

IN THE CIRCUIT COURT OF THE SIXTH JUDICIAL CIRCUIT
IN AND FOR PINELLAS COUNTY, STATE OF FLORIDA
CRIMINAL DIVISION

STATE OF FLORIDA,

Plaintiff,
v.

CASE NO.: 24-CF-004646
DIVISION: B

DOMINGO RODRIGUEZ,

Defendant.
_____ /

**DEFENDANT’S MOTION TO QUASH SEARCH WARRANT OR, IN THE
ALTERNATIVE, DEFENDANT’S MOTION TO SUPPRESS EVIDENCE SEIZED
PURSUANT TO SEARCH WARRANT, AND NOTICE OF CLAIM OF HUSBAND-
WIFE PRIVILEGE**

The Defendant, DOMINGO RODRIGUEZ (hereinafter “Defendant”), by and through his undersigned counsel, pursuant to Florida Rule of Criminal Procedure 3.190(g) and Florida Statute §933.05, hereby moves this Honorable Court to Quash or, in the alternative, suppress items seized pursuant to a search warrant, and the Defendant further notifies this Court and all associated parties of his intent to claim the “Husband-Wife” privilege pursuant to Florida Rule of Evidence §90.504, and in support thereof, states the following:

1. On or about May 15, 2024, the Defendant was arrested on two criminal counts, to wit: 1) Aggravated Animal Cruelty (F.S. §828.12(2)); and 2) Unlawful Disposal of Dead Animals (F.S. 823.041.
2. On or about May 30, 2024, the Defendant was served with a Search Warrant by Pinellas County Sheriff’s Office Detective Alexander Robb, which resulted in the Defendant being forced to surrender a black in color Apple iPhone, along with his passcode. *Please find Search Warrant attached hereto as Exhibit A.*
3. Amongst other information being sought, via search warrant, by the authorities, to include

Pinellas County Sheriff's office and the State Attorney's Office, is information relating to "content, to recover communications, as described by Domingo Rodriguez and Neslene Conde Martinez, between Domingo Rodriguez and Neslene Conde Martinez regarding the dog..." Ex. A., Pg. 6.

4. Florida Rule of Evidence §90.504, states, in pertinent part, that: "A spouse has a privilege during and after the marital relationship to refuse to disclose, and to prevent another from disclosing, communications which were intended to be made in confidence between the spouses while they were husband and wife." Moreover, it also states that: "The privilege may be claimed by either spouse or by the guardian or conservator of a spouse. The authority of a spouse, or guardian or conservator of a spouse, to claim the privilege is presumed in the absence of contrary evidence."

5. Florida Rule of Criminal Procedure 3.190(g) permits a defendant aggrieved by an unlawful search and seizure to suppress anything so obtained for use as evidence because, amongst other reasons, that: the warrant is insufficient on its face and that there was no probable cause for believing the existence of the grounds on which the warrant was issued.

6. In essence, the probable cause purporting to justify the search warrant (Exhibit A) is as follows:

- a. Tyler Place and Jared Bristol observed a transparent garbage bag containing a deceased dog ("dog") floating in the water near the mangroves in and around Fort De Soto Park. Ex. A, Pg. 2.
- b. The Deceased dog was decapitated as its head was not in the bag. Ex. A, Pg. 2.
- c. Pinellas County Animal Services ("PCAS") Animal Control Officer Annika Wooten scanned the remains and detected [a] microchip, which was registered to Domingo Rodriguez. Ex. A, Pg. 2.

- d. The microchip contained information the Defendant had “just adopted him on May 10, 2024. Ex. A., Pg. 3.
- e. On May 11, 2024, at approximately 10:50am, a Spanish-speaking PCAS customer service employee contacted the Defendant, which resulted in the former being advised that the dog has gotten out the night prior when his [Defendant] wife opened the door, and that he [Defendant] had been looking for the dog since the prior afternoon. Ex A., Pg. 3.
- f. Florida Department of Transportation toll booth camera footage established the Defendant’s vehicle location on May 11, 2024, traveling to and from Fort De Soto Park. Ex. A., Pg. 4.
- g. At 0740 hours, the Defendant appears to be the sole occupant of a 2008 Nissan Frontier with a large blue and white cooler present in the bed of the pick-up truck. Ex. A., Pg(s) 3-4.
- h. In the early hours of May 15, 2024, the Defendant was interviewed by Pinellas County Sheriff’s Office Deputy Joshua Roseberg with the assistance of Spanish translator. Ex. A, Pg. 4.
- i. During said interview, the Defendant admitted to adopting the dog, but stated that the dog had escaped, “making multiple inconsistent statements as to when the dog escaped and the timing of the realization regarding the dog’s escape. Ex. A., Pg(s) 4-5.
- j. At one point during the interview, the Defendant represented that he woke up around 0700 and began to search the neighborhood for the dog. Ex. A., Pg. 5.
- k. The Defendant admitted that later that day on May 11, 2024, he used his 2008

Nissan Frontier to drop off a friend or friends at Fort De Soto Park.

