi-judicial hearings for the Towns of Baldwin and Callahan several times per year, although my role was advisory to the Towns, not decision-making. These hearings typically concerned zoning, land development, or local alcoholic beverage permitting. I likely oversaw over 100 of these proceedings.

(iii) the citations of any published opinions;

Hall v. State, 415 So. 3d 841 (Fla. 5th DCA 2025)
Riddle v. State, 410 So. 3d 1289 (Fla. 5th DCA 2025)
Brown v. State, 408 So. 3d 147 (Fla. 5th DCA 2025)
Birch v. State, 410 So. 3d 470 (Fla. 5th DCA 2025)
Hoehaver v. State, 389 So. 3d 766 (Fla. 5th DCA 2024)
Flowers v. State, 395 So. 3d 1077 (Fla. 5th DCA 2024)
Hilton v. State, 367 So. 3d 609 (Fla. 5th DCA 2023)
Hayden v. State, 375 So. 3d 940 (Fla. 5th DCA 2023)
Lynch v. State, 342 So. 3d 284 (Fla. 1st DCA 2022)

(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.

State of Florida v. Jerry Lee Myers, Circuit Court of Duval County, 16-2022-CF-3273, tried February 22-26, 2026 with Terence Martin and Jacqueline Blair for the State and David Salisbury and Mark Grace for the defense. The jury convicted Mr. Myers of five counts of capital sexual battery, one count of lewd or lascivious molestation, two counts of lewd or lascivious conduct, and one count of battery arising from an ongoing molestation of his girlfriend's daughter. The case was significant because I received the case from another judge after a recusal, Mr. Myers spent a significant time representing himself, pretrial proceedings involved complex electronic discovery, and trial proceedings involved a traumatized child witness. Additionally, one count of lewd or lascivious molestation required the entry of a judgment of acquittal.

State of Florida v. Yoahna Betancourt Fernandez and Osvaldo Pena Blanco, Circuit Court of Duval County, 16-2023-CF-10319, tried July 7-10, 2025 with Jacqueline Hutchins for the State and Enrique Yabor for the defense. The jury convicted the defendants of organized fraud for their participation in a large-scale, multi-million dollar Medicare/Medicaid fraud conducted through a non-emergency medical transport company. The case was significant because financial crimes are often difficult to prove and involve complex evidence. Both

defendants also required the assistance of interpreters, which adds to trial complexity. Multiple witnesses testified by audio-video technology. The State's witnesses included cooperating co-Defendants as well.

State of Florida v. Eric Sandefur, Circuit Court of Duval County, 16-2010-CF-13946, tried September 5-6, 2023 with Douglas Baer and Austin Kwikkel for the State and Robert Davis and Christine Michel for the defense. The jury convicted Mr. Sandefur of attempted first-degree murder with a weapon. In 2010, when Mr. Sandefur was 17 years old, he went out into the night and saw a homeless man sleeping on a park bench. Mr. Sandefur observed him for close to half an hour. He then approached him and stabbed him several times. The victim and Mr. Sandefur actually had an in-depth conversation about mental health following the initial stabbing. They both began walking. Mr. Sandefur then stabbed the victim again and left. The victim managed to find help and survive. Mr. Sandefur turned himself in a few days later. In 2011, Mr. Sandefur pled guilty to attempted first degree murder with a weapon, with a cap of 40 years. The victim and Mr. Sandefur remained in communication with each other. The victim advocated for Mr. Sandefur at his original sentencing. The predecessor judge sentenced him to the 40-year cap. However, due to the language used in the information, the crime had a 30-year maximum sentence. This led to Mr. Sandefur's sentence being vacated in 2018. The case was significant from a pretrial standpoint because it involved pretrial efforts to suppress Defendant's confession given as a juvenile and untimely efforts to assert an insanity defense. The facts of the case are obviously highly unusual. Sentencing was also significant because Mr. Sandefur's decision to go to trial angered the victim, causing him to no longer support a lenient sentence. Mr. Sandefur made significant progress on his mental health issues while in prison, and had even written a book, leading to a difficult sentencing decision. A 27-year prison term followed by two years of probation was imposed.

State of Florida v. Anthony Sanders, Circuit Court of Duval County, 16-2021-10588, tried July 17-19, 2023 with Caitlin Messinger and Erin Wolfson for the State and John Merrett for the defense. The jury convicted Mr. Sanders of attempted first-degree murder, possession of a firearm by a convicted felon, and tampering with evidence. Mr. Sanders shot his girlfriend in her home and fled the scene with multiple firearms. Dramatic video evidence from body camera footage showed the first responders' successful efforts to save the victim's life. Mr. Sanders filed a "stand your ground" motion asserting he shot the victim because she was about to shoot him. The victim refused to come to pretrial proceedings or trial out of fear of the defendant. The case was significant because the pre-trial self-defense proceedings involved complex firearms and physical evidentiary issues. The trial presented significant proof difficulties due to the victim's unwillingness to testify. The admission of the body cam footage and the purposes for which the jury could use it presented multiple complex trial issues. Ultimately, the video evidence and traditional consciousness of guilt evidence of flight and destruction of evidence carried the State's burden.

State of Florida v. Charles Deas, Circuit Court of Duval County, 16-2018-CF-10254, tried July 18-22, 2022 with Alan Mizrahi and Chyna-Michelle Makarowski for the State and

Debra Billard and Al Perkins for the defense. The jury acquitted Mr. Deas of 2nd degree murder but convicted him of aggravated manslaughter for the death of his infant son. The parties presented complex medical evidence about the cause of the infant's death. The State contended Mr. Deas killed the infant by shaking it. Regardless of the exact mechanism of death, Mr. Deas said in police interviews that he knew the baby was suffering from some kind of severe problem, but he did not seek any help before the infant died. The case required complex rulings on redactions to the defendant's interviews and illustrated how juries seem to seize on basic, uncontradicted evidence when scientific evidence from the parties conflicts.

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.

Birch v. State, 410 So. 3d 470 (Fla. 5th DCA 2025): At a 2016 trial, a jury acquitted Birch of murder but convicted him of possession of a firearm by a convicted felon. Birch's girlfriend was found shot to death through her head, with wounds consistent with the gun being in her mouth when it fired. No gun was found at the scene. Birch was not present when police arrived. The murder charge and the possession of a firearm charge were not severed for trial. In a post-conviction motion, Birch asserted his attorney gave ineffective assistance by a) not trying to sever or bifurcate the trial of the possession charge from the murder charge; b) not objecting to a jury instruction about constructive possession of a firearm; and c) advising Birch not to testify. In his motion, Birch argued that if the charges had been tried separately, he would have taken the stand on the possession charge and given testimony to assert a necessity defense, i.e. that his girlfriend put the gun her mouth during an argument they were having, he tried to grab the gun to keep her from killing herself but failed, he fled the scene in a state of confusion, and somebody must have removed the gun from the scene before police arrived. The trial judge thoroughly colloqued Birch about his decisions to put the charges to the jury together and to remain silent. I summarily denied relief, due mostly to the thoroughness of the colloquies. The 5th District reversed and remanded the action for reconsideration or an evidentiary hearing. On remand, I ordered an evidentiary hearing on grounds a) and c). In a written order, after reconsidering the matter, I did not change my decision to summarily deny relief on ground b). The jury instruction about constructive possession must always be given when the State charges actual possession because the instruction benefits the defendant. Birch and the State reached an agreement for a reduced sentence on the possession of a firearm charge instead of proceeding to an evidentiary hearing.

Hilton v. State, 367 So. 3d 609 (Fla. 5th DCA 2023): A summary denial of an impermissibly successive motion for post-conviction relief was reversed and remanded to attach necessary exhibits to the order denying relief.

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.

State of Florida v. Watson, Circuit Court for Duval County, Florida, case no. 16-2023-CF-2498. The attached order addresses a constitutional challenge to Florida’s law prohibiting felons from possessing firearms. The issue has been presented in my court on several occasions. This order shows a typical disposition.

State of Florida v. Lannon, Circuit Court for Duval County, Florida, case no. 16-2021-CF-11128. The attached order discusses the application of the 4th Amendment’s protections to unencrypted Facebook messages due to the ruling in *Young v. State*, 394 So. 3d 1174 (Fla. 4th DCA 2024), that users have reasonable expectations of privacy in those messages.

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.

No.

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.

No.

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.

No.

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.

None, and I have not had to recuse myself.

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.

From the Bench: Practice Point for Court Video Conferences, Jacksonville Daily Record, August 1, 2024: <https://www.jaxdailyrecord.com/news/2024/aug/01/from-the-bench-practice-point-for-court-video-conferences/>

From the Bench: One year in: Back to the Basics, Jacksonville Daily Record, April 7, 2022, <https://www.jaxdailyrecord.com/article/from-the-bench-one-year-in-back-to-the-basics>.

E-Filing and Service, letter to the Florida Bar News, March 15, 2010, <https://www.floridabar.org/the-florida-bar-news/letters-17/>.

- 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.

None.

- 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.

None.

- 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.

Law School 1992-95 -- Top 15% class rank, Law Review (1991-92), Dean's list all semesters, American Jurisprudence awards (highest grade in class) for Constitutional Law II (1993-94) and Criminal Procedure (1993), merit scholarship from the Southeastern Bankruptcy Law Institute (1994).

- 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.

- The Florida Bar, 2000-present
- The State Bar of Georgia, 1995-present; Board of Governors from 2013 to 2017
- The Jacksonville Bar Association, 2000-2010 (app.) and 2021-present
- Jacksonville Beaches Bar Association, 2002-2018 (app.) and 2021-present
- The Federalist Society 2019-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.

- Church of 1122, Vision Ambassador, 2024-present
- Christ Church Beaches, Member 2022-24
- Palms Presbyterian Church, Member 2008-2021, Ruling Elder 2016-19
- Chester Bedell American Inn of Court, 2024-present
- Duval Lawmen's Club, 2023-present
- Gateway Rifle and Pistol Club, 2013-present
- National Rifle Association, 2018-present
- Fraternal Order of Police Lodge 17, Associate Member, 2018-2021 & 2023
- Sawgrass Sport Shooting Association, 2018-21 (organization disbanded in 2021)
- Frum Tha Ground Up, Board of Directors 2002-07 (app.)
- Surfrider Foundation, Vice-President of First Coast Chapter 2001-03 (app.)

- 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.

- Representation of Douglas and Becky Driver from September 2017-21 in connection with their efforts to develop a vacant lot in Neptune Beach to build a home for Doug who is severely disabled due to injuries received in Afghanistan
- Advice and counseling given to His High Places ministry in 2016 regarding real estate restrictive covenants
- Ongoing advice to Palms Presbyterian Church from 2011-2021

45. Please describe any hobbies or other vocational interests.

Woodworking, surfing, fishing, hunting, golf, competitive shooting, and cooking

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.

<https://www.facebook.com/jeb.branham>

<https://twitter.com/jebbranham>

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.

Married to Michelle Branham on May 26, 2001. She is the Secretary of the Florida Department of Elder Affairs (State of Florida), Governor Desantis's Faith & Community Liaison (State of Florida), and chair of National Alzheimer's Project Advisory Council (United States Department of Defense).

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.

████████████████████

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.

Yes. I pled nolo contendere to charge of misdemeanor DUI in Fulton County, Georgia in 1991 or 1992. The sentence consisted of court costs and perhaps a fine. They were paid. I have not been able to locate additional information.

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.

Not other than as stated in 51.

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.

In 1992, a former landlord, James Drew, sued me and co-tenants Thomas Bliss, Todd Sycks, and Bernard Podurgiel for damage to his rental property done by our subtenants in DeKalb County, Georgia State Court case no. 92A56904. I and my co-defendants answered and counterclaimed. The matter was settled by the landlord retaining the security deposit and dismissing the action.

In February 2008, Christophers Joy, Inc. sued me and Compass Bank after Compass Bank froze Christophers Joy, Inc.'s bank account due to unauthorized activity taken by the 50% owner of Christophers Joy, Inc., Samuel Christopher. The action was filed in the Circuit Court for Duval County, case no. 16-2008-CA-001807. The claims against me were dismissed with prejudice in July 2008 due to their failure to state a claim.

In June 2011, I sued The Sherwin-Williams Company and Chuck Scott for selling and applying paint with defective dye in the Duval County Court, case no. 16-2011-CC-3958. I filed a notice of voluntary dismissal in October 2011 after Sherwin-Williams supplied new paint pursuant to a settlement.

In 2016, I sued Carole Lendry in Duval County court, case no. 16-2016-CC-004184 for damage to my automobile for diminished value. I ultimately dismissed the action without prejudice.

See also 55 below.

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?

None other than as described in 55 below.

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.

Yes. On March 2, 2015, I and my co-counsel Jay Watson sued a former client, Ginger Mongoven in the Duval County Circuit Court, case no. 16-2015-CA-001345, for non-payment of a fee. The former client counterclaimed against both of us for legal malpractice, breach of the contingency fee contract, and other related claims.

The matter began as a dispute over ownership and control of Ms. Mongoven's deceased husband's surveying company that he owned 50/50 with his brother, as well as allegations of misappropriation of corporate funds by the brother. Ms. Mongoven never probated her husband's estate to effectuate a legally-recognized transfer of his shares to her. Her former brother-in-law gradually reached the point where he treated Ms. Mongoven as if she did not own her late husband's shares in the company and had no management or profit-sharing rights in the company. The dispute became critical in July 2014 when, due to the company's impending receipt of an \$82,000 settlement from oil spill litigation, the former brother-in-law threatened to use the settlement proceeds to repay to himself money he claimed he lent the company.

