

# ORIGINAL

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SWORN STATEMENT

OF

MCKINLEY "MIKE" COFFIN, JR.

In re: 2011-09297

\* \* \* \* \*

DATE TAKEN: DECEMBER 13, 2011

TIME: COMMENCED AT 11:02 a.m.  
CONCLUDED AT 11:41 a.m.

PLACE: 123 WEST INDIANA AVENUE  
DELAND, FLORIDA

STENOGRAPHICALLY  
REPORTED BY: BLYTHE RIGGS, RPR  
COURT REPORTER AND NOTARY PUBLIC

\* \* \* \* \*

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1 APPEARANCES:

2 LARRY SMITH, ESQUIRE  
3 NANCYE JONES, ESQUIRE  
4 County of Volusia  
5 123 W. Indiana Avenue  
6 DeLand, Florida 32720  
7 386-736-5950

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Also Present:

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Captain Nikki Dofflemyer

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## C O N T E N T S

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2 TESTIMONY OF MCKINLEY COFFIN, JUNIOR

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Examination by Mr. Smith

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Reporter's Certificate

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Certificate of Oath

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## E X H I B I T S

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10 Exhibit 1-Letter from Jonathan Kaney

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11 Exhibit 2-Memo from Mike Coffin 3/1/2010

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12 Exhibit 3-Letter 8/24/2011

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13 Exhibit 4-Letter 9/6/2011

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14 Exhibit 5-Letter 10/30/2011

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15 Exhibit 6-Email 9/6/2011

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## P R O C E E D I N G S

1  
2 THE REPORTER: Do you swear or affirm the  
3 testimony you are about to give will be the  
4 truth, the whole truth and nothing but the  
5 truth so help you God?

6 THE WITNESS: I do.

7 CAPTAIN DOFFLEMYER: Put an introduction  
8 on the record here. This is Captain Nikki  
9 Dofflemyer with the Department of Public  
10 Protections, Internal Affairs Unit. Today's  
11 date is the 13th of December, 2011. Does  
12 somebody have the exact time?

13 MS. JONES: 11:02.

14 CAPTAIN DOFFLEMYER: The time is 11:02.  
15 We're conducting this interview with Director  
16 Mike Coffin at the County Admin Building in  
17 DeLand, Florida. This is a recorded interview  
18 statement with Director Coffin. He was given  
19 written notice of the intent to appear today  
20 and provide a sworn statement. Mr. Coffin is  
21 not the subject of this investigation. He is  
22 currently on duty. Has been released from  
23 service to participate in this interview.

24 Also present in the room is Miss Nancye Jones  
25 from County Legal and Mr. Larry Smith, the Deputy

1 County Attorney who will be conducting this  
2 interview.

3 Mr. Coffin was provided a copy of his Officer  
4 Bill of Rights as well as an Advisement of Garrity.  
5 Can you identify yourself for the record, please?

6 THE WITNESS: Pardon me?

7 CAPTAIN DOFFLEMYER: Can you identify  
8 yourself for the record?

9 THE WITNESS: My name is McKinley Downs  
10 Coffin, Junior.

11 CAPTAIN DOFFLEMYER: And, Mr. Coffin, be  
12 advised this is an active and open internal  
13 affairs investigation. Per statute, you're not  
14 to discuss any part of this investigation with  
15 anyone until the case comes to closure, please.

16 THE WITNESS: Yes, ma'am.

17 MR. SMITH: Thank you, Captain.

18 (Captain Dofflemyer exits room.)

19 BY MR. SMITH:

20 Q All right. That's quite a name. What is  
21 your -- you're employed by the County of Volusia in what  
22 position?

23 A I'm the Director of the Department of Public  
24 Protection.

25 Q For how long?

1 A A little over two years.

2 Q Okay. Is the Volusia County Beach Safety a  
3 division of Volusia County government under Public  
4 Protection?

5 A Yes, sir.

6 Q And you signed the notice of intent to dismiss  
7 Richard Gardner who is a supervisor with Volusia County  
8 Beach Safety, is that right?

9 A Yes, sir.

10 Q Okay. This is a continuation of the  
11 investigation of that notice of intent to dismiss.  
12 Whose decision was it to continue this investigation?

13 A It was mine.

14 Q Okay. And is the intent to give Captain  
15 Richard Gardner a full, fair and complete investigation  
16 of the charges against him?

17 A Yes, sir.

18 Q Okay. I want to talk to you about a letter  
19 which was sent to you by an attorney by the name of  
20 Jonathan D. Kaney, III who purports to represent Captain  
21 Gardner. It's a 13-page letter dated February  
22 (verbatim) 24th, 2011. And I want to ask if you've seen  
23 that before?

24 A Yes, sir. I have.

25 Q Have you had a chance to read that before

1 today?

2 A Yes, sir.

3 Q Okay. I want to refer to some specific parts  
4 of this letter and get your -- get information if you  
5 have any.

6 On Page 1 of the letter it charges that you  
7 have "manufactured evidence" in order to dismiss Richard  
8 Gardner from Volusia County Beach Services. What's your  
9 response to that allegation?

10 A I think it's ridiculous.

11 Q But in reaction to that allegation what did  
12 you do?

13 A In reaction to that allegation, specifically  
14 that Mr. Kaney also alleges official misconduct in  
15 violation of Florida Statutes, I came to the County and  
16 informed them of my concerns and wanted to reopen the  
17 investigation. I also notified the state attorney's  
18 office that an officer of the court accused me of a  
19 criminal act and asked them to take a look at it.

20 Q And have you -- do you have any idea what's  
21 happened with all that as far as the state attorney's  
22 office is concerned?

23 A I do not.

24 Q Okay. The same letter alleges that your  
25 decision to fire Captain Gardner, this is on Page 2 of

1 this letter, "is the result of pressure you came under  
2 from the local newspaper for not following up on an  
3 anonymous letter referenced in your notice of intent in  
4 a timely manner, as well as pressure that you and the  
5 County are under as a result of the Tameris and Simmons  
6 cases".

7 (Knock at door.)

8 BY MR. SMITH:

9 Q Do you understand what I just told you?

10 A Yes, sir.

11 Q What do you have to say about that allegation  
12 that you were -- that you only fired him because you  
13 were under pressure from the newspaper and the Tameris  
14 and Simmons cases?

15 A That is grossly inaccurate.

16 Q Okay. Tell us just briefly about your  
17 experience as a law enforcement officer?

18 A My law enforcement career began in the late  
19 1970s when I joined the Coast Guard and performed drug  
20 interdiction work for a period of eight years. In 1987  
21 I was hired by the Volusia County Sheriff's Office and  
22 worked there until November of 2010 when I came over to  
23 the Department of Public Protection.

24 Q And what offices did you hold in the sheriff's  
25 office?



1           A     I started as a deputy and finished as a  
2 captain.

3           Q     And you have recently been appointed to  
4 another position in the sheriff's office?

5           A     I will take over as the sheriff's chief deputy  
6 at the end of this month.

7           Q     Captain Richard Gardner is a law enforcement  
8 officer, is that correct?

9           A     Yes, sir.

10          Q     Based on your experience as a law enforcement  
11 officer, is there any good reason for a supervisor in a  
12 law enforcement agency not to be supervising a  
13 subordinate officer with whom he or she is romantically  
14 involved?

15          A     There are a host of good reasons as to why you  
16 would not want to place yourself in that position.

17          Q     Help us understand just some of them from your  
18 experience, please.

19          A     First and foremost the -- the relationship is  
20 rarely kept secret as the parties sometimes intend.  
21 It's commonly known amongst other employees because of  
22 the way that the two individuals act around each other  
23 in the workplace. It forms the basis for gossip, which  
24 has a detrimental effect on morale in general. There's  
25 the added danger of being perceived as gaining or giving

1 favoritism, so that even if the junior party is an  
2 excellent employee, the perception of other employees in  
3 the organization are that they are receiving favoritism  
4 based on the relationship with the supervisor.

5           And it's clear to me as I look at the  
6 statements that at least in one occasion, particularly  
7 Cara Gittner's statement in this particular case, that  
8 she was aware that other people in the organization  
9 perceived her as gaining favoritism because of her  
10 relationship with Captain Gardner.

11           Q     What's the appropriate action to be taken by  
12 the chain of command once that romantic relationship is  
13 disclosed or is known?

14           A     To immediately separate the parties so that  
15 there is no appearance that favoritism is given to  
16 either one.

17           Q     Now following the civil rights suits filed  
18 recently against the County and arising out of actions  
19 of some Volusia County beach employees, what action did  
20 you take in order to -- or in regard to additional  
21 training of the Volusia County Beach Safety Division  
22 personnel?

23           A     I worked with the personnel department to put  
24 on a series of training classes for both supervisors and  
25 subordinates in areas of workplace harassment, sexual

1 harassment and what to do not only if they were the  
2 subject of those activities, but what to do if they knew  
3 if others were the subject of those activities.

4 Q Do you know whether or not Captain Rich  
5 Gardner was provided this extra training?

6 A Yes, sir. He was.

7 Q And did you yourself communicate directly with  
8 the officers, the law enforcement officers, about the  
9 importance of sensitivity about the criticism and the  
10 amount of adverse publicity that the Beach Safety  
11 Division had received?

12 A Yes, sir. I did.

13 Q And do you know if Rich -- if Captain Gardner  
14 was present when you made your statements?

15 A I don't specifically recall if Captain Gardner  
16 was in the room. I had multiple conversations with both  
17 supervisors and line staff about the situation involving  
18 the beach investigation. I was also present on at least  
19 one occasion, during the training that I mentioned, to  
20 sit in on the class with the younger employees.

21 Q Why was it important to you as the Director of  
22 Public Protection that this be communicated to these  
23 captains and supervisors and law enforcement officers?

24 A For a couple of reasons. It's important that  
25 they understood that in my position as the department

1 director that that type of activity would not be  
2 tolerated. The other reason was because I had questions  
3 about whether or not they were getting the message  
4 appropriately from their immediate chain of command.

5 Q And what was the message that you were trying  
6 to communicate to them?

7 A That workplace harassment would not be  
8 tolerated.

9 Q In Mr. Kaney's letter, again on Page 2, he  
10 alleges a violation of Departmental Standards Directive  
11 27.01.33 where he suggests that you "usurped" Director  
12 Sweat's authority by making the decision to take adverse  
13 authority against Captain Gardner. Help us understand  
14 what your response is to that.

15 A When I came into the Department of Public  
16 Protection and I reviewed the disciplinary files  
17 submitted by the various divisions, it was very clear  
18 that there was a inconsistency in the application of  
19 discipline across the various divisions. There were  
20 some divisions that were proactive in their enforcement  
21 of rules and regulations. There were others that were  
22 lax in the enforcement of discipline.

23 On March the 1st of 2010 I authored a memo to  
24 the department, to the division directors dealing  
25 specifically with awards, recognition and discipline.

1 And in that letter I outlined the way that discipline  
2 would be administered across the entire department.  
3 Clarified specifically that adverse action in the  
4 Department of Public Protection would have to be vetted  
5 at the department level.

6 I had a conversation with all the division  
7 directors that the process would be that we would meet  
8 after the internal affairs investigation was completed  
9 and we would discuss what level of discipline would be  
10 awarded to an employee based on whatever the violation  
11 was. The authority for administering adverse action  
12 would come from my office to insure that there was a  
13 level of consistency in the application of discipline.

14 Q You have a copy of that memo?

15 A Yes, sir.

16 MR. SMITH: Let's mark that as Number 1  
17 to -- well, we've actually -- I'm going to mark  
18 the Kaney letter as Number 1. Let's make this  
19 Number 2.

20 (Exhibits 1 & 2 marked for identification.)

21 BY MR. SMITH:

22 Q And was Director Kevin Sweat one of the people  
23 with whom you spoke about the need for consistency and  
24 discipline and also the fact that ultimate adverse  
25 action would have to come from your office?

1 A Yes, sir.

2 Q So he understood that best you could tell?

3 A Clearly.

4 Q Okay. The letter also alleges that Director  
5 Sweat told you in a conversation, I don't know how he  
6 would know about, but he says that Director Sweat told  
7 you that he did not see grounds for dismissal and would  
8 not have fired Captain Gardner and that there was no  
9 policy violation by Captain Gardner. Is that statement  
10 true?

11 A That statement is somewhat inaccurate.

12 Q Okay.

13 A On October the 10th, I met with Director Sweat  
14 and Department Deputy Director Ryan in my office and we  
15 discussed the discipline, the case with Captain Gardner,  
16 like I just described for you earlier. We met with the  
17 division director and we went through the case very --  
18 in a detailed fashion. It was -- the meeting was more  
19 than an hour. There was some discussion about the level  
20 of discipline at that meeting. Director Sweat had  
21 expressed a concern that he was unsure that the  
22 violation rose to the level of dismissal, but certainly  
23 to adverse action. When we left that meeting we were  
24 all in agreement that the proper course of action was to  
25 serve Captain Gardner with a notice of intent to

1 dismiss.

2 Q Okay. Is that the best of your memory of what  
3 took place at that time?

4 A Yes, sir.

5 Q He, Mr. Kaney, also alleges that you told  
6 Director Sweat to tell Captain Gardner to resign by five  
7 p.m. Friday or be fired, which Kaney alleges was a  
8 violation of Merit Rule 86-427. Can you tell us about  
9 that statement?

10 A As I have done in the past with other senior  
11 employees in the agency, I've allowed them to have the  
12 option to know in advance of what my intent was so that  
13 if they chose to do so, they may resign instead of to be  
14 terminated. This is a consistent practice that I've  
15 used not only throughout the department but in Beach  
16 Safety in particular. I just think that's, from a  
17 management standpoint, an option for employees to  
18 consider prior to that action being taken. It certainly  
19 wasn't a mandate and it certainly wasn't meant to do  
20 anything other than offer Captain Gardner an option,  
21 which he chose not to take.

22 Q Mr. Kaney also alleges that Director Sweat  
23 would not endorse a policy violation. That's his words.  
24 But I understood you to say that at the conclusion of  
25 your meeting he did endorse the idea that the

1 appropriate discipline would be notice of dismissal?

