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JAMES N. HATTEN, Clerk  
By: *[Signature]* Deputy Clerk

**IN THE UNITED STATES DISTRICT COURT  
FOR THE NORTHERN DISTRICT OF GEORGIA  
GAINESVILLE DIVISION**

**BOUNKHAM "BOU BOU" PHONESAVANH, :  
a Minor proceeding by and through his Parents:  
and Natural Guardians as Next Friends, and :  
BOUNKHAM PHONESAVANH and :  
ALECIA PHONESAVANH, Individually and :  
as Parents of BOUNKHAM "BOU BOU" :  
PHONESAVANH, :**

**Plaintiffs,**

**vs.**

**CHARLES LONG in his Individual Capacity :  
MATTHEW WURTZ, in his Individual :  
Capacity, JASON STRIBLING, in his :  
Individual Capacity, NIKKI AUTRY, in her :  
Individual Capacity, MURRAY KOGOD, in his :  
Individual Capacity, JONATHAN ROBERTS, :  
in his Individual Capacity, SHERIFF JOEY :  
TERRELL, in his Individual Capacity, :  
PAUL CHESEBORO, in his Individual :  
Capacity, and JOHN DOE, in his Individual :  
Capacity, :**

**Defendants.**

**CIVIL ACTION FILE**

**2:15-CV-0024**  
**NO. \_\_\_\_\_**

**COMPLAINT FOR DAMAGES**

**1.**

This is an action for damages brought pursuant to 42 U.S.C. §§ 1983 and 1988, the Fourth Amendment to the United States Constitution, and federal and state

statutes.

## **INTRODUCTION**

2.

This action arises from an incident occurring in Habersham County Georgia at approximately 2:00 a.m., on May 28, 2014, when the Defendant law enforcement officers, while acting under color of law, unreasonably executed a “no knock” search warrant at a residence located within the city of Cornelia, Georgia. At the time of the unreasonable execution of the warrant, Plaintiffs Bounkham Phonesavanh, Alecia Phonesavanh, and their 4 minor children were sleeping in the room through which the officers forcibly gained entry into the residence. After the exterior door was breached, a flashbang stun grenade was thrown into a playpen where 19-month-old Plaintiff Bounkham “Bou Bou” Phonesavanh was sleeping. The grenade exploded next to the child’s face and chest causing severe, life threatening and permanently debilitating and disfiguring injuries to him. It is well known in the law enforcement community that flashbang stun grenades can cause serious injury and death.

3.

The “no knock” warrant was obtained by submission of false and purposely misleading information to the issuing magistrate judge, and executed in an objectively unreasonable and incompetent manner as, among other things, there were multiple indications to the entry team that children were inside the residence and the grenade was thrown into the child’s playpen.

#### **JURISDICTION AND VENUE**

4.

Jurisdiction is based upon 28 U.S.C. §§ 1331, 1343. As all Plaintiffs are citizens of the State of Wisconsin, and upon information and belief, all Defendants are citizens of Georgia, and the amount in controversy is in excess of \$75,000.00, there is a complete diversity of citizenship between the parties; therefore, this Court also has jurisdiction pursuant to 28 U.S.C. § 1332. This Court has pendent and supplemental jurisdiction to entertain claims arising under state law, as described herein, pursuant to 28 U.S.C. §1367.

5.

Venue is proper in this district and court pursuant to 28 U.S.C. §1391 and L.R. 3.1, because all of the events and omissions giving rise to Plaintiffs’ claims occurred in the Northern District of Georgia in the Gainesville Division.

## **PARTIES**

6.

The Plaintiffs Alecia and Bounkham Phonesavanh, citizens and residents of the State of Wisconsin, are the parents and natural guardians of Plaintiff Bounkham “Bou Bou” Phonesavanh, a minor, who at all times pertinent to the events alleged herein was nineteen (19) months of age. Both Bounkham Phonesavanh and Alecia Phonesavanh proceed in their individual capacities and as the parents, next friend, and guardians of their son Bounkham “Bou Bou” Phonesavanh.

7.

Bounkham “Bou Bou” Phonesavanh, a minor, is represented by his parents who, as his parents, guardians and next friend hereby assert claims on his behalf for personal injuries and damages suffered as a result of the unreasonable and unconstitutional search which occurred on May 28, 2014 in Habersham County, Georgia.

8.

Bounkham Phonesavanh and Alecia Phonesavanh seek damages herein for all medical expenses incurred in connection with injuries, past, present and future to Bounkham “Bou Bou” Phonesavanh, for which they are individually responsible. Because they each were themselves subjected to assault and battery and witnessed



the horrific injuries to their son as described herein, which damages were caused by the Defendants acting jointly and severally with one another, Bounkham Phonesavanh and Alecia Phonesavanh individually also seek compensation for their emotional damages.

9.

Bounkham Phonesavanh sustained bodily injuries during the search at issue for which he seeks damages including medical expenses, past, present and future as well as damages for physical and emotional pain, past, present and future.

10.

The Defendant Charles Long, upon information and belief, is a deputy Sheriff of the Habersham County Georgia Sheriff's Department who at all times material herein, was acting in a dual capacity as a deputy Sheriff of Habersham County and also as a member of a joint venture between the Habersham County Sheriff's Office and the City of Cornelia Police Department. At all times material herein, Defendant Charles Long was acting both as a member of the Habersham County Sheriff's Office and as a member of the Cornelia Police Department/Habersham County Sheriff's Office Special Response Team. At all times material herein, Defendant Long was acting under color of law in said dual capacities. Defendant Long is the officer who threw a flashbang stun grenade into the playpen in which 19-month-old

Bounkham “Bou Bou” Phonesavanh was sleeping.