I became co-counsel on the matter at this time due to the imminence of litigation. Due to the anticipated litigation, Ms. Mongoven chose to change from an hourly fee agreement with Watson to a contingency fee agreement with me and Watson. The fee agreement provided for me and Watson to receive 20% of any pre-suit recovery, escalating to 33% after depositions were taken. When we entered into the contingency agreement, it was expected Ms. Mongoven would have to sue to establish her disputed ownership, recover any misappropriated funds, and likely force the liquidation of company.

The disbursement of Ms. Mongoven's share of the oil spill settlement funds was agreed upon without litigation, and Watson and I voluntarily reduced our 20% fee to 15% to ensure it was reasonable. This fee was paid with Ms. Mongoven's knowledge and without objection from her. Thereafter, during continued, lengthy pre-suit negotiations and demands, including the delivery of a draft complaint alleging misappropriation of corporate funds, the former brother-in-law abruptly retired and offered to resolve the dispute by selling his interest in the company to Ms. Mongoven in exchange for her agreement to have the company repay him \$40,000 in debt he claimed the company owed him.

Ms. Mongoven had no surveying experience, so the company had to close due to the retirement. Ms. Mongoven accepted the offer and proceeded to liquidate the company, including three

company-owned parcels of real property with a combined equity of \$340,000. Ms. Mongoven went from the chance to recover up to \$170,000 from the company through litigation to a pre-suit \$300,000 net recovery. The company's first parcel was sold with me and Watson being paid our agreed-upon 20% fee from the net closing proceeds. This fee was paid with Ms. Mongoven's knowledge and without objection from her. Up until this time, attorney-client relations had been excellent, at least as far as Watson and I knew.

After the first real estate closing, Watson and I and Ms. Mongoven could not agree upon on how additional fees would be paid. Ms. Mongoven discharged Watson and me and indicated she would not pay additional fees. In March 2015, Watson and I sued to secure our fee, and Ms. Mongoven counterclaimed. Her counterclaim alleged Watson and I committed malpractice and breached our fee agreement by not recovering anything for her, fraudulently induced her into entering into the fee agreement, dealt with her unfairly, and violated FDUTPA. The case was settled in 2018 with Ms. Mongoven paying Watson and I \$12,500 each and my and Watson's insurance carriers each paying Ms. Mongoven \$25,000.

- 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.

All tax returns have been filed. On November 7, 2022, the IRS assessed a penalty of \$2,182.89 for an \$8,924 underpayment from April 2022 for taxes owed for 2021. Extensions were needed for filing 2021 business and personal returns due to winding up my law practice. When an automatic extension from April to October is taken, all taxes owed must still be paid by April 15. Underpayments from April result in penalties, even if all taxes owed are paid upon filing the return in October pursuant to the extension. An error on my W-4 withholding for my judicial salary was not discovered until filing my 2021 personal return in October. The under withholding combined with the extension resulted in the penalty. All taxes owed were paid at the October 2022 filing, and the penalty was paid shortly after assessment. In unknown past years, I paid one or two penalties of less than \$500 for underpayment of quarterly estimated federal income taxes.

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. N/A

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.

I have an unusually wide range of in-depth legal experience, a commitment to Constitutional governance, and an adherence to the proper role of the judiciary as one of three separate branches of government.

Currently, I manage a felony docket in a major city with significant violent and gang crime. Since I took the bench in 2021, I have tried 67 jury trials. They include resentencing proceedings in death penalty cases, multiple first-degree murder trials, multiple drug trafficking trials, and financial crimes.

Before taking the bench, I was a sole practitioner for 19 years. My practice consisted mostly of serving small to medium-sized businesses in commercial litigation and working for governmental entities. My governmental work required me to act as a neutral arbiter of disputes, apply law to facts correctly and fairly, treat people respectfully in public hearings, and produce written opinions subject to appellate review. As a lawyer for local governmental entities, I had to thoroughly understand Florida's state governmental structure, respect separation of powers, and master a broad range of laws that most lawyers do not address.

Before opening my own practice, I worked for large, international law firms. I have worked on sensitive matters for some of the world's largest corporations with millions (and occasionally billions) of dollars at stake. This exposed me to areas many lawyers do not see, such as large-scale discovery, multi-district litigation, and preparation for trials of the highest order of complexity. These firms and their clients demanded the highest quality legal work product.

In law school, I developed a strong interest in Constitutional law. I did a semester-long independent study on just the commerce clause of the United States Constitution. In fact, my wife procured a slip opinion of *U.S. v. Lopez* signed by Clarence Thomas as a gift upon taking the bench. 514 U.S. 549 (1995) (the first case since 1937 to hold Congress exceeded its commerce power). My legal analysis begins with the U.S. Constitution, then the Constitution of the State of Florida, then pertinent statutes, then case law. The will of the People, as duly expressed through the federal and state constitutions and the enactments of elected legislatures, must steer judicial analysis.

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.

A. U.S. Congressman John Rutherford, 4130 Salisbury Road Suite 2500, Jacksonville, FL 32216, (904) 831-5205

- B. U.S. Congressman Aaron Bean, 501 Centre Street, Suites 107 & 126, Fernandina Beach, FL 32034, (202) 225-0123
- C. Florida Attorney General James Uthmeier, PL-01, The Capitol, Tallahassee, Florida 32399, cate.mcneill@myfloridalegal.com, (850) 414-3300
- D. Florida Secretary of State Cord Byrd, R.A. Gray Building, 500 South Bronough Street, Tallahassee, Florida 32399, cord.byrd@dos.fl.gov, [REDACTED]
- E. The Honorable Adrian G. Soud, Duval County Courthouse, 501 West Adams Street, Jacksonville, Florida 32202, soudA@flcourts.org, (386) 947-1530
- F. The Honorable Roger Gannam, Florida Sixth District Court of Appeal, 811 E Main Street, Lakeland, FL 33801, (863) 940-6041
- G. The Honorable Mark J. Borello, Duval County Courthouse, 501 West Adams Street, Jacksonville, Florida 32202, mborello@coj.net, (904) 255-1285
- H. Patrick Kilbane, Ullman Wealth Partners, 1540 The Greens Way, Jacksonville Beach, FL 32250, pkilbane@ullmanwealthpartners.com, [REDACTED]
- I. Brenna Durden, Lewis, Longman & Walker, P.A., 245 Riverside Avenue, Suite 510, Jacksonville, FL 32202, bdurden@llw-law.com, (904) 353-6410
- J. Jeffrey York, Burr & Forman LLP, 50 North Laura Street, Suite 3000, Jacksonville, FL 32202, jyork@burr.com, (904) 232-7295

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(1), 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 30th day of June, 20 26

Jeb Branham

Printed Name



Signature

State of Florida

County of Duval

Sworn to (or affirmed) and subscribed before me by means of

physical presence OR online notarization

this 30th day of June, 20 26

By Jeb Branham

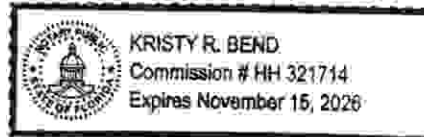
Personally known _____

Produced ID _____

Type of Identification _____



Signature Notary Public



Printed name of Notary Public

(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: N/A

Last Three Years: N/A

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: N/A

Last Three Years: N/A

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: N/A

Last Three Years: N/A

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: \$82,041 (judicial salary)

Last Three Years: (judicial salaries) 2025: \$189,452 2024: \$184,766 2023: \$177,569

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: N/A

Last Three Years: N/A

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 May 18, 2026 was \$979,977.

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 \$200,000

ASSETS INDIVIDUALLY VALUED AT OVER \$1,000:

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

VALUE OF ASSET

Homestead at [REDACTED]	702,413
Principal simple IRA	46,513
American Century simple IRA	4,359
Nomura simple IRA	4,500
Charles Schwab account	4,354
Publix Employees Federal Credit Union accounts	2,134
RadiFi Credit Union accounts	28,121
Vystar Credit Union account	1,798

PART C - LIABILITIES

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

NAME AND ADDRESS OF CREDITOR

AMOUNT OF LIABILITY

CarMax Auto Finance, 12800 Tuckahoe Pkw, Richmond, VA 23238	14,215

JOINT AND SEVERAL LIABILITIES NOT REPORTED ABOVE:

NAME AND ADDRESS OF CREDITOR

AMOUNT OF LIABILITY

Vystar Credit Union, P.O. Box 45085, Jacksonville, FL 32232	60,212

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	65,633

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 Duval

Sworn to (or affirmed) and subscribed before me this 20th day of May, 2026 by Jeff Branham

(Signature of Notary Public—State of Florida)

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



Personally Known OR Produced Identification

Jeff Branham

SIGNATURE

Type of Identification Produced Self

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: June 3, 2026

JNC Submitting To: 5th Appellate District

Name (please print): Jeb T. Branham

Current Occupation: Judge

Telephone Number: XXXXXXXXXX Attorney No.: 0296030

Gender (check one): Male Female

Ethnic Origin (check one): White, non-Hispanic

Hispanic

Black

American Indian/Alaskan Native

Asian/Pacific Islander

County of Residence: Duval

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.

Jeb T. Branham

Printed Name of Applicant



Signature of Applicant

Date: May 20, 2026

IN THE CIRCUIT COURT, FOURTH
JUDICIAL CIRCUIT, IN AND FOR
DUVAL COUNTY, FLORIDA

State of Florida

Case no.: 16-2026-CF-002477

v.

Division: CR-H

Sara Elizabeth Urbano,

Defendant.

_____ /

ORDER DENYING DEFENDANT'S MOTION TO CONSOLIDATE

THIS CAUSE came before this Court on Defendant's Motion to Consolidate. The Court being informed in the premises, DENIES Defendant's Motion, finding as follows:

On March 14, 2026, Defendant was arrested for a felony for possession of a controlled substance and a misdemeanor for driving under the influence. Defendant also received traffic citations for possession of an open container in violation of FLA. STAT. § 316.1936 and for improper passing in violation of FLA. STAT. § 316.084. The citations pend as civil infractions in the county court in case numbers 16-2026-TR-020486 and 16-2026-TR-020492, respectively. They appear to have been issued in conjunction with the traffic stop that led to Defendant's arrest on the felony possession and misdemeanor DUI charges. The State has not yet filed criminal charges in this action.

Defendant asks this court to order the clerk to consolidate the civil traffic infractions into this felony action. The Court recognizes that civil traffic citations routinely appear on felony dockets in this county. However, "parties cannot stipulate to jurisdiction over the subject matter where none exists." *Polk Co. v. Sofka*, 702 So. 2d 1243, 1245 (Fla. 1997).

"Courts are bound to take notice of the limits of their authority[,] and if want of jurisdiction appears at any stage . . . the court should notice the defect and enter an appropriate order."

Id. When civil traffic infractions appear on felony dockets, this Court does not adjudicate them. It dismisses them due to a lack of subject matter jurisdiction as a matter of course.

The Florida legislature establishes the jurisdiction of the circuit courts by statute. The jurisdiction includes “all actions at law *not cognizable by the county courts.*” FLA. STAT. § 26.012(2)(a) (2025) (emphasis added). “[N]oncriminal traffic infraction cases prescribed by chapter 318 are civil actions at law within the meaning of section 34.01(1), Florida Statutes . . .” *Nettleton v. Doughtie*, 373 So. 3d 667, 668 (Fla. 1979). County court judges and appointed hearing officers are the only officials with jurisdiction to hear non-criminal traffic offenses. FLA. STAT. §§ 34.01(2); 318.13(4); 318.32 (2025); 373 So. 2d at 667-68. Jurisdiction over *misdemeanors* lies in the circuit court only when they arise “out of the same circumstances as a felony” because Fla. Stat. § 26.012(2)(d) establishes it. Having an open container and passing improperly are civil infractions, not misdemeanors. FLA. STAT. §§ 316.084; 316.1936; 316.655(1); 318.13(3); 318.14(1); 318.17 (2025). Circuit courts do not have generalized jurisdiction to hear all matters that have some connection to pending felony charges. DUI, on the other hand, is a misdemeanor that a circuit court can adjudicate along with a felony offense.

While Florida Rule of Criminal Procedure 3.151(b) does allow “[t]wo or more indictments or informations charging related offenses [to] be consolidated for trial on a timely motion by a defendant[,]” Uniform Traffic Citations are not “indictments or informations.” FLA. R. CRIM. P. 3.151(b) (2026); FLA. STAT. § 316.650 (2025). “The circuit court’s jurisdiction . . . [is] limited to the felony and any misdemeanor that arose from the same incident. *See* § 26.012(2)(d), Fla. Stat. (2012). Section 26.012(2)(d) *does not grant authority to the circuit court to consider the civil traffic infraction*, even though the infraction arose

from the same circumstances as the charged felony.” *Davis v. State*, 116 So. 3d 612 (Fla. 5th DCA 2013) (emphasis added).

This Court has no authority to remove actions from the county court to adjudicate them in this Court when it lacks subject matter jurisdiction. Local practice cannot supersede the dictates of the Florida legislature and binding precedent from both the 5th District Court of Appeals and the Florida Supreme Court. Defendant’s Motion is DENIED.

DONE and ORDERED on April 1, 2026, in Jacksonville, Duval County, Florida.



Jeb T. Branham
Circuit Court Judge

Copies furnished to:

Cyrus Zomorodian, Esquire
Assistant State Attorney

L. Lee Lockett, Esquire
Attorney for Defendant

IN THE CIRCUIT COURT, FOURTH
JUDICIAL CIRCUIT, IN AND FOR
DUVAL COUNTY, FLORIDA

State of Florida

v.