2 A Again, Director Sweat clearly understood and  
3 agreed that there were violations. The only discussion  
4 in that meeting on October the 10th was the level of  
5 discipline to be awarded.

6 Q Okay. On the Number 3 footnote on that same  
7 page of the letter, Page 2, there's a conversation  
8 related between Captain Gardner and Director Sweat. Do  
9 you know anything about that conversation?

10 A I do not.

11 Q Have you spoken with Director Sweat at all  
12 about that -- the almost quotation of a conversation  
13 that's set forth in Mr. Kaney's letter since receiving  
14 the letter?

15 A The only question that I can recall asking  
16 Director Sweat was expressing a concern of mine that  
17 someone in that meeting may have recorded illegally a  
18 conversation. And I asked him if he consented to any  
19 recording of a conversation and he informed me that he  
20 did not.

21 Q Okay. I want to speak to you about an  
22 interview that you had with Captain Gardner when he had  
23 applied for the deputy chief -- is it deputy chief or  
24 deputy director position with Beach Safety? Do you know  
25 what I'm talking about?



1 A It's the deputy chief position.

2 Q Okay. Help us just understand the process  
3 that was followed in reviewing candidates for that  
4 position?

5 A The internal candidates for the position were  
6 very limited. Captain Gardner and Captain Petersohn  
7 were the two candidates that I spoke with about the  
8 position. We had a conversation independent of those  
9 two folks and at one point we informed Captain Gardner  
10 that he was our lead candidate. We ran into a issue  
11 with the amount of salary that Captain Gardner was  
12 requesting and we couldn't resolve that issue. So we  
13 ultimately went with our second choice which was Captain  
14 Petersohn.

15 Q Now if you remember, what was the real issue  
16 about salary? Was he making more money by working long  
17 hours, or what was the deal?

18 A The specific issue was that Captain Gardner  
19 wanted a number that we couldn't reach. He had in the  
20 past worked a lot of overtime and wanted a salary that  
21 was above the level that he was making. We just  
22 couldn't get there.

23 Q Okay. During -- have you got an idea of when  
24 your interviews with Captain Gardner and Captain  
25 Petersohn took place?

1 A I don't know the exact dates.

2 Q Okay. I mean, any general idea, 2011, May,  
3 June, July?

4 A I would tell you that it was just prior to us  
5 promoting Scott Petersohn.

6 Q Okay. Where was the interview with you  
7 conducted?

8 A At the Beach Safety headquarters.

9 Q And we have heard, I think I've even -- I  
10 heard Captain Petersohn, who gave a statement  
11 previously, talk about having interviewed with a  
12 committee of people including Deputy Director Jim Ryan,  
13 Director Kevin Sweat and someone from personnel. Was --  
14 were you aware that that interview had taken place?

15 A Not specifically.

16 Q Okay. The purpose of your interview was to  
17 make an offer or was that -- were you still in the  
18 decision making process?

19 A We were still in the decision making process  
20 at that point. I wanted to meet with both individuals,  
21 because this is a very important position in the  
22 organization. With Director Sweat being time certain  
23 because of DROP, this person likely would be the  
24 successor to Director Sweat in running the beach  
25 organization. Since this was a potential successor to a

1 division director, I wanted to meet with them  
2 personally.

3 Q Was anyone else present besides you and the  
4 two candidates?

5 A Not that I recall.

6 Q So you think it was just you and Captain  
7 Gardner, you and Captain Petersohn?

8 A It was myself, Director Sweat, Captain  
9 Gardner. Myself, Director Sweat and Captain Petersohn.

10 Q Okay. Did this take place in -- in the  
11 conference room or in Sweat's office, if you remember?

12 A I believe the conversation took place in the  
13 conference room with Captain Petersohn and Director  
14 Sweat's office for Captain Gardner.

15 Q Okay. Did you take any notes of the  
16 conference that you had with these gentlemen?

17 A I did not.

18 Q Okay. Do you know if anyone else took any  
19 notes?

20 A Not that I'm aware of.

21 Q Okay. In the notice of intent - this is  
22 pointed out by Mr. Kaney in his letter - there is the  
23 statement, more recently - and it's purported to be a  
24 statement from you - I asked you where -- whether there  
25 was anything in your background which could cause

1 embarrassment to the division and you said no. Help us  
2 remember or give us your best memory of how this came up  
3 and what was actually said?

4 A To the best of my recollection this came up  
5 when we were discussing the current status of the beach.  
6 In particular we discussed specifically the Tameris and  
7 Simmons investigation. I asked both candidates  
8 specifically if they had any knowledge as to what was  
9 going on at the time in those investigations. And I  
10 asked both candidates if there was anything else that  
11 could come back to embarrass us or the agency that they  
12 had knowledge of.

13 Q And what was the answer from Captain Gardner?

14 A His answer was he had no knowledge.

15 Q Had no knowledge of the Tameris, Simmons  
16 situation?

17 A That's correct.

18 Q What did he say in response to your question  
19 about whether there was anything in his background that  
20 could come back to embarrass the agency?

21 A He obviously stated no since we didn't look  
22 into anything else.

23 Q Okay. Have you told us today the best of your  
24 memory of those discussions with Captain Gardner?

25 A Yes, sir.

1 Q Okay. Have you spoken with Director Sweat  
2 about a conversation or conversations that he had with  
3 Captain Gardner about Captain Gardner's relationship  
4 with a female officer named Cara Gittner?

5 A Yes, sir.

6 Q And tell me when you recall, as best you  
7 recall, speaking to him about that and just tell us what  
8 was said.

9 A It was earlier this year and I don't remember  
10 how the conversation came up, but I recall Director  
11 Sweat telling me that he had a conversation with Captain  
12 Gardner and asked him specifically if he was having an  
13 affair with Cara Gittner. And I recall him telling me  
14 that Captain Gardner's answer was no.

15 Q Okay. Officer Gittner has given a sworn  
16 statement that Director Sweat also questioned her about  
17 whether she was involved in a romantic relationship with  
18 Captain Gardner. Were you aware that -- that Director  
19 Sweat had also questioned Officer Gittner?

20 A Not specifically.

21 Q Okay. She states, and I'm not quoting, but  
22 she states that at the time she was asked these  
23 questions by Director Sweat her relationship with  
24 Captain Gardner was on again, off again. And that the  
25 romantic relationship at the time she was asked the

1 questions by Director Sweat was off. In other words,  
2 they weren't having a romantic relationship at that  
3 time. However, she also tells us that it had been on  
4 for months before Director Sweat's question and was back  
5 on again for months after the question. She testified  
6 that Director Sweat's question was whether they were  
7 currently in a romantic relationship. Do you remember  
8 any discussion with Director Sweat about that -- using  
9 the word currently?

10 A I recall having a conversation with Director  
11 Sweat and asking him what he had said to Captain  
12 Gardner. And our discussion revolved around was he  
13 specific in his question, that his intent wasn't  
14 communicated. That he wanted to know if there was, has  
15 been any relationship together. Director Sweat informed  
16 me that he asked the question and that anyone who  
17 understood common sense would know that he wanted to  
18 know if there was anything going on between them at all,  
19 not at that minute.

20 Q Okay. Well, Captain Gardner apparently said  
21 no, as did Officer Gittner. And yet now we know that  
22 they both had been involved in a sexual relationship  
23 before and after being questioned. Based on your  
24 experience in law enforcement and as the director, do  
25 you consider those responses to be honest?

1           A     No, sir. I consider them to be misleading at  
2 best. In the case that a supervisor, and specifically  
3 your division director, would come to you and ask you if  
4 you were having an affair with an employee, a  
5 subordinate employee, and even if you weren't having  
6 that affair at that particular moment that he asked, it  
7 certainly would be prudent of you to inform them, no,  
8 I'm not having one now, but I have in the past. It  
9 would also be prudent that if you picked up that affair  
10 again, knowing that your supervisor was concerned about  
11 it, you would go to that supervisor and say, listen,  
12 when you asked me at the time I wasn't, but I am now.  
13 And that didn't happen.

14           Q     Do you think that's unreasonable for a  
15 director or supervisor to expect that kind of action  
16 where even after you have asked, even though you weren't  
17 having a relationship at the time the question was  
18 asked, when that relationship renewed, to expect that  
19 employee to come forward and tell you that?

20           A     I would expect that a senior member of the  
21 agency would do that.

22           Q     And is there a legitimate employment reason  
23 for Director Sweat to ask his officers about their  
24 romantic relationship?

25           A     Yes, sir.

1           Q     Now that I've sort of hypothetically given you  
2 what I know to be the facts, what's your judgment about  
3 the allegations of dishonesty or lack of honesty in the  
4 responses by Captain Gardner?

5           A     I'm convinced now more than ever that Captain  
6 Gardner was deliberately dishonest.

7           Q     Why do you believe that Captain Gardner's  
8 conduct reflects or reflected unfavorably on the County  
9 as his employer?

10          A     Based on everything that's been going on in  
11 Beach Safety it's unfathomable to me to think that a  
12 senior member of the agency, the starting quarterback,  
13 if you will, to use Mr. Kaney's words, is so careless  
14 about these affairs, based on what's going on with the  
15 beach, to not know that inappropriate relationships in  
16 the workplace either cause or have a very large  
17 potential to cause sexual harassment complaints,  
18 complaints of favoritism. It has the ability to erode  
19 the morale and the discipline of the agency. For  
20 someone in Captain Gardner's position not to recognize  
21 that, that is very poor judgment at the least.

22          Q     Did you consider if there was any discipline,  
23 any lesser discipline than dismissal for Captain  
24 Gardner, what would that be under these circumstances?  
25 Well, first, did you consider any lesser discipline and



1 was that discussed?

2 A Absolutely. We did consider lesser forms of  
3 discipline in this particular case. Because of the  
4 gross nature of his poor judgment I felt it was  
5 important that we send a strong message, not only to  
6 him, but the rest of the agency that, again, this  
7 conduct would not be tolerated.

8 Q Any of your decisions in this case have  
9 anything to do with your future political ambitions?

10 A Absolutely not.

11 Q Do you have anything else that you want to add  
12 as regards Captain Gardner?

13 A No, sir.

14 Q We -- I do want to, just for the -- for our  
15 purposes, to make sure that we've got things right. We  
16 have three so-called anonymous letters in our file. One  
17 has actually a date stamp. Says County of Volusia,  
18 August 24th, 2011. It's a one-page letter. Another has  
19 no date stamp, but it's a two-page letter directed to  
20 you from a person who doesn't sign their name, but  
21 identifies themselves as a concerned employee. And the  
22 other is a -- is a letter with a handwritten envelope or  
23 copy of a handwritten envelope date stamped County of  
24 Volusia, October 30, 2011, Department of Public  
25 Protection. Can you put these in order for us so we

1 know which came first, which came second, which came  
2 third?

3 A Yes, sir. The letter that we have date  
4 stamped August 24th, 2011 came first.

5 MR. SMITH: Let's make that Number 3,  
6 okay?

7 (Exhibit 3 marked for identification.)

8 THE WITNESS: I have a copy of a letter  
9 that looks like the second example that you  
10 described and it's date stamped September 6th,  
11 2011. And I'll give you that copy.

12 MR. SMITH: All right. Let's make that  
13 Number 4.

14 (Exhibit 4 marked for identification.)

15 THE WITNESS: And then the third letter  
16 that you produced here is date stamped  
17 October 30th, 2011, would be the most recent  
18 letter that I have received.

19 BY MR. SMITH:

20 Q Have there been any more that we don't know  
21 about right now?

22 MR. SMITH: I'm going to make that as  
23 Number 5.

24 (Exhibit 5 marked for identification.)

25 THE WITNESS: Not that I'm aware of.

1 BY MR. SMITH:

2 Q Okay. Mr. Kaney refers to a handwriting  
3 expert who apparently has identified some handwriting  
4 samples. Has the County done anything like that, gone  
5 out and obtained a handwriting expert?

6 A No, sir.

7 Q Okay. I really think I've exhausted my  
8 questions of you, but could you give us about -- a  
9 couple of minutes so we can yack with one another  
10 privately? And then we'll --

11 A Okay. And then I want to address one issue  
12 when we go back on the record.

13 Q Okay. We can do that now if you want.

14 A Okay.

15 Q Go ahead.

16 A In Mr. Kaney's letter he alleges that I did  
17 nothing about these letters prior to the media making  
18 inquiries. That is absolutely not true. In fact, I  
19 have with me a e-mail that I got from a private  
20 investigator that confirms that I reached out to him  
21 prior to September the 6th to ask him for assistance in  
22 conducting a investigation, which is specifically  
23 directed at this case. Upon receiving the first letter  
24 I met with the county attorney's office to inform them  
25 that I had received the letter. And there was a

1 discussion involved of how we would move forward in  
2 doing an investigation. At that time I expressed some  
3 concern that my internal affairs unit was not adequate  
4 in order to address this investigation because it made  
5 specific allegations against Director Sweat. And it was  
6 decided at that time I would reach out to this private  
7 investigator and ask for assistance. As it says in the  
8 email that private investigator was on vacation at that  
9 time and he would get back to me when he got back.

10 As this investigation progressed, I instructed  
11 Captain Dofflemyer to pull some phone records and at  
12 least verify that some information in this anonymous  
13 letter was accurate in order to determine whether or not  
14 I would move forward. It was after that point that we  
15 decided to open up an internal affairs investigation.  
16 It had absolutely nothing to do with the media inquiry.

17 Q And the investigator that you reached out to,  
18 is he someone that you were familiar with through your  
19 law enforcement experience?

20 A Yes, sir.

21 Q Formerly with the sheriff's office in Volusia  
22 County?

23 A Yes, sir.

24 Q Okay. So, in other words, you had some sense  
25 that he would be competent to do this kind of

1 investigation?

2 A Yes, sir.

3 MR. SMITH: Okay. Give us a few minutes.

4 (Break had at 11:39 a.m.)

5 (Proceedings resumed at 11:40 a.m.)

6 MR. SMITH: And you know we're still --  
7 we're still scheduled to finish a few more  
8 statements, including that of Captain Gardner,  
9 so the -- I saw some kind of a public records  
10 request yesterday and we will not be able to  
11 respond to that until this investigation is  
12 complete. It's not right now, so --

13 THE WITNESS: I understand.

14 MR. SMITH: Okay. All right. Thank you  
15 for your time today.

16 THE WITNESS: Okay. Thank you.

17 (Statement concluded at 11:41 a.m.)