11.

Upon information and belief, Defendant Charles Long is a resident and citizen of the State of Georgia residing in Habersham County, Georgia.

12.

Defendant Matt Wurtz, upon information and belief, is a deputy Sheriff of the Habersham County Georgia Sheriff's Department who, at all times material herein, was acting in a dual capacity as a deputy Sheriff of Habersham County and also as a member of a joint venture between the Habersham County Sheriff's Office and the City of Cornelia Police Department. At all times material herein, Defendant Matthew Wurtz was acting both as a member of the Habersham County Sheriff's Office and as a member of the Cornelia Police Department/Habersham County Sheriff's Office Special Response Team. At all times material herein, Defendant Wurtz was acting under color of law in said dual capacities. Defendant Wurtz was the supervising officer on the scene who directed that Defendant Long deploy the flashbang stun grenade and also actively participated in the search.

13.

Upon information and belief, Defendant Matthew Wurtz is a resident and citizen of the State of Georgia residing in Habersham County, Georgia.

14.

Defendant Jason Stribling, upon information and belief, is a deputy Sheriff of the Habersham County Georgia Sheriff's Department who, at all times material herein, was acting in a dual capacity as a deputy Sheriff of Habersham County and also as a member of a joint venture between the Habersham County Sheriff's Office and the City of Cornelia Police Department. At all times material herein, Defendant Matthew Wurtz was acting both as a member of the Habersham County Sheriff's Office and as a member of the Cornelia Police Department/Habersham County Sheriff's Office Special Response Team. At all times material herein, Defendant Wurtz was acting under color of law in said dual capacities. Defendant Stribling assisted his fellow officers in forcibly breaching the residence at issue and in the post event actions complained of herein which constituted the intentional infliction of emotional distress.

15.

Upon information and belief, Defendant Jason Stribling is a resident and citizen of the State of Georgia residing in Habersham County, Georgia.

16.

At all times material herein, Defendant Nikki Autry was employed as a member of the Mountain Judicial Circuit Narcotics Criminal Investigation and

Suppression Team (hereinafter referred to as “NCIS Task Force”). At the time of the subject incident, Defendant Autry was also acting as a deputy Sheriff of Habersham County. At all times material herein, Defendant Autry, a special agent of the NCIS Task Force, was acting in a dual capacity serving the joint interests of the Habersham County Sheriff’s Office and the joint interests of all constituent members of the NCIS Task Force. Defendant Autry is the special agent who obtained the Search Warrant at issue (Exhibit A) by knowingly presenting a falsified and intentionally misleading Affidavit to the issuing magistrate judge.

17.

Upon information and belief, Defendant Nikki Autry is a resident and citizen of the State of Georgia residing in Habersham County, Georgia.

18.

Upon information and belief, Defendant Murray Kogod is a citizen and resident of the State of Georgia, residing in Stephens County. At all times pertinent to the events alleged herein, upon information and belief, Defendant Kogod was acting as the Commander of the NCIS Task Force and in a dual capacity not only on behalf of Stephens County where he was a deputy Sheriff but also on behalf of all the NCIS team members.

19.

The NCIS Task Force is a joint association and joint venture between the governing bodies of Habersham, Stephens and Rabun counties and the city of Toccoa and, upon information and belief, other cities within the Mountain Judicial Circuit, including the city of Cornelia.

20.

Defendant Jonathan Roberts, upon information and belief, is a police officer with the City of Cornelia Police Department who, at all times material herein, was acting in a dual capacity as a police officer for the City of Cornelia and as a member of a joint venture between the Habersham County Sheriff's Office and the City of Cornelia Police Department. Upon information and belief, at all times material herein, Defendant Jonathan Roberts was acting as a member of the Cornelia Police Department and the Cornelia Police Department/Habersham County Sheriff's Office Special Response Team. At all times material herein, Defendant Jonathan Roberts was acting under color of law in said dual capacities. Defendant Jonathan Roberts participated during the execution of the search described herein.

21.

Upon information and belief, Defendant Jonathan Roberts is a resident and citizen of the State of Georgia residing in Habersham County, Georgia.

22.

Sheriff Joey Terrell is the Sheriff of Habersham County and is a citizen and resident of the State of Georgia residing in Habersham County. Sheriff Terrell is a member of the Control Board of the NCIS Task Force.

23.

The Defendant Paul Cheseboro, upon information and belief, is an officer with the City of Cornelia Police Department who, at all times material herein, was acting in a dual capacity as an officer for the City of Cornelia Police Department and as a member of a joint venture between the Habersham County Sheriff's Office and the City of Cornelia Police Department, known as the Cornelia Police Department/Habersham County Sheriff's Office Special Response Team. At all times material herein, Defendant John Doe II was acting under color of law in said dual capacities. John Doe II actively participated in the search on behalf of the Cornelia Police Department as a member of the SRT Team. Defendant Cheseboro is a citizen and resident of Habersham County, Georgia.

24.

The Defendant John Doe, upon information and belief, is a deputy Sheriff of the Habersham County Georgia Sheriff's Department or a police officer for the City of Cornelia Police Department who, at all times material herein, was acting in a dual



capacity as a deputy or officer thereof, and as a member of a joint venture between the Habersham County Sheriff's Office and the City of Cornelia Police Department. Upon information and belief, at all times material herein, Defendant John Doe I was acting as a member of the Cornelia Police Department/ Habersham County Sheriff's Office Special Response Team. The actual identity of John Doe is currently unknown. At all times material herein, Defendant John Doe was acting under color of law in said dual capacities. Once Defendant John Doe's identity is confirmed, the Plaintiffs will move to amend this Complaint to add him as a party.