Case no.: 16-2024-CF-006585

Division: CR-H

Thomas Charles McBride,

Defendant.

ORDER GRANTING IN PART AND DENYING IN PART
DEFENDANT'S MOTION TO SUPPRESS WARRANT EVIDENCE

THIS CAUSE came before this Court on August 29, 2025 on Defendant's Motion to Suppress All Evidence Obtained Pursuant to Warrants as Fruit of the Poisonous Tree (hereinafter Motion to Suppress Warrant Evidence). The Court having taken evidence, heard argument of counsel, and being otherwise informed in the premises, GRANTS in part (the evidence obtained from the phones seized from Defendant's vehicle) and DENIES in part (all other warrant evidence) Defendant's Motion, finding as follows:

○ FINDINGS OF FACT

1. Defendant is charged by Information with three counts of defrauding a financial institution and one count of criminal use of personal identification.

2. This is the second motion to suppress Defendant filed. The Court granted the first motion in an Order filed on May 28, 2025. The evidence taken for the first motion established the facts found in ¶¶ 3-7.

3. On May 1, 2024, members of the gang unit of the Jacksonville Sheriff's Office saw Defendant driving in the parking lot of the Krystal at 7459 Lem Turner Road in Jacksonville, Florida at approximately 7:20 p.m., as if he was looking for someone. Javon Bell came running barefoot towards Defendant's vehicle, holding a phone, and at times

looking over his shoulder. Bell entered the vehicle, taking the driver's side rear seat.

4. The gang unit then converged on the vehicle, drew their guns, ordered both men out, handcuffed both, and sat them on the ground outside of the vehicle. The gang unit believed Bell was fleeing the scene of a single vehicle crash at a nearby church that had damaged a small palm tree.

5. At some point after Defendant was detained, Det. Pugh asked Defendant for his name. Det. Pugh was not able to match a photograph to the name using police databases to confirm Defendant's identity.

6. Det. Pugh then asked Defendant where his identification was. Defendant told Det. Pugh that it was in his wallet.

7. Detectives then conducted a warrantless search of the wallet and the vehicle. The search of the wallet yielded multiple photographic identifications with Defendant's picture and different names. The wallet also contained numerous bank cards with names that matched the photographic identifications.

8. The Court has already suppressed the evidence of the photographic identification and bank cards that did not bear Defendant's name seized from Defendant's wallet.

9. The evidence taken at the hearing held on August 29, 2025 for Defendant's Motion to Suppress Warrant Evidence established the facts that follow

10. The search of the vehicle also led to the seizure of two cell phones. The police obtained a warrant to search them. The search of the phones taken from the vehicle conducted pursuant to this warrant yielded incriminating information.

11. The multiple driver's licenses with Defendant's picture on them and multiple bank cards with names that matched those licenses seized during the search of Defendant's wallet led to Jacksonville Sheriff's Office economic crimes detective S. Kilpatrick being

assigned to investigate Defendant sometime after May 1, 2024.

12. The State introduced evidence of Georgia driver's licenses with Defendant's picture on them for Treh Montreuil, Robert Radley, Mark Rukab, Francis Uhl, William Valentine, and a Georgia and New York driver's license for John Westerlund.

13. As early as 2023, John Westerlund had reported to JSO that he was the victim of identity theft.

14. Detective Kilpatrick contacted VyStar credit union, among other financial institutions, because it had issued some of the bank cards Defendant had that did not match his name.

15. According to M. Pesek, a fraud detection manager for VyStar, VyStar already had four open cases on Defendant when Det. Kilpatrick contacted VyStar. Two cases, Rukab and Westerlund, dated back to 2023. VyStar opened Robert Radley's case on May 3, 2024, at or shortly after the time that JSO contacted VyStar. Pesek did not say how long before JSO's call VyStar had opened Kendrick Simpson's investigation.

16. The evidence did not include a driver's license for Simpson.

17. VyStar's investigation conducted prior to the JSO contact had associated over 30 accounts to a single internet protocol address that it had already linked to Defendant. These accounts included Treh Montreuil, Mark Rukab, Kendrick Simpson, Francis Uhl, William Valentine, and John Westerlund.

18. VyStar had also determined prior to the JSO contact that multiple accounts had images of different driver's licenses with Defendant's picture on them associated with the accounts. At a minimum, these include Treh Montreuil, Mark Rukab, Kendrick Simpson, Francis Uhl, William Valentine, and John Westerlund.

19. Prior to the JSO contact, VyStar had also compiled video evidence showing

Defendant making ATM withdrawals from accounts associated with the driver's licenses that had Defendant's picture on them.

20. By the time JSO contacted VyStar, the most likely next step for VyStar would have been sending the multiple driver's licenses it had images of in its files with Defendant's picture on them to a service to have the person in the picture identified with facial recognition software.

21. By the time JSO contacted VyStar, VyStar's investigation had reached a point where VyStar contacting JSO to launch a criminal investigation was imminent.

22. By the time JSO contacted VyStar, VyStar's internal investigation had progressed to a point where VyStar identifying Defendant as the perpetrator of identity fraud was imminent.

23. The police have also obtained incriminating information from investigatory subpoenas issued to financial institutions for video footage from ATMs that shows Defendant withdrawing money from accounts in other people's names, including the VyStar accounts identified at the hearing.

24. JSO's investigation also included accounts Defendant established in other people's names at Navy Federal Credit Union and USAA, but the State did not present any evidence about what, if any, investigations these financial institutions were conducting independently of JSO's investigation.

25. Defendant seeks to suppress evidence obtained from the execution of four different search warrants:

- a. Warrant 1713414: This warrant authorized the search of two iPhones taken from Defendant's vehicle after his May 1, 2024 arrest.
- b. Warrant 1716541: This warrant authorized the search of Defendant's

residence located at 7091 Stonelion Circle. The warrant authorized the search for and seizure of, among other things, computers, laptops, cell phones, hard drives, SD cards, printers, bank cards, and financial instruments. The evidence seized is listed on the return for the warrant. It generally consists of items of the type listed in the warrant. Defendant seeks to suppress all of that evidence.

c. Warrant 1717193: This warrant authorized the search of an iPhone found during the execution of the search warrant for Stonelion Circle. Data was retrieved from this phone.

d. Warrant 1718099: This warrant authorized the search of a laptop, two thumb drives, an external hard drive, and a PlayStation. While the affidavit for the warrant does not say where these devices were seized, counsel for both parties seemed to agree that they were seized during the execution of the warrant for Stonelion Circle. Data was obtained from these devices as well.

○ CONCLUSIONS OF LAW & MIXED FINDINGS OF FACT & CONCLUSIONS OF LAW

26. The State concedes the evidence obtained from the execution of warrant 1713414 should be suppressed as fruit of the poisonous tree, based upon the Court's ruling on Defendant's first motion to suppress. This evidence came from the two phones seized from Defendant's automobile during his unlawful detention.

27. The other warrants present unusual Fourth Amendment issues. The parties agree that the warrants were not obtained by wrongfully using false information or omitting material information. The parties also agree that at least some of the information that has already been suppressed—information about the false identifications and bank cards seized

during the search of Defendant’s wallet—was provided to the judges that issued the warrants. However, prior to the unlawful search of Defendant’s wallet, VyStar was engaged in an extensive identity fraud investigation independent of any state actors that focused on Defendant. The State also provided the judges with information that third party financial institutions, including VyStar, gave to JSO voluntarily and to the State Attorney’s office via responses to investigative subpoenas. Taken collectively, this information led to getting a warrant to search Defendant’s home; warrant 1716541 or the Stonelion Warrant. Executing the Stonelion Warrant led to obtaining warrants 1717193 and 1718099 to search electronic devices seized at Stonelion.

28. Neither party identified any basis upon which either warrant 1717193 or 1718099 could stand or fall separate and apart from the validity of the Stonelion Warrant. In other words, valid probable cause to search Stonelion equals valid probable cause to search items seized there within the scope of the Stonelion Warrant, like electronic devices. Thus, if the Stonelion Warrant is invalid, then warrants 1717193 and 1718099 are too. The reverse is also true. Stonelion is the only warrant that needs to be analyzed.

➤ *The Fourth Amendment*

29. The Fourth Amendment to the United States Constitution protects “[t]he right of the people to be secure in their persons, houses, papers, and effects against unreasonable searches and seizures” “In most Fourth Amendment cases, the burden of proof is . . . upon the defendant if the search was pursuant to a warrant.” *Nieminski v. State*, 60 So. 3d 521, 526 (Fla. 2nd DCA 2011). “Before a trial court considers the merits of a Fourth Amendment motion to suppress, the defendant must first establish a factual basis justifying his . . . claim to have possessed a Fourth Amendment right at the time of the alleged invasion.” *Id.* at 524. For most purposes, proving “standing” or a “legitimate expectation of

privacy in the area searched or the item seized” are the same thing. *See State v. Williams*, 184 So. 3d 1205, 1208-09 (Fla. 1st DCA 2016). Defendants bear the burden of proving standing. *Rawlings v. Kentucky*, 448 U.S. 98, 104 (1980).

30. Defendant asks this Court to suppress evidence JSO and the State Attorney obtained from Defendant’s residence during the execution of a search warrant. Defendant has a Fourth Amendment-based interest in his home and the devices taken from it. However, to obtain the Stonelion warrant, JSO used, in part, information it and the State Attorney obtained from third party financial institutions. It consisted of records of fake identifications used by Defendant to open bank accounts in other people’s names, records relating to those fraudulent bank accounts, and video footage from the institutions’ ATM machines that show Defendant withdrawing money from those fraudulent accounts. None of these things are Defendant’s person, house, papers, or effects. The text of the Fourth Amendment does not give Defendant any protection. Likewise, modern, non-textual, but long-standing, tests about reasonable expectations of privacy and interest balancing do not either. *See Riley v. California*, 573 U.S. 373, 385-86 (2014); *U.S. v. Miller*, 425 U.S. 435, 440-41 (1976); *Morales*, 274 So. 3d 1213, 1215-16 (Fla. 1st DCA 2019) (“a ‘search’ occurs only when an individual's reasonable expectation of privacy is infringed by an agent of the government”). Because of that, Defendant does not ask to suppress this evidence obtained from third parties.

31. Instead, Defendant relies on the fact that the identifications and bank cards found during the unlawful search of Defendant’s wallet caused JSO to contact financial institutions to get more information from them about Defendant’s suspected financial crimes. JSO, in turn, used the information it got from those financial institutions by way of interviews and investigative subpoenas to apply for the Stonelion Warrant. Defendant

argues this makes the evidence seized during the execution of the Stonelion Warrant fruit of the poisonous tree. Thus, he argues, even though the affidavit for the Stonelion Warrant consisted mostly of information that is not Defendant's papers or effects, the fact that unlawfully seized evidence started JSO's inquiries to the third-party institutions that provided this information makes any evidence seized during the execution of the Stonelion Warrant forbidden fruit. With that, under the controlling precedent, Defendant has established a sufficient Fourth Amendment interest to proceed.

➤ *Fruit of the poisonous tree*

32. Florida's fruit of the poisonous tree rule is not judge-made. Florida's Constitution requires exclusion of evidence seized during an unreasonable search but only "if such articles or information would be inadmissible under decisions of the United States Supreme Court construing the Fourth Amendment to the United States Constitution." FLA. CONST. art. 1, § 12. Under the applicable case law, when police obtain some evidence unlawfully that they then use to lawfully get more evidence, this Court must analyze whether the otherwise lawfully obtained evidence is fruit of the poisonous tree.

33. *State v. Griffith* is the most on-point authority the Court found. 500 So. 2d 240 (Fla. 3rd DCA 1986). Griffith's former employee told the police that Griffith took and collected photographs of nude young girls. *Id.* at 241. The police subsequently searched Griffith's home unlawfully, which yielded evidence that Griffith knew a young girl that he had a nude picture of. *Id.* at 241-42. Detectives then questioned numerous people associated with Griffith who voluntarily gave information that allowed the police to identify the girl. The girl then provided an incriminating affidavit. *Id.* at 242. The trial court erroneously ruled that the girl's testimony was fruit of the poisonous tree because the unlawful search yielded the evidence that started the police's efforts to locate her, even though the police

used legal means to find her. *Id.* The 3rd District explained the process to determine whether such evidence should be excluded:

The exclusionary rule provides that evidence obtained directly or indirectly from a violation of the fourth amendment is not admissible against an accused at trial. *Wong Sun v. United States*, 371 U.S. 47 (1963). The harsh consequences of the “fruit of the poisonous tree” doctrine are ameliorated by three crucial exceptions. A court may admit such evidence if the state can show that (1) an independent source existed for the discovery of the evidence, *Silverthorne Lumber Co. v. United States*, 251 U.S. 385 (1920); (2) the evidence would have inevitably been discovered in the course of a legitimate investigation, *Nix v. Williams*, 467 U.S. 431 (1984); or (3) sufficient attenuation existed between the challenged evidence and the illegal conduct

Id. at 243.

➤ *Inevitable discovery*

34. The State argued that the inevitable discovery doctrine saved the disputed evidence. This doctrine can save evidence seized during improper searches when the police would have inevitably discovered it by legal means anyway. It can apply to searches made pursuant to a warrant. *Davis v. State*, 153 So. 3d 360, 366-67 (Fla. 4th DCA 2014). To avail itself of the doctrine, “the State must show ‘that at the time of the constitutional violation an investigation was already under way.’” *Id.* at 367. Defendant was not being investigated by the State before police unlawfully detained him and searched his wallet. VyStar’s internal investigation that the State did not yet know about cannot trigger the application of the doctrine. The investigation must be the State’s. *Rodriguez v. State*, 187 So. 3d 841, 849-50 (Fla. 2016). Inevitable discovery does not save the disputed evidence.