18 (Exhibit 6 marked for identification.)

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## 1 REPORTER'S CERTIFICATE

2

3 STATE OF FLORIDA )

4 COUNTY OF VOLUSIA )

5 I, BLYTHE RIGGS, RPR, certify that I was  
6 authorized to and did stenographically report  
7 the foregoing statement of MIKE COFFIN; and that the  
8 transcript is a true and complete record of my  
9 stenographic notes.

10 I further certify that I am not a relative,  
11 employee, attorney, or counsel of any of the parties,  
12 nor am I a relative or employee of any of the parties'  
13 attorneys or counsel connected with the action, nor am I  
14 financially interested in the action.

15 Dated this 14th day of December, 2011.

16

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Blythe Riggs, RPR  
Court Reporter & Notary Public

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(This signature is valid only  
if signed in blue ink.)

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CERTIFICATE OF OATH

STATE OF FLORIDA )  
COUNTY OF VOLUSIA )

I, the undersigned authority, certify that  
Mike Coffin personally appeared before  
me on December 13, 2011, and was duly sworn.

WITNESS my hand and official seal this 14th  
day of December, 2011.



\_\_\_\_\_  
Blythe Riggs, RPR  
Notary Public-State of Florida  
My Commission No.: DD786066  
Expires: June 28, 2012

(This signature is valid only  
if signed in blue ink.)



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Jonathan D. Kaney Jr.  
Jonathan D. Kaney III  
Michael P. Olivari

October 24, 2011

Mr. Michael Coffin, Director  
Department of Public Protection  
125 W. New York Avenue, Suite 183  
DeLand, FL 32720

Re: Response to Notice of Intent to Dismiss Richard Gardner  
Pursuant to Section 455(f)(2) of the Volusia County  
Merit System Rules and Regulations.

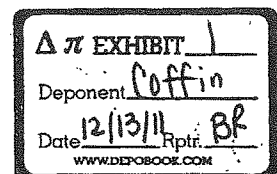
Dear Mr. Coffin:

This firm represents Captain Richard S. Gardner. I am writing in regard to the Notice of Intent to Dismiss dated October 18, 2011 ("NOI"), from you, as Director of the Department of Public Protection, to Captain Gardner. The NOI acknowledges that the applicable Merit System Rules and Regulations provide Captain Gardner a right to respond and provides a deadline of Monday, October 24, 2011 at 4:30 p.m. as his deadline to do so. This letter is Mr. Gardner's response.

Summary of Response

The NOI begins by stating that, "as a result" of Capt. Gardner's "actions documented in IA 2011-09297", you intend to dismiss him "from employment with the County of Volusia." As explained below, however, the actions "documented" in IA 2011-09297 do not provide just cause for dismissal of Capt. Gardner's long-standing employment with the County of Volusia. Indeed, the NOI concedes the IA investigation did not yield sufficient grounds to dismiss Capt. Gardner when it alleges, as additional grounds for dismissal, matters outside the IA investigation and report, including "evidence" not disclosed to Capt. Gardner prior to his interview and unrecorded questions and statements. By relying upon these additional matters, you and the County have violated Captain Gardner's rights provided by the Law Enforcement Officers' Bill of Rights codified in Section 112.532, Florida Statutes. Worse, as addressed below, you relied upon evidence that you have manufactured in violation of multiple provisions of Florida law, including the criminal "Official misconduct" statute codified at Section 838.022, Florida Statutes.

Contrary to your assertions, Capt. Gardner did not violate any policy or statute. Nor did he provide any untruthful statements in the internal affairs investigation or otherwise. In short, the County does not have just cause to dismiss Capt. Gardner or to take *any* adverse employment action whatsoever against him.





October 24, 2011

It is plain to see that your decision to fire Capt. Gardner is the result of pressure you came under from the local newspaper for not following up on the "anonymous" letter referenced in your NOI in a timely manner as well as pressure that you and the County are under as a result of the Tameris and Simmons cases. On October 18, 2011, Director Sweat and Deputy Chief Scott Petersohn followed Capt. Gardner to his house to recover his weapon and car. Petersohn agreed that Capt. Gardner's fate is attached to the Simmons and Tameris case (and wished him luck). Sure enough, this was confirmed the next day when we read pages 3 and 4 of the NOI. Mr. Dave Byron then re-confirmed this fact in his press release and statements to the press.

It is also plain to see that you are trying to twist something that is, at most, a policy failure, which would be your fault, into a policy violation that you intend to pin on Capt. Gardner. As you were reminded when the Tameris and Simmons allegations came to light, the County does not have an anti-fraternization policy pertaining to off-duty conduct. As you are also aware, the County has not made any new policies in that regard since that time, nor have you suggested it do so. Whereas there is a criminal statute that prohibits the conduct alleged against Tameris and Simmons, the conduct for which you intend to fire Captain Gardner is not even a policy violation. The subject relationships were between consenting adults and did not involve direct report relationships at work. It appears, then, that you have identified what you now perceive to be a policy failure and have set out to spin it as a policy violation against Capt. Gardner. Indeed, your claim that Capt. Gardner violated policy is belied by the fact that you have taken no action against Winters or any of the many other employees in the Division, indeed your Department as a whole, who have engaged in and continue to engage in the same conduct. This constitutes a violation of Merit Rule 86-451, which requires that adverse action taken be based upon cause supported by sufficient evidence, be consistent with other such actions taken throughout county government, and be fair and equitable.

More fundamentally, you and the County have violated the due process policies in place by usurping Director Sweat's authority to make this decision. This constitutes a violation of Departmental Standards Directive 27.01.33. As Director of the Division of Beach Safety and Capt. Gardner's immediate supervisor, it was Director Sweat's decision as to what adverse employment action to take, if any, assuming just cause. Indeed, the IA report's cover letter from Deputy Director Jim Ryan to you stated: "By copy of this memorandum, the Director of the Beach Safety Division is directed to review and initiate appropriate disciplinary action."

However, as you know because he told you, Director Sweat did not see grounds for dismissal and would not have fired Capt. Gardner. In fact, he told you that he did not even see a policy violation. When Director Sweat pressed you on what policy Captain Gardner violated, you could not answer.<sup>1</sup> Nevertheless, you instructed Director Sweat to tell Capt. Gardner to resign by 5:00 Friday or be fired.<sup>2</sup> When Director Sweat asked you who made the decision, you said "you don't need to know . . . it's done." Thus, when you realized that Director Sweat, rightfully, would not yield to external pressures and fire Capt. Gardner for conduct that is neither a policy violation, nor uncommon in County government, you took the decision away from him.<sup>3</sup> Director Sweat thereafter refused to endorse a policy violation.

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<sup>1</sup> That was a violation of Departmental Standards Directive 27.01.24.

<sup>2</sup> That was a violation of Merit Rule 86-427.

<sup>3</sup> On October 13, Director Sweat summoned Capt. Gardner to his office. Director Sweat was clearly upset when Capt. Gardner entered his office. Director Sweat informed Capt. Gardner that:

October 24, 2011

"Anonymous" letter

Before addressing the serious errors of fact, reasoning and law set forth in the NOI, I first address the so-called anonymous letter since the NOI acknowledges that you initiated the internal affairs investigation of Capt. Gardner based upon that letter.

The letter was sent four times. It was first sent on August 23, 2011, to you. It was next sent on September 11, 2011, to the Beach Department. The letter was sent a third time on September 14, 2011, again to you. At no point during this time period did you open an internal affairs investigation. The letter was sent a fourth time during the week of September 19<sup>th</sup> to the local newspaper. According to Director Sweat, you then received a call from a reporter, who by then knew you had had the letter for a month and who asked why you were not doing anything about it. It was not until you received this question that you initiated the internal affairs investigation. In short, you sat on the letter and only acted when questioned by the paper. Juxtaposed against this fact, the indignant tone contained in the NOI and Dave Byron's media statements is clearly a contrived pretense.

You have recently admitted, in the presence of Deputy Director Jim Ryan and others, your interest in pursuing this matter is self-preservation because, as you said, it is no secret that you are running for Sheriff in 2016. The fact that you did nothing with the "anonymous" letter until confronted by the local paper clearly demonstrates that your decision to fire Mr. Gardner was an act of self-preservation. You also admitted that if you had known about "this" before the anonymous letter, you could have done something about it. This obviously implies that if the letter had not been sent, then Capt. Gardner would not have received the NOI.<sup>4</sup>

As to the anonymous letter, it is common knowledge that anonymous letters are inherently unreliable since, among other reasons, they are written by people who lack the courage to stand behind their accusations and who often have axes to grind, biases to exploit or personal agendas to pursue. This letter, which is full of half-truths and lies, is no different.

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"They told me that they intend to dismiss you" and that they said Capt. Gardner had until 5:00 Friday, October 14, and not one minute later, to resign or be fired. When Capt. Gardner asked "Who's they?", Director Sweat said that when he asked you who made the decision, you told him "You don't need to know . . . it's done." Capt. Gardner then said "you gotta be kidding me", to which Director Sweat responded by saying, "That's exactly what I said to them." Capt. Gardner then said to Director Sweat, "Wow, I'm like your starting quarterback" to which Director Sweat responded by saying, "I know, I can't believe this." When Capt. Gardner asked what policy he violated, Director Sweat said, "I have no idea Rich, I told them it looks bad, it smells bad, it is bad, but guys we simply don't have a policy violation here."

<sup>4</sup>The only thing that changed between then and now is the anonymous letter and the heat you felt from the press as a result of the anonymous allegations contained therein. That does not constitute just cause for dismissal of Capt. Gardner. If you weren't going to fire him before the letter and the only thing that changed since was the fact of the letter itself, then you clearly do not have just cause to terminate our client.

October 24, 2011

The anonymous author's name is Thomas McGibeny, one of the Beach Patrol officers.<sup>5</sup> As you know, he and Captain Mindy Greene have been dating for over a year and have been living together for nearly as long. The fact that you have not fired either one of them is further proof that the non-existent anti-fraternization policy is not grounds for dismissal. Of course, since dating an adult co-worker that is not a direct report violates no policy, you should not fire either of them for that conduct.

One of the matters McGibeny addressed (and mischaracterized) in his unsigned letter was the evening of August 6, 2011, when Officer Gittner requested that Captain Gardner take her weapons. Officer Gittner only told three people about that, one of which was Mindy Greene, McGibeny's live-in girlfriend, and the other two do not work for the County and would not have knowledge of the other half truth's set forth in the letter. That, and other particulars of the letter, told Capt. Gardner that McGibeny had authored the letter.

Moreover, although the letter and one of the envelopes were typed, two of the envelopes were handwritten. Capt. Gardner was provided the two handwritten envelopes by the internal affairs investigator, Nikki Dofflemyer. Capt. Gardner then pulled some of Thomas McGibeny's recent reports, through a public records request, and sent them with the envelopes to Don Quinn, one of the top expert forensic document examiners in Florida. The expert identified McGibeny as having authored the handwriting on the envelopes. A copy of Mr. Quinn's expert report is attached hereto.

As you know, McGibeny is in line directly behind Andrew Ethridge to be promoted as supervisor at the Beach Safety Division and Ethridge is also behind Capt. Gardner for that promotion. Not surprisingly, they are two of his primary targets in the letter. That is motive. Indeed, in addition to lying about Capt. Gardner, McGibeny's letter specifically addresses the issue of Mr. Ethridge's promotion and references Mr. Ethridge's two arrests for domestic battery. McGibeny used you as a tool to, partially, accomplish his obvious goal of getting Ethridge and Capt. Gardner out of his way.

#### Response to NOI

You state in your NOI to dismiss that Captain Gardner violated Sec. 86-453(8), (10), (12), (13) and (21) and Sec. 86-45 of the Volusia County Merit Rules and Regulations. You also state that Capt. Gardner violated Sec. 11.01.05 of the Division of Beach Safety Policies and Procedures.

Sec. 86-453. Reasons for disciplinary action, provides that "Any of the following violations may be sufficient grounds for disciplinary action ranging from oral reprimand to dismissal, depending on the seriousness of the offense and other circumstances related to the situation:

(8) Criminal, dishonest or other conduct which interferes with effective job performance or has an adverse effect on the efficiency of county service.

..  
(10) Incompetent or unsatisfactory performance of duties.

..  
(12) Knowingly giving false statements to supervisors, other officials or the public.

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<sup>5</sup> Since he did not sign his name, he is not a purported whistle-blower.

October 24, 2011

...  
(13) Any conduct, on or off duty, that reflects unfavorably on the county as an employer.

...  
(21) Any other conduct or action of such seriousness that disciplinary action is considered warranted.

Sec. 86-45. Conduct of employees, which you also accuse Capt. Gardner of violating, provides as follows:

(a) *Code of conduct.* Employees of the county government are employed to provide service to the citizenry of the county and the public in general and are expected to conduct themselves in a manner that will reflect credit on the county government, public officials, fellow employees and themselves. Employees must avoid any action which might result in or create the impression of using public office for private gain, giving preferential treatment to any person, or losing impartiality in conducting public business.

Finally, Sec. 11.01.05 of the Division of Beach Safety Policies and Procedures, provides: "Neglect of duty offenses include any act, failure to act or instance wherein an employee ignored, paid no attention to, disregarded, failed to care for, give proper attention to or carry out the duties and responsibilities of their position whether through carelessness, oversight or neglect."

Your accusations notwithstanding, there is no evidence to support any of these charges. Indeed, you are wrong in every respect. In fact and as a matter of law, Captain Gardner has violated no policy and is not subject to dismissal for just cause or otherwise.

Before addressing the "evidence" upon which you rely, I first note that Section 86-427 of the Merit Rules and Regulations addresses dismissals and, among other things, provides that dismissals "are discharges or separations *made for just cause*". (e.s.) That is the applicable overriding standard to which the evidence must be applied: Dismissal must be based on just cause.