25.

Upon information and belief, Defendant John Doe is a resident and citizen of the State of Georgia residing in Habersham County, Georgia.

### **FACTUAL ALLEGATIONS**

26.

A flashbang stun grenade, while intended to be used and deployed in a non-lethal manner, nonetheless, is known to be lethal and has resulted in several deaths and serious injuries. This danger is well known in the law enforcement community, and includes, among others, the death of a SWAT team officer in 2011 when a flashbang stun grenade accidentally exploded near the body of that officer.

27.

Flashbang stun grenades, depending on the manufacturer and the specific design, can generate heat between 2,000 and 3,500 degrees Fahrenheit. It is well known that a detonation generates significant heat and can result in serious bodily injury and/or death if detonated in close proximity to a person.

28.

Flashbang stun grenades are classified by the Bureau of Alcohol, Tobacco and Firearms as a “destructive device,” known to law enforcement to be particularly lethal and capable of inflicting serious injuries and/or death if the device is exploded in close proximity to the body of a human being.

29.

Because of this destructive capability and inherently dangerous nature, flashbang stun grenades should be deployed only under circumstances where they can be used without unnecessarily endangering innocent persons unconnected with the alleged crimes being investigated; and, only when reasonable precautions have been taken to ensure that innocent third parties, particularly children, cannot be injured and/or killed by their use and deployment. It is plainly incompetent to deploy such a device without taking necessary and reasonable precautions to minimize the potentially lethal effects caused by the unsafe usage of the device.

30.

On May 28, 2014, a flashbang stun grenade was deployed during the “no-knock” search of a private residence located at 182 Lakeview Heights Circle, Cornelia, Habersham County, Georgia, which is located within the Gainesville Division of the Northern District of Georgia.

31.

The execution of the “no-knock” search was conducted pursuant to a “no-knock” search warrant (Exhibit A).

32.

The search warrant application and Affidavit were presented to a magistrate judge by Defendant Nikki Autry on May 28, 2014, at approximately 12:15 a.m.

33.

The search warrant was obtained by the use of a materially false and intentionally misleading Affidavit prepared by Defendant Nikki Autry of the NCIS Task Force and the Habersham County Sheriff’s Office (and approved by Defendant Kogod).

34.

At the time the “no-knock” warrant was obtained by Defendant Nikki Autry, among other averments, a representation was made to the issuing court that

Defendant Autry was “aware of weapons being present at the residence on previous occasions.” Upon information and belief, this information was known to Defendant Autry to be stale, since it was over ten months old, and also known to Autry to be intentionally misleading in that it did not pertain to the possession of firearms by the suspect of the investigation, nor were there multiple such occasions.

35.

At the time of the search, officers of the Cornelia Georgia Police Department/ Habersham County Georgia Sheriff’s Office Special Response Team and the NCIS Task Force, including the Defendants named herein, were each actively participating with one another in the execution of the search warrant.

36.

The Plaintiffs had been residing at 182 Lakeview Heights Circle, Cornelia, Habersham County, Georgia, the residence searched, on a temporary basis for two months as guests of the owner (a relative) of the home. Their home in Wisconsin had previously burned, which resulted in their temporary residency at 182 Lakeview Heights Circle.

37.

The search occurred at approximately 2:00 a.m. in the morning on May 28, 2014, when the Defendants knew, since they were searching a private residence, that

all persons inside said residence were likely asleep.

38.

At the time of the detonation of the flashbang stun grenade, there were five adults and four children sleeping in the residence.

39.

Sleeping in one room of the residence were Plaintiff Bounkham Phonesavanh, Plaintiff Alecia Phonesavanh, 19-month-old Plaintiff Bounkham “Bou Bou” Phonesavanh, and his siblings: Emma Phonesavanh age 7; Malee Phonesavanh age 5; and Bounly Phonesavanh age 3.

40.

Bounkham “Bou Bou” Phonesavanh was sleeping in a “pack-n-play” playpen, when, without warning, the Defendants breached a door to the residence in question and Defendant Charles Long intentionally threw a flashbang stun grenade blindly into the room which landed in the “pack-n-play” playpen. The grenade landed on the pillow and detonated directly next to the child’s face and chest.

41.

The explosion of the flashbang stun grenade resulted in severe and permanent injuries to Bounkham “Bou Bou” Phonesavanh.

42.

The physical injuries caused by the flashbang stun grenade to Plaintiff Bounkham “Bou Bou” Phonesavanh included severe blast burn injuries to the face and chest; a complex laceration of the nose, upper lip and face; 20% of the right upper lip missing; the external nose being separated from the underlying bone; and, a large avulsion burn injury to the chest with a resulting left pulmonary contusion and sepsis. Due to the injuries sustained, as of the date of the filing of this Complaint, this innocent child has thus far been forced to endure numerous corrective surgeries to his face and torso with resulting substantial medical expenses.

43.

Attached hereto as Exhibit B is a photograph of the face of Plaintiff Bou Bou Phonesavanh which graphically demonstrates the potential lethality of flashbang stun grenades.

44.

As a result of the injuries sustained by their minor child, his parents, Plaintiffs Alecia Phonesavanh and Bounkham Phonesavanh have incurred the substantial medical expenses described and will continue to incur medical and related expenses into the future as more surgeries and medical treatment is necessary for their child.



45.

During the month of May, before the search warrant was executed, five children had been living at the subject residence, and evidence of the presence of children at the residence was obvious to anyone who went in or near the home.

46.

At the time of the execution of the search warrant, a clearly identifiable case for the “pack-n-play” playpen was located immediately next to the door that was breached by the search team.

47.

