

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

CASE NO.: 2018 304481 CFDB
DIVISION: 41

STATE OF FLORIDA,

v.

COLTON ROCKWELL PHILLIPS,

Defendant.

_____ /

GANNETT CO., INC.'S MOTION TO INTERVENE AND UNSEAL COURT RECORDS

Gannett Co., Inc., publisher of *The Daytona Beach News-Journal* (the “News-Journal”), hereby moves this Court for an order permitting it to intervene for the limited purpose of seeking to unseal all court records and the progress docket in this matter. In support of this motion, the News-Journal states:

1. This criminal matter is of particular public interest. It involves the alleged large-scale importation of cocaine and methamphetamine from California to Volusia County for later sale on the “dark web,” a shadowy enclave of the Internet where illegal activity thrives and criminals operate anonymously. This case stands out among local drug prosecutions due to the size of the alleged enterprise and the use of the “dark web” to allegedly sell illegal drugs. The public has a right to meaningfully monitor all criminal prosecutions, but this criminal proceeding and the State’s prosecution of those charged is of unique concern. Closure of the entire court file, the case progress docket, and even the defendant’s name is extraordinary and violates the news media’s and the public’s access rights. This case has all but disappeared from public view. Indeed, all that remains accessible is a case number.

2. On September 21, 2018, Defendant Colton Rockwell Phillips was arrested and, according to the Charging Affidavit (see attached **Exhibit A**), charged with a number of crimes including 1) trafficking cocaine and conspiracy to commit the same, 2) trafficking methamphetamine and conspiracy to commit the same, and 3) possession of controlled substances.¹ Mr. Phillips' alleged co-conspirators, Halie M. Craycraft and Arad Radfar, were also arrested and criminally charged.²

3. On September 26, 2018, the News-Journal reported on the arrests. See Patricio G. Balona, Deputies: Ormond Beach group received drugs via mail, *The Daytona Beach News-Journal*, Sept. 26, 2018, a copy of which is attached at **Exhibit B**.³ The subject news article notes that it was based on arrest reports and court records.

4. Since that time, News-Journal reporters have continued to follow Mr. Phillips' criminal case (as well as Haycraft's and Radfar's). For example, as early as July of 2019, News-Journal courts reporter Frank Fernandez made a public records request to the State Attorney's Office seeking copies of all records disclosed to the three defendants in criminal discovery. Once discovery is turned over to a defendant in a criminal case, any bases to withhold such information under the active criminal investigative exemption to the public records law no longer apply and the records generally become public. See, e.g., Staton v. McMillan, 597 So. 2d 940, 941 (Fla. 1st DCA 1992), review dismissed sub nom., Staton v.

¹ These charges were likely formalized in a criminal information (as was the case for Mr. Phillips' two alleged co-conspirators). That record, if it exists, is presently under seal and inaccessible to the News-Journal.

² Ms. Haycraft's criminal case (No. 2018 304480 CFDB) remains pending and is currently set for pre-trial on January 14, 2021. Mr. Radfar's criminal case (No. 2018 304482 CFDB) resulted in a *nolle prosequi* in October of 2019 and is now closed. Upon information and belief, Mr. Radfar was subsequently deported to Iran.

³ A copy of the subject news article is also available online at: <https://www.news-journalonline.com/news/20180926/deputies-ormond-beach-group-received-drugs-via-mail>.

Austin, 605 So. 2d 1266 (Fla. 1992), § 119.011(3)(c)(5), Fla. Stat. (2019).

5. Mr. Fernandez's public records request was acknowledged by the State Attorney's Office in July of 2019. Mr. Fernandez has followed up on that request at least five (5) times since July of 2019. A copy of the relevant correspondence between Mr. Fernandez and the State Attorney's Office is attached as **Composite Exhibit C**. To date, the State Attorney's Office has not complied with the request.

6. On or about October 6, 2020, Mr. Fernandez observed that all the court records in the Colton Phillips case had been sealed and were no longer available for public access online. The News-Journal was not given prior notice of any request or motion to seal particular documents, much less the entire case file. The News-Journal does not know whether any request to seal was made.

7. About one week later, Mr. Fernandez observed that the online progress docket for the case had also been sealed. Additionally, Mr. Phillips' name had been removed from the online docket entry, which presently reads "State of Florida v. Sealed."

8. Further, this case can no longer be searched online at the Volusia Clerk of Court website using Mr. Phillips' name. If a member of the public does so, this case no longer appears in case search results for Mr. Phillips. See attached public search results by name at **Exhibit D**. It can, however, be found through searching by the case number (if one happens to know the case number). Even then, the docket and case file remain under seal. See attached public search results by case number at **Exhibit E**.

9. In its role as public surrogate, the News-Journal cannot continue to meaningfully report on this matter with the entire case file and docket sealed. Further, because of such sealing, the public also has no means to understand the basis for such a broad seal, whether

proper sealing procedures were followed, and to what extent any sealing of judicial records is justified.

10. Florida law is clear that limiting access to judicial proceedings and documents directly impairs the public's right to monitor criminal proceedings, which are always matters of immense public interest. Accordingly, the News-Journal has standing to intervene and oppose closure at all stages of the proceedings. See Barron v. Fla. Freedom Newspapers, Inc., 531 So. 2d 113, 118 (Fla. 1988); Miami Herald Publ'g Co. v. McIntosh, 340 So. 2d 904, 908 (Fla. 1976).

11. While the News-Journal is obviously unable to understand why this matter's court records and docket are under total seal, such broad sealing—which appears only one step removed from a “supersealed” case—raises serious constitutional issues. Is there a compelling interest justifying any closures here? What is the asserted basis for closure? Was the required record-by-record analysis conducted? And is the scope and duration of the closure narrowly tailored? The broad closures also raise questions about the procedures followed in making that determination. As detailed below, the public's right to access court records are substantive and of constitutional magnitude. The News-Journal therefore requests that the Court enter an order granting them leave to intervene in this proceeding for the limited purpose of unsealing court records.