Also relevant is Sec. 86-451 of the Merit Rules and Regulations, which provides that "disciplinary action may be imposed upon an employee for conduct or actions which interfere with or prevent the effective and efficient performance of a department's responsibilities." This section further provides that "the purpose of such disciplinary action shall be to effect correction of employee conduct rather than to be solely punitive." Finally, this section provides that "the type and severity of disciplinary action shall be related to the gravity of the offense, the employee's record of disciplinary action, length of service, and actions taken in similar cases both within the department and in other departments."

As for the evidence to support your decision to fire Capt. Gardner, you begin by stating that "[i]ncluded as an allegation in the anonymous letter" was a rumor that Capt. Gardner had a brief, two to three week, relationship with Officer Winters. Both Officer Winters and Captain Gardner testified truthfully when asked about the relationship. Moreover, during the brief period of the relationship, Capt. Gardner was not Officer Winter's direct supervisor as she was in field training and supervised by either a

October 24, 2011

field training officer or Captain Mike Berard. Indeed, it is conceded that she was not a direct report of Capt. Gardner's.<sup>6</sup> Furthermore, there is no allegation or evidence of improper on-duty conduct.

Despite the fact that none of the policies you claim Capt. Gardner violated prohibit two consenting adults from engaging in a relationship off-duty so long as one does not directly report to the other, you nevertheless include the fact of Capt. Gardner's brief relationship with Officer Winters as a basis for dismissal. In fact, this relationship did not violate any policy or statute and all parties involved were completely truthful about the relationship when asked. Accordingly, this is not just cause for dismissal. Moreover, the fact that you decided to fire Capt. Gardner, but not Officer Winters, for being involved in the same relationship is unequal treatment in violation of Sec. 86-451 of the Merit Rules and Regulations which, in part, requires that "the type and severity of disciplinary action shall be related to the gravity of the offense, the employee's record of disciplinary action, length of service, and actions taken in similar cases both within the department and in other departments." (e.s.). In fact, there is no precedent whatsoever for your decision to fire Capt. Gardner for engaging in a lawful relationship that violated no County policy.

You next point to the relationship that Capt. Gardner had with Officer Gittner and note that the anonymous letter alleged he was sleeping with her on duty and that she was in line for a position under his supervision.<sup>7</sup> While it is true that Capt. Gardner had a relationship with Officer Gittner, as determined by the investigator, it is not true that they slept together while on duty nor is it true that he was ever her

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<sup>6</sup>Although it is conceded on page 2 of the NOI that Capt. Gardner was "not her direct supervisor", through contorted reasoning you nevertheless conclude that he was her supervisor. Your conclusion does not follow and, if it did, then the anti-nepotism policy would prevent Scott Petersohn's son from working there. Your unequal treatment of my client violates the Section 86-451(b) requirement that "any adverse action taken must be based on cause supported by sufficient evidence, be consistent with other such actions taken throughout county government, and be fair and equitable."

<sup>7</sup>McGibeny also alleges in his letter that Capt. Gardner nominated officer Gittner twice for officer of the year and that he hacked into her Facebook and bank accounts. McGibeny says that "with all the heat from other similar incidents something needs to be done." First of all, that is slanderous. There is nothing whatsoever similar between an off-duty relationship between two consenting adults that did not involve a direct report, on the one hand, and the alleged crimes that he was referring to, on the other hand. Of course, as addressed above, McGibeny had a self-serving ulterior motive for sending his letter. Second, the allegations that Capt. Gardner twice nominated officer Gittner for officer of the year and that he hacked into her Facebook and bank accounts are false. Capt. Gardner did not, nor could he have since he was not her supervisor, nominate officer Gittner for officer of the year. Director Sweat nominated officer Gittner both times. As to the Facebook allegation, officer Gittner suspected he logged in to her account because he knew of a relationship she was having with a DBPD officer. Capt. Gardner, however, did not do that and his source of knowledge of the relationship was otherwise. McGibeny's source of officer Gittner's suspicion, however, was Capt. Greene, his live-in girlfriend, with whom officer Gittner had confided. Finally, Capt. Gardner did not hack into officer Gittner's bank account. The internal affairs report did not sustain any of these allegations.

October 24, 2011

direct supervisor. The only "basis" for this charge is the spurious allegation in the anonymous letter. Furthermore, Officer Gittner was not even eligible to be promoted into an investigator's position as her probation relating to that position prohibited her from qualifying for it until 02/2012. She was not in line for the position. Indeed, she could not even had applied for it, pursuant to Director Sweat's policy.

Again, despite the fact that none of the policies you claim Capt. Gardner violated prohibit two consenting adults from engaging in a relationship off-duty so long as one does not directly report to the other, you nevertheless include the fact of Capt. Gardner's relationship with Officer Gittner as a basis for dismissal.

Furthermore, as stated above, Sec. 86-451 requires that "the type and severity of disciplinary action shall be related to the gravity of the offense, the employee's record of disciplinary action, length of service, and actions taken in similar cases both within the department and in other departments." Thus, even if there were an anti-fraternization policy, dismissal would not be appropriate given that Captain Gardner is a twenty-seven year employee of the County who has no prior offenses. Further, Capt. Gardner's performance evaluations have consistently exceeded expectations. Indeed, less than a year ago you offered him the position to Deputy Chief, but gave it to Scott Petersohn after Capt. Gardner refused to accept what would have amounted to about a \$30,000 pay cut.<sup>8</sup>

At the bottom of page two you provide additional proof that your NOI is in bad faith by including the following as grounds for dismissal: "[Officer Gittner] admitted . . . that she had hugged you on [one] occasion while either or both of you were on duty and that others would have seen this." In fact, as you knew or should have known when you wrote that, Capt. Gardner was teaching a taser class; everyone has to be tasered. Officer Gittner was afraid. After she was tasered, she approached and hugged Capt. Gardner.

At the top of page three you point to the evening of August 6<sup>th</sup> as a basis for dismissing Capt. Gardner. Specifically, you state that Officer Gittner called Capt. Gardner and told him "that she was frustrated and wanted to leave the Division of Beach Safety" and that she told him to come get her gun. You then state: "She contends that you took it to mean that she was going to do harm to herself and, when asked, admitted that, at this time, she was not feeling stable." That is patently a false statement.

First of all, those were your investigator's words, not Officer Gittner's. Specifically, on page 14 of her internal affairs witness interview, your investigator asked "Ok. Have you ever called Rich Gardner and asked him to come over and he had to secure your weapon because you were not feeling stable?" Officer Gittner responded to this loaded question with a one word answer: "Yes".

Second, as you are fully aware, officer Gittner clarified and otherwise completely explained the answer away on the very next page of the transcript. Specifically, on page 15 of the transcript, your investigator asked Officer Gittner to tell her what happened. Officer Gittner said: "I was upset one night . . . and I was more frustrated and I just wanted to leave the department and I made a comment to come get my gun and . . . and Rich took it to mean I was gonna do harm to myself which I would never do. . . .". Your investigator then asked if Officer Gittner had meant when she said to come get her gun that she was going to do harm to herself. Officer Gittner replied: "No." That is the evidence to be gleaned from her sworn testimony, yet, because of your agenda, you turn it completely on its head. Words that your

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<sup>8</sup>You did not counter Capt. Gardner's request for a pay raise for the position so as to prevent a pay cut. The offer "suddenly" disappeared.

October 24, 2011

investigator shoved into Officer Gittner's mouth after she clarified a contrary intended meaning is not just cause for dismissal of Capt. Gardner. It is, however, evidence of the unfairness and incompetence of your "investigation".

Not only do you rely upon your own investigator's words that Officer Gittner clarified and otherwise completely explained away, but you taint your conclusion even further by completely ignoring Capt. Gardner's testimony, *i.e.*, the rest of the evidence on this subject. During his interview, your investigator asked: "Have you ever had cause to secure Officer Gittner's service weapon due to her mental status?" to which he responded "No." Your investigator then asked the following compound question: "Have you ever had to secure Officer Gittner's service weapon?", to which he responded "Yes". When

asked to explain, Capt. Gardner testified that Officer Gittner was upset because their relationship had ended and that "she asked me to come over and take her weapons because she felt [ ] like she wanted to quit her job."

Your investigator then asked: "Did she indicate to you or did you believe that she was gonna bring harm to herself when you talked to her?" Capt. Gardner's response was quite clear: "I did not, although I asked her." After some other questions, your investigator came back to this point when she asked: "Did she indicate that she wanted to hurt herself? Why would she ask you to take that [ ] personal weapon?" Again, Capt. Gardner's response was clear: "I think she was just looking for attention. I think she wanted me to come over and discuss the relationship . . ."

Your investigator also asked: "[D]uring her testimony she said that she believed that you thought that she was gonna harm herself. Why do you think Cara would say that?" Capt. Gardner's response couldn't be clearer: "Because I asked her."<sup>9</sup> Your investigator followed up: "And what did you ask her, exactly?" Capt. Gardner answered: "I think I asked her if she planned to hurt herself and do I need to Baker act her and she said no." Again your investigator followed up: "Were you worried about her when you went to her house at one o'clock in the morning?" Capt. Gardner answered: "In the sense of her harming herself, no. I know her M.O., her M.O. is attention and . . . you know, I think she was just looking for the attention."

In short, your "finding" that Capt. Gardner thought Officer Gittner was going to do harm to herself the night of August 6 is not only false, but is also, obviously, the result of your intentional manipulation of the evidence to support your agenda. This contrivance is not just cause for dismissal of our client's employment by the County.

Your manipulation of the evidence continued when you wrote: "The next day, before Officer Gittner was to report for duty, you returned the weapons to her without making any evaluation of her fitness for duty." That is also false. First, as you know from the only evidence there is on the subject, Officer Gittner was not going to hurt herself in the first place and Capt. Gardner knew it. She was seeking attention. Second, as to the next morning, both Officer Gittner and Capt. Gardner testified they met and had a conversation. Furthermore, your investigator expressly addressed that point by asking Capt. Gardner: "Was there any type of assessment done for Officer Gittner prior to giving her back her weapon?" Capt. Gardner responded: "Other than just my personal assessment for you know . . ." Your

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<sup>9</sup> Your manipulation of this testimony, the only evidence on the subject, is evidence of the fact that you do not have grounds to support your intended action. Your conduct reflects unfavorably on the county as an employer.

October 24, 2011

investigator: "And tell me what that was." Capt. Gardner: "Well that she ... my personal experience with her is that it's all about attention it's not about harming yourself she's she wants the ... attention or the opportunity to talk about resuming the relationship and ... I truly felt that that was the reason that she threatened to quit her job."

That is the only evidence on the subject. Your conclusion, then, that "The next day, before Officer Gittner was to report for duty, you returned the weapons to her without making any evaluation of her fitness for duty", is obviously made up.

You conclude this line when you state: "Further, you made no report of this incident to your supervisors although on that date, you were assigned as the on-call Deputy Chief for the Division." The evidence on this point is as follows: Investigator: "Is there a reason you didn't refer her through the proper channels to resign her position?" Gardner: "Well, it was one o'clock in the morning, she was upset. I think deep inside I believed it was a ploy just to get me over there so that we could discuss the relationship. . . . I simply, at her request, went to her residence for about ten minutes, took her weapons and retained them. . . she contacted me the next morning and advised she wished to resume her employment and I returned them." Investigator: "Did she give you any type of letter saying she was resigning when you went to her house that evening?" Gardner: "No." Investigator: "Did she try to give you any other equipment to you?" Gardner: "No." Investigator: "Is there any reason that you did not recommend or redirect her to go through proper channels to resign her position?" Gardner: "It was one in the morning. The next day she sent a message advising that she wanted her weapons back and wanted to resume her position. I mean, people say they want to quit everyday but you know you don't go and report that everyday just cause somebody wants to quit you know people talk about it every day."

There is no policy that required Capt. Gardner to "report" this "incident" as you have insinuated. This is not just cause for dismissal.

The next ground for dismissal you point to is the fact that Cara Gittner sometimes visited Capt. Gardner when he worked security in the parking garage during 2009—2010. That, however, is not a policy violation. Moreover, Capt. Gardner testified that he did not have any type of physical or sexual contact with Officer Gittner during those visits. You also state that Capt. Gardner was supposed to be providing a security presence while on duty at the parking garage, but, in fact, that is exactly what he was doing and there is exactly zero evidence to the contrary.

Your next excuse for dismissal of Capt. Gardner is that his relationship with Officer Gittner "undermined his authority". Again, Officer Gittner is not a direct report. Moreover, relationships within the Division are not uncommon. If you were going to fire Capt. Gardner for being involved in a relationship, even though there is no anti-fraternization policy, then you would have many more employees to fire. Aside from Greene/McGibeny, there are at least three other on-going relationships to which the still non-existent policy would apply.

You then accuse Capt. Gardner of making two false statements and intentional misleading. Your accusations are false.

First, you state: "During the time that you were involved with Officer Gittner, you were asked by a supervisor whether you were having an inappropriate relationship with her, which you denied." That is false. Although Director Sweat asked Capt. Gardner about a year ago if he was involved in a relationship with Officer Gittner, Sweat asked that question after Capt. Gardner and Officer Gittner had broken up.



October 24, 2011

Accordingly, Capt. Gardner replied, "No." Capt. Gardner's response was true. If he had said "yes", that they were still in a relationship after they had broken up, that would have been false.

Now, as you know, the relationship subsequently resumed, but Director Sweat did not thereafter ask again. Indeed, when Capt. Gardner read this line in the presence of Director Sweat, while sitting in the passenger seat of Sweat's vehicle at the south end of Sunsplash Park after having been presented with your NOI, he had to read it several times. While he was running his finger under it each time, Director Sweat spoke up and said, "I know. I had to read that 3 times, too. I told them you didn't lie to me, only that it was misleading."

Second, you state: "More recently, I asked you whether there was anything in your background which could cause embarrassment to the Division and you said, "No." That is a lie. You never asked Capt. Gardner that question either within or without the internal affairs investigation.

The conversation that you are obviously alluding to was the discussion and negotiation concerning your offer to promote Capt. Gardner to Deputy Chief earlier this year. In a meeting that included Kevin Sweat, you asked Capt. Gardner the following question: "Obviously, we're in the midst of a lawsuit here. You realize you're going to be the new head of the beach. You have to understand this is a business so don't take this the wrong way. If you are appointed to Deputy Chief, are we going to find out that you had knowledge of the Simmons and Tameris allegations prior to it being reported?" The answer to that question *was* no—Capt. Gardner did not learn of those allegations until the internal investigations were revealed.