➤ *Independent Source*

35. The independent source doctrine, however, saves the State’s evidence. “The

independent source doctrine ““applies when evidence is discovered as a result of unlawful police activity but is also discovered independently through a lawful investigation that occurs either before or after the illegal activity, so long as the independent investigation itself is ‘untainted by the initial activity.’” *Bender v. State*, 359 So. 3d 429, 434 (Fla. 5th DCA 2023); *O’Hare v. State*, 263 So. 3d 255, 259-60 (Fla. 5th DCA 2019). The evidence established that, by the time JSO contacted VyStar, VyStar had already taken its investigation far enough to independently contact JSO to start a criminal investigation, and VyStar would have made that contact in short order due to the criteria that VyStar uses to make that determination. Thus, the State established an independent source existed who could (and did) provide more than enough incriminating information to get the Stonelion Warrant.

36. The evidence did not establish an independent source for the investigations of fraudulent activity at Navy Federal or USAA. It appears the only leads JSO had to investigate these accounts came from identifications found during the traffic stop. None of the evidence established one way or another whether Navy Federal or USAA were even conducting their investigations before JSO contacted them. For all the court knows, JSO’s contact started the process. Fourth Amendment violations that lead to the development of probable cause for a warrant can invalidate that warrant. *Nieminski*, 60 So. 3d at 528 (“if the actions here constituted a . . . violation of the Fourth Amendment, . . . the evidence that was the fruit of this entry could not be used to obtain the search warrant”).

37. When reviewing a warrant’s validity, “the court must excise the invalid allegations from the affidavit and determine whether sufficient valid allegations remain to support a finding of probable cause.” *State v. Hood*, 68 So. 3d 392, 395 Fla. 2nd DCA 2011). The Court has attached to this Order a copy of the Affidavit for Search Warrant for Stonelion that excises all information except for that from VyStar. The Affidavit still

establishes probable cause for the Stonelion Warrant.

➤ *Primary Taint*

38. The fruit of the poisonous tree doctrine also does not apply to evidence that is “sufficiently distinguishable” from the unlawful police activity for it “to be purged of the primary taint.” *Tercero v. State*, 963 So. 2d 878, 881 (Fla. 4th DCA 2007). “To properly undertake the inquiry mandated by *Wong Sun*, we must consider three factors: ‘(1) the time elapsed between the illegality and the acquisition of the evidence; (2) the presence of intervening circumstances; and (3) the purpose and flagrancy of the official misconduct.’” *State v. Frierson*, 926 So. 2d 1139, 1143 (Fla. 2006). The police executed the Stonelion Warrant on June 27, 2024, almost two months after they unlawfully searched Defendant’s wallet on May 1. JSO’s transfer of the investigation to a detective with no connection to the unlawful search and the plethora of information and evidence VyStar provided to her establish significant intervening circumstances. The official misconduct consisted of exceeding the scope of a *Terry* stop to investigate a suspected misdemeanor and misconstruing the voluntariness of Defendant’s consent to search his wallet. The misconduct was neither flagrant nor aimed at illegally gathering evidence. All three *Frierson/Wong Sun* factors favor admission. The evidence that came from Defendant’s home is sufficiently purged of the primary taint to be admitted.

➤ *Good faith*

39. The good faith exception also precludes application of the exclusionary rule. *State v. Redhead*, 347 So. 3d 415, 418-19 (Fla. 5th DCA 2022). Trial courts should apply the exclusionary rule only when it provides an appropriate remedy for the police misconduct at issue. *Hudson v. Michigan*, 547 U.S. 586, 594-95 (2006); *State v. Barnes*, 979 So. 2d 991, 995-97 (Fla. 4th DCA 2008) (Berlanger, J. concurring). The detective that sought the search

warrants for Defendant's financial crimes was not involved in the unlawful search of his wallet. She had no way to know that a year later a judge would decide that JSO conducted an unlawful search of Defendant's wallet. In short, there was no misconduct on the part of the detective to deter. She acted in good faith in applying for the Stonelion Warrant, and the officers who executed it acted in good faith reliance on it. This Court's exclusion of the evidence taken from Defendant's wallet and the cell phones seized at the same time sufficiently deters the police misconduct associated with JSO exceeding the scope of their authority to detain Defendant and subsequently searching his wallet without sufficient consent. Exclusion of evidence seized during the execution of the Stonelion Warrant does not serve the purpose of the exclusionary rule since the officers involved acted in good faith.

40. Defendant's Motion to Suppress is GRANTED as to evidence obtained from the two phones seized from Defendant's vehicle, i.e. warrant 1713414. It is otherwise DENIED.

DONE and ORDERED on September 18, 2025, in Jacksonville, Duval County, Florida.



Jeb T. Branham
Circuit Court Judge

Copies furnished to:

Joseph Licandro, Esquire
Assistant State Attorney

Austin Kwikkel, Esquire
Attorney for Defendant

AFFIDAVIT FOR SEARCH WARRANT

STATE OF FLORIDA)
COUNTY OF DUVAL)

Police Officer S D KILPATRICK #60333, Affiant, an officer of the Jacksonville Sheriff's Office, being first duly sworn deposes and says: that Affiant has reason to believe and does believe that those certain premises and the yard and curtilage thereof, located in Duval County, Florida described as follows:

The premises to be searched is located at 7091 STONELION CIR, JACKSONVILLE, Duval County, Florida.

The premises are described as: The premise to be searched is a north facing two-story townhome located at 7091 Stonelion Circle, Jacksonville Florida, 32256. The premise is part of multiple connected side-by-side townhomes and is the third one coming from the right. The premise is light beige, has a light beige front-entry garage door on the right and a black front door on the left. The premise has two visible windows on the second story, and small vertical windows on each side of the front door. The premise has white trimming, black shutters, and black roof shingles. The numbers "7091" (black in color) are located on the garage trimming on the right side. It is the only such premise at this location that meets this description.

No other premises match the above referenced description.

The above referenced premises are being used by multiple individuals for the purpose of the commission of a felony, in violation of section(s) 655.0322(6); 817.568(2)(b); Florida Statutes. The Property is described as: Computers, laptops, cellular communication devices, printers, modems, scanners, hard drives, SD cards, cameras, drivers licenses, identifications, postal mail, financial institution records and/or banks statements, bank receipts, bank debit cards or credit cards, materials commonly used to create counterfeit checks to include check stock and printers/typewriters, ledgers, notebooks or documentation containing the personal identification information of other individuals, personal or commercial checks or financial instruments, keys or improvised tools used to access mail collection boxes.. Affiant, pursuant to the submission of this Application and Affidavit, requests that a Search Warrant be issued.

AFFIANT'S PROBABLE CAUSE for believing the Premises are being used for the purpose of the commission of a felony are as follows:

Your affiant has been employed with the Jacksonville Sheriffs Office for a total of 20 years as a sworn law enforcement officer and has been assigned as a Detective in the Economic Crimes Unit for over five years. Your affiant has received training in criminal investigations, to include fraud investigations and is a Certified Fraud Examiner (CFE) with the Association of Certified Fraud Examiners.

On May 1, 2024, the Jacksonville Sheriff's Office (JSO) Gang Unit was investigating a hit and run crash that occurred at Edgewood and Picket (CCR 24-268967). As part of the investigation, they contacted Thomas McBride (suspect McBride hereinafter) in a white Nissan Altima (FL tag #7292AP) who appeared to have been picking up the suspect of the hit and run crash (Javon Bell).

[REDACTED]

Based on certified bank records, video surveillance, and telephone interviews with affected individuals, the investigation revealed that between November 2022 and May 2024, the following occurred:

TREH MONTREIUL

[REDACTED]

- Certified VCU records showed that a checking and savings accounts (ending in 6486 and 6275) were opened on 4/19/2024 using the same identification.
- On 4/22/2024, video surveillance images showed that suspect McBride uttered a US Treasury check

made payable to Treh Montreuil for \$31,190.47 into the same account at the VCU San Marco Branch, 1600 Hendricks Avenue. He was seen leaving in a white Nissan Altima. On 4/26/2024, video surveillance images showed suspect McBride withdraw \$800 at a VCU ATM, 100 W. Bay Street.

- I contacted Montreuil via telephone. He advised that he was expecting that check from the Veteran's Affairs (VA) via mail but never received it. He advised that they notified the VA, who advised him that they would be investigating it. He advised that he did not know suspect McBride nor gave anyone permission to open an account using his identity.

MARK RUKAB, MACKENZIE ERICKSON

[REDACTED]

- Certified VCU records showed that a checking and savings accounts (ending in 6378 and 2382) were opened on 5/18/2023 using the same identification.
- On 5/22/23, video surveillance images showed suspect McBride depositing the seven stolen Rowe IGA checks made payable to Mark Rukab into the same account at the VCU ATM, 76 S. Laura Street, totaling \$5,062.62. Funds were recovered.
- I contacted Mark Rukab via telephone. He advised that he typically receives several checks from Rowes IGA per week via mail. He advised that he didn't not know suspect McBride, nor did he give anyone permission open an account using his identity.
- Certified VCU records showed a Social Security number (ending in 9105) was used to open the account. That SSN belongs to a Mackenzie Elizabeth Erickson of Colorado Springs. I contacted Erickson via telephone. She advised that she did not give anyone permission to use her SSN to open an account.

JOHN WESTERLUND, DESARAY HOBBS

[REDACTED]

- Certified VCU records showed that a checking and savings accounts (ending in 0114 and 3808) were opened on 11/23/2022 using the same New York identification.
- Certified VCU records showed that another checking and savings accounts (ending in 1676 and 9823) were opened on 5/3/2023 using the same Georgia identification.
- I contacted John Westerlund. He advised that he didn't not know suspect McBride, nor did he give anyone permission open an account in his name.
- It should be noted that Westerlund filed police report (23-0338292) in which he reported that a US Treasury check for \$2,292.59 was stolen in transit and deposited into the account ending in 9823.
- Certified VCU records showed a Social Security number (ending in 2105) was used to open the account opened in 2023. That SSN belongs to a Desaray Ann Hobbs of Michigan. I contacted Hobs via telephone. She advised that she did not give anyone permission to use her SSN to open an account.
- NFCU advised they could not find the records.

ROBERT KENTON RADLEY, SARAH SNELLING

[REDACTED]

- Certified VCU records showed that a checking and savings accounts (ending in 6329 and 1905) were opened on 5/18/2023 using the same identification.
- I contacted Robert Radley via phone. He advised that he did not know Suspect McBride, nor did he give anyone permission to open accounts in his name. He further stated that he never received his income tax return check last year.
- Certified VCU records showed a Social Security number (ending in 8105) was used to open the

account. That SSN belongs to a Sarah Snelling of Colorado. I left two voicemails with Snelling and am waiting for a response.

- NFCU advised that they could not find the records.

KARL GARCIA

Suspect McBride was found in possession of a fraudulent Georgia driver's license bearing suspect Douglas's image, the name of Karl Garcia, and a NFCU debit card (ending in 1882) bearing the same name. NFCU verified a fraudulent account was opened using the fraudulent identity. NFCU provided video surveillance that showed suspect Douglas opening the account on 10/24/2023 at the NFCU Riverview Branch, 3723 US-90, Fort Ware, FL. The suspect then used video surveillance depositing a US treasury check for \$170,694.98 into the said account on 11/7/2023 at NFCU Ortega Branch, 7231 Golden Wings Rd. NFCU also provided video surveillance showing Suspect McBride depositing cash into said account on 11/8/2023.

- NFCU records showed that the account was opened using the identity of Karl Garcia. Contact was made with the real Garcia. He advised that he does not know the suspect nor give anyone permission to open an account using his identity.

SARA OAKLEY, TEVIN THOMAS

Suspect McBride was found in possession of a USAA Bank member card (ending in 0288) and debit card (ending in 1234).

- USAA Bank verified an account was opened online on 2/22/24 using the identity of Sara Oakley (DOB 10/12/2002, SSN ending in 2415), Address of 2866 Masons Mill Rd, Evinston, VA 24550 (identity validated via Account). I spoke the real Sara Oakley at 434-665-9181. She advised that she did not know the suspect nor give anyone permission to open an account using her identity. She advised that all the information on the bank signature card is her information except for phone number. USAA Bank records showed that a USAA treasury check made payable to Tevin Thomas 2056 Winemont Blvd, Statesboro, GA 30461, was deposited into that account (identity validated via Account). I was unable to find a current phone number, therefore I sent him a letter asking that he contact me.

JAMIE MENARDE

Suspect McBride was found in possession of a USAA Bank debit card (ending in 7509).

- USAA Bank verified an account was opened online on 12/14/2023 using the identity of Jamie Menarde (DOB 7/14/1997, SSN ending in 1487), address of 125 Salem Creek Dr, Goose Creek, SC 29445 (identity validated via Account). I spoke with Jamie Menarde at 434-624-2174. She advised that she did not know the suspect nor give anyone permission to open an account using her identity. She advised that all the information on the bank signature card is her information except for phone number and email.

Certified VCU records show that suspect McBride has one personal account and three business accounts with VCU. All accounts list his address as 7091 Stonelion Circle as his personal address and contain the same Comcast IP address (73.192.118.148) for most of the accounts' activities (dating back to 2022). In addition, according to JEA records, the address is registered to suspect McBride.

Based on my training and experience such complex bank fraud and identity theft schemes of this magnitude require computers / electronics to complete the illegal act as well as paper records documenting the fraudulent activity. I believe the address in questions is being used to commit these acts and conceal evidence of these crimes.