7. Based upon the cited purported and alleged facts, the State's probable cause is, in essence, based upon primarily three things: 1) The deceased dog was adopted by the Defendant on or about May 10, 2024, and 2) the Defendant's presence was established being at Fort De Soto Park on or about May 11, 2024; and 3) Defendant made some "inconsistent" statements about the dog going missing.

8. "We conclude that this arrest should have been suppressed. Appellant was on a path used regularly by the people in the neighborhood, and it was not unusually late. Under these facts the officer did not have probable cause. United States v. Gonzalez, 70 F.3d 1236, 1238 (11th Cir. 1995) ("mere presence at the scene of a crime, without more, does not support a finding of probable cause to arrest.") Myles v. State, 886 So. 2d 316, 317 (Fla. 4th DCA 2004).

9. The vehicle's mere presence near the scene is insufficient to give rise to a reasonable suspicion that its occupants were connected to the recent burglary. Batson v. State, 847 So. 2d 1149, 1151 (Fla. 4th DCA 2003); *See* H.H. v. State, 775 So. 2d 397 (Fla. 4th DCA 2000)(holding that facts were insufficient to support reasonable suspicion where the defendant was found riding a bike at about 1:00 a.m. a few blocks from scene of a bicycle theft); Moore v. State, 584 So. 2d 1122 (Fla. 4th DCA 1991)(holding that the fact that defendant was riding his bike at 2:00 a.m. only two to three blocks from an apartment where a burglary was reported to be "in progress" was insufficient to support a reasonable suspicion that defendant was involved in criminal activity).

10. To establish probable cause, an affidavit for a search warrant must establish two elements: (1) a person has committed a crime; and (2) evidence relevant to the probable criminal conduct is likely to be found at the location to be searched. State v. Freeman, 377 So. 3d 225, 228-229 (Fla. 6th DCA 2024). The standard of probable cause does not require prima facie showing of criminal

conduct; only the probability of criminal conduct. State v. Hart, 308 So. 3d 232, 235-236 (Fla. 5th DCA 2020).

11. The particularity requirement makes general searches impossible and limits the executing officer's discretion when performing a search." Ingraham v. State, 811 So. 2d 770, 773 (Fla. 2d DCA 2002); *citing* Green v. State, 688 So. 2d 301, 306 (Fla. 1996). The fact that the officers may have known that they were looking for items of a particular character does not cure a search warrant that is overly broad. Id.

12. The Search warrant states that Pinellas County Sheriff's Office Deputy Joshua Rosenberg "seeks this warrant to seize any electronic communications device(s) on Domingo Rodriguez's person and search the device(s) to recover data to substantiate the violations of Florida Law your affiant is reviewing." Ex. A., 5-6. Additionally, Pinellas County Sheriff's Office Deputy Joshua Rosenberg "seeks subscriber information on the device(s) to show that Domingo Rodriguez is the owner and operate of the device(s)...seeks to recover photo, video, and other digital media attributable to Domingo Rodriguez stored within the device(s) to show that Domingo Rodriguez is the owner and operator of the device(s)...seeks communications on the device(s), including content, to recover communications, as described by Domingo Rodriguez and Neslene Conde Martinez, between Domingo Rodriguez and Neslene Conde Martinez regarding the dog; and communications with other individuals regarding Domingo's activity or whereabouts while in the possession of the dog or upon picking up/dropping off the dog." Ex. A., Pg. 6.

13. The following is a list of items to be searched, pursuant to the Search Warrant:

- Device identification information to include assigned Mobil Directory Number, Serial numbers, Bluetooth Address, MAC IP Addresses, And any other data reasonably related to distinguish the device from other similar devices;
- Registered email account (s), Profile username(s) used for remote backup or cloud storage provider(s), and associated social media profile identifier(s) or username(s);

- Device usage registries to include the dates and times of log in/log off events, power on/power off events, or events evidencing device inactivity;
- Registries of WIFI router access/ connectivity, Bluetooth access/connectivity, and registries in which the device was used as a WIFI hotspot as contained within system log files or system database files;
- Location data stored on the device whether obtained by the device through recorded cellular site location information or through an application utilizing enabled location services;
- Registry of installed applications or programs with dates, times, and durations of access or usage;
- Any and all image or video file(s), regardless of file extension, stored within the device, regardless of association with any application, and including all metadata or EXIF data;
- Data Pertaining to email address, social media username, and data indicating dates, times, and durations of any communications with each contact;
- Logs reflecting the date, time, and duration of all voice, text, and video communications;
- Content of recorded voice communications;
- Content of text-based electronic communications stored on the device including but not limited to email communications, Short Message Service (SMS) and Multimedia Messaging Service (MMS) communications, and communications utilizing third party software applications;
- Internet web history, cookies, search histories, and internet browser settings;
- Stored files to include documents, spreadsheets, pdf files, or other text files;
- Stored sound files to include WAV files, MP3 files, and other sound files with associated location and metadata.