Located outside and within several feet of the breached door was the family van which contained four (4) child seats and had figures affixed to the rear window indicating the presence of a family with several children.

48.

Scattered throughout the yard of the residence were children’s toys, including a plastic child’s pool.

49.

Despite visible evidence of the presence of children being inside the residence, Defendant Long intentionally and recklessly threw the flashbang stun grenade into the room where Plaintiffs were sleeping. The device was blindly thrown into the

room in reckless disregard of the consequences and in gross violation of basic safety and proper police practice and procedure. Such blind use was plainly incompetent and known to be unsafe and dangerous.

50.

Prior to deploying the flashbang stun grenade, the Defendants failed to take reasonable measures to determine if the suspect of their investigation was even inside the home at the time. The Defendants failed to take reasonable measures to determine if the device could be used without jeopardizing and/or endangering innocent third parties and children who might be inside the residence. The Defendants also failed to use basic safe deployment measures to reduce the known damages associated with the use of such devices.

51.

At the time the flashbang stun grenade was blindly and intentionally thrown into the room where the Plaintiffs and their children were sleeping, no resistance of any kind was being offered to the officers.

52.

At the time the flashbang stun grenade was thrown into the room in which Plaintiffs were sleeping, none of the Defendants had any reason to believe that they were in immediate or imminent danger. No weapons of any kind were known to be

in the home by the officers at any time before the deployment of the flashbang stun grenade, nor were any weapons later found at the residence when it was searched. No exigent circumstances existed to justify the use of potentially lethal force in the execution of the warrant.

53.

Potentially lethal force was incompetently, willfully and unreasonably used by the Defendants while jointly acting in concert with one another.

54.

The flash bang stun grenade was deployed by Defendant Long on specific orders from Defendant Wurtz.

55.

The deployment of the flashbang stun grenade was ordered before the officers involved in the search had determined that there was any immediate or imminent threat to their wellbeing, and before reasonable precautions against injury to innocent third parties had been employed. The Defendants incompetently failed to take reasonable measures to determine whether the suspect of their investigation was even present in the residence at the time of the deployment.

56.

The use of the device had been pre-planned and pre-authorized (by Defendant

Wurtz in his supervisory capacity) at least an hour before the search began. Such pre-planned activity, particularly in the absence of reasonable precautions and proper police practices necessary to protect the innocent and to determine that its use against a suspect actually present in the home was warranted, is completely dissonant with the reasonable execution of a warrant as is required by the Fourth Amendment to the United States Constitution.

57.

No on-the-scene danger arose at or near the time of the warrant's execution, which arguably would have made the use of the flashbang stun grenade less of an intrusive and unreasonable decision, (assuming that the warrant had been lawfully obtained without the use of false and misleading information).

58.

The manner, method and use of the flashbang stun grenade at issue was unwarranted, unsafe and objectively unreasonable under the totality of the circumstances then existing.

59.

The issuance of the search warrant attached hereto as Exhibit "A" did not grant the Defendants license to execute the warrant in any manner they wished. In so doing, in this case, their plain incompetence and use of unnecessary and

potentially lethal force led to the unreasonable execution of the warrant in violation of Plaintiffs' rights as guaranteed by the Fourth Amendment to the United States Constitution.

60.

The "severity" of the crime being investigated, upon information and belief, involved a suspected \$50.00 sale of drugs by a suspect, Wanis Thonetheva. Because the defendants failed to reasonably determine if the suspect of their investigation was even inside the residence at the time of the search, given the relative lack of severity of the crime at issue, because there was no imminent or immediate danger to any of the officers involved at the time of the deployment of the flashbang stun grenade, and because no exigent circumstances existed to justify a "no-knock" warrant, it is plainly obvious that the manner of deployment and use of the flashbang stun grenade was objectively unreasonable and inconsistent with the Fourth Amendment protections for the sanctity of a personal residence and home.

61.

It is plainly obvious that throwing a flashbang stun grenade blindly into a room, in the absence of imminent danger or exigent circumstances, where children and other innocent persons are likely to be, is constitutionally impermissible and objectively unreasonable under the Fourth Amendment. This would be obvious to

any reasonably trained officer acting under the same or similar circumstances. Flashbang devices can be deployed, when their use is otherwise justified, in a safe manner if appropriate safety precautions and measures of deployment are observed. Here, the manner and method of deployment of the device violated basic safety protocol and standard police procedure, was unreasonably dangerous, and resulted from plain incompetence.

62.

Upon information and belief, the Cornelia Police Department/Habersham County Sheriff's Office SRT (Special Response Team) was activated even before a search warrant had been approved by a judge and before any reasonable attempt had been made to verify the suspect's presence inside the residence to be searched. Given the fact that the use of a flashbang stun grenade was also pre-planned in advance of the search, the totality of the circumstances as described establishes that the execution of the search at issue was objectively unreasonable and the use of flashbang stun grenade was excessive and disproportionate to any legitimate law enforcement need which then existed. It is plainly obvious that there is no legitimate law enforcement need to use a SWAT team to execute a warrant involving a \$50.00 sale in the absence of exigent circumstances or imminent danger.



63.

In connection with the state law claims asserted herein, the Plaintiffs have provided ante-litem notices to all of the constituent members of the Mountain Judicial Circuit NCIS. The members of the NCIS Team are identified in Exhibit C attached hereto, the Memorandum of Undertaking that governed the actions of the Task Force at the time of this incident.

64.

As a direct and proximate result of the actions of the Defendants, the Plaintiffs suffered a violation of their rights under the Fourth Amendment to the United States Constitution, violations of state law, and sustained the other damages described.

**COUNT ONE**  
**(AGAINST DEFENDANTS LONG, STRIBLING, WURTZ, ROBERTS,**  
**AUTRY**  
**CHESEBORO AND DOE )**

65.