WHEREFORE, Affiant makes this Application and Affidavit and requests the issuance of a Search Warrant for the search of the Premises for the referenced property described within, and for the seizure and safekeeping of the property, by the duly constituted officers of the law, subject to the order of a Court having jurisdiction.

06/25/2024
Date

/s/ S D KILPATRICK
Affiant: S D KILPATRICK ID# 60333
Agency: Jacksonville Sheriff's Office

Sworn to and subscribed before me this 25th day of June, 2024, by the aforementioned Affiant who is personally known to me who has produced Jacksonville Sheriff's Office identification or who has produced _____ as identification and who did take an oath.

Signature:

/s/ P M CHRISTIE Judge or Police Officer or Notary

P M CHRISTIE Print Name

Electronically administered per sections 92 and 117 of Florida Statutes

THE FOREGOING APPLICATION AND AFFIDAVIT for a Search Warrant having been presented the Application and Affidavit, made under oath and after considering the facts alleged, and being satisfied there is probable cause to believe the grounds set forth in the Application and Affidavit do exist and that the Laws of the State of Florida are being violated as alleged, I find that a Search Warrant is authorized and thus, is issued.


Control #: 1716541
Signed: 6/25/2024 10:11:02 AM
Judge: DAWN HUDSON

Judge of the County Court of the Fourth
Judicial Circuit in and for Duval County, Florida
Electronically signed per section 933 of Florida Statutes

IN THE CIRCUIT COURT, FOURTH
JUDICIAL CIRCUIT, IN AND FOR
DUVAL COUNTY, FLORIDA

State of Florida

v.

Jovan Sisljagic,

Defendant,

Case no.: 16-2018-CF-008093-AXXX-MA
Division: CR-H

ORDER ON PLACEMENT

THIS ACTION came before this Court for an evidentiary hearing on May 7, 2026, on Defendant's placement following a finding of not guilty due to insanity and on May 13, 2026, for submission of exhibits for these proceedings. The Court having taken evidence, heard argument of counsel, and being informed in the premises, finds as follows:

o PROCEDURAL HISTORY

Defendant was charged with four counts of attempted murder on a law enforcement officer arising from an August 18, 2018 shootout with police in Jacksonville Beach. Due to changes in judicial assignments, elevation, and a recusal, the undersigned is the fifth judge to preside over this action, having received it in January 2026.

In April 2019, almost a year after Defendant's arrest, he was adjudicated incompetent to proceed due to a mental illness and involuntarily committed to the Department of Children and Families for treatment and training to restore his competency. In July 2019, Defendant was found to have been restored to competency. In November 2020, a bench trial was conducted at which Defendant was found not guilty of the criminal charges due to him being insane at the time of the offense. The State did not challenge the validity of the insanity defense. Defendant was immediately involuntarily committed to

DCF's custody due to him presenting a manifest danger to himself and others because of his mental illness.

Sometime in October 2025, DCF recommended that Defendant be released from its custody and put on conditional release. The State opposed this and sought authorization for additional examinations. This Court granted the request and appointed Dr. Jonathan Gross to perform an examination. Dr. Gross found Defendant continued to present a manifest danger to himself and others because of his mental illness. The May 7 hearing was held to determine appropriate placement, given the competing findings of the examining experts. Defendant wants conditional release. The State wants continued involuntary commitment.

○ FINDINGS OF FACT

Defendant's psychotic symptoms began in 2011, when he was 20 years old. In 2013, when Defendant was 22, he was involuntarily examined under the Baker Act after he was found running around outside naked and threatening to kill himself. He reported using K2, marijuana, Adderall, and opioids. During subsequent treatment at River Point Behavioral Health Center, he was diagnosed with schizophrenia. While there, Defendant intentionally injured his head and tested positive for amphetamines. He was admitted to River Point again in 2014. In 2017, Defendant was psychiatrically hospitalized in Kentucky.

On Saturday, August 18, 2018, at 9:36 p.m., Defendant began a shooting spree outside of Jimmy Hula's restaurant in a busy business district in Jacksonville Beach by firing 2-3 shots at a passing K-9 unit driven by Officer B. Gray. Officer J. Murphy responded to assist. Defendant exchanged gunfire with the officers and then moved east towards a Waffle House parking lot, while reloading his firearm at least once during the engagement. Officer W.E. Eierman was directing traffic nearby. Officer Eierman moved to the Waffle House

parking lot to engage Defendant, who fired eight shots at Officer Eierman. Officer Eierman then moved to divert Defendant away from the crowded restaurant and into Beach Boulevard. Officer Eierman and Defendant exchanged gunfire, with Officer Eierman striking Defendant three times and Defendant striking Officer Eierman twice, seriously injuring him. At some point in the melee, Defendant also shot at Officer C.W. Carter. Officers apprehended Defendant shortly after Officer Eierman shot him.

On the way to the hospital and while there receiving treatment, Defendant was calm and at times sang quietly to himself. He told a doctor that he instigated the shooting because he was depressed and wanted to die. During examinations conducted to support his insanity defense, Defendant said he initiated the gunfight with the specific intent of shooting at the police, and only “part of him” wanted to die. Today, he says he thought his life was in danger from the police.

In April 2019, Drs. Kropp and Meadows opined that Defendant was incompetent to proceed due to a mental illness. Dr. Kropp diagnosed schizoaffective disorder, and Dr. Meadows diagnosed schizophrenia. By July, Defendant had been restored to competency. In 2020, both doctors opined that Defendant was insane during the 2018 shooting.

On November 20, 2020, Defendant was found not guilty by reason of insanity and committed to DCF’s custody.

DCF initially placed Defendant at the North Florida Evaluation and Treatment Center, a secure forensic mental health treatment facility. In December 2022, Dr. Johnston with NFETC recommended that Defendant “be discharged to a community based residential treatment facility,” even though the doctor also opined that Defendant “continues to meet the criteria for involuntary commitment.”

NFETC developed a conditional release plan after that, and the State moved to have Defendant examined for his placement needs in February 2023. The Court granted the motion and appointed Dr. Meadows to examine Defendant again. Five months later, the Court changed the examiner to Dr. Alan Harris. In January 2024, apparently without an examination having taken place yet, the Court changed the examiner to Dr. Jonathan Gross. Two months after that, Dr. Yelton with NFETC issued another examination report in which he opined that Defendant no longer met the criteria for involuntary commitment and recommended conditional release. Notably, Dr. Yelton's report says "If at any point the patient stops making progress or displays any signs of recidivism, his conditional release can be revoked by the court, and he can be returned to a forensic state mental health hospital."

On April 25, 2024, the court entered an order that continued Defendant's involuntary commitment to the Department of Children and Families for up to another year. The order stated that DCF had issued a report that opined that Defendant continued to meet the criteria for involuntary commitment, even though DCF had opined the opposite.

In May 2024, Dr. Bastawrous with NFETC issued a report that backed away from Dr. Yelton's conditional release recommendation. In this report, DCF said Defendant continued to meet the criteria for involuntary commitment and recommended the Defendant go from the secure, forensic setting of NFETC to "a civil step-down facility," i.e. a less restrictive form of DCF commitment.

DCF transferred Defendant from NFETC to the Northeast Florida State Hospital in June 2024, the civil step-down facility. In April 2025, Dr. Darah Granger opined that Defendant continued to meet the criteria for involuntary commitment, i.e. he was still

manifestly dangerous to himself and others due to a mental illness. In June, an order was entered that continued Defendant's commitment to DCF's custody for up to another year.

On September 30, 2025, Dr. Eduardo Vargas with DCF opined that Defendant continued to meet the criteria for involuntary commitment but was "nearing discharge readiness." Less than a month later, Dr. Vargas decided Defendant was ready to be conditionally released to a residential treatment facility. In January 2026, the State again moved to have Defendant examined for placement needs, and the Court again appointed Dr. Gross for that.

In April 2026, Dr. Granger with NEFSH opined that Defendant was no longer manifestly dangerous and recommended Defendant's conditional release to Apalachee Center Residential Treatment Facility.

Dr. Granger and Dr. Gross testified at the May 7 hearing. They agreed that Defendant has a history of medication non-compliance and use of illegal drugs. This is consistent with findings made by other doctors who have examined him.

Defendant now has, and has had at all other relevant times, a mental illness. No one disputes that. The examining doctors variously describe it as schizophrenia, schizoaffective disorder, and schizoaffective disorder, bi-polar type. Bi-polar disorder has been both diagnosed and ruled out at different times. Examiners have also diagnosed Defendant at various times with alcohol use disorder, amphetamine or stimulant use disorder, opioid use disorder, and cannabis use disorder.

Defendant's mental illnesses respond well to treatment in highly structured environments. All examiners agree that Defendant does not currently manifest psychotic symptoms. Defendant's appearance and demeanor at the hearing comported with the

examiners' opinions.

If Defendant becomes non-compliant with his psychotropic medication regimen or uses illegal drugs, it is reasonably medically certain that Defendant's psychotic symptoms will return.

Historically, outside of a highly structured environment, Defendant becomes non-compliant with his psychotropic medication regimens and uses illegal drugs.

○ SUMMARY OF APPLICABLE LAW

Florida Rule of Criminal Procedure 3.217 governs the disposition of defendants who have been found not guilty by reason of insanity, like Defendant. The Rule gives a court three options: 1) commit the Defendant to DCF's custody, if he meets the statutory criteria for that; 2) if not, order outpatient treatment at an appropriate facility, i.e. conditional release; or 3) discharge the defendant from court supervision. FLA. R. CRIM. P. 3.217(b) (2026). Orders providing for commitment or treatment must contain findings of fact relating to the commitment or treatment and copies of expert reports filed with the court. *Id.*

Fla. Stat. § 916.17 and Rule 3.219 govern conditional release, both for defendants who are on conditional release for restoration to competency as part of their conditions of pretrial release and defendants who have been found not guilty by reason of insanity. FLA. STAT. § 916.17(1) (2025); FLA. R. CRIM. P. 3.219(a) (2026). If the Defendant violates the conditions of his release, the law authorizes the court, *after a hearing*, to modify the conditions or, *if the defendant meets the statutory criteria for commitment* based upon new reports from experts, to commit the defendant to DCF's custody. FLA. STAT. § 916.17(2) (2025); FLA. R. CRIM. P. 3.219(b) (2026). Neither the statute nor the Rule provide any authority for the immediate jailing of defendants for violations or for holding them in custody while

evaluations get performed. However, Defendants on conditional release *for restoration to competency* can be arrested, jailed, and held in pretrial detention for violating their conditional release plan because that will usually also violate their conditions of *pretrial* release. *See* FLA. STAT. § 903.0471 (2025).

Defendants who have already been found not guilty by reason of insanity sit in a fundamentally different position than defendants on pretrial release when it comes to jailing them for violating release conditions. A not guilty defendant could be held for up to three days for an involuntary examination under the Baker Act, *if* he meets the restrictive criteria for that, FLA. STAT. § 394.463 (2025), or the court could initiate civil contempt proceedings for violating a court order which could, perhaps, eventually lead to a temporary jailing. While confusion on this point exists among mental health practitioners and lawyers, a person already found not guilty is generally not subject to plenary jailing for merely violating a condition of their release from involuntary commitment.

Fla. Stat. § 916.15 governs the involuntary commitment of defendants who have been found not guilty by reason of insanity. The statute requires a defendant to 1) have a mental illness; and 2) “because of the illness” be “manifestly dangerous to himself . . . or others.” FLA. STAT. § 916.15(2) (2025). The standard for involuntarily commitment following a finding of not guilty by reason of insanity differs significantly from the standard for involuntarily committing an incompetent defendant to DCF for treatment and training for restoration to competency to proceed or for involuntarily civilly committing someone. In those instances, before a court can involuntarily commit someone, it must, among other things, find by clear and convincing evidence that the person has a mental illness and because of that illness is either 1) manifestly incapable of surviving alone or with help from

willing friends or family; or 2) poses a substantial likelihood of inflicting serious bodily harm on himself or others in the near future as evidenced by recent behavior causing, attempting, or threatening such harm; and 3) all available less restrictive alternatives to involuntary commitment are inappropriate. FLA. STAT. §§ 394.467(2)(b); 916.13(1) (2025). The standard for involuntary commitment for a person found not guilty by reason of insanity is considerably lower in many ways than the standard for competency restoration or civil commitment. *See Hill v. State*, 358 So. 2d 190, 195 (Fla. 1st DCA 1978) (“the likely-to-injure standard is more particular, tending to produce fewer commitments and more releases, than the manifestly dangerous standard”). Conversely, the standard for jailing them for violating conditional release is considerably higher for people found not guilty by reason of insanity. In this Court’s experience, the significant differences sometimes get lost on the mental health professionals and legal practitioners. They are, however, critical for the disposition of Defendant’s current placement.

- CONCLUSIONS OF LAW & MIXED FINDINGS OF FACT AND CONCLUSIONS OF LAW

The exact terminology used to describe Defendant’s mental illnesses does not bear on this placement determination.

Rule 3.218(b) gives “the defendant . . . a right to be present at the hearing.” Fla. Stat. § 916.15(5) says “[t]he defendant must be transported to the committing court’s jurisdiction for the hearing. . . .” Personal presence is waivable, however. *Joehnk v. State*, 689 So. 2d 1179, 1180 (Fla. 1st DCA 1997); *Hockensmith v. State*, 524 So. 2d 462, 464 (Fla. 2nd DCA 1988) (“[e]vidence which could excuse the defendant’s personal presence [from a § 916.15 continued commitment hearing] could show voluntarily waiver”). Defendant appeared at the hearing by video conference from NEFSH in Baker County, Florida, outside of the

Fourth Judicial Circuit. Upon inquiry from the Court, Defendant stated that he agreed that the Zoom appearance was sufficient. His demeanor indicated full understanding of his options. His attorneys likewise agreed to Defendant's remote appearance. Defendant knowingly, intelligently, and voluntarily waived his right of personal attendance at the hearing.