14. The purpose of requiring that a search warrant particularly describe the things to be seized is to prevent an unconstitutional general search. West v. State, 439 So. 2d 907, 911 (Fla. 2d DCA 1983). A search warrant which authorizes an unconstitutional general search can invariably be categorized as one which is overbroad on its face, overbroad in light of the facts, or both. A warrant is overbroad on its face when the description within the warrant of the items to be seized fails to

adequately limit the discretion of the officer executing the warrant. West v. State, 439 So. 2d 907, 911 (Fla. 2d DCA 1983). The requirement that warrants shall particularly describe the things to be seized makes general searches under them impossible and prevents the seizure of one thing under a warrant describing another. As to what is to be taken, nothing is left to the discretion of the officer executing the warrant. *Id.* Citing Marron v. United States, 275 U.S. 192 (1927). A search warrant is overbroad in light of the circumstances when the description within the warrant of the things to be seized is broader than the description presented in the affidavit. *Id.* A warrant should not be any broader than the affidavit because the affidavit is a prerequisite to its issuance. *Id.* The use of broad categories and generalities can render a search warrant overly broad. Russ v. State, 185 So. 3d 622, 626 (Fla. 5th DCA 2016); *See Polakoff v. State*, 586 So. 2d 385, 387, 392 (Fla. 5th DCA 1991) (holding that search warrant authorizing search for "documents recording the extension of credit to Haya Bigloo" was constitutionally overbroad). In Ingraham v. State, 811 So. 2d 770 (Fla. 2d DCA 2002), a search warrant authorizing police to search for "certain evidence relating to Arson and Burglary to wit: Clothing, shoes, and other physical evidence relating to the Crime [sic] of Arson and Burglary" was found to be constitutionally overbroad. Russ v. State, 185 So. 3d 622, 626 (Fla. 5th DCA 2016). The court in Russ, went on to conclude that: "We agree . . . that the trial court erred in denying the motion to suppress because the search warrant failed to describe the items to be seized with particularity. In fact, the warrant very nearly authorized a general search of [appellant's] apartment." *Id.* at 626.

15. The only mention of Defendant's black in color Apple iPhone during the criminal investigation is when Pinellas County Sheriff's Office Deputy Joshua Rosenberg observed the Defendant with said phone when the latter was interviewed. Ex. A., Pg. 5. And that the Defendant had advised that he used said phone to speak with PCAS about the dog going missing, to call his

wife, Neslene Conde Martinez about the dog being missing, and to arrange two rides he gave to Fort De Soto Park. Ex. A., Pg. 5.

16. However, the “items to be searched” are effectively giving the authorities unfettered and general access to the Defendant’s entire phone, without describing, without sufficient specificity, what evidence is to be sought pursuant to the search warrant that is relevant to the probable criminal conduct and likely to be found in the Defendant’s cellphone. There is nothing in the affidavit that supports the belief that relevant evidence is to be found in, for example, Defendant’s web history, email accounts, photographs, videos, registries, applications, recorded messages and audios, media files, etc. The items described are done so generally, without any specificity as to what Pinellas County Sheriff’s Office is looking for and if it is likely to be found in Defendant’s cellphone. For example, the affidavit states that “Affiant seeks this warrant to seize any electronic communication device(s) on Domingo Rodriguez’s person and search the device(s) to recover data to substantiate the violations of Florida Law.” Ex. A, Pg(s) 5-6. This begs the following questions: What specific data? What’s being substantiated? What relevant evidence is being sought in Defendant’s WIFI history, web history, recorded/media files, email accounts, photographs, and videos etc.? Because the only thing that was specifically referenced was phone calls between him and PCAS, communication between him and his wife, and communications with unknown individuals. There is nothing, literally nothing else referencing specific relevant information being sought anywhere else in Defendant’s cellphone.

17. The search warrant in this case is overbroad and not specific. It is clear based on the face of the search warrant and within the four corners of said that the Pinellas County Sheriff’s Office have no idea what they are actually looking for in Defendant’s phone, except the existence of verbal and written communications between himself and PCAS, his wife (which is privileged),

and the other individuals he gave a ride to on or about May 11, 2024, of which in and of itself is not relevant to the charges of animal cruelty and the unlawful disposal of animal remains. There is nothing incriminating about the evidence being sought, in this regard. But if that is what they are looking for, then why does the search warrant seek to discover applications, photographs, videos, website data/information, web history, recorded communications, registries, email accounts and registered accounts, social media information, WIFI data, MP3 files? There is nothing in these general items to be searched that have been sufficiently identified. This is nothing more than an entire search of the Defendant's cellphone in the hopes of finding "something," or to use the words of Pinellas County Sheriff's Office Deputy Joshua Rosenberg, "to recover data to substantiate the violations of Florida Law your affiant is reviewing." Ex. A., Pg. 6.