You never, however, asked him the broad question contained in your NOI. What you have obviously done, then, is replace a question you did ask with a question that you did not ask in order to make it look like Capt. Gardner gave a false answer. In other words, you manufactured evidence in order to harm Capt. Gardner. That conduct is grounds for your dismissal. In fact, it could form the ground for your criminal prosecution. Among other things, your conduct constitutes "Official misconduct" proscribed by criminal statute Section 838.022, which provides, in relevant part, that: "It is unlawful for a public servant, with corrupt intent . . . to cause harm to another, to: [ ] Falsify, or cause another person to falsify, any official record or official document; . . .".

Indeed, when Capt. Gardner read this line in the presence of Director Sweat, he stopped and said "this isn't true". Director Sweat said "I know it's not true and that is not the way I remember it either." Capt. Gardner then reminded that you had asked if he "knew about Simmons and Tameris." Director Sweat said "I know." He then said "Don't go telling people about this. You know I'll be fired. But if I have to, I will tell the truth about that conversation under oath." This statement evidences an atmosphere of intimidation in your department and that you will fire people if they do not lie for you. If true, that would be further grounds for your dismissal.

Moreover, this conversation was not part of an IA investigation, nor does the final report say anything about it. Evidently, then, since there was not enough evidence in the IA report to justify your unfortunate decision to turn Capt. Gardner into a scapegoat for the "anonymous" letter, you made up and injected additional "evidence" after the investigation was over<sup>10</sup>. It seems obvious that this was done with intent to harm Capt. Gardner.

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<sup>10</sup> I note that the NOI draft dated 10/17 does not contain the allegation of making a false statement. Obviously, since that draft, someone, probably from Dan Eckert's office, told you that you needed more "evidence".

October 24, 2011

The inclusion of these false allegations in your NOI is not only wrongful because they are false (and that you personally know at least one of them is false), but is also wrongful because it violates the Law Enforcement Officers' Bill of Rights. That statute provides that before the investigative interview, the officer must be provided all statements and other evidence to be used against him. Captain Gardner requested this information in writing and received only the three witness interviews. No one provided him the false evidence addressed above and which you used to support your decision to fire him.

By relying upon your own false, unsworn and unrecorded statements from nearly a year ago that were not part of the internal affairs investigation or report and which were not provided to Capt. Gardner prior to his interview, you have violated his rights provided by the Law Enforcement Officers' Bill of Rights codified in Section 112.532, Florida Statutes.

Finally, you finish stating your case against Capt. Gardner by noting that the Division was under "intense scrutiny related to lawsuits by former minor employees alleging unlawful sexual relationships between officers and minor lifeguards" and that, because of that scrutiny, "additional direction and training was provided . . . about the importance of professionalism, particularly in the context of relationships in the workplace." That too is a false statement on your part. In fact, the only additional training was in the area of sexual harassment which has absolutely nothing whatsoever to do with Capt. Gardner's conduct or your trumped up charges against him. None of the training pertained to the non-policy violation of two consenting adults, not involving a direct report. Indeed, again, there are numerous such relationships ongoing within the Division and your Department. The truth is, even after the intense scrutiny to which you refer, there were no policy changes. Your department continued to hire minors and continued not to have an anti-fraternization policy.

You conclude by stating that our client's conduct "demonstrates a complete lack of judgment which cannot be tolerated." Your conclusion is not supported by the evidence.

More importantly, your decision to dismiss Capt. Gardner is not supported by the Merit Rules and Regulations. Sec. 86-451(b) of the Merit Rules and Regulations, provides that "disciplinary action may be imposed upon an employee for conduct or actions which interfere with or prevent the effective and efficient performance of a department's responsibilities." Not only did Capt. Gardner not violate any policy, but also, his conduct did not interfere with or prevent the effective and efficient performance of the department's responsibilities. It was McGibeny's formerly anonymous letter and your self preserving reaction to it that has affected the efficient performance of the division's responsibilities. Capt. Gardner should be at work.

This rule further provides that "the purpose of such disciplinary action shall be to effect correction of employee conduct rather than to be solely punitive." The draconian punishment of dismissal that you propose to mete out to Capt. Gardner-- for violation of no policy--in order to protect yourself does not comply with this standard. Again, as you have recently admitted and as the evidence will show, the real purpose of the present disciplinary action is Mike Coffin's "self-preservation". There is no attempt here "to effect correction of employee conduct." You should back off of this abuse of governmental power/authority before executing your stated intent to dismiss Capt. Gardner.

Finally, this section provides that "the type and severity of disciplinary action shall be related to the gravity of the offense, the employee's record of disciplinary action, length of service, and actions taken in similar cases both within the department and in other departments." And, "any adverse action

October 24, 2011

taken must be based on cause supported by sufficient evidence, be consistent with other such actions taken throughout county government, and be fair and equitable."

You do not even come close here. In fact, there is no precedent for the action you intend to take, nor should there be since there has been no policy violation.

As set forth above, Capt. Gardner's conduct violated no policy. Thus, the Section 86-453 provisions that you cite to are not reasons for disciplinary action. Capt. Gardner's performance has consistently exceeded expectations. Indeed, as recently as September 22, 2011, Director Sweat gave him a performance evaluation that gave him an "exceeds standard" rating. Capt. Gardner gave no false statement, notwithstanding your manufactured evidence to the contrary. Finally, the conduct that Capt. Gardner did engage in is not proscribed by any policy and, further, is common within the Division, within your Department and within County government as a whole. Moreover, you improperly added the subsection (8), (10), & (12) charges after the fact. None of those charges were in the final report.

Moreover, Section 86-45 does not provide a reason to fire Capt. Gardner. As to subsection (a), upon which you rely, Capt. Gardner engaged in no conduct that isn't commonly engaged in by other County employees and none of his conduct "result[ed] in or create[d] the impression of using public office for private gain, giving preferential treatment to any person, or losing impartiality in conducting public business." This is a trumped up charge.

Finally, there is zero evidence that Capt. Gardner neglected any duty of his position. That charge is false.

In short, the internal affairs investigation failed to prove any violations of law or policy, despite conclusions to the contrary by the investigator. Captain Gardner was subsequently verbally informed that he would be fired if he did not resign within a 24 hour period based upon the apparent findings of this internal affairs investigation. Then, when Capt. Gardner failed to resign, he remained in a state of suspended animation (5 days) with regards to the status of his employment with the County of Volusia. During this time, the County then concocted additional allegations not presented in the internal affairs investigation or report in a transparent attempt to buttress its previously unsubstantiated causes for dismissal.

It is without question that the County does not have just cause to dismiss Captain Gardner from County employment. Instead, as you have admitted, this is just "self-preservation" on your part. Firing someone as an overreaction to a problem the County may have with someone else is not just cause for dismissal.<sup>11</sup> Moreover, yielding to media pressure by firing a long-term employee with an outstanding personnel record who has violated no policy and who has done nothing that is not commonly done in this or any other workplace in an ill-conceived attempt to protect yourself and future political ambitions is poor leadership.

Again, there were no policy violations, no statutory violations and no untruthful statements. Thus, not only do you not have just cause to dismiss Mr. Gardner, you do not have just cause to take any adverse employment action against him whatsoever.

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<sup>11</sup> This is a violation of Merit Rule 86-451—discharge of Capt. Gardner solely punitive and in response to other former County employees conduct.

October 24, 2011

Pursuant to your invitation at the end of your NOI, I, as well as Capt. Gardner, hereby request a meeting with the Director of the Beach Safety Division as provided in the Policies and demand that the County follow its policies. If you want to be there too, that would be fine. Please call my secretary, Randy Knight, at the number above to schedule a day, time and place for us to meet.

Finally, pursuant to Section 112.533(3), Florida Statutes, you are instructed to include this letter in Capt. Gardner's personnel file.

Sincerely,

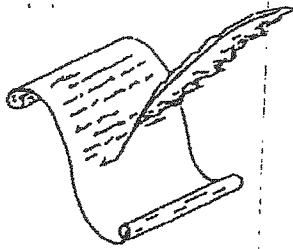


**Jonathan D. Kaney III**

Telephone (386) 675-0691

[jake@kanevolivari.com](mailto:jake@kanevolivari.com)

JDK:rk  
Enclosure



(904) 721-3434  
(904) 616-3014

# DON QUINN

FORENSIC DOCUMENT EXAMINER

DON QUINN, INCORPORATED  
2771 Monument Rd.  
Suite 29 #317  
Jacksonville, FL 32225

October 12, 2011

McKinnon & McKinnon, Attorneys at Law, P.A.  
ATTN: Abraham C. McKinnon, Esquire  
Suite A, Granada Oaks Professional Building  
595 West Granada Boulevard  
Ormond Beach, Florida 32174

RE: RICHARD GARDNER

OUR FILE NUMBER: 1110052

Dear Mr. McKinnon:

This report is in response to your request for an examination of certain documents in the above referenced matter.

## EXHIBITS EXAMINED

- Q 1 Photocopy of envelope bearing questioned hand printed Return Address and Address as follows:  
Return Address: Ralph Thomas, 515 S. Atlantic Ave, Daytona Beach, FL 32718  
Address: Department of Public Safety, 123 W. Indiana Blvd, Deland, Florida 32720
- Q2 Photocopy of envelope bearing questioned hand printed Return Address and Address as follows:  
Return Address: Ann Nonamus, 123 W. Indiana Blvd., Deland, FL 32720  
Address: Front Desk, 515 S. Atlantic Ave, Daytona Beach, FL 32118
- K1 - K8 Various documents bearing known hand printing of Ofc. T. McGibeny, described as follows:
- K1 7th Judicial Circuit 798 Charging Affidavit, dated 2/14/09
  - K2 7th Judicial Circuit 798 Charging Affidavit, dated 03/15/09
  - K3 Volusia County Beach Patrol Property Report, dated 03/29/08
  - K4 7th Judicial Circuit 798 Charging Affidavit, dated 03/29/08
  - K5 Witness/Victim/Evidence Form 798-A
  - K6 Volusia County Beach Patrol Property Report, dated 05/15/09
  - K7 Florida Uniform Traffic Citation 3947-CQN, dated 03/05/2010
  - K8 Florida Uniform Traffic Citation 3948-CQN, dated 03/14/2010

Abraham C. McKinnon, Esquire  
Page 2  
October 12, 2011  
Our File Number 1110052

#### PURPOSE OF EXAMINATION

To determine whether the author of Exhibits K1 through K8 (Ofc. T. McGibeny) can either be identified or eliminated as the author of the questioned hand printed Return Address and Address entries appearing on Exhibit Q1 and Exhibit Q2.

#### RESULTS OF EXAMINATION

1. The author of Exhibits K1 through K8 (Ofc. T. McGibeny) executed the questioned hand printed Return Address and Address entries appearing on Exhibit Q1; and the "515 S. Atlantic Ave Daytona Beach, Fl. 32118" portion of the Address entry appearing on Exhibit Q2.
2. The author of Exhibits K1 through K8 (Ofc. T. McGibeny) probably executed the questioned hand printed Return Address entry and the "Front Desk" portion of the Address entry appearing on Exhibit Q2.

#### REMARKS

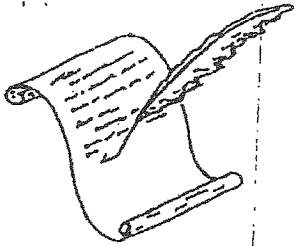
1. Resume' and Brief Statement of Experience of Don Quinn, Forensic Document Examiner, are attached as TAB 1 and TAB 2.
2. Identification to Elimination Scale is attached as TAB 3.

Respectfully submitted,



Don Quinn  
Forensic Document Examiner

DQ/



(904) 721-3434  
(904) 616-3014

# DON QUINN

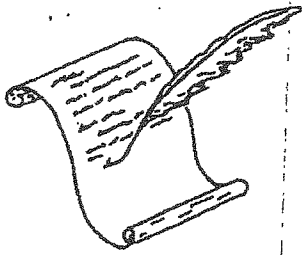
FORENSIC DOCUMENT EXAMINER

DON QUINN, INCORPORATED  
2771 Monument Rd.  
Suite 29 #317  
Jacksonville, FL 32225

## OPINION SCALE

The full range of identification to elimination opinions resulting from examinations I conduct are as follows:

1. A particular writer executed certain entries (full identification of a particular writer)
2. The writer very probably executed certain entries
3. The writer probably executed certain entries
4. There are indications the writer may have executed certain entries
5. The writer can neither be eliminated nor identified as the writer of certain entries
6. There are indications the writer may not have executed certain entries
7. The writer probably did not execute certain entries
8. The writer very probably did not execute certain entries
9. The writer did not execute certain entries (full elimination of a particular writer).