Rule 3.218(c) requires the Court on motion of either party to "appoint no fewer than 2 . . . experts to examine the defendant relative to the criteria for continued commitment or placement" At the State's request, the Court appointed only Dr. Gross. However, Dr. Granger also examined Defendant, issued a report of that examination, and testified in person at the hearing. *See generally* FLA. STAT. § 916.15(4) (2025) ("[e]vidence at such hearing may be presented by the hospital administrator or the administrator's designee"). The parties have stipulated that Dr. Granger's examination satisfies the requirements of the Rule for the appointment of at least two experts. The parties' agreement, Dr. Granger's examination, report, and testimony satisfy the requirements of the Rule.

Once committed to DCF, the Department, not the court, decides Defendant's placement and treatment within DCF's facilities. *Department of Children and Families v. Harter*, 861 So. 2d 1274, 1275 (Fla. 5th DCA 2003). DCF has already moved Defendant to its least restrictive setting, NEFSH. The next step down is conditional release. The question the Court must decide is whether to continue Defendant's commitment to the custody of DCF for at least another year or to conditionally release him from DCF's custody.

"An involuntary commitment of a defendant acquitted of a crime by reason of insanity is not imposed as a punishment." *Tavares v. State*, 871 So. 2d 974, 977 (Fla. 5th DCA 2004). However, "the law does not require, nor will it permit, gambling the safety of our

citizens by releasing into alternative settings insane acquittees who, in the absence of proper and needed supervision, are manifestly dangerous” *Reynolds v. State*, 385 So. 3d 662, 668 (Fla. 5th DCA 2024). “[T]he safety of the public must be given full consideration” in the commitment decision. *Id.* at 666, n. 3.

Involuntary civil commitments or commitments for treatment and training of incompetent to proceed defendants require recent behavior causing, attempting to cause, or threatening serious bodily harm *and* a substantial likelihood that those behaviors will result in the infliction of serious bodily harm in the near future. FLA. STAT. § 916.13(1)(a)2 (2025). In other words, the courts’ decision making for these commitments is present-focused. Involuntary commitments for defendants found not guilty by reason of insanity are not as present-focused. The court can look backwards and forwards to decide whether the defendant presents a manifest danger. *Reynolds*, 385 So. 3d at 667 (“a trial court is not limited to one snapshot of one moment in time (at the commitment hearing) in making its decision”).

Since all parties and doctors agree that Defendant continues to have a mental illness, to be conditionally released, Defendant must “demonstrate that . . . he is no longer a danger to himself or others.” *Tavares v. State*, 871 So. 2d 974, 977 (Fla. 5th DCA 2004). That presents “a legal question for the courts to resolve, not simply a medical question.” *Reynolds*, 385 So. 3d at 667.

Husk v. State involved a similar situation to the one at bar, with the committing court looking forwards. 453 So. 2d 153 (Fla. 1st DCA 1984). Although *Husk* involved a shorter time frame than the action at bar, the First District upheld the committing court’s continued involuntary commitment, contrary to the State Hospital’s recommendation. *Id.* at 154.

Among other factors, the committing court relied on an expert who opined that Husk “would almost certainly be dangerous if he stopped taking his medication or if he were to take alcohol or other mind-altering drugs.” *Id.* at 154-55. The evidence before the Court establishes that the same risk applies to Defendant.

The risk of medication non-compliance weighed significantly into the 5th District decision to uphold involuntary commitment in *Reynolds* as well. 385 So. 3d at 664-65. “Whether one is ‘[m]anifestly dangerous . . . is a mixed question of ‘[t]he likelihood of future misconduct, the type of misconduct to be expected, and its probable frequency’” *Id.* At 667. The court can consider the risk of destabilization outside of a highly structured environment as well the kind of conduct that led to the involuntary commitment in the first place. *Id.* Defendant has a prior history of medication non-compliance and a significant history of the use of illegal drugs. It is hard to think of an act that puts others more at a manifest risk than getting into an extended shootout with four police officers on a Saturday night in the middle of a busy business district. Given the extreme nature of the conduct that led to Defendant’s involuntary commitment and that his only period of sustained psychiatric stability since the age of approximately 20 has come within the confines of DCF custody, Defendant continues to present a manifest danger to others because of a mental illness.

The limitations on the Court’s authority to immediately jail Defendant for failing to follow his conditional release plan weigh significantly into “giv[ing] full consideration” to “the safety of the public . . . in the commitment decision.” *Reynolds*, 385 So. 3d at 666, n. 3. At the hearing, Dr. Granger suggested that the ability to arrest and jail Defendant pending a psychiatric evaluation if he violates a condition of his release mitigates any danger

defendant's release from DCF custody might pose. This echoed Dr. Yelton's view expressed in the March 2024 report. The parties were asked to provide written closing argument addressing the Court's authority to jail Defendant for violating the conditions of his release. Neither party identified any authority to immediately jail Defendant and hold him pending a psychiatric evaluation based upon a sworn accusation that he merely violated a condition of his release. The Court is not aware of any such authority either. The kind of plenary jailing or recommitment authority the doctors described would certainly help protect the public against the risks posed by transitioning Defendant to conditional release if that authority existed, but it does not. *See Morrow v. State*, 153 So. 3d 402, 403 (Fla. 1st DCA 2014) (reversing trial court order jailing defendant pending his placement at an appropriate facility for conditional release). A legislative provision for such authority would help the courts and DCF to better manage the ongoing treatment and supervision of defendants found not guilty by reason of insanity.

As a final point of clarification, Dr. Gross recommended placement "in a secure . . . Residential Treatment Facility . . . , such as Apalachee Center" Dr. Granger, who recommended conditional release, also recommended placement at Apalachee Center. Dr. Gross misunderstood what Apalachee Center is. It is not a secure forensic facility. DCF does not operate it. Placement at the Center is only by conditional release. No one can be involuntarily committed to the Apalachee Center. Thus, Dr. Gross's recommendation of placement at the Apalachee Center is at odds with his opinion that Defendant is still manifestly dangerous. However, Dr. Gross's core opinion that Defendant should remain at a secure facility is not at odds with his opinion that Defendant is still manifestly dangerous. Any seeming contradiction arises from his misunderstanding about what, exactly,

Apalachee Center is. (Dr. Johnston of DCF expressed a similar misunderstanding about placement in his December 2022 report.) Dr. Gross's misunderstanding about Apalachee Center does not undermine his opinion that Defendant continues to present a manifest danger because of a mental illness.

It is ORDERED:

1. Defendant's involuntary committment to the custody of the Department and Children and Families is continued.

2. This Court will hold another hearing on Defendant's placement on May 4, 2027 at 9:00 a.m. in Courtroom 408 of the Duval County Courthouse located at 501 West Adams Street, Jacksonville, Florida 32202.

3. The Department of Children and Families will issue a report on its recommendations for Defendant's placement beyond May 4 2027 no later than April 23, 2027, pursuant to Fla. Stat. § 916.15(2) and Florida Rule of Criminal Procedure 3.218. The Department will report directly to the Court, sending copies of the report to counsel for the State and Defendant.

4. Pursuant to Fla. Stat. § 916.16(1), Defendant must not released from the custody of the Department of Children and Families without further Order of this Court.

DONE and ORDERED on May 18, 2026, in Jacksonville, Duval County, Florida.



Jeb T. Branham
Circuit Court Judge

Copies furnished to:

Chyna-Michele Makarowski, Esquire
Assistant State Attorney

Darcy Galnor, Esquire
Attorney for Defendant

Carol M. Alesch-Scholl, Esquire
State of Florida Dept. of Children and Families (DCF)

Jennifer Ware, Esquire
Regional Legal Counsel for DCF

Laura Pilkinton, LSF Health Systems

Grace Curry
Community Contact

Dianna Greathouse
Recovery Team Coordinator

Stephanie Roberson
Social Services Counselor

Northeast Florida State Hospital (NEFSH)

IN THE CIRCUIT COURT, FOURTH
JUDICIAL CIRCUIT, IN AND FOR
DUVAL COUNTY, FLORIDA

State of Florida

v.

Case no.: 16-2023-CF-2498
Division: CR-H

Dominique David Watson,

Defendant.

ORDER DENYING DEFENDANT'S MOTIONS TO DISMISS

THIS CAUSE came before this Court for hearing on November 3, 2023 on Defendant's Motion to Dismiss Count 1, possession of a firearm by a convicted felon. The Court having heard argument of counsel and being otherwise informed in the premises, DENIES Defendant's Motion, finding as follows:

1. The State has charged Defendant with possession of a firearm by a convicted felon, along with two misdemeanors. Defense counsel represented that Defendant pled guilty to burglary in Georgia. The state represented that the conviction was for burglary to a dwelling, and Defendant received a 3-year prison sentence with 12 years of probation following. Neither party disputed the predicate conviction or the representations regarding the sentence.

2. Fla. Stat. § 790.23(1)(e) makes it a felony for "any person to own or to have in his or her care, custody, possession, or control any firearm . . . if that person has been . . . [f]ound guilty of an offense that is a felony in another state . . . and which was punishable by imprisonment for a term exceeding 1 year." Defendant contends Fla. Stat. § 790.23 is unconstitutional as applied to Defendant because it violates the protection against infringement of the right to keep and bear arms provided by the Second Amendment to the

United States Constitution. (Motions to Dismiss, ¶ 6.).

3. Defendant relies mostly on the recent U.S. Supreme Court case of *New York State Rifle & Pistol Association, Inc. v. Bruen*, 142 S. Ct. 2111 (2022). Prior to *District of Columbia v. Heller*, 554 U.S. 570 (2008), the U.S. Supreme Court had done little to delineate the protections against infringement by the state or federal governments of the right to keep and bear arms that the Second Amendment provides. In *Heller*, the Supreme Court “consider[ed] whether a District of Columbia prohibition on the possession of useable handguns in the home violate[d] the Second Amendment to the Constitution.” 554 U.S. at 573. The *Heller* court held “the District’s ban on handgun possession in the home violates the Second Amendment” *Id.* at 635. Foreshadowing future disputes, the Court noted, “Assuming *Heller is not disqualified* from the exercise of Second Amendment rights, the District must permit him to register his handgun” *Id.* (emphasis added). *Heller*, however, did not address much for the nation beyond analytical theory because it applied only to the District of Columbia. As to theory, *Heller* dispelled the notion that the Second Amendment only protects some sort of collective right to keep and bear arms within the context of militia service and established that the Amendment protects an individual right. 554 U.S. at 595.

4. Next, the Supreme Court held “that the Second Amendment right is fully applicable to the States.” *McDonald v. City of Chicago*, 561 U.S. 742, 750 (2010). The Supreme Court extended the Second Amendment’s protections to the States by “incorporating” the Amendment through “the Due Process Clause of the Fourteenth Amendment” *Id.* at 791. In adhering to a selective incorporation analysis, the *McDonald* Court specifically rejected an opportunity to extend certain protections in the Bill of Rights to the People in the several states through the Privileges and Immunities clause of

the 14th Amendment. *Id.* at 758; 805-858 (Thomas, J, concurring). In doing so, the Supreme Court noted that “[t]he right to keep and bear arms, however, is not the only constitutional right that has controversial public safety implications. All of the constitutional provisions that impose restrictions on law enforcement and on the prosecution of crimes fall into the same category.” *Id.* at 783.

5. With the collective right theory dispelled by *Heller* and applicability of the Second Amendment to the states established by *McDonald*, *Bruen* came along. The *Bruen* Court held “the Second and Fourteenth Amendments protect an individual’s right to carry a handgun for self-defense outside the home.” 142 S. Ct. at 2122. In doing so, the Supreme Court rejected means-end scrutiny, i.e. interest balancing or “tiers of scrutiny,” as a tool to resolve Second Amendment disputes. “*Heller* and *McDonald* do not support applying means-end scrutiny in the Second Amendment context. Instead, the government must affirmatively prove that its firearms regulation is part of the historical tradition that delimits the outer bounds of the right to keep and bear arms.” 142 S. Ct. at 2127. As emphasized by the Supreme Court:

We reiterate that the standard for applying the Second Amendment is as follows: When the Second Amendment’s plain text covers an individual’s conduct, the Constitution presumptively protects that conduct. The government must then justify its regulation by demonstrating that it is consistent with the Nation’s historical tradition of firearm regulation. Only then may a court conclude that the individual’s conduct falls outside the Second Amendment’s “unqualified command.”

Id. at 2129-30.