Plaintiffs reallege paragraphs 1 through 64 above as though fully and completely set forth verbatim herein.

66.

Due to the plain incompetence of the Defendants as described and given the totality of the circumstances, the blind deployment and use of the flashbang stun grenade as described was plainly incompetent, was objectively unreasonable and

also constituted the use of excessive force. Under the totality of the circumstances (which included failing to verify that the suspect was present in the residence at the time and failing to use the device in a safe manner consistent with reasonable police practices and procedures), it was plainly obvious that Defendants' actions were objectively unreasonable and no reasonable officer properly trained on the dangers associated with the use of the device would have believed otherwise. Plaintiffs Alecia and Bounkham Phonesavanh, individually and on behalf of their minor son, Plaintiff Bounkham "Bou Bou" Phonesavanh seek damages under 42 U.S.C. § 1983 against these named Defendants, jointly and severally, in that they each actively participated and assisted one another in the pre-planned use of the explosive device.

**COUNT TWO**  
**AGAINST DEFENDANTS AUTRY AND KOGOD**  
**UNDER 42 U.S.C. § 1983**

67.

Plaintiffs reallege paragraphs 1 through 66 above as though fully and completely set forth verbatim herein.

68.

Prior to the execution of the search warrant, which was unreasonably executed in violation of the Plaintiffs' Fourth Amendment Rights for the reasons specified herein, Defendant Nikki Autry, acting on behalf of the members of the Mountain

Judicial Circuit NCIS Task Force, applied for a “no-knock” warrant for the premises at issue using a falsified and misleading Affidavit. Exhibit A attached hereto is a true and correct copy of the Affidavit and Search Warrant.

69.

Before a search warrant may be issued consistent with the provisions of the Fourth Amendment to the United States Constitution, a truthful factual showing used to support probable cause must be provided to the issuing court.

70.

The United States Constitution prohibits a law enforcement officer from knowingly, intentionally or with reckless disregard for the truth making materially false statements in support of an application for a warrant.

71.

At all times pertinent to events alleged herein, when applying for the search warrant attached hereto as Exhibit A, Defendant Autry knowingly and with reckless disregard for the truth made materially false and misleading statements and omissions to the issuing judicial authority. She also knowingly, intentionally and with reckless disregard for the truth omitted information material to a probable cause determination.

72.

The false statements contained within the Affidavit were material and necessary to the finding of probable cause by the issuing Court and were also material to the approval of a “no-knock” search.

73.

In the Investigation section of the warrant, Defendant Autry falsely and with reckless disregard for the truth advised the Magistrate that Wanis Thonetheva was selling illegal narcotics from his residence and had, in fact, sold drugs from the residence to someone she identified as Informant No. 1459. This was false information stated with a reckless disregard for the truth. Upon information and belief, Defendant Autry knew Informant No. 1459 had not purchased drugs “from the residence” as alleged, and also knew that Informant 1459 had not been inside the residence. In Exhibit A, Autry falsely averred as well that Informant 1459 was known to be reliable to her “having provided information in the past that has led to criminal charges on individuals selling illegal narcotics in Habersham County, Georgia.” Upon information and belief, Defendant Autry knew that statements concerning the reliability of Informant No. 1459 were false, misleading, and made with a reckless disregard for the truth in that Informant No. 1459 did not purchase drugs from Wanis Thonetheva as alleged nor had he provided past information that

lead to criminal charges against others, nor was he known to be reliable to Autry, as was alleged.

74.

In the Investigative section of her Affidavit, Defendant Autry alleged that she had confirmed that there were several individuals outside of the residence standing “guard” and that there are several vehicles in the driveway. She alleged that there was “heavy traffic in and out of the residence.” Given that the residence to be searched belonged to the Mother of Wanis Thonetheva (Amanda) who had lived at the address for several years, it would not be surprising that she and extended members of her family (the Plaintiffs and their children) would enter and exit the residence in various vehicles. In fact, the Plaintiffs were visiting guests of the owner of the premises driving a van with a clearly visible out of state license plate. No guards of any kind were present as described and this information was misleading and false, designed specifically to secure a “no knock” search warrant.

75.

The information supplied to the Magistrate in support of the application for a “no-knock” warrant was known to Defendant Autry to be materially false, intentionally misleading, and failed to establish a reasonable suspicion that a “no-knock” warrant was necessary or justified for legitimate law enforcement reasons.

The “weapons” information alluded to by Autry in the Affidavit was stale and purposely misleading, and failed to establish the existence of immediate or imminent danger to the officers’ safety when executing the warrant.

76.

Had false and misleading information in Exhibit A not been used, Defendant Autry knew that there would have been no probable cause sufficient to procure the search warrant at issue.

77.

Because of the use of false and misleading information in Exhibit A, there was no reasonable suspicion established sufficient to dispense with the knock and announce requirements typically available to protect the residents of a home under the Fourth Amendment to the United States Constitution. Defendant Autry did not conduct reasonable surveillance prior to the execution of the search warrant to verify if Wanis Thonetheva was actually in the residence at the time the search was to be conducted (and he was not – as would have been established had there been any reasonable surveillance). No investigation was done to determine the identity of the owners of the van in the driveway and whether it belonged to the rightful owners (or guests) of the residence. No surveillance of any kind was conducted to determine in advance if children were present in the home despite a strict policy prohibiting the



use of flashbang stun grenades where children might be present. All of this is plain incompetence particularly given the fact that Defendant Autry asked for the assistance of the SRT Team without any evidence of exigent circumstances or imminent danger to justify the need of a para-military raid involving seven or more SRT team officers. Because the authorization for the “no-knock” search was obtained through the use of materially false and misleading information, there was no right to use a flashbang stun grenade in the execution thereof by any of the Defendants, and its use as described would be constitutionally impermissible.