MEMORANDUM OF LAW

On countless occasions and routinely in cases of public interest, Florida courts have been asked to consider limiting public access to criminal proceedings and records. When such requests are made, courts adhere to strict procedures that ensure the public's constitutional rights of access to criminal prosecutions is protected. Criminal records and proceedings are presumptively open. See generally Barron, 531 So. 2d at 116; Sarasota Herald-Tribune v. State,

924 So. 2d 8 (Fla. 2d DCA 2005). Any closure of court records or proceedings therefore should be exceedingly rare. See Morris Publ'g Grp., LLC v. State, 136 So. 3d 770, 778 (Fla. 1st DCA 2014) (citation omitted).

Before any closure can occur, courts must specifically identify the factors that threaten the administration of justice and weigh all reasonable alternatives to mitigate the perceived threats short of closure. In cases where a government interest is at stake (in, for example, asserting closure is necessary to protect the identity of a confidential source), closure should only be had when that the interest is a “compelling” one. See Barron, 531 So. 2d at 118. Only then, after development of a full record on these issues, may a court narrowly fashion a remedy that accommodates the public’s interest in open proceedings, if a compelling interest is proven. See Miami Herald Publ'g Co. v. Lewis, 426 So. 2d 1, 6-8 (Fla. 1982). Importantly, because the media is a “public surrogate,” it “must be given an opportunity to be heard on the question of closure prior to the court’s decision.” Id. at 7; see also WESH Television, Inc. v. Freeman, 691 So. 2d 532, 534 (Fla. 5th DCA 1997) (requests for closure require evidentiary hearing with notice to the media and an opportunity to be heard); Times Publ'g Co. v. Penick, 433 So. 2d 1281, 1283 (Fla. 2d DCA 1983) (same).

A. Constitutional Presumption of Access to Judicial Proceedings

It is well-established that the public and press have a First Amendment right of access to criminal proceedings, including pretrial proceedings. See Richmond Newspapers v. Va., 448 U.S. 555 (1980) (trials); Globe Newspaper Co. v. Superior Court for Norfolk Cty., 457 U.S. 596 (1982) (trials); Press-Enterprise Co. v. Riverside Cty. Superior Court, 464 U.S. 501 (1984) (jury selection); Press-Enterprise Co. v. Riverside Cty. Superior Court, 478 U.S. 1 (1986) (pretrial hearings); El Vocero De Puerto Rico v. Puerto Rico, 508 U.S. 147 (1993) (pretrial hearings).

In Globe Newspaper Co., for example, the United States Supreme Court struck down a state law which automatically excluded the press and public from a criminal trial during the testimony of a juvenile sex offense victim. The Supreme Court held the law was unconstitutional, citing the presumption of public access under the First Amendment. In so holding, the Court relied on the longstanding tradition of open proceedings, and the particularly significant role that access to criminal trials plays in the proper functioning of the judicial process. Id. at 605-06. As the Court explained:

Public scrutiny of a criminal trial enhances the quality and safeguards the integrity of the fact-finding process, with benefits to both the defendant and to society as a whole. Moreover, public access to the criminal trial fosters an appearance of fairness, thereby heightening public respect for the judicial process. And in the broadest terms, public access to criminal trials permits the public to participate in and serve as a check upon the judicial process – an essential component in our structure of self-government. In sum, the institutional value of the open criminal trial is recognized in both logic and experience.

Id. at 606. See also State v. Wooten, 260 So. 3d 1060, 1071-72 (Fla. 4th DCA 2018) (same).

B. Florida Law Mandates Open Proceedings and Records

Florida law is in accord with the holding in Globe Newspaper. The Florida Supreme Court has repeatedly held that the “public and press have a fundamental right of access to *all judicial proceedings*.” See McIntosh, 340 So. 2d at 908 (emphasis added); Lewis, 426 So. 2d at 7 (recognizing that “[w]hat transpires in the courtroom is public property”); Barron, 531 So. 2d at 118 (mandating that “a strong presumption of openness exists for all court proceedings” and that the “filed records of court proceedings are public records available for inspection”); see also Fla. R. Jud. Admin. 2.420. Moreover, the right of access to judicial and public records in Florida is of constitutional magnitude. See Art. I, § 24, Fla. Const.

The right to timely access to court records has also been recognized by the Florida Supreme Court:

Freedom of the press is not, and has never been a private property right granted to those who own the news media. It is a cherished and almost sacred right of each citizen to be informed about current events on a timely basis so each can exercise his discretion in determining the destiny and security of himself, other people, and the Nation. News delayed is news denied. To be useful to the public, news events must be reported when they occur. Whatever happens in any courtroom directly or indirectly affects all the public. To prevent star-chamber injustice the public should generally have unrestricted access to all proceedings.

McIntosh, 340 So. 2d at 910.

Thus, a party seeking to close hearings or seal records bears the heavy burden of establishing through evidence that:

- (a) closure is necessary to prevent a serious and imminent threat to the administration of justice,
- (b) no less restrictive alternative measure other than closure is available, *and*
- (c) closure must be effective in protecting against the perceived harm without being broader than necessary.

Lewis, 426 So. 2d at 6.

Further, consideration of whether to conceal judicial records “must begin with the proposition that all civil and criminal court proceedings are public events, records of court proceedings are public records and there is a strong presumption in favor of public access to such matters.” Sentinel Commc’n Co. v. Watson, 615 So. 2d 768, 770 (Fla. 5th DCA 1993) (citation omitted).

That presumption is codified in Florida Rule of Judicial Administration 2.420. Before a court record may be properly sealed, a trial court must, among other things, specifically (1) identify the factors that warrant sealing under 2.420(c), (2) make findings that would justify closure of the progress docket and/or anonymization of a party name; (3) detail the particular information to be sealed; (4) and find that the degree, duration, and manner of sealing is no broader than necessary to protect the stated interests and no more restrictive than necessary.

See Fla. R. Jud. Admin. 2.420(e)(3) (applicable to criminal cases generally (2.420(f)), and to motions for requests to seal records related to plea agreements, substantial assistance agreements, or other records identifying confidential informants (2.420(f)(3)(B))).