6. At the hearing on Defendant’s Motion to Dismiss, neither side presented any evidence. Neither party identified any law prohibiting felons from possessing firearms that predated the 1938 amendment of the National Firearms Act, the law that generally prohibits

felons from possessing firearms at the federal level. It seems difficult to square the recency of felon-in-possession and related laws with the directive in *Bruen* for courts to require the government to demonstrate that a law is “consistent with the Nation’s historical tradition of firearm regulation.” *Id.* Founding-era laws restricting firearms possession concerned narrow classes of people, such as British loyalists, or specific, unlawful uses of arms. Joseph Greenlee, *The Historical Justification for Prohibiting Dangerous Persons from Possessing Arms*, 20 WYOMING LAW REVIEW, 249, 261-67 (2020). Earlier 20th century laws restricted narrower classes of people, such as violent offenders, and the restrictions applied to only some kinds of arms. *Id.* at 272-75. Pre-*Bruen*, when U.S. Supreme Court Justice Amy Coney Barrett sat as a judge on the U.S. Court of Appeals for the 7th Circuit, she recognized the potential constitutional infirmity of laws that prohibit all felons—as opposed to just dangerous ones—from possessing firearms due to the lack of founding-era analogues. *Kanter v. Barr*, 919 F. 3d 437, 454-469 (7th Cir. 2019) (Barret, J., dissenting) (“neither the convention proposals nor historical practice supports a legislative power to categorically disarm felons because of their status as felons”).

7. Nevertheless, the Supreme Court in *Heller* says “nothing in our opinion should be taken to cast doubt on longstanding prohibitions on the possession of firearms by convicted felons” 554 U.S. at 626. *McDonald* reiterated this, saying “We repeat those assurances [about the validity of felon-in-possession laws] here.” 561 U.S. at 768. *Bruen* did not overrule *Heller* or *McDonald*. 142 S. Ct. at 2125-34. The *Bruen* Court said “nothing in our analysis should be interpreted to suggest the unconstitutionality of the 43 States’ ‘shall issue’ licensing regimes It appears that these shall-issue regimes, which often require applicants to *undergo a background check* . . . , are designed to ensure only that those bearing arms in the

jurisdiction are, in fact, law-abiding, responsible citizens.” 142 S. Ct. at 2138, n. 9 (emphasis added). If the *Bruen* Court does not question background checks to ensure a person’s law-abiding status as a prerequisite for permits to carry guns, presumably it does not question felon-in-possession laws either. Beyond that, however, Justices Alito, Kavanaugh, and Roberts concurred with language that expounds upon permissible restrictions imposed by the several states on the right to keep and bear arms. Justice Alito wrote “Our holding today decides nothing about who may lawfully possess a firearm or the requirements that must be met to buy a gun.” 142 S. Ct. at 2157 (Alito, J., concurring). Justice Kavanaugh wrote “The Court’s decision addresses *only* the unusual discretionary licensing regimes, known as ‘may-issue’ regimes, that are employed by 6 States Properly interpreted, the Second Amendment allows a ‘variety’ of gun regulations.” 142 S. Ct. at 2161 (Kavanaugh, J. and Roberts, C.J. concurring) (emphasis added).

8. For federally-protected constitutional rights, this Court must apply U.S. Supreme Court precedent. *State v. Markus*, 211 So. 3d 894, 902 (Fla. 2017); *Carnival Corp. v. Carlisle*, 953 So. 2d 461, 464 (Fla. 2007). The United States Constitution and U.S. Supreme Court precedent applying it set the floor for what a state can do, but not the ceiling, when it comes to enforcing legislation that infringes on federally-protected rights. *Ringertink v. State*, 66 So. 3d 866, 888 (Fla. 2011) (“in accordance with our federalist system of government . . . [a state] ‘may not . . . place more restrictions on fundamental rights . . . than the federal Constitution permits’”). The Florida Constitution’s declaration of the right to bear arms differs somewhat from the U.S. Constitution. FLA. CONST. Art. 1, § 8(a) (2022). The Florida right refers to bearing arms for self-defense and defense of the lawful authority of the state. *Id.* It dispenses with any militia-related language, says the legislature may regulate the

manner of bearing arms, *id.*, and imposes a waiting period for buying handguns at retail stores. *Id.* at § 8(b). Since the U.S. Constitution and U.S. Supreme Court precedent applying the Second Amendment set the floor, the Florida Constitution or laws can only add more protections to the right to bear arms than the Second Amendment already provides. They cannot take protections away. However, neither the State nor the defense grounded any arguments in state law or presented any evidence that Florida’s constitution or laws might provide more protections for bearing arms than the U.S. Constitution does. Thus, this Court does not need to address state law in detail to resolve Defendant’s Motion.

9. *Heller*, *McDonald*, and *Bruen* all make it clear that the U.S. Supreme Court has done nothing yet to disturb any aspect of states’ felon-in-possession laws. *Bruen*, 142 S. Ct. at 2161 (“[t]he Court’s decision addresses *only* the unusual discretionary licensing regimes, known as ‘may-issue’ regimes, that are employed by 6 States”) (Kavanaugh, J. and Roberts, C.J. concurring) (emphasis added); *McDonald*, 561 U.S. at 768 (“[w]e repeat those assurances [about the validity of felon-in-possession laws] here”); *Heller*, 554 U.S. at 626 (“nothing in our opinion should be taken to cast doubt on longstanding prohibitions on the possession of firearms by convicted felons”). Even though the constitutional test for gun laws established by *Bruen* can be used to craft history-based arguments against broad felon-in-possession laws, the Supreme Court’s directives about the continued validity of felon-in-possession laws remain clear. Moreover, the First District Court of Appeals addressed Florida’s felon-in-possession law post-*Heller* and *McDonald*. *Epps v. State*, 55 So. 3d 710, 711 (Fla. 1st DCA 2011). The First District said the *Heller* and *McDonald* statements about the continued validity of felon-in-possession laws resolved the constitutionality of Florida’s law. 55 So. 3d at 711. The court did not engage in any detailed analysis but instead simply relied

on *Heller* and *McDonald*. *Id.* Without any conflicting authority from another appellate district, this Court must follow *Epps*, along with *Heller*, *McDonald*, and *Bruen*. *Pardo v. State*, 596 So. 2d 665, 666 (Fla. 1992) (“in the absence of interdistrict conflict, district court decisions bind all Florida trial courts”).

10. Applying Fla. Stat. § 790.23(1)(b) to Defendant’s criminal history changes nothing. Defendant’s predicate felony act is a burglary. He received a 3-year prison sentence with 12 years of probation following. No party disputed this. Defendant argued that Georgia classifies Defendant’s predicate offense as non-violent. The Court does not find Georgia classifications of offenses binding or persuasive on this issue. Defendant’s sentence establishes that his crime would be at least a 2nd degree felony in Florida. Florida classifies a 2nd degree felony burglar as a violent felony offender of special concern. FLA. STAT. §§ 810.02(3)(b); 948.06(8)(c)12 (2022). Florida considers such a burglary a high-level offense for sentencing purposes. Legislative judgments to prohibit “categories of people whose possession of guns would endanger the public safety . . . are lineal descendants of historical laws banning dangerous people from possessing guns.” *Kanter*, 919 F. 3d at 464-65 (Barrett, J. dissenting). In other words, prohibiting a 2nd degree felony burglar who is a violent felony offender of special concern from possessing firearms “is consistent with the Nation’s historical tradition of firearm regulation.” *Bruen*, 142 S. Ct. at 2129-30.

11. As the Court pointed out at the hearing, neither party developed the record to the Court’s satisfaction about Defendant’s predicate felony, even though the lack of dispute about his crime and sentence resolved the issue for the present purposes. Regardless, the State should be particularly concerned about the record in these cases. *Bruen* places the burden to establish the constitutional validity of the law squarely on the State. It strongly

suggests the burden is evidentiary. The State has yet to present any evidence in the hearings this Court has conducted on this issue for three different defendants. The United States Court of Appeals for the 3rd Circuit has already found a felon-in-possession law unconstitutional as applied to a welfare fraud convict. *Range v. United States*, 69 F. 4th 96, 106 (3rd Cir. 2023). At least one sitting U.S. Supreme Court justice—Justice Barrett—espoused the view that prohibitions against ownership of firearms by all non-violent felons offends the 2nd Amendment’s protection of the right to keep and bear arms. *Kanter*, 919 F. 3d at 468 (“[t]he sheer diversity of crimes encompassed by these [felony] statutes makes it virtually impossible for the governments to show that banning all nonviolent felons from possessing guns is closely tailored to the goal of protecting the public safety”). At least two judges on the Florida 5th District Court of Appeals see the issue as meriting part of a concurring opinion. *Simpson v. State*, So. 3d 513, 525 (Fla. 5th DCA 2023) (Pratt, J., concurring) (“[f]or one thing, even if the State could point to a colonial, founding-era, or antebellum felon disarmament regime, it necessarily would have a narrower scope than section 790.23(1)(a) due to continuous expansion of the “felony” label”). More than a few appellate level jurists see a history of violence and the possibility of future danger posed to the community by a felon as the critical link between the text, history, and tradition behind the 2nd amendment and felon disarmament laws. *See generally id.* at 528 (“the above-described historical record supports disarming felons whose prior convictions show that they pose a danger to the public if armed.”). The view that today’s felon-in-possession laws might be constitutionally infirm as applied to non-violent felons is not a fringe view from the outer edges of legal theory. As these cases work their way up the appellate levels, the State should be just as concerned as the defense about the record it develops at the trial level, in light of the burdens

binding precedent puts on the State. While *Epps* prevents this Court from granting Defendant's motion, it does not bind the judges at the next level up.

12. The State also argued here that this Court does not need to evaluate whether felon-in-possession laws are consistent with the text, history, and tradition of the 2nd Amendment because the "Amendment's plain text does not cover the possession of a firearm by a felon" (State's Response in Opposition to Defendant's Motion to Dismiss, p. 9.) Courts increasingly reject this "virtuous citizen" theory of the 2nd Amendment. *Range*, 69 F. 4th at 102-03 ("we reject the Government's contention that only 'law-abiding, responsible citizens' are counted among the people' protected by the Second Amendment"); *United States v. Rahimi*, 61 F. 4th 443, 451 (5th Cir. 2023), *cert. granted*, 143 S. Ct. 2688 (2023) ("the words 'the people' in the Second Amendment have been interpreted throughout the Constitution to 'unambiguously refer to all members of the political community'"). The argument runs counter to the 5th District's only statement to date on the issue. *Simpson*, 368 So. 3d at 524 ("the Second Amendment's plain text covers the ownership and possession of a firearm by a felon who has completed his sentence and returned to the community"). While this statement comes from a concurring opinion on an issue not addressed in the panel's holding, it still illustrates the lack of favor the State's argument typically finds. No other protections afforded by the Bill of Rights extend only to groups of people who, in the judgment of the legislatures, deserve them. This Court sees no reason why the 2nd Amendment would be any different. *Bruen*, 142 S. Ct. at 2156 ("the . . . right to bear arms . . . is not 'a second-class right, subject to an entirely different body of rules than the other Bill of Rights guarantees'").

13. To summarize, the Court denies Defendant's motion to dismiss for two reasons:

A) Denying burglars access to firearms is consistent with the Nation's historical traditions of firearms regulations; and B) Binding precedent—*Epps*—decided after both *Heller* and *McDonald* requires it.

Defendant's Motion to Dismiss is DENIED.

DONE AND ORDERED on November 7, 2023, in Jacksonville, Duval County, Florida.



Jeb T. Branham
Circuit Court Judge

Copies furnished to:

Austin Kwikkel, Esquire
Assistant State Attorney

Caleb D. Rowland, Esquire
Attorney for Defendant

IN THE CIRCUIT COURT, FOURTH
JUDICIAL CIRCUIT, IN AND FOR
DUVAL COUNTY, FLORIDA

State of Florida

v.

Henry Joseph Lannon II,

Defendant.

Case no.: 16-2021-CF-011128

Division: CR-H

ORDER DENYING RECONSIDERATION OF DENIAL DEFENDANT'S MOTION TO SUPPRESS

THIS CAUSE came before this Court on Defendant's Motion to Suppress Physical Evidence Obtained from Facebook (Meta Platforms, Inc.) (hereinafter Motion to Suppress). The Court having taken evidence, heard argument of counsel, and being otherwise informed in the premises, DENIES Defendant's Motion, finding as follows:

o PROCEDURAL HISTORY

1. Defendant is charged by Information with the kidnapping and aggravated battery of C.T. between November 10 and 11, 2021. The State alleges that after the kidnapping and battery, Defendant engaged in a course of conduct to hide evidence. During this time, the State contends Defendant engaged in inculpatory communications via Facebook with family, friends, and associates. On September 1, 2022, police applied for and obtained a search warrant for Facebook records from Meta Platforms, Inc., Facebook's parent company.

2. The Court previously denied Defendant's Motion to Suppress because a) Defendant did not properly establish standing; and b) the warrant's date limitation saved it from overbreadth. As to standing, Defendant challenged *all* of the data Meta supplied to the police in response to the warrant. Some of that data was public, and Meta itself created some of it. Clearly, Defendant does not have 4th Amendment standing to seek to suppress

that kind of data.

3. Defendant now seeks only to suppress his private messages that Meta gave to the police and his location history. Defendant has not identified any location history that he seeks to suppress, and the State said Meta did not provide any. That leaves only private messages for reconsideration. Defendant contends that all communications obtained from the data Meta sent to the State should be suppressed because (a) the warrant did not make a sufficiently specific connection between the crime, Defendant, and the Facebook account; and (b) the warrant sought an overly broad scope of data. As to overbreadth, Defendant argues that in addition to a date range for data that has dates, the Fourth Amendment also requires warrants sent to social media companies to have subject matter limitations. As that pertains to this action, he argues the Constitution required the State to limit its request to messages between Defendant and A.M. The State did not limit its request for data to Meta to any particular subjects.

- FINDINGS OF FACT

4. Based upon evidence adduced at the suppression and other pretrial proceedings, the State, in summary, accuses Defendant of kidnapping victim C.T. and then torturing her while tied to a chair in his mother's garage for the better part of November 10-11, 2021. Defendant's mother found C.T. unresponsive on the living room floor with her ankles bound. Defendant's mother then took C.T. to a fire station. The firemen took C.T. to the hospital where she later died.