(904) 721-3434  
(904) 616-3014

# DON QUINN

FORENSIC DOCUMENT EXAMINER

DON QUINN, INCORPORATED  
2771 Monument Road  
Suite 29 #317  
Jacksonville, FL 32225

## RESUME'

Objective: To provide private consultation in the examination of questioned document problems

### Experience:

- 1980 to Present PRIVATE CONSULTATION in the examination of questioned document problems, Jacksonville, Florida
- 1979 to 1996 JACKSONVILLE REGIONAL CRIME LABORATORY, Florida  
Department of Law Enforcement, Jacksonville, Florida, Crime Laboratory Analyst/Senior Crime Laboratory Analyst
- 1974 to 1979 U.S. ARMY CRIMINAL INVESTIGATION LABORATORY, USACIL, Fort Gordon, Georgia, Document Examiner/Training Officer
- 1972 to 1973 U.S. ARMY DEGREE COMPLETION PROGRAM, Leave Of Absence to East Tennessee State University, Student in Criminal Justice
- 1971 to 1972 U.S. ARMY CRIMINAL INVESTIGATION LABORATORY, Republic of Vietnam, Document Examiner/Officer in Charge
- 1967 to 1971 U.S. ARMY CRIMINAL INVESTIGATION LABORATORY, Frankfurt, West Germany, Document Examiner/Member Fraud Investigation Team
- 1964 to 1967 U.S. ARMY CRIMINAL INVESTIGATION LABORATORY, Fort Gordon, Georgia, Resident Student/Document Examiner

### Professional Organizations:

- Southern Association of Forensic Scientists
- Southeastern Association of Forensic Document Examiners
- American Society for Testing and Materials International



Personal: Born: Asheville, NC, September 18, 1934

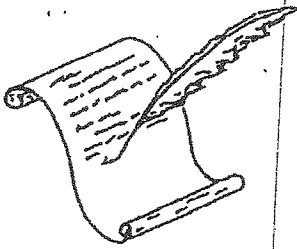
Education: Associate of Arts, June 1956  
Brevard College, Brevard, NC  
Bachelor of Science, December 7, 1973  
East Tennessee State University, Johnson City, TN

SPECIAL TRAINING:

- 1966 U.S. Post Office Identification Laboratory, Washington, DC  
Fundamentals of Questioned Document Examination
- 1974 Federal Bureau of Investigation Academy, Quantico, VA  
Survey of Document Examinations
- 1980 Institute of Paper Chemistry, Appleton, WI  
Paper Analysis for the Forensic Sciences
- 1985 Federal Bureau of Investigation Academy, Quantico, VA  
Fundamentals of Document Examination For Laboratory Personnel
- 1985 Federal Bureau of Investigation Academy, Quantico, VA  
International Symposium on Questioned Documents

SPECIAL RECOGNITION:

- 1970-71 Appointment to U.S. Army Club Fraud Investigation Team under  
the direction of the U.S. Senate Permanent Sub-Committee on  
Investigations
- 1978 Certificate of Achievement, Department of the Army  
Distinguished Service as Document Examiner during the  
investigation of a multiple homicide
- 1979 The Legion of Merit, Department of the Army, Meritorious Service  
as Questioned Document Examiner and Training Officer, 1974 - 1979
- 1986 Certificate of Appreciation, Department Of The Treasury,  
Bureau Of Alcohol, Tobacco And Firearms, regarding a  
significant firearms investigation
- 2000 Southeastern Association of Forensic Document Examiners  
Outstanding Contribution to the Profession of Forensic  
Document Examination, April 14, 2000



(904) 721-3434  
(904) 616-3014

# DON QUINN

FORENSIC DOCUMENT EXAMINER

DON QUINN, INCORPORATED  
2771 Monument Rd.  
Suite 29 #317  
Jacksonville, FL 32225

## - Brief Statement of Experience -

Mr. Quinn completed a two year resident training and study program in the field of questioned document examination while with the United States Army Crime Laboratory, Fort Gordon, Georgia, between the years 1964 and 1966. This training included reading and studying books written by recognized professionals in the forensic field of document examination; a study of various handwriting and hand printing systems; a study of chemistry used in the examination of inks; and a study of photography to include infra-red and ultraviolet lighting techniques used in the examination of altered documents. Additionally, Mr. Quinn studied with the Post Office Identification Laboratory in Washington, D.C.; the FBI Academy in Quantico, Virginia; and the Institute of Paper Chemistry in Appleton, Wisconsin in order to remain current with his forensic field.

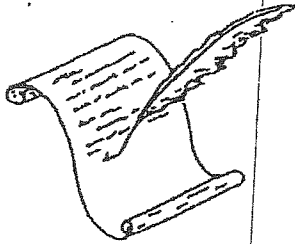
Since first being qualified as an expert witness in 1966, Mr. Quinn has testified in the states of Florida, Georgia, South Carolina, North Carolina, Virginia, Rhode Island, New Jersey, New York, Illinois, Kentucky, Tennessee, Indiana, Missouri, Oklahoma, Texas, Colorado, Arizona, California, Washington and Alaska. He has also testified in Iceland, England, Belgium, West Germany, Italy, Turkey, Pakistan, Japan, and Vietnam.

Mr. Quinn retired from the Army Crime Laboratory System on October 31, 1979 and accepted a position as Crime Laboratory Analyst with the Florida Department of Law Enforcement at the Jacksonville Regional Crime Laboratory, Jacksonville, Florida. In January 1980, he began his private consultation service in questioned document problems in Jacksonville, Florida. Since that date he has testified in the 1st, 2nd, 3rd, 4th, 5th, 6th, 7th, 8th, 9th, 10th, 11th, 12th, 13th, 14th, 15th, 17th, 18th, 19th and 20th Judicial Circuits in the state of Florida; and in the states of Alabama, Alaska and Georgia.

Mr. Quinn retired from the Florida Department of Law Enforcement, Jacksonville Regional Crime Laboratory, Jacksonville, Florida on October 17, 1996 and has continued his private practice in Forensic Document Problems since that time.

Mr. Quinn is a member of the Southern Association of Forensic Scientists, the Southeastern Association of Forensic Document Examiners and the American Society for Testing and Materials International.

TAB 2



(904) 721-3434  
(904) 616-3014

INVOICE  
**DON QUINN**  
FORENSIC DOCUMENT EXAMINER

**DON QUINN, INCORPORATED**  
2771 Monument Rd.  
Suite 29 #317  
Jacksonville, FL 32225

McKinnon & McKinnon, Attorneys at Law, P.A.  
ATTN: Abraham C. McKinnon, Esquire  
Suite A, Granada Oaks Professional Building  
595 West Granada Boulevard  
Ormond Beach, Florida 32174

FEID 59-3423412  
October 12, 2011  
Invoice # 1110052

RE: RICHARD GARDNER

Consultation in the above referenced matter to include telephone conferences with Lynn Fahnestock, Legal Assistant, and examination of certain envelopes bearing questioned hand printed Return Address and Address entries

.....\$625.00

Paid in full by McKinnon & McKinnon Check # 7878

THIS WORK WAS COMPLETED ON OCTOBER 12, 2011

Thank you,

Don Quinn  
Forensic Document Examiner

DQ

RALPH THOMAS  
515 S. ATLANTIC AVE  
DAYTONA BEACH, FL  
32718

1/10052  
EX Q1  
P



MID-FLORIDA, FL 327  
12 SEP 2011 PM 1:13

DEPARTMENT OF PUBLIC SAFETY  
123 W. INDIANA BLVD  
DELAND, FLORIDA  
32720

ATT: DIRECTOR MIKE COFFIN

32720+4615



Arr ~~Not~~  
123 W. Indiana Blvd.  
Deland, FL. 32720

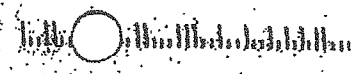
MID FLORIDA PDC  
FL 3272 T  
14 SEP 2011 PM

Front Desk  
515 S. ATLANTIC AVE  
DAYTONA BEACH, FL.  
32118

1110052  
Fr 82  
~~1~~

C

32118-4507



ARREST <input type="checkbox"/> NOTICE TO APPEAR <input checked="" type="checkbox"/> AFFIDAVIT <input type="checkbox"/> C.C. <input type="checkbox"/> ADULT <input checked="" type="checkbox"/> JUVENILE <input type="checkbox"/>		Court Case Number: _____	
(ORD)FL: 16/4/11/7/0/0		Agency Name: VOLUSIA COUNTY BEACH PATROL	
FCIC/NCIC Check? Yes <input checked="" type="checkbox"/> No <input type="checkbox"/> OBTS# _____		Agency Case Number: 09-00-0112	
ADDRESS OF ARREST: 500 N. OCEAN BEACH DAYTONA BEACH		Arrested By: OFC. T. MCGIBENY	
DEFENDANT NAME (L,F,M): ASHCRAFT TIMOTHY CLAY		A.K.A.: - NONE -	
DOB: 12/12/71	Age: 37	Driver's Lic./ID No.: A261 803 714470	State: FL
Height: 6-0	Weight: 193	Hair: RED	Eyes: BLUE
Tattoos: (L) SHOULDER MARINE TATTOO		P.O.B. (City, State, County): WINCHESTER, KY	
Address - Local: 219 RODGER CT		Business & Occupation: UNEMPLOYED	
Address - Other (Employer/School): NONE		Citizenship: Yes <input checked="" type="checkbox"/> No <input type="checkbox"/>	

CHARGES		DOMESTIC VIOLENCE? YES <input type="checkbox"/>	Attachments: <i>2</i>	Statement(s) <input type="checkbox"/>	NTA Schedule <input type="checkbox"/>	Report <input type="checkbox"/>	Traffic Infraction(s) <input type="checkbox"/>	Total Charges: 1
#1	Charge: POSS. ALCOHOL ON BEACH	FEL <input type="checkbox"/> MISD <input type="checkbox"/> ORD <input checked="" type="checkbox"/>	FS/ORD: 20-12	Citation No.:	Bond:			
#2	Charge:	FEL <input type="checkbox"/> MISD <input type="checkbox"/> ORD <input type="checkbox"/>	FS/ORD:	Citation No.:	Bond:			
#3	Charge:	FEL <input type="checkbox"/> MISD <input type="checkbox"/> ORD <input type="checkbox"/>	FS/ORD:	Citation No.:	Bond:			

CO-DEFENDANT		Co-Def #1 Arrested? YES <input type="checkbox"/> NO <input checked="" 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? YES <input type="checkbox"/> NO <input checked="" type="checkbox"/>	Fel <input type="checkbox"/> Misd <input type="checkbox"/> Traf <input type="checkbox"/> Ord <input type="checkbox"/> NTA <input type="checkbox"/>
#1 NAME (L,F,M):		Race:	Sex:	DOB:	Age:
#2 NAME (L,F,M):		Race:	Sex:	DOB:	Age:

**NARRATIVE**

The undersigned certifies and swears that there is probable cause to believe the above-named defendant, on the 14 day of FEBRUARY, 2009, at approximately 3:30  a.m.  p.m. at 500 BLK N. OCEAN BEACH D.B. within VOLUSIA County, violated the law and did then and there: POSSES AND CONSUME AN OPEN ALCOHOLIC BEVERAGE ON THE BEACH TO WITS ONE 16OZ CAN OF BUDWEISER "HIGH GRAVITY" BEER SAID EVIDENCE DESTROYED ON SCENE. DEF. WAS ROR WITH THIS NTA.

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 checked="" type="checkbox"/>	FINE, AND COSTS AMOUNT: 50.00
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: <i>[Signature]</i>		Date: _____	JUVE DISP. CITATION No.:
SIGNATURE OF JUVENILE PARENT OR CUSTODIAN: _____		RELATIONSHIP TO JUVENILE: _____	
Sworn to and subscribed before me, the undersigned, this <u>14</u> day of <u>FEBRUARY</u> , 200 <u>9</u> .		I swear/affirm the above statements are correct and true	
Notary Public <input type="checkbox"/> Personally Known <input checked="" type="checkbox"/> Law Enforcement or Corrections Officer: <input checked="" type="checkbox"/>		OFFICER'S/COMPLAINANT'S SIGNATURE: <i>[Signature]</i> #863	
Type of Identification: <u>POLICE</u>		Name (printed): _____ IB Number: _____	
OFFICIAL USE ONLY		Inmate Number & Facility: _____	

02000510

ARREST  NOTICE TO APPEAR  AFFIDAVIT  C.C.  ADULT  JUVENILE  Court Case Number:

(OR) FL: 64117100 Agency Name: VOLUSIA COUNTY BEACH TWP Agency Case Number: 09-00-0370

FCIC/NCIC Check? Yes  No  OBTS# UCR: Date Arrested: 03/15/09 Time of Arrest: 1120

ADDRESS OF ARREST: 1819 S. OCEAN BEACH DAYTONIA BEACH SHOPS Arrested By: OFC. McLELLAN ID Number: 863

DEFENDANT NAME (L.F.M.): GAY WALTER LEE JR A.K.A.: - NONE - Sex: M Race: W

DOB: 12-07-88 Age: 20 Driver's Lic. ID No.: 090578738 State: SC Year Expires: 10 S.S.#: 250-79-2175

Height: 5-11 Weight: 175 Hair: BROWN Eyes: GREEN P.O.B. (City, State, County): BEAUFORT, SC

Scars/Marks: SHOULDER, RIB CAGE Tattoos: PD BOX 309 Address - Mailing/Permanent: ST. HELEN 110052 (CITY) (STATE) ZIP CODE 842-812-6033

Address - Local: N/A Address - Other (Employer/School): CLEMSON UNIVERSITY (CITY) (STATE) ZIP CODE BUS SCHOOL N/A

CHARGES DOMESTIC VIOLENCE? YES  Attachments: Affidavit(s)  NTA Schedule  Report  Traffic Infraction(s)  Total Charges:

#1 Charge: POSS. ALCOHOL UNDER 21 VOA Citation No.: 362-111 Bond:

#2 Charge: FEL  MISD  ORD  FS/ORD: Citation No.: Bond:

#3 Charge: FEL  MISD  ORD  FS/ORD: Citation No.: Bond:

CO-DEFENDANT Co-Def #1 Arrested? Y  N  Fel  Misd  Tral  Ord  NTA  Co-Def #2 Arrested? Y  N  Fel  Misd  Tral  Ord  NTA

#1 NAME (L.F.M): Race: Sex: DOB: Age:

#2 NAME (L.F.M): Race: Sex: DOB: Age:

NARRATIVE The undersigned certifies and swears that there is probable cause to believe the above-named defendant,

on the 15th day of MARCH, 2009, at approximately 1120 a.m. p.m.

at 1819 S. OCEAN BEACH DBS within VOLUSIA County, violated the law and did then and there:

POSSES AND CONSUME AN OPEN ALCOHOLIC BEVERAGE ON THE BEACH TO WIT: ONE 12OZ CUP CONTAINING "BUSCH LIGHT" BEER SAID EVIDENCE DESTROYED ON SCENE AND DEF WAS ROR WITH THIS NTA. NFI

NOTICE TO APPEAR MANDATORY APPEARANCE  YOU NEED NOT APPEAR IN COURT BUT MUST COMPLY WITH INSTRUCTIONS ON THE REVERSE SIDE OF YOUR COPY FINE AND COSTS AMOUNT: 210.00

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 SIGNATURE OF JUVENILE PARENT OR CUSTODIAN RELATIONSHIP TO JUVENILE JUVENILE DISPOSITION CITATION No.