This also means that such motions themselves—in which movants are required to provide as much specificity as possible without revealing the information for which sealing is sought—are not subject to seal. See Art. I, § 24, Fla. Const. Moreover, as was done here, to avoid supersealing, the case number, docket number, or any other number used to identify a case cannot be deemed confidential. See Fla. R. Jud. Admin. 2.420(e)(1)(C); In re Amend. to Fla. R. of Jud. Admin. 2.420-Sealing of Court Records & Dockets, 954 So. 2d 16 (Fla. 2007).

Even when plea agreements, substantial assistance agreements, or other records that would reveal the identity of a confidential informant are involved, blanket closures are not contemplated. See Fla. R. Jud. Admin. 2.420(f)(3). Only the sealing motion itself and the information potentially subject to seal is treated as confidential pending ruling or further order of the court.⁴ See id. Notably, the motion must still be docketed “by generic title” pending ruling, and any resultant order must also be noted on the docket. See id. at 2.420(f)(3)(A)(3), (D). The rule also specifically prohibits the “falsification of court records or progress dockets.” See id. at 2.420(f)(4). Accordingly, in approving subsection (f)(3), the Florida Supreme Court specifically expressed its intent that 2.420(f)(3) motions not result in docket closures:

[W]e reject the suggestion that the motion and the court records that are the subject of the motion must not be indicated on the public docket. If filings that are subject to this subdivision are not noted on the docket, the result would be a “false docket,” by omission. We have previously explained our condemnation of prior practices that resulted in reports of “hidden cases and secret dockets.”

In re Amend. to Fla. R. of Jud. Admin. 2.420 & the Fla. Rules of App. Pro., 31 So. 3d 756, 768

⁴ While never formally adjudicated by an appellate court, the constitutionality of this provision, along with subsection (f)(3)’s broad restrictions on access as a whole, remains suspect.

(Fla. 2010). Finally, Rule 2.420(f)(3) also contains a duration limitation. It states that any order granting a motion to seal must be no “longer than is necessary to achieve the objective of the motion, and in no event longer than 120 days.” See Fla. R. Jud. Admin. 2.420(f)(3)(C).

Again, because of the total broad sealing of this case, the News-Journal does not know what bases were asserted as justification for a complete records closure, nor what process occurred in reaching that conclusion. At the very least it would appear total closure of the docket and the anonymization of Mr. Phillips’ name serves no purpose. The public docket was open for approximately two years before it was sealed, and the News-Journal has reported on this case.

More importantly, courts regularly reject total seals of court files, especially where records had been previously open to the public. See, e.g., Friend v. Friend, 866 So. 2d 116 (Fla. 3d DCA 2004) (reversing sealing of entire case file that was closed based solely on the parties’ wishes); Sonderling v. Sonderling, 600 So. 2d 1285, 1287 (Fla. 3d DCA 1992) (rejecting wholesale sealing of case and instead reviewing each document separately for sealing justification); Lifecare Int’l, Inc. v. Barad, 573 So. 2d 1044, 1046 (Fla. 3d DCA 1991) (requiring a per document review to determine which records were truly subject to seal and noting, “The effect of the August 18, 1988 order was to seal documents which had previously been in the public domain. We see no reason why the documents which were in the public domain prior to August 18, 1988 should not be returned to the public domain at this time.”); Reiter v. Mason, 563 So. 2d 749, 751-52 (Fla. 3d DCA 1990) (requiring the unsealing on entire case file where its substance was already a matter of public record).

The court records in the criminal cases filed against Ms. Haycraft and Mr. Radfar remain open (and the five-count information against Mr. Radfar specifically names Mr. Phillips as a co-conspirator). The Phillips court records were previously accessible as well. It is, therefore, no

secret that Mr. Phillips has been criminally charged, nor are the factual details underpinning those charges secret. Wholesale closure of the docket and every case record is thus facially overbroad. Wholesale closure cannot serve to protect any justifiable interest nor would it be the least restrictive means to do so. Moreover, closure of the docket itself runs counter to the Florida Supreme Court's admonition against such practices. Finally, to the extent any motion was made pursuant to Rule 2.420(f)(3), this Court must still balance the public's constitutional right of access to court records against the interest to be protected on a record-by-record basis.

CONCLUSION

The sealing of an entire court file and progress docket are extreme remedies that can be sustained only in the rarest of circumstances. And before any record is closed, alternatives and narrow restrictions must first be considered. For the foregoing reasons, the News-Journal requests this Court enter an order unsealing all court records in this file, along with the progress docket. To the extent the parties can ultimately justify closure of any record, or some portion thereof, the Court must then consider a narrowly tailored order in scope, duration, and manner that would be effective in protecting the recognized and established interest.

Dated: October 28, 2020

Respectfully submitted,

THOMAS & LOCICERO PL

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Attorneys for Gannett Co., Inc.

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on this **28th** day of **October, 2020**, I electronically filed the foregoing document with the Clerk of the Court via the E-Portal. I also certify that the foregoing document is being served this day on counsel of record as listed in the October 26, 2020 2nd Amended Notice of Hearing filed in this matter via electronic mail at the addresses indicated below. Additionally, given the current sealed status of this case, and pursuant to Clerk/Court instructions, copies of the foregoing will also be provided directly to presiding Judge Dennis Craig via electronic mail and also conventionally filed with the Clerk via regular mail.