78.

Suspect Wanis Thonetheva was not at the residence when the search at issue was conducted and no weapons were found in the residence during the search. Despite invoking a SRT team to execute the search warrant, Thonetheva was later arrested, after the botched raid described herein, at his actual place of residence, without any resistance and without the use of a flashbang stun grenade.

79.

Defendant Kogod was Defendant Autry’s supervisor at all times pertinent to the events herein. Upon information and belief, Defendant Kogod knew that CI No.1459 had not provided previous information that had led to criminal charges against other individuals selling narcotics in Habersham County and therefore knew

that the allegations about the so-called reliability of the informant as having been proven reliable (as was alleged in Exhibit A) was false and made with a reckless disregard for the truth. He also knew that there had been no surveillance undertaken to confirm the allegations in Exhibit A and that the identified informant had not personally obtained drugs from suspect Wanis Thonetheva.

80.

As Autry's supervisor, Defendant Kogod, with reckless disregard for the truth, approved the submission of Exhibit A to a Magistrate knowing that it was misleading and did not establish probable cause due to the falsity of the statements contained therein about CI No.1459. He therefore aided and abetted Defendant Autry in committing the acts and omissions alleged in this Count.

81.

By providing false and misleading information to the issuing Court, Defendants Autry and Kogod intentionally manipulated the inferences that a Magistrate might draw based on the presentation that was made.

82.

Upon information and belief, because the use of false and misleading information in the search warrant was subsequently discovered by the authorities, Defendant Autry was separated from her position as a Special Agent with the

Mountain Judicial Circuit NCIS Team. Upon information and belief, she was allowed to resign in lieu of and prior to the termination which would have followed based on her misdeeds had she not resigned immediately upon being confronted with the evidence of her impropriety. Upon information and belief, Defendant Kogod was demoted and removed from his position as Commander of the Task Force.

83.

Defendant Autry, while disciplinary procedures against her were being pursued by the State based on the misconduct described herein, negotiated a deal with the State of Georgia whereby in return for surrender of her certification as a Georgia peace officer, there would be no further action taken against her by the Georgia Peace Officers Standards and Training Council. Exhibit D, upon information and belief, is a true and correct copy of the negotiated surrender of Defendant Autry's certification as a Georgia peace officer, which surrender constitutes an admission of her misconduct.

84.

Because the "no-knock" search was improperly obtained and/or the search itself illegal, there was be no legal right to use a flashbang stun grenade in the execution of the search of the residence, nor was there any right to even enter the residence. Accordingly, Defendants Autry and Kogod are each individually liable

for the damages sustained by Bounkham Phonesavanh (the father) and the Plaintiffs' son, Bounkham "Bou Bou" Phonesavanh, and the parents, jointly, as alleged.

**COUNT THREE**  
**ASSAULT AND BATTERY**  
**(AGAINST ALL DEFENDANTS EXCEPT TERRELL)**

85.

The Plaintiffs reallege subparagraphs 1 through 84 as though fully set forth verbatim herein.

86.

During the execution of the warrant, Defendant Long blindly and incompetently threw a flashbang stun grenade into the playpen where Bounkham "Bou Bou" Phonesavanh was sleeping. As a result, Bounkham "Bou Bou" Phonesavanh sustained serious personal injuries from which he suffered at the time and will continue to suffer, as his injuries are believed to be permanent. (Only a portion of his injuries are depicted in Exhibit B.) The intentional unsafe use of a potentially lethal device, which is known to cause serious injuries if improperly detonated in close proximity to a human being, constitutes an assault and battery for which damages are being sought in this Count. In that all the Defendants were operating together, actively participating one with the other in the execution of the warrant and had pre-planned the use of the flashbang stun grenade even before entry

into the home was attempted, all the Defendants herein are liable for the assault and battery upon the person of Bounkham “Bou Bou” Phonesavanh.

**COUNT FOUR**  
**ASSAULT AND BATTERY INVOLVING DAMAGES TO BOUNKHAM**  
**AND ALECIA PHONESAVANH**  
**(AGAINST ALL DEFENDANTS EXCEPT SHERIFF TERRELL)**

87.

The Plaintiffs reallege subparagraphs 1 through 84 as though fully set forth verbatim herein.

88.

During the execution of the warrant, after obtaining entry into the premises, Plaintiff Bounkham Phonesavanh was forcibly restrained by Defendant Cheseboro with such force as to result in a tear to the rotator cuff in his shoulder. Such unwarranted force was excessive and unreasonable under the circumstances. He had already been stunned by the flashbang stun grenade and was posing no danger to anyone. In addition, Bounkham Phonesavanh and Alecia Phonesavanh each witnessed the injuries to their son and were themselves subjected to an assault and battery during the search and seizure at issue. Because all the Defendants jointly and severally were actively participating in the execution of the warrant as described herein, said Defendants are jointly and severally liable to these Plaintiffs for all their damages as is Defendant Cheseboro. Defendants Kogod and Autry are each

individually liable because with reckless disregard for the truth they aided and abetted each other in procuring a search warrant under false and misleading pretenses such that there was no right to even enter the home or use any force at all during the search at issue.

**COUNT FIVE**  
**NEGLIGENT BREACH OF MINISTERIAL DUTY**  
**(AGAINST ALL DEFENDANTS)**

89.

The Plaintiffs reallege subparagraphs 1 through 84 as though fully set forth verbatim herein.

90.