There is nothing in the affidavit that supports this broad search of Defendant's cellphone. The affidavit itself does not establish probable cause. What we have is an adoption of the dog and the Defendant being at/near the scene where the dog was found, as well as uncontradicted assertion by the Defendant that the dog has gone missing. For the sake of argument and comparison, what we have is reasonable suspicion at best, not probable cause. Now, if this Court is to disagree with the Defense as it relates to the contentions, law, and resultant arguments contained herein, there must be at the very least a restriction on any and all communications between the Defendant and wife as that is protected by Florida Rule of Evidence §90.504. For it is clear that the State wishes to obtain communications from Defendant's phone in that regard. So, based upon the recognized privileged between husband and wife, those communications should be not discoverable pursuant to the search warrant.

18. Based upon the following the Defendant is respectfully asking this Court to quash the search warrant as it is insufficient on its face and not based upon probable cause. In the alternative,

the Defendant respectfully requests this Court to prohibit, limit, or otherwise suppress any and all evidence that is seized that is outside the scope of what is permitted by Florida Law, which would include any and all evidence not specifically identified in the search warrant and not supported by the affidavit. Additionally, notwithstanding ruling on the alternative aforementioned requests, the Defendant requests that any and all communications between himself and his wife are not discoverable as they are privileged.

WHEREFORE, for good cause and in the interest of justice, the Defendant respectfully requests this Court to quash the search warrant executed in this case and suppress any and all illegally obtained evidence resulting therefrom, restrict the discovery of privileged information, as well as order any other relief this Court deems just and fair.

Respectfully submitted this 31st day of May 2024, by:

/s/ Victor L. Zamora Jr., Esquire
Florida Bar No.: 112785

[CERTIFICATE OF SERVICE ON NEXT PAGE]

CERTIFICATE OF SERVICE

I **HEREBY CERTIFY** that a true and correct copy of the foregoing has been filed with the Clerk of the Court for Pinellas County, Florida and furnished via E-FILE PORTAL to the Office of the State Attorney for the 6th Judicial Circuit Court of Florida in and for Pinellas County, on this 31st day of May 2024.

Respectfully Submitted by:

VIZA LAW

/s/ Victor L. Zamora Jr.

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IN THE CIRCUIT COURT OF THE SIXTH JUDICIAL CIRCUIT
OF THE STATE OF FLORIDA IN AND FOR PINELLAS COUNTY

AFFIDAVIT FOR SEARCH WARRANT

STATE OF FLORIDA

EXHIBIT A

COUNTY OF PINELLAS

BEFORE ME, a Circuit Judge of the State of Florida for the Sixth Judicial Circuit, Joshua Rosenberg, a Deputy with the Pinellas County Sheriff's Office, who was duly sworn by the below signed notary, pursuant to FSS 117.10, states that within an electronic device more fully described as:

Any and all cell phones, including but not limited to an Apple iPhone, black in color, with marks or damage at the bottom of the front screen and/or screen cover, located on Domingo Rodriguez's person

which is under the care, custody, and control of the Domingo Rodriguez (H/M; DOB: 5/12/58), the laws of the State of Florida,

1 Count(s) of 828.12 (2)-- Aggravated Animal Cruelty

1 Count(s) of 823.041-- Unlawful Disposal of Dead Animals

are being violated and/or property which constitutes evidence relevant to proving that said crime has been committed is contained therein. Your Affiant's reason for this belief is as follows:

Your Affiant, Joshua Rosenberg, is presently employed as a sworn Deputy Sheriff with the Pinellas County Sheriff's Office, Pinellas County, Florida. Your Affiant has been certified as law enforcement officer since September of 2018. Your affiant was previously employed by New York State Courts from 2018-2021. Your affiant has been employed by the Pinellas County Sheriff's Office since March 2022. Your Affiant is currently assigned to the Pinellas County

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Sheriff's Office Patrol Operations Bureau as Deputy Sheriff since February 2023. Your Affiant has completed the Basic Law Enforcement Academy at St. Petersburg College. Your Affiant has also completed the Basic Training Course for Peace Officers at The New York State Court Officers Academy. Your affiant has completed a forty-hour (40) advanced training in Interviews and Interrogations at Manatee Technical College.

PROBABLE CAUSE

On May 14, 2024, at 1822 hours, your Affiant responded to Fort De Soto Park, located at 3500 Pinellas Bayway S, Tierra Verde in Pinellas County, Florida, to conduct an animal cruelty investigation. Upon arrival, Deputy Travis Foster, the first responding deputy, briefed your Affiant on the case. Deputy Foster explained to your Affiant that when he arrived, he met reporting parties Tyler Place and Jared Bristol at the east end of the park.

Mr. Place reported to Deputy Foster that he and Mr. Bristol were wading out in the water to fish when they observed a transparent garbage bag containing a deceased dog ("the dog" or "Dexter") floating in the water near the mangroves. Mr. Bristol retrieved the bag and pulled it to shore. Deputy Foster told your Affiant that, upon inspecting the bag and remains, he realized the dog was decapitated and its head was not in the bag. To date, to your Affiant's knowledge, no one has ever recovered the dog's head. Deputy Foster described the dog as black in color, short haired, medium sized, and with no identifying markings.