By: /s/ Mark R. Caramanica
Attorney

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EXHIBIT A

7th. Judicial Circuit 707
 Charging Affidavit - Volusia

Arrest # _____ Bk # _____ Pg # 1 of 5

ARREST <input checked="" type="checkbox"/>	NOTICE TO APPEAR <input type="checkbox"/>	AFFIDAVIT <input type="checkbox"/>	C.C. <input type="checkbox"/>	ADULT <input checked="" type="checkbox"/>	JUVENILE <input type="checkbox"/>	Court Case Number:
(ORI) FL: FL0640000	Agency Name: VOLUSIA COUNTY SHERIFF'S OFFICE			Agency Case Number: 180020888		
FCIC/NCIC Check? <input checked="" type="checkbox"/> Yes <input type="checkbox"/> No	OBTS #	U.C.R.:	Date Arrested: 09-21-2018	Time of Arrest: 1300		
ADDRESS OF ARREST (Street, City, State, Zip): 157 Perfect Drive DAYTONA BEACH FL				Arrested By:	ID Number: 2372	
DEFENDANT		NAME (Last): Phillips	(First): Colton	(Middle): R	A.K.A.:	Sex: M Race: W
DOB: 05-30-1996	Age: 22	Driver's Lic./ ID No.:	State: FL	Year Expires: 2020	S.S.# -	
Height: 6' 00"	Weight: 180	Hair: BLN	Eyes: BLU	P.O.B. (City, State, Country): DAYTONA BEACH FL		Statement: Yes <input checked="" type="checkbox"/> No <input type="checkbox"/>
Scars, Marks, Tattoos:			Business & Occupation:		Citizenship: Yes <input checked="" type="checkbox"/> No <input type="checkbox"/>	
Probation: Yes <input type="checkbox"/> No <input checked="" type="checkbox"/>	Sexual Predator: Yes <input type="checkbox"/> No <input checked="" type="checkbox"/>		English: Yes <input checked="" type="checkbox"/> No <input type="checkbox"/>		Deaf/Mute: Yes <input type="checkbox"/> No <input checked="" type="checkbox"/>	
Address - Mailing/Permanent 157 Perfect Drive		(STREET, APT. NUMBER)	(CITY): ORMOND BEACH	(STATE): FL	ZIP CODE: 32124	RESIDENCE PHONE: (386) 290-7538
Address - Local		(STREET, APT. NUMBER)	(CITY)	(STATE)	ZIP CODE	RESIDENCE PHONE
Address - Other (Employer/School)		(STREET, APT. NUMBER)	(CITY)	(STATE)	ZIP CODE	BUS/SCHOOL PHONE

CHARGES		DOMESTIC VIOLENCE? Yes <input type="checkbox"/>	Attachments: Affidavit(s)? <input type="checkbox"/>	Statement(s) <input type="checkbox"/>	NTA Schedule <input type="checkbox"/>	Report <input type="checkbox"/>	Traffic Infraction(s) <input type="checkbox"/>	DUI <input type="checkbox"/>	Total Charges: 9
#1	Charge: Trafficking Cocaine over 400 grams	FEL <input checked="" type="checkbox"/> MISD <input type="checkbox"/> ORD <input type="checkbox"/>	FS/ORD: 893.135	Citation No.:	Bond: No Bond				
#2	Charge: Trafficking Methamphetamine over 28 grams	FEL <input checked="" type="checkbox"/> MISD <input type="checkbox"/> ORD <input type="checkbox"/>	FS/ORD: 893.135	Citation No.:	Bond: No Bond				
#3	Charge: Possession of SCH II	FEL <input checked="" type="checkbox"/> MISD <input type="checkbox"/> ORD <input type="checkbox"/>	FS/ORD: 893.13	Citation No.:	Bond: No Bond				

CO-DEFENDANT		Co-Def #1. Arrested? Y <input type="checkbox"/> N <input type="checkbox"/> Fel. <input type="checkbox"/> Misd. <input type="checkbox"/> Traf. <input type="checkbox"/> Ord. <input type="checkbox"/> NTA <input type="checkbox"/>	Co-Def #2. Arrested? Y <input type="checkbox"/> N <input type="checkbox"/> Fel. <input type="checkbox"/> Misd. <input type="checkbox"/> Traf. <input type="checkbox"/> Ord. <input type="checkbox"/> NTA <input type="checkbox"/>
#1 NAME (Last)	(First)	(Middle)	Race: Sex: DOB: Age:
#2 NAME (Last)	(First)	(Middle)	Race: Sex: DOB: Age:

NARRATIVE The undersigned certifies and swears that there is probable cause to believe the above-named defendant, on the 21 day of September, 2018, at approximately 0100 a.m. p.m. at 157 Perfect Drive DAYTONA BEACH within Volusia County, violated the law and did then and there:

1 On 09/05/2018, Detective [redacted] initiated an investigation on the Colton Phillips Drug Trafficking organization. Information was received that the organization was distributing approximately 1 kilogram of cocaine a month in Eastern Volusia County.

2

3

4 During the investigation, Detective [redacted] was able to identify an address that was associated with the organization that was receiving United States Postal parcels containing narcotics for the organization. This address was identified as 414 Cherrywood Drive, Ormond Beach, FL. Detective [redacted] also identified a female, (D-2) Halie Michele Craycraft W/F 12-24-1997, as a person who was receiving parcels from California that contained narcotics for the organization and later giving them to Colton Rockwell Phillips to distribute.

5

6

7

8

9 During the investigation Detective [redacted] made contact with United States Postal Inspector Brad Kramer. Detective [redacted] asked if Kramer could flag the address for further parcels going to the location.

10

11

12 On 09-21-2018, Inspector Kramer contacted Detective [redacted] and advised that a parcel from California was shipped to 414 Cherrywood Drive, Ormond Beach, FL 32174 and was scheduled to be delivered on this date.

13

14

15 Detectives established surveillance on 414 Cherrywood Drive, Ormond Beach, FL. During the surveillance at approximately 1120 hours Detective

NOTICE TO APPEAR	MANDATORY APPEARANCE <input type="checkbox"/>	YOU NEED NOT APPEAR IN COURT BUT MUST COMPLY WITH INSTRUCTIONS ON THE REVERSE SIDE OF YOUR COPY <input type="checkbox"/>	FINE, AND COSTS AMOUNT:
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I AGREE TO APPEAR IN COURT HEREIN TO ANSWER THE OFFENSE CHARGED OR TO PAY THE FINE INDICATED, I UNDERSTAND THAT SHOULD I WILLFULLY FAIL TO APPEAR BEFORE THE COURT AS REQUIRED, OR PAY THE LISTED FINE, I MAY BE HELD IN CONTEMPT OF COURT AND A WARRANT FOR MY ARREST WILL BE ISSUED.

SIGNATURE OF DEFENDANT	Date	RELATIONSHIP TO JUVENILE	JUVE DISP.
			CITATION No.

