

JUVENILE

ADULT

BOOKING #: _____

IN THE CIRCUIT/COURT IN THE TENTH JUDICIAL CIRCUIT IN AND FOR POLK COUNTY, FLORIDA.

ARRESTING AGENCY / REPORT NO: WINTER HAVEN P.D. 2012- 5343
ARRESTING OFFICER: Det Steve Rusich BADGE # 443
AGENCY ORI: 531600 OBITS: N/A
DATE / TIME OF ARREST: 04/25/12 3:01 AM
PLACE OF ARREST: 125 North Lake Silver Dr, Winter Haven, FL 33881

COMPLAINT AFFIDAVIT ARREST REPORT NOTICE TO APPEAR

CITY OF WINTER HAVEN COUNTY OF POLK STATE OF FLORIDA
THE UNDERSIGNED AFFIANT SWEARS THAT HE/SHE HAS JUST AND REASONABLE GROUNDS TO BELIEVE THAT ON 04/24/12
AT APPROXIMATELY 6:44 P.M. IN THE VICINITY OF WINTER HAVEN, POLK COUNTY, FLORIDA.

NAME (Last/First/Middle): Davis, Joshua, A	Alias: N/a
ADDRESS: 63 East Lake Howard Dr Apt 5, Winter Haven, FL 33881	PHONE: (863)224-2232
D/L #: _____ FL: _____ S.S.#: _____	D.O.B.: 08/14/79 R/S: W/M
HT: 5'11" WT: 165 HAIR: Brown EYES: Brown POB: Iowa	MARITAL STATUS: Married
SCARS: N/a COMP: Fair BUILD: Medium SPEECH: Normal	OCCUPATION: Trainer
EMPLOYER: McDonald's, Winter Haven, FL	PHONE: N/a
(JUV-PARENTS): N/a	PHONE: N/a

COMMITTED OFFENSE(S) OF: _____ DOMESTIC VIOLENCE RELATED? YES NO

1 1st Degree Murder (2 counts)	FSS/MO/CO	782.04(1)(a)1	LEVEL/DEGREE	CF
2 Attempted 1st Degree Murder	FSS/MO/CO	782.04(1)(a)1	LEVEL/DEGREE	CF
3 Child Abuse	FSS/MO/CO	827.03(1)(b)	LEVEL/DEGREE	F3
4 _____	FSS/MO/CO	_____	LEVEL/DEGREE	_____
5 _____	FSS/MO/CO	_____	LEVEL/DEGREE	_____

On 4/24/12 at approximately 1844 hours a call of shots fired was received via the police radio for the address of 63 East Lake Howard Dr. The first arriving officer, Ofc. Oftedal, was traveling west on West Central Ave and observed a Hispanic male subject staggering in the road. The subject collapsed on the road and Ofc. Oftedal no subject had been shot multiple times. Upon arrival of other units from the Winter Haven Police Department and the Polk County Sheriff's Office a perimeter was set 63 East Lake Howard Dr. Dispatch had informed them the shots had been reported to come from Apt. 5. Members of the Polk County Sheriff's Office and Officers wi Winter Haven Police Department approached Apt. 5 and identified themselves. They ordered the occupants out of the apartment. The door to the apartment opened white male exited the apartment with his hands in the air. The white male, later identified as Joshua Davis, was detained. The members again ordered anyone in the apartment to exit. A young girl stepped out and was brought away from the home by Winter Haven Police Department members. See Cont.

DEPUTY CLERK/ NOTARY/ LEO _____

AFFIANT - Det. S. Rusich #443

NOTICE TO APPEAR

I AGREE TO APPEAR IN COURT LOCATED AT _____ FLORIDA ON _____
AT _____ A.M./P.M. TO ANSWER THE CHARGES IN THIS COMPLAINT. I UNDERSTAND THAT A
WILLFUL FAILURE TO APPEAR WILL RESULT IN A WARRANT FOR MY ARREST AND MAY BE A NEW OFFENSE.

DATE _____

DEFENDANT _____

VICTIM - NAME: Joe Palacios	ADDRESS: _____	PHONE: _____
VICTIM - NAME: Christian Rodriguez	ADDRESS: _____	PHONE: _____
VICTIM - NAME: Estaban Zavala	ADDRESS: _____	PHONE: _____
VICTIM - NAME: _____	ADDRESS: _____	PHONE: _____
CO-DEFENDANTS: _____	_____	_____

NO BILL/ PETITION

PROSECUTION APPROVED

ASSISTANT STATE ATTORNEY _____

WINTER HAVEN POLICE DEPARTMENT

ARREST AFFIDAVIT (CONTINUATION)

AGENCY NUMBER: FLO 5 3 1 6 0 0

AGENCY CASE NUMBER: 12-5343

CASE REFERENCE: 1st Degree Murder (2 counts), Attempted 1st Degree Murder, Child Abuse

After the young female was cleared from the residence the, members made entry into the house. Immediately upon entering the house they noticed two subjects unresponsive on the floor. They continued to clear the apartment. Once the apartment was cleared they checked on the unresponsive subjects. They quickly determined the subjects were deceased. They backed out of the apartment and secured it. The entire scene was secured with crime scene tape. Upon my arrival I entered the apartment and noted the two deceased subjects. One subject was lying between a love seat and an end table. That subject appeared to have been shot once in the forehead. He was found lying face up with his hands near his face. The second deceased subject was lying on the ground partially under a computer table. It appeared that subject had multiple gunshot wounds. It was not possible to tell where that victim was shot due to his position under the computer desk. The furniture in the apartment had been moved around and there were signs of a struggle. I concluded my initial canvass of the crime scene. Due to the fact the crime scene was a private residence a search warrant was obtained prior to any evidence being collected.