Deputy Foster relayed to your Affiant that, after a park ranger transported the remains to the park maintenance area, Pinellas County Animal Services ("PCAS") Animal Control Officer Annika Wooten scanned the remains and detected microchip #982091072656437, which was registered to owner Domingo Rodriguez (H/M; DOB: 5/12/58). Using the chip information, Officer Wooten obtained the PCAS file for the now deceased dog; the file revealed the dog's

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name was Dexter and he was a 4-year and 28-day-old, black and white, 37.40-pound neutered male bulldog/mix, and that Domingo Rodriguez had just adopted him on May 10, 2024, at 2:21pm.

Upon providing your Affiant with the above information, Deputy Foster handed the investigation off to your Affiant. Your Affiant viewed the location in the mangroves on the east side of the park where the reporting parties had first discovered Dexter's remains. This location is open to the public and is where both beast and bird would have the opportunity to devour the dog's remains. Your Affiant noted that insects appeared to be already devouring the dog's remains.

Your Affiant inquired further about the information contained within Dexter's PCAS file, which includes Domingo Rodriguez's address and contact information, including telephone number (727) 564-7083. Page four of the "memo" section of Dexter's Animal View Report, indicates that on May 11, 2024, at approximately 10:50am, a Spanish-speaking PCAS customer service employee contacted Domingo Rodriguez to inquire as to whether he had any questions about Dexter or the adoption. The memo notes reflect that Domingo Rodriguez understood for the most part, but that Domingo Rodriguez had stated that the dog had gotten out the night prior when his wife opened the door, and that he had been looking for the dog since the prior afternoon. Additionally, according to the notes, Domingo Rodriguez relayed his plan to go to the police station to ask if the dog had been seen. Your Affiant queried various law enforcement databases, none of which reflect Domingo Rodriguez having reported a missing dog.

Through your Affiant's search of the Driver and Vehicle Information Database, your Affiant discovered that Domingo Rodriguez is the registered owner of a 2008 Nissan Frontier assigned Florida tag PIHN22. Based on your Affiant's search for Florida tag PIHN22 in Flock Safety and the Plates LPR program, and your Affiant's review of Fort De Soto entrance camera

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footage and the Florida Department of Transportation toll booth camera footage, your Affiant established the following timeline showing Domingo Rodriguez's vehicle location on May 11, 2024:

- 0700 hours - Southbound on Park St. N. in the area of 5818-5834 Park St. N.
- 0717 hours - Southbound at Gulf Blvd. and 127th Ave.
- 0721 hours - Southbound at the Blind Pass Bridge
- 0730 hours - Eastbound using Lane 3 of the St Pete Beach toll, plaza ID 101310.
- 0732 hours - Southbound at Pinellas Bayway and Bahia Del Mar Blvd. S.
- 0738 hours - Southbound at Pinellas Bayway South Toll, plaza ID 101320.
- 0740 hours - Southbound at the entrance of Ft. Desoto Park.
- 0812 hours - Northbound at Pinellas Bayway and Bahia Del Mar Blvd. S.
- 0813 hours - Eastbound at 54th Ave. S. and Sun Blvd.
- 0833 hours - Westbound at Pinellas Bayway toll, plaza ID 101300.
- 0837 hours - Southbound at Pinellas Bayway and Bahia Del Mar Blvd. S.
- 0842 hours - Southbound at Pinellas Bayway South Toll, plaza ID 101320.
- 0913 hours - Northbound at Pinellas Bayway and Bahia Del Mar Blvd. S.
- 0913 hours - Eastbound at 54th Ave. S. and Sun Blvd.
- 1407 hours - Southbound at 49th St. and 118th Ave.

The cameras capture Domingo Rodriguez's vehicle traveling to and from Fort De Soto Park. In reviewing the photos and video footage, your Affiant noted that at 0740 hours when the vehicle enters the park, Domingo Rodriguez appears to be the sole occupant and a large blue and white cooler—large enough to conceal Dexter's remains—is present in the bed of the pick-up truck.

In the early hours of May 15, 2024, your Affiant interviewed Domingo Rodriguez at his residence located at 3367 66th Way N. in Unincorporated Pinellas County, Florida. Domingo Rodriguez invited your Affiant and other deputies to speak with him in his backyard seating area. Cpl. Brian Munoz assisted with translating between Spanish and English as Domingo Rodriguez stated he spoke limited English.

During the interview, Domingo Rodriguez admitted to adopting a dog named Dexter, but stated the dog had escaped, making multiple inconsistent statements as to when the dog escaped

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and the timing of his realization regarding the dog's escape. At one point during the interview, Domingo Rodriguez represented that he woke up around 0700 hours and began to search the neighborhood for the dog. Domingo Rodriguez admitted that later that day, May 11, 2024, that he used his 2008 Nissan Frontier bearing Florida tag PIHN22 to drop off a friend or friends at Fort De Soto Park. Domingo Rodriguez confirmed that he is the only person who drives the 2008 Nissan Frontier bearing Florida tag PIHN22. Further, your Affiant presented Domingo Rodriguez with Flock Safety photos of the 2008 Nissan Frontier, and Domingo Rodriguez identified the vehicle depicted in the photos as his vehicle.