Sworn to and subscribed before me, the undersigned this <u>21</u> day of <u>September</u> , <u>2018</u> Name: <u>[Signature]</u>	I swear/affirm the above statements are correct and true <u>[Signature]</u>	Rt Thumb
Notary Public <input type="checkbox"/> Law Enforcement or Corrections Officer <input checked="" type="checkbox"/> Personally Known <input checked="" type="checkbox"/> Produced Identification <input type="checkbox"/> Type of Identification: _____	OFFICER'S/COMPLAINANT'S SIGNATURE <u>[Signature]</u> NAME (PRINTED) ID NUMBER 2372	

OFFICIAL USE ONLY Inmate Number & Facility:

Narrative Supplement 707-B

Arrest
 Affidavit
 Notice to Appear
 Adult
 Juvenile

Court Case Number: [REDACTED]

Defendant (Last) Name: Phillips	(First) Colton	(Middle) R	Agency Case Number: [REDACTED]
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CHARGES	DOMESTIC VIOLENCE? Yes <input type="checkbox"/>	Attachments: Affidavit(s)? <input type="checkbox"/>	Statement(s) <input type="checkbox"/>	NTA Schedule <input type="checkbox"/>	Report <input type="checkbox"/>	Traffic Infraction(s) <input type="checkbox"/>	Total Charges: 9
#4 Charge: Possession of SCH III		FEL <input checked="" type="checkbox"/> MISD <input type="checkbox"/> ORD <input type="checkbox"/>	FS/ORD: 893.13	Citation No.:			Bond: No Bond
#5 Charge: Maintain dwelling for Drug Traffic		FEL <input checked="" type="checkbox"/> MISD <input type="checkbox"/> ORD <input type="checkbox"/>	FS/ORD: 893.1351	Citation No.:			Bond: No Bond
#6 Charge: Use 2-Way Communic. Device to Commit Felony		FEL <input checked="" type="checkbox"/> MISD <input type="checkbox"/> ORD <input type="checkbox"/>	FS/ORD: 934.215	Citation No.:			Bond: No Bond

16 [REDACTED] observed a United States Postal Worker deliver a parcel to the front door of the residence. At approximately 1150 hours a female identified as D-2 was observed by Detective [REDACTED] arrive at the residence and recover the parcel. Detective [REDACTED] observed D-2 depart the residence with the parcel and get into the passenger side of a brown Kia Soul, with Florida tag Z71DQS. Surveillance units followed the vehicle occupied by D-2 until it met with Colton R. Phillips in Tomoka Plaza located on Nova Road. Captain Henderson observed D-2 exit the vehicle with the parcel and enter the passenger side of D-1's Gray 2014 BMW passenger car, bearing Florida tag KDVL54. After a few moments, D-2 was observed exiting the vehicle without the parcel. D-1 was observed exiting the plaza and traveling west on Hand Avenue. Surveillance units followed D-1, who did not stop at any location until he arrived back at his residence located at 157 Perfect Drive, Daytona Beach, FL.

24 Detective [REDACTED] had, through Investigative techniques, developed Probable Cause prior to this date for a search warrant for the residence located at 157 Perfect Drive, Daytona Beach, FL.

27 Detective [REDACTED] had the search warrant reviewed and approved by the honorable Judge Blackburn on 09-21-2018 before D-1 was contacted in the driveway.

30 Members of the East Volusia Narcotics Task force executed the search warrant that was signed by the honorable Judge Blackburn on 09-21-2018. During the execution on the search warrant, Colton R. Phillips (D-1) 05/30/1996 was contacted in the driveway as he arrived at his residence listed above. D-1 was operating a Gray 2014 BMW passenger car, bearing Florida tag KDVL54.

34 D-1 was brought inside the residence and placed in the living room of the residence. Detective [REDACTED] then read D-1 his rights via a rights card and then read the search warrant to D-1 and provided him with a copy of the search warrant.

37 A search of the premises was then conducted with the following results:

39 Item #1-500 grams of Cocaine in the back seat of the above listed vehicle (BMW). Items 1 and 2 were found in the back seat of the BMW and was the same parcel Detective [REDACTED] observed D-2 retrieve from the residence of 414 Cherrywood Drive and Captian Henderson observed D-2 enter D-1's vehicle with.

42 Item #2- postal box and packaging material from Item #1. The shipping label on the parcel was addressed to D-2 at the 414 Cherrywood Drive.

43 Item #3-552 grams of Methamphetamine located in red cooler in garage.

44 Item #4- packaging from Item #3

45 Item #5-26 grams of cannabis located on kitchen counter. Radfar advised the cannabis belonged to him.

46 Item #6- plastic bag from Item #5.

47 Item #7- 8 oblong pills marked "176", identified as 10mg Hydrocodone (a schedule II narcotic) located inside the Rolex box on night stand in master bedroom.

49 Item #8-Orange pill bottle with no label that contained Item #7.

50 Item #9- vial of testosterone propionate 1000mg, a schedule III narcotic, located under bathroom sink in master bedroom.

51 Item #10- liquid which was contained inside of item #9

52 Item #11- black modem AARIS brand modem located on TV stand in living room by Detective Hansen

53 Item #12- Black Apple MacBook laptop serial number: C02T1999GTFJ located in office (South East room) on top of desk by Detective Hansen

54 Item #13- Gray Dell laptop serial number: G2FW082 located in dresser drawer on south wall of master bedroom.

55 Item #14- Silver HP laptop serial number: 56D7514PNN located on top of night stand to right of bed in master bedroom by Detective Hansen

56 Item #15- 1 vial of Testex-250 250ml found in Radfar's bedroom in safe under the bed.

57 Item #16- digital scale and black container with meth residue in black safe under bed in Radfar's bedroom.

58 Item #17- 82 grams of cannabis found in safe in Radfar's bedroom. (same as Item's 15 and 16).

59 Item #18- clear plastic that contained Item #17.

60 Item #19- 33 grams of Methetamine located within the safe in Radfar's bedroom.

61 Item #20- Plastic bag that contained Item #19.

62 Item #21- less than a gram of cocaine located within the safe in Radfar's bedroom.

63 Item #22- clear plastic bag that contained Item#21.

64 Item #23- Black and Green Silicone power 1 TB hard drive found in safe in Redfar's bedroom.

65 Item #24- Silver and black Apple Ipad located in backpack in closet of Radfar's bedroom. S/N: DMPLLPFJHPSO

66 Item #25- Black Iphone located on Phillip's person by Detective Hansen.

Sworn to and subscribed before me, the undersigned this 21 day of September, 2018 Name: <i>[Signature]</i>	I swear/affirm the above statements are correct and true <i>[Signature]</i>	Right Thumb
Notary Public <input type="checkbox"/> Law Enforcement Officer <input checked="" type="checkbox"/> Personally Known <input checked="" type="checkbox"/> Produced Identification <input type="checkbox"/> Type of Identification:	OFFICER'S/COMPLAINANT'S SIGNATURE [REDACTED] NAME (PRINTED)	
	2372 ID NUMBER	