Sworn to and subscribed before me the undersigned, this 15 day of MARCH, 2009. Name: Don Decker 8151 Notary Public  Law Enforcement  Personally Known  Produced Identification  Type of Identification: POLICE. I swear/affirm the above statements are correct and true. OFFICER'S/COMPLAINANT'S SIGNATURE: OFC. T. McLELLAN ID Number: 863

OFFICIAL USE ONLY Inmate Number & Facility: It thumb

015452

VOLUSIA COUNTY BEACH PATROL  
PROPERTY REPORT

08-000470  
INCIDENT NUMBER

FOUND PROPERTY FINDER WISHES TO CLAIM  YES  NO

Admin.	Incident Type <b>NARCOTICS / ARREST</b>			Location of Incident <b>800 N. OCEAN BEACH DAYTONA BEACH</b>			
	Date Reported <b>03/29/08</b>	Date Occurred <b>03/29/08</b>	Time Reported <b>1417</b>	Time Occurred <b>1417</b>	Zone <b>3</b>	T.H.C. <input type="checkbox"/> YES <input checked="" type="checkbox"/> NO	Other Agency Case Number

Victim/Reporting Party	Business Name Victim? Yes/No				Address		Phone #
	Victim/Reporting Party/Defendant, etc. Person Code						
	Code	Sex	Race	D.O.B.	Name	Address	Phone #
	<b>01</b>	<b>M</b>	<b>W</b>	<b>07/10/89</b>	<b>MATTHEW BARRA</b>	<b>1004 RUTH JORDANA</b> <b>OCCOFE FL 34761</b>	<b>(321) 568-6373</b>
Vehicle Owner: <b>1110052</b>				Address		Phone #	
Sex:		Race:		D.	Vehicle Type: (Boat/Plane/Car, etc.)		
				<b>BXK3</b>			

Vehicle	Year	Make	Mod.	Color	Int. Color	LIY	LIS	LIC	Decal No.
	VIN Number:			Title State:	Vehicle Towed To:				
	Damage:			Towed By:					
Entry Point:			Vehicle Hold For:						

- |                            |              |                      |                          |                       |
|----------------------------|--------------|----------------------|--------------------------|-----------------------|
| 1. Evidence                | 4. Lost      | 7. Found/Contraband  | 9. Stolen                | 12. Return to Owner   |
| 2. Damaged Prop.           | 5. Recovered | 8. Prisoner Personal | 10. Disposal             | 13. Vehicle Inventory |
| 3. Photographed & Released | 6. Found     | Property             | 11. Property of Deceased | Property              |

Leave Blank	Prop. Codes	Item #	How Many	Description (Or Vehicle Inventory) (Type, Make, Model, Color, Serial, Marks, Etc.)	Amount
<b>None</b>	<b>1</b>	<b>1</b>		<b>CLEAR PLASTIC BAGGIE W/ GREEN LEAFY SUBSTANCE WHICH TESTED PRESUMPTIVE FOR CANNABIS WEIGHED AT APPROX. 9 GRAMS</b>	<b>\$ 0</b>
<b>CASE CLOSED</b>					
Totals: \$					<b>0</b>

Leave Blank	Item #	Date	Time	Released By	Received By	Reason for charge
	<b>1</b>	<b>03/29/08</b>	<b>1545</b>	<b>OFC T. McLIREN</b>	<b>EVIDENCE LOCKER</b>	<b>SAFE KEEPING</b>
	<b>1</b>	<b>3-31-08</b>	<b>1100</b>	<b>EVID UCLD</b>	<b>P. [Signature]</b>	<b>[Signature]</b>
	<b>1</b>	<b>5-6-10</b>	<b>1130</b>	<b>P. [Signature]</b>	<b>E. [Signature]</b>	<b>DESTROYED BY FIRE</b>

Narrative/Circumstances:  
**- SEE 798 -**

FCIC/NCIC Entry Date:	By/	Cases: <input type="checkbox"/> Not Assigned <input type="checkbox"/> Inactive <input type="checkbox"/> Exo. Cleared <input type="checkbox"/> Closed
FCIC <input type="checkbox"/> NCIC <input type="checkbox"/> Cancelled Date:	By/	Status: <input type="checkbox"/> Continued <input type="checkbox"/> Unfounded <input type="checkbox"/> Cleared/Arrest
T.T. BOLO?	Area:	Charges Pend. Lab Exam.
NIC #:	Lab Exams Req.	<input type="checkbox"/> Yes <input type="checkbox"/> No
Reporting Officer: (printed)	<b>OFC T. McLIREN</b>	
Reporting Officer:	Date:	I.D. #
Approved By:	Date: <b>03-29-08</b>	I.D. # <b>2680</b>



ARREST  NOTICE TO APPEAR  AFFIDAVIT  C.C.  ADULT  JUVENILE  Court Case Number: \_\_\_\_\_  
 (OR) FL: 6411700 Agency Name: VOLUSIA COUNTY BEACH PATROL Agency Case Number: 08-00-0470

FCIC/NCIC Check? Yes  No  OBTS# \_\_\_\_\_ UCR: \_\_\_\_\_ Date Arrested: 3/29/08 Time of Arrest: 1417  
 ADDRESS OF ARREST: 800 N. OCEAN BEACH DAYTONA BEACH Arrested By: OFC. T. MCGRENY ID Number: 863

**DEFENDANT** NAME (L.F.M.): BUGARA MATTHEW A.K.A.: -NONE- Sex: M Race: W  
 DOB: 07/10/1989 Age: 18 (Driver's Lic.) ID No.: B260-540-89-250-0 State: FL Year Expires: 12 S.S.#: 591-86-4888  
 Height: 5-06 Weight: 125 Hair: Brown Eyes: BLUE P.O.B. (City, State, County): ORLANDO, FL Statement: Yes  No

Scars, Marks, Tattoos: NONE Business & Occupation: ENGINEER Citizenship: Yes  No

Address - Mailing/Permanent (STREET, APT. NUMBER) (CITY) (STATE) ZIP CODE RESIDENT PHONE  
 1004 RUTH JORDANA COURT 1110052 OCEEE FL 32761 321-80-8313

Address - Local (STREET, APT. NUMBER) (CITY) (STATE) ZIP CODE RESIDENT PHONE  
 SAME AS ABOVE Ex 4 OAKLAND FL W/A

Address - Other (Employer/School) (STREET, APT. NUMBER) (CITY) (STATE) ZIP CODE BUS/SCHOOL  
 MASTER LINES N/A OAKLAND FL W/A

**CHARGES** DOMESTIC VIOLENCE? YES  Attachments: Affidavit(s)  ... NTA Schedule  Report  Traffic Infraction(s)  Total Charges

#1	Charge: POSSESSION OF CANNABIS UNDER 20GMS	FEL <input type="checkbox"/> MISD <input checked="" type="checkbox"/> ORD <input type="checkbox"/> FS/ORD: 893.13(6)b	Citation No.:	Bond:
#2	Charge:	FEL <input type="checkbox"/> MISD <input type="checkbox"/> ORD <input type="checkbox"/> FS/ORD:	Citation No.:	Bond:
#3	Charge:	FEL <input type="checkbox"/> MISD <input type="checkbox"/> ORD <input type="checkbox"/> FS/ORD:	Citation No.:	Bond:

**CO-DEFENDANT** Co-Def #1 Arrested? Y  N  Fel  Misd  Traff  Ord  NTA  Co-Def #2 Arrested? Y  N  Fel  Misd  Traff  Ord  NTA

#1 NAME (L.F.M.):	Race:	Sex:	DOB:	Age:
#2 NAME (L.F.M.):	Race:	Sex:	DOB:	Age:

**NARRATIVE** The undersigned certifies and swears that there is probable cause to believe the above-named defendant, on the 29 day of MARCH, 2008, at approximately 2:17 p.m. at 800 N. OCEAN BEACH DAYTONA BEACH within VOLUSIA County, violated the law and did then and there: KNOWINGLY & UNLAWFULLY HAVE IN HIS POSSESSION A CLEAR CELLOPHANE BAGGIE CONTAINING A GREEN LEAFY SUBSTANCE, WHICH WAS LOCATED IN THE DEF. VEHICLE IN THE ABOVE CENTER CONSOLE, THAT TESTED PRESUMPTIVE POSITIVE FOR CANNABIS. THE DEF. WAS OBSERVED INCIDENT TO ARREST WHEN A STRONG ODDOR OF CANNABIS WAS COMING FROM THE DEF. VEHICLE. THE DEF. WAS SITTING IN THE DRIVER SEAT OF HIS RED JEEP GRAND CHEROKEE. DEF. WAS COOPERATIVE WITH THIS OFFICER BY TELLING THIS OFFICER WENT TO LOCATE "THE REST OF THE WEED". THE GREEN LEAFY SUBSTANCE THAT WAS FOUND IN THE ABOVE CENTER

**NOTICE TO APPEAR** MANDATORY APPEARANCE  YOU NEED NOT APPEAR IN COURT BUT MUST COMPLY WITH INSTRUCTIONS ON THE REVERSE SIDE OF YOUR COPY  FINE, AND COSTS AMOUNT: \_\_\_\_\_  
 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: [Signature] Date: 3/29/08  
 SIGNATURE OF JUVENILE PARENT OR CUSTODIAN: \_\_\_\_\_ JUV. DISP. CITATION No. \_\_\_\_\_  
 RELATIONSHIP TO JUVENILE: \_\_\_\_\_

Sworn to and subscribed before me, the undersigned, this 29 day of MARCH, 2008. I swear/affirm the above statements are correct and true.  
 Name: [Signature] OFFICER'S/COMPLAINANT'S SIGNATURE: T. MCGRENY 863  
 Notary Public  Law Enforcement or Corrections Officer  Produced Identification   
 Type of Identification: BCSO Name (printed): \_\_\_\_\_ ID Number: \_\_\_\_\_  
 Inmate Number & Facility: \_\_\_\_\_

# Witness/Victim/Evidence Form 798-A

Arrest  
 Affidavit  
 Notice to Appear
 
 Adult  
 Juvenile
 

 Court Case Number:

Defendant Name: <b>BUGARA MATTHEW</b>		Agency Case Number: <b>08-00-0470</b>	
Name (L,FM):	Vic <input type="checkbox"/> Wit <input type="checkbox"/>	Race:	Sex:
Address (#, Street, City, State):	Statement: Yes <input type="checkbox"/> No <input type="checkbox"/>		DOB:
Bus./School Address:	Zip:		Home Phone:
Relative/Contact Name:	Relative/Contact Address:		Bus. Phone:
Name (L,FM):	Vic <input type="checkbox"/> Wit <input type="checkbox"/>	Race:	Sex:
Address (#, Street, City, State):	Statement: Yes <input type="checkbox"/> No <input type="checkbox"/>		DOB:
Bus./School Address:	Zip:		Home Phone:
Relative/Contact Name:	Relative/Contact Address:		Bus. Phone:
Name (L,FM):	Vic <input type="checkbox"/> Wit <input type="checkbox"/>	Race:	Sex:
Address (#, Street, City, State):	Statement: Yes <input type="checkbox"/> No <input type="checkbox"/>		DOB:
Bus./School Address:	Zip:		Home Phone:
Relative/Contact Name:	Relative/Contact Address:		Bus. Phone:
Name (L,FM):	Vic <input type="checkbox"/> Wit <input type="checkbox"/>	Race:	Sex:
Address (#, Street, City, State):	Statement: Yes <input type="checkbox"/> No <input type="checkbox"/>		DOB:
Bus./School Address:	Zip:		Home Phone:
Relative/Contact Name:	Relative/Contact Address:		Bus. Phone:
Name (L,FM):	Vic <input type="checkbox"/> Wit <input type="checkbox"/>	Race:	Sex:
Address (#, Street, City, State):	Statement: Yes <input type="checkbox"/> No <input type="checkbox"/>		DOB:
Bus./School Address:	Zip:		Home Phone:
Relative/Contact Name:	Relative/Contact Address:		Bus. Phone:
<b>EVIDENCE COLLECTED</b>			
Description	Date Recovered	Model Serial/I.D. Number	Drug Amount
Owner (Name)	(Address)	(Phone)	Value
CLEAR PLASTIC BAGGIE OF PRESUMPTIVE <b>ANNULAS</b> STATE OF FLORIDA			
Date Recovered: _____ Model Serial/I.D. Number: <b>APPROX. 9 GRAMS</b> Value: _____			
Description	Date Recovered	Model Serial/I.D. Number	Drug Amount
Owner (Name)	(Address)	(Phone)	Value
Description	Date Recovered	Model Serial/I.D. Number	Drug Amount
Owner (Name)	(Address)	(Phone)	Value
Description	Date Recovered	Model Serial/I.D. Number	Drug Amount
Owner (Name)	(Address)	(Phone)	Value
Description	Date Recovered	Model Serial/I.D. Number	Drug Amount
Owner (Name)	(Address)	(Phone)	Value

I certify that the foregoing is a complete list of witnesses/victims & evidence known to me.