While speaking with Domingo Rodriguez, your Affiant had the opportunity to observe Domingo Rodriguez's black iPhone. Domingo Rodriguez presented this phone, believed to be associated with telephone number (727) 564-7083, to your Affiant. Your Affiant noted the phone had some marks or damage at the bottom of the front screen and/or screen cover. After the interview with Domingo Rodriguez, deputies permitted Domingo Rodriguez to take this same phone to the Pinellas County Jail, and the jail released the phone back to Domingo Rodriguez at the time of his release on bond. Your Affiant believes the phone is still in Domingo Rodriguez's possession.

Domingo Rodriguez told your Affiant he used his phone in the following ways: to speak with PCAS about the dog going missing; to call his wife Neslene Conde Martinez about the dog being missing; and to arrange, through calls and messaging, two rides he gave to Fort De Soto Park. Neslene Conde Martinez confirmed for your Affiant that Domingo Rodriguez contacted her by phone to communicate to her that he was out looking for the missing dog.

Based on your Affiant's experience, your Affiant knows data from one device may be transferred from one to another device. Accordingly, your Affiant seeks this warrant to seize any electronic communication device(s) on Domingo Rodriguez's person and search the device(s) to

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recover data to substantiate the violations of Florida law your Affiant is reviewing. Your Affiant seeks subscriber information on the device(s) to show that Domingo Rodriguez is the owner and operator of the device(s). Your Affiant also seeks to recover photo, video, and other digital media attributable to Domingo Rodriguez stored within the device(s) to show that Domingo Rodriguez is the owner and operator of the device(s).

Additionally, your Affiant seeks communications on the device(s), including content, to recover communications, as described by Domingo Rodriguez and Neslene Conde Martinez, between Domingo Rodriguez and Neslene Conde Martinez regarding the dog; and communications with other individuals regarding Domingo's activity or whereabouts while in possession of the dog or upon picking up/dropping off the dog.

Your Affiant knows through training and experience that persons who are under criminal investigation may be uncooperative or combative. Your Affiant believes that reasonable force by a law enforcement officer may be necessary to obtain the device(s) from the suspect's person. Your Affiant requests authority of the Court to use such reasonable force as the exigencies of the occasion may demand.

Based on your Affiant's training, experience, and the capabilities of the Device, there is probable cause that the herein described items to be seized are relevant and material to proving that they above mentioned laws of the State of Florida are being violated.

CAPABILITIES OF THE DEVICE

In my training and experience, the Device has capabilities that allow it to serve as a wireless telephone, digital camera, portable media player, mini handheld computer with the capability of accessing the internet, and a GPS navigation device.

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Further, the Device typically contains programs called apps, which, like programs on a personal computer, perform different functions and save data associated with those functions. Apps can, for example, permit accessing the Web, sending and receiving communications, and participating in Internet social networks.

Because the Device has the capability to store data in digital form, examining data stored on devices of this type can uncover, among other things, evidence that reveals or suggests who possessed or used the device (user attribution) as well as where and how the device was used. This evidence may establish the “who, what, why, when, where, and how” of the criminal conduct under investigation, thus enabling the State of Florida to establish and prove each element or, alternatively, to exclude the innocent from further suspicion.

The data stored on the Device may also provide relevant insight into the Device user’s state of mind as it relates to the offenses under investigation. For example, information on the Device may indicate the user’s motive and intent to commit a crime (e.g., information indicating a plan to commit a crime), or consciousness of guilt (e.g., deleting information in an effort to conceal evidence from law enforcement).

ELECTRONIC STORAGE AND FORENSIC ANALYSIS

Based on your Affiant’s knowledge, training, and experience, your Affiant knows that digital or electronic files or remnants of such files can be recovered months or even years after they have been downloaded onto a device, deleted, or viewed via the Internet. Even when such files have been “deleted,” they can remain on the device and be recovered months or even years later using readily available forensic tools.

The search procedure of the Device may include the following techniques:

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- a. "Imaging" the Device. The imaging process produces a copy of the data contained on the device while preserving the data on the Device in accordance current technology and capabilities. The forensic examination will then be conducted on the image. The forensic examiner will then utilize one or more forensic examination tools to produce a report that reveals only the data that is authorized in the warrant.
- b. Searching for and attempting to recover any deleted, hidden, or encrypted data to determine whether that data falls within the list of items described in the warrant;
- c. Use of forensic software or hardware in order to by-pass a passcode protected or locked device, in order to either retrieve data from the device or obtain the passcode for the device itself; and/or
- d. Performing any other data analysis technique that may be necessary to locate and retrieve the evidence described in the warrant

Further, Your Affiant moves this Honorable Court, pursuant to State v. Stahl, 206 So.3d 124 (2d DCA 2016), to enter an Order to Compel Domingo Rodriguez to provide any passcode or other security mechanism (i.e. biometrics) which will enable access to an electronic device, and as good cause and grounds therefore would show:

- 1. A passcode or other security mechanism may be necessary to effectuate the Search Warrant as the owner of cellular phones often requires a passcode or other security mechanism to gain entrance to the device.
- 2. Access to the herein described cellular phone is necessary for a complete investigation and prosecution of the above-styled cause.