5. During their investigation, Police determined that Defendant had at least two Facebook accounts. One had username "John Doe" with profile I.D. 10075226533641, i.e. the target account. The warrant at issue seeks Facebook data for the target account from November 1, 2021 to November 24, 2021, the day after Defendant's arrest.

6. Obviously, date ranges do not pertain to some Facebook records, such as account identifiers, device identifiers, and contact information.

7. Police used a format for the warrant that Meta provides.

8. The warrant does not just seek data given to Meta by Defendant. It also seeks data and records that Meta created solely by itself, data created by other Facebook users that wound up associated with Defendant's account, and data and records Meta created using data supplied to Meta by Defendant.

9. Only some of the data and records sought by the warrant are in the form of communications between the John Doe account and other Facebook users.

10. Sergeant Smith, the officer who obtained the warrant to search Defendant's Meta account at issue, has obtained 40-50 social media warrants previously. Meta generally abides by date ranges for communications. He does not know whether Meta would abide by a subject matter limitation and has never sought to have one applied.

11. According to Meta, it responded to 375,000 government requests for user data during the first six months of 2025. (<https://transparency.meta.com/reports/government-data-requests/>). These requests covered 149,615 users or accounts in the United States alone. Meta produced data for 129,256 U.S. accounts during the first half of last year. (<https://transparency.meta.com/reports/government-data-requests/country/US/>). That is over 1,400 requests per workday. Meta requires "[all requests . . . [to] include[e] the specific data categories requested and date limitations for the request" Meta does not make any provision for limiting requests to specific subjects beyond "data categories." The limitations to data categories and date ranges come from Meta's guidance to law enforcement seeking warrants or subpoenas under the Federal Stored Communications Act.

(<https://www.meta.com/safety/communities/law/guidelines/>) (See Notice of Taking

Judicial Notice *Sue Sponte.*)

○ CONCLUSIONS OF LAW & MIXED FINDINGS OF FACT AND CONCLUSIONS OF LAW

12. To justify a search warrant, a supporting affidavit must set forth facts that establish: (a) a particular person has committed a crime; and (b) relevant evidence is likely to be found in the place to be searched. *State v. McGill*, 125 So. 3d 343, 348 (Fla. 5th DCA 2013). The warrant affidavit sufficiently ties the target account to the crime charged. The affidavit shows that police established probable cause to believe Lannon murdered the victim in this action through witness interviews. The phone seized at Lannon's arrest showed that he used the target account to communicate with other Facebook users about events that certainly seem to describe a kidnapping and torture that led to the victim's death; a level of certainty that exceeds probable cause. This information gave police probable cause to believe the target account held evidence of the crime of murder. The Court does not know why the State ultimately charged Defendant with kidnapping and aggravated battery, but not murder. It does not matter. That discretionary charging decision does not alter the constitutional analysis that establishes the police had probable cause to believe Defendant had murdered the victim when they searched his phone and probable cause to believe evidence of the murder existed within Meta's data for the target account. *See Bates v. State*, 394 So. 3d 794, 797-99 (Fla. 1st DCA) (upholding conviction for child pornography for images found on laptop during unrelated search of laptop for images of molestation victim). In other words, the State's ultimate charging decision, under the facts of this case, does not implicate Defendant's Fourth Amendment protections.

13. The challenged "warrant" is issued pursuant to Fla. Stat. § 92.605. As discussed in the Order Denying Defendant's Motion to Suppress, Fla. Stat. § 92.605 exists under the aegis of the Federal Stored Communications Act or SCA, passed in 1986. That act

distinguishes between using administrative subpoenas, warrants, and court orders to obtain stored communications and applies somewhat different standards to each. 18 U.S.C. § 2703 (2025). Courts have been hostile to those parts of the SCA that allow disclosure of communications without warrants obtained by traditional means. *Carpenter v. U.S.*, 585 U.S. 296, 316-21 (2018) (applying traditional warrant requirement to real time cell site location information, notwithstanding SCA’s lower standard for disclosure); *U.S. v. Warshak*, 631 F.3d 266, 288 (6th Cir. 2010) (“to the extent that the SCA purports to permit the government to obtain such emails warrantlessly, the SCA is unconstitutional”). As for warrants, the SCA incorporates Federal Rule of Criminal Procedure 41. This Rule adopts a two-step process for warrants like those sent to Meta: Meta produces everything the warrant asks for in step one, and, in step two, the government reviews the information Meta produces for material relevant to its criminal investigation. The Rule says nothing about what happens to the “irrelevant” data afterwards. *See generally* Reid Day, *Let the Magistrates Revolt: A Review of Search Warrant Applications for Electronic Information Possessed by Online Services*, 64 UNIV. OF KAN. L. REV. 491 (2015) (detailing the state of confusion and disagreement about what the Fourth Amendment requires in the context of social media and email warrants). While the Florida Rules of Criminal Procedure do not specifically adopt Federal Rule 41’s two step procedure, warrants like the one at issue get handled the same way, as a practical matter.

14. The issues presented about the scope of the warrant at issue in this action squarely establish the problem with using non-textual frameworks to analyze constitutional protections of fundamental rights: They do not stand up to time. The 4th Amendment to the United States Constitution protects “[t]he right of the people to be secure in *their* persons, houses, *papers*, and *effects* against unreasonable searches and seizures” U.S. CONST. amend. IV (emphasis added). The law about the application of the 4th Amendment to data

that people voluntarily give to social media and other digital advertising companies is surprisingly poorly developed, particularly when social media companies get hundreds of thousands of requests from governments for data about their users every year. Meta produces records to government agents for roughly one in 1,000 of its users in the United States every year. The Court submits that a textual analysis centered on whether information given to social media companies by their users falls within “their [users’] . . . papers and effects” would work far better than the currently applicable non-textual frameworks about reasonable expectations of privacy and interest balancing. *See generally Katz v. United States*, 389 U.S. 347 (1967) (creating the reasonable expectation of privacy test); *Riley v. California*, 573 U.S. 373, 385-86 (2014) (finding a reasonable expectation of privacy in information inside of cell phones); *Morales v. State*, 274 So. 3d 1213 (Fla. 1st DCA 2019) (finding no reasonable expectation of privacy in peer-to-peer shared files).

15. Multiple members of the United States Supreme Court agree. In the old days, an individual did not have any Fourth Amendment standing to challenge the search or seizure of records possessed by a third party, even when the records contained sensitive personal information. *United States v. Miller*, 425 U.S. 435 (1976) (bank records); *Smith v. Maryland*, 442 U.S. 735 (1979) (telephone records). However, in *Carpenter v. United States*, five Supreme Court justices—Roberts, Ginsburg, Breyer, Sotomayor, and Kagan—held that the Fourth Amendment protects wireless carriers’ data about their subscribers’ locations. 585 U.S. 296, 315-16 (2018). Justices Barrett and Brown Jackson have since replaced Ginsburg and Breyer. Justices Kennedy, Thomas, Alito, and Gorsuch dissented, *id.* at 321-406, with Justices Thomas’s and Gorsuch’s dissents directed at this Court’s point: “The *Katz* test has no basis in the text or history of the Fourth Amendment. And, it invites courts to make

judgments about policy, not law.” 585 U.S. at 343 (Thomas, J., concurring).

16. Nevertheless, this Court must apply the reasonable expectation of privacy analysis spawned by *Katz*. *Young v. State*, 394 So. 3d 1174, 1178 (Fla. 4th DCA 2024). The rule that binds this Court provides that Facebook “private messages . . . carry an objectively reasonable expectation of privacy.” *Id.* at 1179. Put bluntly, this Court does not understand how a person can have an objectively reasonable expectation of privacy in information like unencrypted Facebook messages that the person gives to a private, for-profit business that told the person that the information it gives the business is not private. However, this Court’s opinions do not count for anything at this stage of the proceedings. Defendant, under Florida law, does have a privacy interest in his Facebook messages and thus has established standing to challenge the validity of the warrant that led to the State reading his communications sent through Facebook.

17. The 4th District decided *Young* on September 25, 2024, about 10 months after this Court denied Defendant’s Motion to Suppress. *Young* only establishes a reasonable expectation of privacy in Facebook messages. It does not address other kinds of user data Meta keeps. *See generally United States v. Cox*, 465 F. Supp. 3d 854, 858-59 (N.D. Ind. 2020) (“the [IP addresss and cookie] Records [from Facebook] ‘fall comfortably within the scope of the third-party doctrine’ which continues, even after *Carpenter*, to apply to ‘business records that might incidentally reveal location information’”). Defendant has not attempted on reconsideration to establish a new basis for a reasonable expectation of privacy beyond the messages. The Court’s order on reconsideration does not address anything other than Defendant’s Facebook messages that Meta sent to the State.

18. The Fourth Amendment does not require the State to include a subject-matter limitation on warrants it issues to Meta pursuant to Fla. Stat. § 92.605. The testimony and

Meta's judicially noticed statistics and policies establish that, even if police tried to include subject matter limitations, Meta would not and likely could not abide by them. Limiting the scope of the warrant to a date range of messages reasonably tied to the crime satisfies Defendant's privacy interests protected by the 4th Amendment. The state provided a reasonable date range limitation, and Meta abided by it.

19. Defendant correctly pointed out that although ¶ (f) of the list of data sought from Meta limited correspondence to a date range, ¶ (o) sought “[a]ll other communications and messages made or received by the user ID, including all private messages” without any date limitation. However, the evidence established that Meta abided by the date range of November 1-24, 2021 in its production of private messages in response to the State's warrant. While a request for all private messages Defendant ever sent to anyone for all time about anything would be overbroad, the inclusion of a date range in ¶ (f) saves the warrant from Constitutional infirmity. No party ever identified any communications produced by Meta that fell outside of the date range. *See* FLA. R. CRIM. P. 3.190 (g)(2) (2025) (“[e]very motion to suppress evidence shall state clearly the particular evidence sought to be suppressed”).

20. Defendant makes the point that if the protections against unreasonable searches and seizures that the Fourth Amendment provides requires the state to include subject matter limitations in its warrants sent to social media companies, then the fact that *the companies* will not or cannot abide by those limitations does not absolve the State from doing what *the Constitution* requires. The point has merit. Nevertheless, the exclusionary rule provides the only remedy in criminal actions for violations of the Fourth Amendment. That rule roots its application in practical realities. It seeks to deter actual police misconduct. *Atwood v. State*, 348 So. 3d 698, 703 (Fla. 1st DCA 2022) (“[u]se of the exclusionary rule to

suppress evidence is a last resort and applies only when its remedial objective is efficaciously served”). The evidence in this action establishes that subject matter limitations in warrants sent to social media companies are neither practical nor realistic. As a reminder, this Court holds the (rather worthless) opinion that the Fourth Amendment should not protect most information possessed by social media companies in the first place because it is not an effect that belongs to the user. The practical realities only underscore the weakness of the non-textual analytical framework that binding precedent requires this Court to apply.

21. The evidence established that the police relied in good faith on the warrant issued by a judge. While Defendant’s argument that the Constitution requires warrants sent to social media companies to have subject matter limitations could have some teeth under the right circumstances, as far as this record establishes, police do not include subject matter limitations in these kinds of warrants, Meta does not ask for them, judges routinely issue warrants without them, and Meta probably could not abide by them anyway. The police certainly did not skip a subject matter limitation in the warrant at issue out of some nefarious plot to get more information than they thought the law entitled them to. Instead, they did what they always do: Use the basic form for these routine kinds of warrants. Trial courts should apply the exclusionary rule only when it provides an appropriate remedy for the police misconduct at issue. *Hudson v. Michigan*, 547 U.S. 586, 594-95 (2006); *State v. Barnes*, 979 So. 2d 991, 995-97 (Fla. 4th DCA 2008) (Berlanger, J. concurring). There was no misconduct on the part of the police here to deter. Detective Smith acted in good faith in applying for the warrant according to standard procedures, including those imposed by Meta itself, and the officers received and reviewed the responsive information from Meta in good faith reliance on the judge-approved warrant. *See Warshak*, 631 F. 3d at 288-92 (“although the government violated the Fourth Amendment, the exclusionary rule does not

apply, as the government relied in good faith on [the SCA] to access the contents of Warshak's emails"). Exclusion of evidence from Defendant's Facebook messages does not serve the purpose of the exclusionary rule since the officers involved acted in good faith. Even if a constitutional violation exists, the good faith exception to the exclusionary rule saves the evidence from suppression.

22. As Justice Thomas observed eight years ago, expectations-of-privacy-based analyses of searches and seizures invite judicial policy making. *Carpenter*, 585 U.S. at 343 (Thomas, J., concurring). Roughly 200,000,000 Americans have Facebook accounts. The government reviewing data from roughly one in 1,000 of those accounts every year—the vast majority of which will be without any notice to the users—seems to call for some policy making of more recent vintage than 40 years ago. However, the users of the social media platforms and their legislative representatives ought to set that policy, not judges presiding over criminal actions. For today's purposes, the date range limitation the police included in the warrant application and which Meta abided by in its production of records of communications from Defendant's Facebook account satisfies any protections the Fourth Amendment extends to unencrypted communications Defendant engaged in using Facebook.

23. The Court declines to reconsider its prior ruling. Defendant's Motion is DENIED.

DONE and ORDERED on January 27, 2026, in Jacksonville, Duval County, Florida.



Jeb T. Branham
Circuit Court Judge

Copies furnished to:

Lauren Marie Anderson, Esquire
Assistant State Attorney

James Forrest, Esquire
Attorney for Defendant