Narrative Supplement 707-B

Arrest
 Affidavit
 Notice to Appear
 Adult
 Juvenile

Court Case Number: 180020888

Defendant (Last) Name: Phillips	(First) Colton	(Middle) R	Agency Case Number: 180020888
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CHARGES		DOMESTIC VIOLENCE? Yes <input type="checkbox"/>	Attachments: Affidavit(s)? <input type="checkbox"/>	Statement(s) <input type="checkbox"/>	NTA Schedule <input type="checkbox"/>	Report <input type="checkbox"/>	Traffic Infraction(s) <input type="checkbox"/>	Total Charges: 9
#7	Charge: Conspiracy to Trafficking in Cocaine	FEL <input checked="" type="checkbox"/> MISD <input type="checkbox"/> ORD <input type="checkbox"/>	FS/ORD: 893.135	Citation No.:				Bond: No Bond
#8	Charge: Conspiracy to Trafficking in Methamphetamine	FEL <input checked="" type="checkbox"/> MISD <input type="checkbox"/> ORD <input type="checkbox"/>	FS/ORD: 893.135	Citation No.:				Bond: No Bond
#9	Charge: Poss./Use Narcotic Paraphernalia	FEL <input type="checkbox"/> MISD <input type="checkbox"/> ORD <input type="checkbox"/>	FS/ORD: 893.147(1)	Citation No.:				Bond: No Bond

67 Item #26- 4 pages of shipping labels with misc. addresses located on printer in master bedroom.
 68 Item #27-Unknown amount of liquid Testosterone Enanthate 250mg located on shelf on master bedroom bath.
 69 Item #28- glass vial that contained Item #27.
 70 Item #29- 1 vial of 250mg testosterone located on shelf in master bedroom.
 71 Item #30- 262 grams of Cocaine located in safe in master bedroom.
 72 Item #31- plastic container that contained Item #30.
 73 Item #32-319 grams of Methamphetamine located in safe in master bedroom.
 74 Item #33- plastic container that contained Item #32..
 75 Item #34-Narcotic paraphernalia consisting of several small clear plastic bags, razor knife, and foam cup located in the safe in the master bedroom.
 76 Item #35- Red, yellow, green, digital scale with methamphetamine and cocaine residue located in the master bedroom in the safe.
 77 Item #36- Black safe that contained Item's 30-35. Located in master bedroom closet. Phillips advised the safe belonged to him and provided the combination to access the safe.
 78
 79 Item #37- Black zte cell phone found on Halie Craycraft at the front of the house.
 80 Item #38- clear plastic bags and money bands located in 2nd safe in closet of master bedroom.
 81 Item #39- Black digital scale with suspected cocaine residue located in dresser drawer in master bedroom.
 82 Item #40- Ziploc bag that contained boric acid, located in top drawer of dresser in master bedroom. D-1 stated he uses it as cocaine cut.
 83 Item #41- Money band located in master bedroom in top drawer of dresser.
 84 Item #42- paper with possible ledger or passwords found in night stand next to bed in master bedroom.
 85 Item #43- Large Undetermined amount of US Currency located in night stand to the left of bed in master bedroom.
 86 Item #44- Vacuum sealer and vacuum seal bags with cannabis, methamphetamine, and cocaine residue.
 87 Item #45- Gray 2014 BMW M6 Florida tag KDVL54 vin#WBS6C9C50ED466730 located in driveway of residence and also with Item #1.
 88 Item #46- Black Ford pickup 4x4 FX4 Florida tag 562PQV vin#1FTEW1EF9FFB71309 located in driveway.
 89 Item #47- 507 grams of cocaine was located in the red cooler in the garage.
 90 Item #48- packaging that contained item #47.
 91 Item #49- 1000 grams of methamphetamine was located in the red cooler in the garage.
 92 Item #50- packaging that contained item #49.
 93
 94 All Items of cocaine were field tested using a Nark #13 test kit, that resulted positive for cocaine with an approximate total weight of 1,269 grams.
 95
 96 All items of Methamphetamine were field tested using a Nark #15 test kit, that resulted positive for Methamphetamine with an approximate total weight of 1,904 grams.
 97
 98
 99 All items of cannabis were field tested using a Nark #8 test kit, that resulted positive for cannabis with an approximate total weight of 108 grams.
 100
 101 During a post Miranda Interview with D-1 he stated that [REDACTED]
 102 [REDACTED]
 103
 104 D-2 arrived at the residence (157 Perfect Drive, Daytona Beach, FL) in the same vehicle that she was in earlier when she met with D-1 at Tomoka Plaza. D-2 was contacted and advised of the search warrant being executed at the residence. D-2 was secured and interviewed. Detective [REDACTED]
 105 read Miranda to D-2 and was interviewed by [REDACTED] D-2 advised [REDACTED]
 106 [REDACTED]
 107 [REDACTED]
 108 [REDACTED]
 109 [REDACTED]
 110 [REDACTED]
 111 [REDACTED]
 112 [REDACTED]
 113 [REDACTED]
 114 [REDACTED]
 115
 116 When D-2 arrived at the residence, Arad Radfar(D-3) also arrived at the residence on his motorcycle, bearing Florida tag MFDA84. D-3 was secured and escorted inside the residence. Upon a search of his persons, a key chain with the key to a safe was located The key was found to access the