Upon information and belief, the Cornelia Georgia Police Department/ Habersham County Georgia Sheriff's Office Special Response Team has a strict policy prohibiting the use of a flashbang stun grenade when children may be in the vicinity of the denotation of such a device. Notwithstanding this strict policy, Defendants violated and breached the ministerial duty existing under said policy in that a flashbang stun grenade was deployed in an area where innocent children were sleeping. Prior to the deployment of the device there was plain and visible evidence in or near the area of the deployment placing all of the Defendants on notice of the presence of children in the residence.

91.

At the time the flashbang stun grenade was deployed, no reasonable investigation had been done to determine whether there were children or other persons present in the area where it was to be detonated, as required by the Special Response Team policy.

92.

Any reasonable investigation would have resulted in the discovery of plainly visible evidence of the presence of children in the residence before deployment.

93.

By blindly throwing this potentially lethal device into a room where children were sleeping, the Defendants breached their ministerial duties as set forth in the policy adopted by the Special Response Team and for which all Defendants in this action are jointly and severally liable.

94.

When officers are properly trained on the proper method of deployment of the destructive device at issue, they are trained not to throw or toss the device blindly into a room because it could land on or near a sofa, bed, sleeping area or other area likely to be occupied by human beings. Instead, they are taught that the proper method of deployment is to use methods of deployment consistent with proper police

practices to minimize the possibility of injury when the device is used. These practices were violated here, as was the strict and simple ministerial duty not to deploy the device where children might be exposed to its dangers.

95.

By breaching his ministerial duties and violating proper police practices and procedures relative to the deployment of this potentially lethal device, Defendant Long breached ministerial duties which in turn proximately caused the injuries complained of herein.

**COUNT SIX**  
**INTENTIONAL INFLICTION OF EMOTIONAL DISTRESS**  
**(AGAINST ALL DEFENDANTS EXCEPT TERRELL)**

96.

The Plaintiffs reallege subparagraphs 1 through 95 as though fully set forth verbatim herein.

97.

The deployment of the flashbang stun grenade under the circumstances at issue and the manner and method of the execution of the search warrant as described herein constituted the intentional infliction of emotional distress in violation of the Plaintiffs' Fourth Amendment rights and under Georgia state law. All of the Defendants are jointly and severally liable for intentionally inflicting emotional



distress upon Plaintiffs.

**COUNT SEVEN**  
**(BREACH OF CONTRACT AGAINST ALL DEFENDANTS)**

98.

The Plaintiffs reallege subparagraphs 1 through 84 above as though fully set forth verbatim herein.

99.

Immediately after the flashbang stun grenade was deployed, law enforcement officers on the search team rushed into the residence seeking to apprehend their suspect Wanis Thonetheva, who was not in the residence at the time. Immediately upon entering the residence, one or more members of the search team recognized that Bou Bou Phonesavanh had been seriously injured by the flashbang grenade. There was obvious bleeding about his face and body and gun powder residue next to his pillow.

100.

Recognizing the severity of the injuries to this innocent child, members of the task force took custody of the child while intentionally keeping him away from his parents. They seized the child, took physical custody of his person and removed him from the residence without any notification to the parents as to the extent of their child's injuries.

101.

Notwithstanding that the injured child was their son, the parents were prohibited from going to his aid and comfort. Instead, after the officers took custody of the child, members of the search team kept the child from the parents and lied to the parents about the extent of the injuries he had sustained.

102.

The parents were told by officers on the search team that their son had a tooth dislodged as a result of the search and that the blood that the parents saw in or about the area of his crib was due to the alleged tooth issue. After they had seized the child, the Defendants transported him on an emergent basis to receive medical treatment for the serious burns and other injuries he had sustained. Again, when these initial medical decisions were made concerning their minor child, at no time were the parents allowed to see their son or otherwise come to his aid and comfort, as was their right. The Plaintiffs did not know the extent of their son's injuries (and were not provided truthful information about them by the Defendants) until they were told at the Hospital where their son was taken that he was in a coma.

103.

Once the child was delivered to medical authorities, a deputy Sheriff of the Habersham County Sheriff's office told the medical providers that the Habersham

County Sheriff's Office would be responsible for all bills incurred.

104.

As a result of the subject occurrence, once the Defendants took custody of the child, an implied contract existed whereby the Defendants expressly and impliedly agreed to pay the medical expenses resulting from their grossly incompetent and negligent acts.

105.

Had the flashbang stun grenade injured their suspect, Wanis Thonetheva, under the same circumstances involved here, the Sheriff of Habersham County would have a constitutional duty under Georgia state law to pay for the medical expenses of the suspect being taken into custody. Nonetheless, even though the Defendants took custody of Plaintiffs' minor son, expressly agreed to pay the bills, and entered into an implied and express contract with the medical providers to do so, the Defendants have refused to pay the medical expenses for this innocent child, in violation of their legal duty.

106.

The Plaintiffs complain herein not only of the violation of their rights under Georgia law, but also their due process rights because the Defendants now seek to deprive them of their money and property (relative to the payment of medical costs)

caused by their plain incompetence.

107.

It is a violation of the Plaintiffs' due process rights as guaranteed by the United States Constitution to deprive them of their money and property relative to the medical expenses at issue.

108.

It is a breach of contract, both implied and express, for the Defendants to refuse to pay medical expenses which they caused and which they agreed to pay when they delivered the child for treatment.

109.

All the Defendants are jointly liable for causing the medical expenses to be incurred (now in excess of one million dollars) due to their plain incompetence and are jointly liable for the violation of the plaintiffs' due process rights as complained of herein.

110.

The Plaintiffs are the intended third party beneficiaries of the implied contract at issue. All the Defendants herein have breached their contractual duty, both implied and express, to pay the costs of the medial expenses which were incurred as a result of their joint plain incompetence.