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3. The passcode or other security mechanism is sought only for its content, and the content has no other value or testimonial significance. *State v. Stahl*, 206 So.3d 124 (2d DCA 2016).

4. By providing the passcode the owner would not be acknowledging that the phone contains evidence of alleged crime(s) and the fact that owner provided the passcode could not be used against them. *Id.*

5. "Compelling a suspect to make a nonfactual statement that facilitates the production of evidence for which the State has otherwise obtained a warrant based upon evidence independent of the accused's statements linking the accused to the crime does not offend the [privilege against self-incrimination.]" *Id.* (citing *Doe v. United States*, 478 U.S. 201, 213 (1988)).

6. Your Affiant is aware that the cellular phone would be accessible after entering a valid passcode. Thus, the People of the State of Florida therefore "knows with reasonable particularity that the passcode exists, is within the accused's possession or control, and is authentic." *Id.* at 136.

PROPERTY TO BE SEARCHED

The property to be searched is described as a

Any and all cell phones, including but not limited to an Apple iPhone, black in color, with marks or damage at the bottom of the front screen and/or screen cover, located on Domingo Rodriguez's person, hereinafter "the Device". The Device is currently under the care, custody, and control of the Domingo Rodriguez (H/M; DOB: 5/12/58), but is believed to have been under the care, custody, and control of Domingo Rodriguez (Hispanic/Latino Male) prior to being lawfully obtained by the Pinellas County Sheriff's Office.

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ITEMS TO BE SEIZED

1. All records and information on the Device relating to or pertaining to violations of above mentioned Florida State Statutes, including:

- Device identification information to include assigned Mobile Directory Number, serial numbers, Bluetooth address, MAC IP Addresses, and any other data reasonably related to distinguishing the device from other similar devices;
- Registered email account(s), profile user name(s) used for remote backup or cloud storage provider(s), and associated social media profile identifier(s) or user name(s);
- Device usage registries to include the dates and times of log in/log off events, power on/power off events, or events evidencing device inactivity;
- Registries of WIFI router access/connectivity, Bluetooth access/connectivity, and registries in which the device was used as a WIFI hotspot as contained within system log files or system database files;
- Location data stored on the device whether obtained by the device through recorded cellular site location information or through an application utilizing enabled location services;
- Registry of installed applications or programs with dates, times, and durations of access or usage;
- Any and all image or video file(s), regardless of file extension, stored within the device, regardless of association with any application, and including all metadata or EXIF data;
- Data pertaining to email address, social media username, and data indicating dates,

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times, and durations of any communications with each contact;

- Logs reflecting the date, time, and duration of all voice, text, and video communications;
- Content of recorded voice communications;
- Content of text-based electronic communications stored on the device including but not limited to email communications, Short Message Service (SMS) and Multimedia Messaging Service (MMS) communications, and communications utilizing third party software applications.
- Internet web histories, cookies, search histories, and internet browser settings;
- Stored files to include documents, spreadsheets, pdf files, or other text files;
- Stored sound files to include WAV files, MP3 files, and other sound files with associated location and metadata;

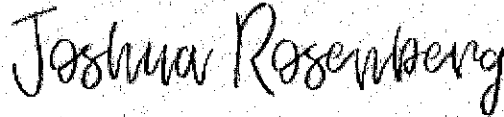
2. As it pertains to violations of the above mentioned of Florida Statute(s):
 - a. evidence pertaining to who used or owned the Device; and
 - b. evidence pertaining to where the Device was located.

CONCLUSION

WHEREFORE, your affiant seeks to secure a search warrant issued in accordance with the laws of the State of Florida commanding any and all Deputy Sheriff, Officer, certified law enforcement officer, enumerated agent or technician thereof, of the Pinellas County Sheriff's Office either in the daytime or nighttime, and on any day of the week including Sunday, with the proper and necessary assistance as the exigencies of the occasion may demand, to search the

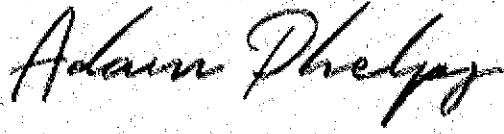
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Device and seize as evidence the herein described items in order that the evidence may be procured to be used in the prosecution of such person or persons found to be involved in the illegal activity as alleged.



Deputy Joshua Rosenberg
Pinellas County Sheriff's Office
AFFIANT

SWORN TO AND SUBSCRIBED before me on this the 30th day of May, 2024.



Sergeant Adam W Phelps

Law Enforcement Officer Authorized to Administer Oaths under F.S. 117.10.