Sworn to and subscribed before me, the undersigned this 21 day of September, 2018 Name: <i>[Signature]</i>	I swear/affirm the above statements are correct and true <i>[Signature]</i>	Right Thumb
Notary Public <input type="checkbox"/> Law Enforcement Officer <input checked="" type="checkbox"/> Personally Known <input checked="" type="checkbox"/> Produced Identification <input type="checkbox"/> Type of identification:	OFFICER'S/COMPLAINANT'S SIGNATURE [REDACTED] NAME (PRINTED)	2372 ID NUMBER

Narrative Supplement 707-B

Arrest
 Affidavit
 Notice to Appear
 Adult
 Juvenile

Court Case Number:

Defendant Name: Phillips	(Last)	Colton	(First)	R	(Middle)	Agency Case Number: 180020888
CHARGES		DOMESTIC VIOLENCE? Yes <input type="checkbox"/>	Attachments: Affidavit(s)? <input type="checkbox"/>		Statement(s) <input type="checkbox"/>	NTA Schedule <input type="checkbox"/>
		Report <input type="checkbox"/>	Traffic Infraction(s) <input type="checkbox"/>		Total Charges: 9	
#	Charge:	FEL <input type="checkbox"/>	MISD <input type="checkbox"/>	ORD <input type="checkbox"/>	FS/ORD:	Citation No.:
#	Charge:	FEL <input type="checkbox"/>	MISD <input type="checkbox"/>	ORD <input type="checkbox"/>	FS/ORD:	Citation No.:
#	Charge:	FEL <input type="checkbox"/>	MISD <input type="checkbox"/>	ORD <input type="checkbox"/>	FS/ORD:	Citation No.:

118 safe located in his bedroom that was located under his bed. This safe contained items #15-#23.
 119
 120 During the interview with D-1, he stated [REDACTED]
 121 [REDACTED]
 122
 123 During the search of D-3's bedroom 33g of Methamphetamine, 82g of Cannabis, less than 1g of cocaine, and Possession of SCH III (Testosterone).
 124
 125 D-1, D-2, and D-3 were subsequently placed under arrest and transported to VCBJ.


Sworn to and subscribed before me, the undersigned this 21 day of September, 2018 Name: <i>AW 8829</i>	I swear/affirm the above statements are correct and true 	Right Thumb
Notary Public <input type="checkbox"/> Law Enforcement Officer <input checked="" type="checkbox"/> Personally Known <input checked="" type="checkbox"/> Produced Identification <input type="checkbox"/> Type of Identification:	OFFICER'S/COMPLAINANT'S SIGNATURE [REDACTED]	
	NAME (PRINTED) ID NUMBER [REDACTED] 2372	

EXHIBIT B



Deputies: Ormond Beach group received drugs via mail

By **Patricio G. Balona**

Posted Sep 26, 2018 at 4:15 PM

Updated Sep 26, 2018 at 5:23 PM

Volusia County sheriff's deputies believe they have cracked a drug organization that received narcotics in the mail in Ormond Beach and distributed a kilo of cocaine monthly through the "dark web," according to an arrest report.

Three people have been arrested. They include Colton Phillips, 22, and Halie M. Craycraft and Arad Radfar, both 20.

A total of 2.8 pounds of cocaine and 4 pounds of methamphetamine, as well as several vials of testosterone and large amounts of cash, were seized by investigators when they searched Phillips' house late last week.

Phillips was arrested on Friday, Sept. 21, and charged with: possession of paraphernalia; possession of a controlled substance; use of a two-way communication device to commit a felony; renting a structure for drug trafficking; trafficking methamphetamine; conspiracy to traffic methamphetamine; conspiracy to traffic cocaine; and trafficking cocaine.

Phillips is out of jail on a \$150,000 bail bond, court records show. As of Wednesday, Radfar was still jailed, with bail set at \$150,000, and Craycraft is being held without bond.

According to the arrest report, Phillips told investigators that Craycraft received packages of narcotics for him and he paid her less than \$100 per parcel. Phillips also told investigators that he sold the drugs to Radfar, his roommate, and that Radfar in turn sold the drugs on the "dark web," investigators wrote in their report. The dark web is a hidden part of the Internet that requires special software and is accessible with browsers that cloak a person's identity.

Phillips could not be reached for comment on Tuesday. Craycraft and Radfar remain in jail. Phillips' defense attorney, Aaron Delgado, entered a written plea of not guilty Monday on Phillips' behalf.

Delgado wrote in a text message to The News-Journal that the charges against Phillips were devastating to his family and friends, "who were totally caught off guard by his arrest and shaken by the accusations against him, which seem uncharacteristic of him."

Delgado said Phillips and his family "are acting swiftly and decisively to address the matter and correct any underlying issues that may have contributed to where we find ourselves."

Members of the East Volusia Narcotics Task Force started watching Phillips on Sept. 5. During the investigation, agents learned that Phillips' organization received parcels through the mail containing drugs, the arrest report said.

Last Friday, investigators learned that a package from California had arrived for the group. Undercover drug agents watched as the mail carrier delivered the parcel to Craycraft's home at 414 Cherrywood Drive in Ormond Beach. Shortly before noon, Craycraft drove to the home, picked up the parcel, then drove away. Investigators followed.

Craycraft met with Phillips, who was driving a 2014 BMW, at the Tomoka Plaza on Nova Road. The woman got into Phillips' vehicle with the package, and then exited his vehicle without the package, according to investigators.

Investigators had a search warrant ready and followed Phillips to his home at 157 Perfect Drive, located in the LPGA development of Daytona Beach. They stopped Phillips in the driveway. In the back seat of the car, investigators found the package, which contained a little more than 1.5 pounds of cocaine, investigators wrote.

In the house, investigators seized multiple items including methamphetamine, cocaine, vials of testosterone, laptops, marijuana, a paper with possible passwords, a large undetermined amount of money and drug paraphernalia, reports show.

While investigators were at Phillips' home, Craycraft arrived. At first she said she didn't know the parcels contained drugs, but when drug agents checked her phone, they found text messages between her and Phillips, where he wrote: "These guys don't sell anything less than a half key," the report states.

Craycraft then admitted the packages contained drugs and that Phillips paid her for each parcel, deputies said. She was arrested and charged with conspiracy to traffic cocaine and use of two-way communication device. Craycraft was also accused of violating her probation for grand theft and possession of a controlled substance.