Investigating Officer: **ARC. J. McJ**  
 ID Number: **862**  
 Agency: **VCRP**

VOLUSIA COUNTY BEACH PATROL  
PROPERTY REPORT


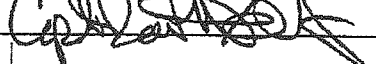
PAGE 1 OF 1 PAGE

15571

09-00-0862

INCIDENT NUMBER

FOUND PROPERTY FINDER WISHES TO CLAIM  YES  NO

Admin.	Incident Type <b>LOST PROPERTY</b>				Location of Incident <b>200 BLOCK S. OCEAN BEACH DAYTOWA BEACH</b>					
	Date Reported <b>05/15/09</b>	Date Occurred <b>05/13/09</b>	Time Reported <b>0935</b>	Time Occurred <b>2200</b>	Zone <b>3</b>	T.H.C. <input type="checkbox"/> YES <input checked="" type="checkbox"/> NO	Other Agency Case Number			
Victim/Reporting Party	Business Name Victim? Yes/No				Address			Phone #		
	Victim/Reporting Party/Defendant, etc. Person's Code				Address			Phone #		
	Code <b>V-1</b>	Sex <b>F</b>	Race <b>W</b>	D.O.B. <b>08/18/84</b>	Name <b>KRISTEN GARRETT</b>			Address <b>4 WINTHROP DRIVE MARSHFIELD MA, 02050</b>		
	Vehicle Owner: <b>1110052</b>				Address			Phone #		
Vehicle	Sex:	Race:	D.O.B. <b>EXK6</b>	Vehicle Type: (Boat/Plane/Car, etc.)						
	Year	Make	Model	Int. Color	LIY	LIS	LIC	Decal No.		
	VIN Number:			Title State:	Vehicle Towed To:					
	Damage:			Towed By:						
	Entry Point:			Vehicle Hold For:						
Prop. Codes	1. Evidence		4. Lost		7. Found/Contraband		9. Stolen		12. Return to Owner	
	2. Damaged Prop.		5. Recovered		8. Prisoner's Personal Property		10. Disposal		13. Vehicle Inventory Property	
3. Photographed & Released		6. Found		11. Property of Deceased						
Property Listing	Leave Blank	Prop. Codes	Item #	How Many	Description (Or Vehicle Inventory) (Type, Make, Model, Color, Serial, Marks, Etc.)				Amount	
		<b>4</b>	<b>1.</b>	<b>1</b>	<b>MA DRIVERS LICENSE IN V-1'S NAME</b>				<b>\$ 0</b>	
Totals: <b>S 0</b>										
Chain of Custody	Leave Blank	Item #	Date	Time	Released By	Received By	Reason for change			
Narrative	Narrative/Circumstances: <b>ON THE ABOVE SAID DATE, TIME, AND LOCATION V-1 (KRISTEN GARRETT) WAS WALKING ON THE BEACH WHILE WALKING V-1 (GARRETT) HAD ITEM #1 IN HER POCKET w/ HER CELLPHONE. WHEN V-1 (GARRETT) CELLPHONE RANG <del>THE</del> ITEM #1 FELL OUT OF HER POCKET AND WAS UNABLE TO FIND IT IN THE SAND B/C IT WAS TOO DARK.</b>									
Approval/Status	FCIC/NCIC Entry Date: By/				Cases: <input type="checkbox"/> Not Assigned <input type="checkbox"/> Inactive <input type="checkbox"/> Exc. Cleared <input type="checkbox"/> Closed					
	FCIC <input type="checkbox"/> NCIC <input type="checkbox"/> Cancelled Date: By/				Status: <input type="checkbox"/> Continued <input type="checkbox"/> Unfounded <input type="checkbox"/> Cleared/Arrest					
	T.T. BOLO?	Area:			Lab Exams Req.			Charges Pend. Lab Exam.		
	NIC #:							<input type="checkbox"/> Yes <input type="checkbox"/> No		
Reporting Officer: (printed) <b>OFC. 1. McJIBENY</b>										
Reporting Officer:  Date: <b>05/15/09</b> I.D. # <b>863</b>										
Approved By:  Date: <b>05/21/09</b> I.D. # <b>821</b>										







INTER-OFFICE MEMORANDUM

To: Department of Public Protection  
Division Directors

From: Mike Coffin, Director *Mike*  
Department of Public Protection

SUBJECT: Awards, Recognition, and  
Discipline

Date: March 1, 2010

File: DPP-10-009

Ref:

**Purpose:**

The purpose of this memo is to provide direction to division directors to gain consistency throughout the department in determining and administering matters of employee recognition and employee discipline.

**Awards and Recognition:**

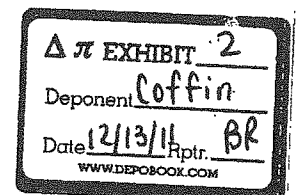
Presently, some divisions have a robust employee recognition program that takes advantage of the County of Volusia available programs (Caught in the Act, Center Stage, etc.) as well as an internal program that periodically recognizes exemplary performance. The value of both of these types of recognition for our staff is that we get a chance to express our gratitude for a job well done at some other time than just the annual performance evaluation process.

Recognition that is internal to your division should be handled at the division director's level. If you have a formalized methodology for recognizing superior performance such as a written policy or SOG, you should consider the criteria carefully when deciding to bestow these awards to ensure that the value of the award is not diminished. For example, employees should not receive special recognition for doing what is expected of them in their job description. For special recognition to be warranted, the actions must go well above and beyond the call of duty and should be articulated accordingly in the supervisor's recommendation. Additionally, any recommendation for recognition or award sponsored by an agency or organization outside county government needs to have departmental and county manager concurrence.

In view of the wide diversity of services provided throughout our department, I enjoy reading commendatory correspondence from the public and the recommendations for the county awards so please continue to forward those to the vetting authority through my office so I may have a chance to comment where appropriate.

---

**Department of Public Protection**  
125 W. New York Avenue, Suite 183 • DeLand, FL 32720  
Phone: 386.740.5120 • FAX: 386.740.5283



TO: Distribution  
FROM: Mike Coffin, Director  
FILE: DPP-10-009  
PAGE: 2  
DATE: March 1, 2010

**Discipline:**

Since my arrival in November 2009, there have been several matters of discipline that have come to my attention and it is clear that discipline is administered differently across all divisions. In an effort to establish some consistency in how discipline is administered, line supervisors will initiate recommendations within the respective division's chain of command. At no time will a line supervisor present discipline to an employee without the matter being staffed at the division director's level. It is important that all cases be staffed between the division and department to ensure the appropriate level of discipline is being awarded.

When the nature of the violation is such that it may not rise to a level to warrant adverse disciplinary action, the supervisor will conduct an inquiry to determine the facts and report the findings in writing in the form of a memo or incident report. That memo or incident report will be forwarded through the chain of command for appropriate comments to the division director. If the violation rises to a level where adverse action may be warranted, an investigation will be initiated by me and conducted by Internal Affairs. Again, we will staff those cases during the monthly division director's meetings to determine the proper course of corrective action, which will then be administered through the supervisor. This communication is intended to ensure consistency in the administration of discipline as well as engage the supervisors thereby giving them some ownership and accountability in the process.

Employee recognition and discipline are valuable tools in reinforcing expected behaviors and performance measures for our personnel. I appreciate your understanding and support as we move forward in the leadership of the Department of Public Protection.

**Division Director:**

Becky Wilson, Animal Services  
Kevin Sweat, Beach Safety  
Marilyn Ford, Corrections  
Charlie Craig, Emergency Management  
Mark Wolcott, Emergency Medical Services  
Marie Herrmann, Medical Examiner's Office

cc: James Ryan, Deputy Director, Public Protection Department

---

**Department of Public Protection**  
125 W. New York Avenue, Suite 183 • DeLand, FL 32720  
Phone: 386.740.5120 • FAX: 386.740.5283



County of Volusia

AUG 24 2011

Dept. of Public Protection

Director Coffin:

you might want to know what is going on in one of the departments you are responsible for-

There is a rumor-speculation that Captain Rich Gardner is sleeping with officer Paige Winters (still on probation)

there is also another rumor that he has also been sleeping with another female officer while on duty and on a personal level. (she was vying for an investigator spot under Captain Gardner, as well as nominated by him for officer of the year 2 years in a row, is this the "right of passage" to get the spot?

He has also been known to hack into her Face book account and her bank account information. We tell our employees they are not allowed to pull up to a tower and talk to a lifeguard, yet he is a Captain and she is a trainee and with all the heat from other similar incidents something needs to be done.

You might want to look into Captain Ray Manchester texting girls on his county issued cell phones while working the parking garage, one in particular is Kim Keil, (2008) as well as MANY other inappropriate issues that are going on inside this department that Kevin knows all about.

There was a sexual complaint about a night shift officer and a female having sex in the Ormond Beach lifeguard station, Capt. Gardner and Pat Casey responded and took a complaint and "talked the girl out of going forward with it" this is another cover up issue that needs to be looked into.

Captain Williams was known to have younger girls take showers with him at the Ormond lifeguard station while on duty after the morning drills, (Jessica Addington) and others Danielle Smith, Sasha Medina, he would also drink with underage lifeguards on his boat.

To say Kevin Sweat did not know about any of these incidents would show that he has no idea what is going on in his department and lets them run free without supervision.

You also have multiple officers all the way up to the Chief that do a lot of personal business on duty, getting a haircut on Main St, running errands etc. in county vehicles and personal vehicles, even leaving work early and showing up late.

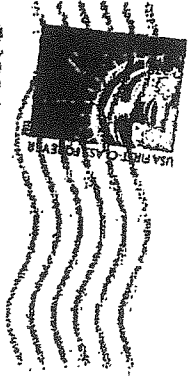
There was also another complaint about Officer Texter ref. a comment made to a female along the lines of "do I make you wet?" and Kevin "explained" how the investigating officer should handle it in the absence of Capt. Gardner. This is only a small amount of information that is out there, I think you need to clean up your department.

This letter will also be mailed to the News Journal as well as other media sources if nothing is done about this situation.

Δ π EXHIBIT 3
Deponent Coffin
Date 12/13/11 Rptr. BR
WWW.DEFOBOOK.COM



RALPH THOMAS  
515 S. ATLANTIC AVE  
DAYTONA BEACH, FL  
32718



FLORIDA FL 327  
SEP 20 11 PM 11

DEPARTMENT OF PUBLIC SAFETY  
123 W. INDIANA BLVD  
DELAND, FLORIDA  
32740

ATT: DIRECTOR MIKE COFFIN

32720+4615



$\Delta \pi$ EXHIBIT	4
Deponent	Coffin
Date	12/13/11 Rptr. BR
WWW.DEPOBOOK.COM	

County of Volusia

SEP 06 2011

Dept. of Public Protection

**Director Coffin:**

you might want to know what is going on in one of the departments you are responsible for-

There is a rumor- speculation that Captain Rich Gardner is sleeping with officer Paige Winters (still on probation)

there is also another rumor that he has also been sleeping with another female officer while on duty and on a personal level. (she was vying for an investigator spot under Captain Gardner, as well as nominated by him for officer of the year 2 years in a row, is this the "right of passage" to get the spot?

He has also been known to hack into her Face book account and her bank account information. We tell our employees they are not allowed to pull up to a tower and talk to a lifeguard, yet he is a Captain and she is a trainee and with all the heat from other similar incidents something needs to be done.

After Capt. Gardner is aware of this complaint, he will begin asking around and attempting to find out where this originated, he intimidates people, protect your employees.

You might want to look into Captain Ray Manchester texting girls on his county issued cell phones while working the parking garage until early in the morning, one in particular is Kim Keil, (2008) as well as MANY other inappropriate issues that are going on inside this department that Kevin knows all about.

There was a sexual complaint about a night shift officer and a female having sex in the Ormond Beach lifeguard station, Capt. Gardner and Pat Casey responded and took a complaint and "talked the girl out of going forward with it" this is another cover up issue that needs to be looked into. (separate from the Nowviskie complaint)

Captain Williams was known to have younger girls take showers with him at the Ormond lifeguard station while on duty after the morning drills, this was brought to Kevin's attention but no one ever heard about it being investigated- as he retired abruptly once this came to light- another cover up? (Jessica Addington) and others Danielle Smith, Sasha Medina, he would also drink with underage lifeguards on his boat.

To say Kevin Sweat did not know about any of these incidents would show that he has no idea what is going on in his department and lets them run free without supervision.

You also have multiple officers all the way up to the Chief that do a lot of personal business on duty, getting a haircut on Main St, running errands etc. in county vehicles and personal vehicles, even leaving work early and showing up late.

2007 time- Kevin Sweat also directed a full time employee (Rodrigo Miranda) to take his county vehicle up to his personal home and pressure clean his house while the employee was on duty, then when that same employee puts his daughter on the front of a 4 wheeler and drove her in circle in front of a council member, Kevin disciplines him for "improper use of county equipment" because the council member "saw" it. Special treatment for the Chief?

Officer Texter has made several inappropriate comments towards girls as well as driving around with a bag-binder with several Polaroid pictures of girl breast and other sexual positions that he took with a county issued camera. This is a known fact within the department including Capt. Manchester, Capt. Gardner, Capt. Williams, Capt. Cunningham and others. There was also another complaint about Officer Texter ref. a comment made to a female along the lines of "do I make you wet" and Kevin "explained" how the investigating officer should handle it in the absence of Capt. Gardner. This is only a small amount of information that is out there, I think you need to clean up your department.

This letter will also be mailed to the News Journal as well as other media sources if nothing is done about this situation.

County of Volusia

OCT 30 2011

Dept. of Public Protection

Director Coffin,

Well it looks like someone wasted a lot of money on a so called "hand writing specialist". I do not know who he is, but from the news paper article it appears it was payed for by Rich Gardner through his very close friend Abe McKinnon. Now call me a conspiracy theorist, but that appears to be a very "I will pay you to match this writing with this officers reports" as I noticed there were no other hand writing samples from any other officers to compare it to. Those letters were written in reverse and backwards from the last letter to the first letter because I knew that you would try match up the writing. You guys are trying to cover up one thing or another at any given time. If you think that I do not know what I am talking about, how far off was I on ANY information supplied to you? As the news paper article mentioned, you received my first letter and did nothing about it which is exactly what I knew would happen, now you have been exposed, so you had to act fast and you jumped the gun as you fired Rich Gardner to make it look like you did something. It looks like this will all come back to your side of the story versus Rich Gardner and Kevin Sweats story, in which I also told you would happen, they met secretly and discussed the IA on more than one occasion, I would also assume Rich Gardner has those conversations recorded. Do not lose focus of the letters, it is to make you aware of issues within your department now, in the past, and if nothing is done in the future.

$\Delta \pi$ EXHIBIT	5
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**From:** <TOPCAPT@aol.com>  
**To:** <mcoffin@co.volusia.fl.us>  
**Date:** 9/6/2011 3:17 PM  
**Subject:** Dave Hudson

Mike, Just got back in town. I left a message when you called about the possible case you need help on when I was in Oregon. Just wanted to make sure you got the message, If you need me to assist in anything just me a call when you get a chance. Hope all is well and it was great to hear from you. Thanks

Dave

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