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IN THE CIRCUIT COURT OF THE SIXTH JUDICIAL CIRCUIT
OF THE STATE OF FLORIDA IN AND FOR PINELLAS COUNTY

SEARCH WARRANT

STATE OF FLORIDA

COUNTY OF PINELLAS

TO ANY AND ALL DEPUTY SHERIFF, OFFICER, CERTIFIED LAW ENFORCEMENT OFFICER, ENUMERATED AGENT, OR TECHNICIAN THEREOF, OF THE PINELLAS COUNTY SHERIFF'S OFFICE

The Court having read an Affidavit for search warrant and the Court having examined the Affiant, Joshua Rosenberg, a Deputy with the Pinellas County Sheriff's Office, under oath and having been satisfied that the facts as alleged do exist and that probable cause does exist that the laws of the State of Florida, to wit:

1 Count(s) of 828.12 (2) -- Aggravated Animal Cruelty

1 Count(s) of 823.041 -- Unlawful Disposal of Dead Animals

are being violated and/or property which constitutes evidence that said crime has been committed is located therein, a Search Warrant is hereby allowed and issued to search the electronic device described as a

Any and all cell phones, including but not limited to an Apple iPhone, black in color, with marks or damage at the bottom of the front screen and/or screen cover, located on Domingo Rodriguez's person, which is under the care, custody, and control of Domingo Rodriguez (H/M; DOB: 5/12/58).

THESE PRESENTS THEREFORE are to command you with the necessary and proper assistance as the exigencies of the occasion may demand or require, either in the daytime or the nighttime, and on any day of the week, including Sunday, in or on the electronic device

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described as a

Any and all cell phones, including but not limited to an Apple iPhone, black in color, with marks or damage at the bottom of the front screen and/or screen cover, located on Domingo Rodriguez's person to diligently search for the herein described items, to wit:

1. All records and information on the Device related to or pertaining to violations of Florida Statute(s):

1 Count(s) of 828.12 (2)-- Aggravated Animal Cruelty

1 Count(s) of 823.041-- Unlawful Disposal of Dead Animals

- Device identification information to include assigned Mobile Directory Number, serial numbers, Bluetooth address, MAC IP Addresses, and any other data reasonably related to distinguishing the device from other similar devices;
- Registered email account(s), profile user name(s) used for remote backup or cloud storage provider(s), and associated social media profile identifier(s) or user name(s);
- Device usage registries to include the dates and times of log in/log off events, power on/power off events, or events evidencing device inactivity;
- Registries of WIFI router access/connectivity, Bluetooth access/connectivity, and registries in which the device was used as a WIFI hotspot as contained within system log files or system database files;
- Location data stored on the device whether obtained by the device through recorded cellular site location information or through an application utilizing enabled location services;
- Registry of installed applications or programs with dates, times, and durations of access or usage;

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- Any and all image or video file(s), regardless of file extension, stored within the device, regardless of association with any application, and including all metadata or EXIF data;
 - Data pertaining to email address, social media username, and data indicating dates, times, and durations of any communications with each contact;
 - Logs reflecting the date, time, and duration of all voice, text, and video communications;
 - Content of recorded voice communications;
 - Content of text-based electronic communications stored on the device including but not limited to email communications, Short Message Service (SMS) and Multimedia Messaging Service (MMS) communications, and communications utilizing third party software applications.
 - Internet web histories, cookies, search histories, and internet browser settings;
 - Stored files to include documents, spreadsheets, pdf files, or other text files;
 - Stored sound files to include WAV files, MP3 files, and other sound files with associated location and metadata;
2. As it pertains to the aforementioned violations of Florida Statute(s):
- a. evidence pertaining to who used or owned the Device, and
 - b. evidence to where the Device was located.

and if the same shall be found, to seize the same and return to a Court having jurisdiction a complete inventory of the evidence seized. The tangible evidence seized shall be maintained at the law enforcement agency as evidence within the constructive custody of the Court until

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further Order of a Court of competent jurisdiction.

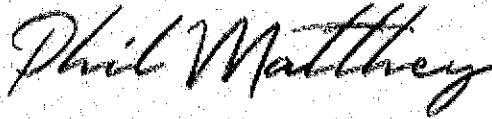
THE COURT DOES FURTHER ORDER that Domingo Rodriguez provide any passcode that will enable access to the above-described device.

YOU ARE FURTHER ORDERED that a duplicate of this Search Warrant and a written inventory of the property seized shall be delivered to the person named in this Warrant, or in his or her absence to some person in charge of the electronic device described as a

Any and all cell phones, including but not limited to an Apple iPhone, black in color, with marks or damage at the bottom of the front screen and/or screen cover, located on Domingo Rodriguez's person

. The written inventory shall reflect the date in which the device was submitted to the forensic examiner for analysis consistent with this Warrant.

DONE AND ORDERED in Pinellas County, Florida the 30th day of May, 2024.



Phil Matthey
CIRCUIT COURT JUDGE
SIXTH JUDICIAL CIRCUIT

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