I left the crime scene and responded to the police department where I met with the defendant. With the consent of the defendant, CSI Leggie Boone collected blood and clothing evidence from the defendant. After the evidence was collected I sat down with the defendant for an interview. I informed the defendant of the Miranda Warning. He stated he understood the warning, waived his rights and agreed to speak with me. Post Miranda the defendant stated, he was contacted by victim, Christian Rodriguez. Rodriguez asked if they (Rodriguez, Joe Palacios and Esteban Zavala) could come over, smoke some weed and hang out with him. The defendant agreed to allow them over to his apartment. Upon their arrival he and victims Rodriguez and Zavala went out to a tree to smoke the weed. The defendant left Palacios behind to watch his seven year old daughter, . When the defendant and the other victims returned to the residence they sat down in the living room to hang out. The defendant said he was sitting in a chair by the computer desk, Rodriguez and Zavala were sitting on the couch and Palacios was sitting on the love seat. The defendant said his daughter was in her room. The defendant said he felt uneasy about something and thought the three were acting strange. He described it as a "dark feeling". He felt they were sending signals to each other. His daughter walked out and Rodriguez and Palacios said something in Spanish while looking at his daughter. The defendant felt something was about to happen so he got up and ran to his room. He retrieved his Ruger 9mm semi automatic handgun. He racked the slide of the weapon to chamber a round. He proceeded in a crouched position down the hallway towards the living room. He concealed himself behind a tall stereo speaker and fired shots towards Zavala. The defendant saw Zavala push the couch away from the wall and try to hide behind it. The defendant then drew his attention towards Rodriguez. Rodriguez jumped towards the floor and laid down face up between the love seat and end table. The defendant said he ran up to Rodriguez pointed his gun close range to Rodriguez head and fired one shot. The defendant stated he shot Rodriguez in the head to make sure he was dead. The defendant then turned his attention towards Palacios. Palacios had stood up. The defendant believes he may have kicked Palacios and knocked him down. He fired shots towards Palacios and believed he hit him. Palacios tried to crawl under the computer table. The defendant pointed his gun at the head of Palacios and fired one shot in his head. He stated he shot Palacios in the head to make sure he was dead. He then turned his attention back to Zavala. Zavala charged him and struggled to get the firearm away from him. The defendant believes he fired more shots during that struggle. When the defendant realized he was out of ammunition he began striking Zavala in the head with the gun. He said as he was striking him with the gun the empty magazine ejected from the gun. Zavala struggled away and the defendant ran into the kitchen. He set his gun on the kitchen counter and retrieved two knives from a knife block. the defendant stated he was going to use the knives to "finish off" Zavala. He turned around and realized Zavala had fled the apartment. The defendant closed the door and locked it. He turned his attention towards his daughter, . He checked her for any injuries and told her he did that to protect her and he was sorry for what he did. The defendant said he was "freaking out" so he called his wife and told her to come home. The defendant said he began to "clean up" by picking up the empty shells. As he was figuring out what to do he heard the police at his door. He figured he could not fight anymore

I SWEAR AND AFFIRM THAT THIS REPORT IS TRUE AND CORRECT TO THE BEST OF MY KNOWLEDGE AND BELIEF:

 SWORN BEFORE ME THIS _____ DAY OF _____, 2012

L.E.O.

APPROVED BY: _____ ID # _____ REFER TO: _____ DATE: _____

PAGE # _____ OF _____

WINTER HAVEN POLICE DEPARTMENT

ARREST AFFIDAVIT (CONTINUATION)

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I met with Det. Kari Gaskin, who interviewed [redacted] with the assistance of the Child Protection Team. [redacted] said her dad's friends came over and her dad went on a walk with two of them. She said Joe stayed behind to watch her. Her dad and his two friends came back and her dad told her to play in her room. She heard some arguing and went out of our room. She saw her dad run to his room and come out with a black gun. She heard gun shots and ran under the coffee table to hide. She saw her dad shoot "Tom" then shoot Joe. After the shooting her dad came to her and said he did that because he was scared and was protecting her. He apologized to her for the incident. [redacted] said she believed him and accepted his apology. She told Det. Gaskin that she thinks this is a dream and wanted to wake up so she can pretend it never happened.

I met with Det. Esteve, who interviewed Zavala at Lakeland Regional Medical Center. Zavala said he was at the defendant's house to hang out. Out of nowhere the defendant ran into his bedroom and came out shooting. Zavala said he was shot several times and saw his friends get shot. He struggled to get away from the defendant while the defendant was trying to shoot him. When he was able to get away from the defendant he fled the apartment. He ran until he fell and was contacted by an officer. Det. Esteve showed Zavala a photo line up that contained six subjects one of which is the defendant. Zavala was able to positively identify the defendant in the photo line up.

The evidence in this case shows that the defendant did plan to murder the three male victims when he retrieved his Ruger 9mm from his bedroom and chambered a live round. There is no evidence or indication the victims provoked this attack on them. The victims were each sitting on the couch when the attack occurred.

Due to the victims unlawful actions Palacios and Rodriguez are deceased.

The evidence does show [redacted], was present in the same room the attack took place. According to her statement she witnessed the murders of Palacios and Rodriguez.

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