Radfar also arrived at the home and a key located on him opened a safe investigators found in the home. The safe contained a vial of testosterone, digital scale, methamphetamine, marijuana and less than a gram of cocaine, investigators said.

Radfar was arrested and charged with possession of marijuana, possession of a controlled substance, conspiracy to traffic in methamphetamine, trafficking in methamphetamine and possession of cocaine. Radfar admitted that he bought drugs from Phillips, according to investigators.

COMPOSITE EXHIBIT C

From: Fernandez, Frank <frank.fernandez@news-jrnl.com>
Sent: Friday, July 5, 2019 12:29 PM
To: HathawayS@SAO7.org <HathawayS@SAO7.org>
Subject: Phillips, Craycraft and Radfar discovery request

I am requesting to view the discovery in the cases against Colton Phillips, Halie Craycraft and Arad Radfar. I may also want to make copies of some of the information.

Thank you

Frank Fernandez

From: Hathaway, Spencer <HathawayS@sao7.org>
Sent: Wednesday, July 31, 2019 3:56 PM
To: Fernandez, Frank <frank.fernandez@news-jrnl.com>
Subject: RE: discovery request

Okay I'll work on this.

Spencer S. Hathaway

Managing Assistant State Attorney / Public Information Officer
Daytona Misdemeanor Division

Office of State Attorney R.J. Larizza

251 N. Ridgewood Avenue
Daytona Beach, FL 32114

HathawayS@SAO7.org

SAOPIO@SAO7.org

(386)239-7710 x 14768

From: Fernandez, Frank <frank.fernandez@news-jrnl.com>
Sent: Wednesday, July 31, 2019 3:56 PM
To: Hathaway, Spencer <HathawayS@sao7.org>
Subject: discovery request

I'd like to review and make some copies of the discovery in three cases against the following defendants: Colton Phillips, Arad Radfar and Halie Craycraft.

2018 304481 CFDB
2018 304482 CFDB
2018 304480 CFDB

Thank you
Frank Fernandez

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media at any time. If you have received this communication in error, do not distribute it. Please notify the sender immediately by electronic mail and delete this message.

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From: Fernandez, Frank <frank.fernandez@news-jrnl.com>
Sent: Thursday, January 23, 2020 11:26 AM
To: HathawayS@SAO7.org <HathawayS@SAO7.org>
Subject: Colton Phillips

Hi Spencer

A while back I asked about discovery in the Colton Phillips case. Do you have any update on that? You were last handling it so I thought I'd check with you first.

Thanks

From: Fernandez, Frank <frank.fernandez@news-jrnl.com>
Sent: Wednesday, February 19, 2020 11:11 AM
To: Scott, John <ScottJ@sao7.org>
Subject: Colton Phillips case

I spoke to Spencer before he went on paternity to leave and before you took over his job about discovery in the Colton Phillips case 2018 304481 CFDB.

Can you give me an update on how that is coming along?

I'd like to get that soon.

Thank you

Frank Fernandez

From: Fernandez, Frank <frank.fernandez@news-jrnl.com>

Sent: Monday, March 2, 2020 3:09 PM

To: HathawayS@SAO7.org <HathawayS@SAO7.org>

Subject: Colton Phillips

Welcome back, Spencer.

I had submitted a request awhile back for discovery in the Colton Phillips case. I'm pretty sure the last person I communicated with regarding the request was you.

Do you have any update on how that is progressing?

Frank

From: Scott, John <ScottJ@sao7.org>
Sent: Tuesday, March 10, 2020 4:40 PM
To: Fernandez, Frank <frank.fernandez@news-jrnl.com>
Subject: RE: Colton Phillips

Looking into it.

From: Fernandez, Frank <frank.fernandez@news-jrnl.com>
Sent: Tuesday, March 10, 2020 2:06 PM
To: Scott, John <ScottJ@sao7.org>
Subject: Colton Phillips

I had asked Spencer before you took over his position for the discovery in the case against Colton Phillips. Last I heard from him they were working on it. Can you give me an update on that?

2018 304481 CFDB

Thanks
Frank

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EXHIBIT D



LAURA E. ROTH

Volusia County Clerk of Circuit Court

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Case Management Search Criteria

Case Number : **Case Type :** **Case Category :** Select Case Type to List

Status :

Citation Number : **Filing Date From :** MM/DD/YYYY **to** MM/DD/YYYY **Offense Date From :** MM/DD/YYYY **to** MM/DD/YYYY

Person Last : PHILLIPS First : COLTON Middle : DOB : MM/DD/YYYY

Business

Records Found 4



Case Number	Case Style	SPN	Party Type	Case Type	Category	DIV	Status	File Date
<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
<input checked="" type="checkbox"/> 2020 310331 MMDB	STATE OF FLORIDA v. COLTON ROCKWELL PHILLIPS	809262	Defendant	MM	CT	85	O	09/29/2020
<input checked="" type="checkbox"/> 2017 302654 CFDB	STATE OF FLORIDA v. COLTON ROCKWELL PHILLIPS	809262	Defendant	CF	CF	40	C	05/27/2017
<input checked="" type="checkbox"/> 2016 304298 MMDB	STATE OF FLORIDA v. COLTON ROCKWELL PHILLIPS	809262	Defendant	MM	MM	85	C	03/22/2016
<input checked="" type="checkbox"/> 2013 302303 MMDB	STATE OF FLORIDA v. COLTON	809262	Defendant	IN	XC	82	C	02/18/

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ROCKWELL
PHILLIPS

EXHIBIT E



LAURA E. ROTH

Volusia County Clerk of Circuit Court

Log In

Home

Case Management Search Criteria

Case Number : 2018 304481 CFDB Case Type : Case Category : Select Case Type to List

Status : Filing Date From : MM/DD/YYYY to MM/DD/YYYY Offense Date From : MM/DD/YYYY to MM/DD/YYYY

MM/DD/YYYY Last : First : Middle : DOB : MM/DD/YYYY

Person Business

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Records Found 1



Case Number	Case Style	SPN	Case Type	Category	DIV	Status	File Date
2018 304481 CFDB	STATE OF FLORIDA v. SEALED		CF	CF		O	09/21/2018