**COUNT EIGHT**  
**ATTORNEY FEES**  
**(ALL DEFENDANTS)**

111.

The Plaintiffs reallege subparagraphs 1 through 84 as though fully set forth verbatim herein.

112.

The Plaintiffs seek all applicable attorney's fees under state and federal law for the vindication of their civil and constitutional rights as guaranteed by the United States Constitution.

113.

The Plaintiffs seek all attorneys' fees available to them under 42 U.S.C. § 1988, the United States Constitution and under Georgia law.

**COUNT NINE**  
**PUNITIVE DAMAGES**  
**(ALL DEFENDANTS)**

114.

The Plaintiffs reallege subparagraphs 1 through 84 as though fully set forth verbatim herein.

115.

The acts complained of herein were such as to demonstrate an entire want of

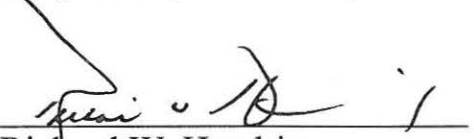
care and conscious indifference to the consequences and were committed willfully and wantonly in disregard of the constitutional and civil rights guaranteed by the Fourth Amendment to the United States Constitution. As a result, punitive damages are authorized.

**WHEREFORE**, Plaintiffs pray that:

- a. they be granted a jury trial as to all issues so triable;
- b. that Plaintiffs' Alecia and Bounkham Phonesavanh recover compensatory damages in an amount sufficient to compensate them for all medical expenses incurred, past present and future, arising from the subject incident for the treatment of their minor son until he reaches the age of majority, as well as for damages for the loss of his services;
- c. that the Plaintiffs Alecia and Bounkham Phonesavanh in their capacity as natural guardian and next friends and parents of their minor son receive damages for his bodily injuries and emotional pain and suffering, past, present and future;
- d. that Plaintiffs Alecia and Bounkham Phonesavanh having witnessed the horrific injuries sustained by their son, and having been subject to an assault and battery themselves, individually each recover damages for their emotional distress and related damages;
- e. that the Father, Bounkham Phonesavanh receive compensation for his personal bodily injuries, attendant medical expenses, future lost wages and pain and suffering;
- f. that all of the Plaintiffs receive an award for damages recognized by law and recoverable for the violation of their constitutional rights as guaranteed by the Fourth Amendment to the United States Constitution;

- g. that all of the Plaintiffs recover all reasonable attorneys' fees and costs in connection with the civil claims set forth herein; and
- h. that all of Plaintiffs receive punitive damages to punish and deter Defendants; and
- i. for such other and further relief as this Court deems just and proper.

Respectfully submitted,



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[ADDITIONAL SIGNATURE ON NEXT PAGE]

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**AFFIDAVIT AND APPLICATION FOR A SEARCH WARRANT**

IN THE MAGISTRATE COURT OF HABERSHAM COUNTY

STATE OF GEORGIA

**MAGISTRATE COURT**

**OF HABERSHAM CO., GA**

DOCKET NUMBER \_\_\_\_\_

THE UNDERSIGNED, N.C.I.S. Team Special Agent Nikki Autry, BEING <sup>2011 NOV 20 PM 2 34</sup> ~~SOLEMNLY~~ SWORN, DEPOSES AND SAYS:

I AM AN OFFICER OF THE STATE OF GEORGIA OR ITS POLITICAL SUBDIVISIONS CHARGED WITH THE DUTY OF ENFORCING THE CRIMINAL LAWS AND I HAVE REASON TO BELIEVE THAT IN HABERSHAM COUNTY, GEORGIA, ON THE PERSON, PREMISES, OR PROPERTY DESCRIBED AS FOLLOWS:

THE PERSON(S) OF: WANIS THONETHEVA

THE RESIDENCE LOCATED AT: 182 LAKEVIEW HEIGHTS, CORNELIA, HABERSHAM COUNTY, GEORGIA.

DIRECTIONS TO THE RESIDENCE ARE AS FOLLOWS: FROM THE INTERSECTION OF CAMP CREEK ROAD AND CHASE ROAD, TAKE A LEFT ONTO CHASE ROAD. TRAVEL ON CHASE ROAD TO THE FIRST ROAD ON THE LEFT (LAKEVIEW HEIGHTS). THE RESIDENCE WILL BE THE THIRD HOUSE ON THE RIGHT. THE RESIDENCE IS A SINGLE STORY BRICK STRUCTURE WITH BLUE IN COLOR SHUTTERS. THE RESIDENCE HAS A FRONT PORCH WITH WHITE COLUMNS.

THE SEARCH IS TO INCLUDE THE CURTILAGE, ALL OUTBUILDINGS, PERSONS, AND VEHICLES PRESENT UPON THE PROPERTY AT THE TIME OF THIS WARRANT'S EXECUTION THAT CAN BE REASONABLY CONNECTED TO THE VIOLATION SPECIFIED IN THIS SEARCH WARRANT.

THERE IS NOW LOCATED CERTAIN INSTRUMENTS, ARTICLES, PERSON(S) OR THINGS, NAMELY:

1. A QUANTITY OF METHAMPHETAMINE  
A CONTROLLED DANGEROUS SUBSTANCE (CDS).
2. QUANTITIES OF U.S. CURRENCY, PRECIOUS METALS, JEWELRY, FINANCIAL INSTRUMENTS (INCLUDING STOCKS, BONDS, CERTIFICATES OF DEPOSIT, ETC.) AND OTHER ITEMS OF VALUE THAT DEMONSTRATE UNEXPLAINED WEALTH.
3. BOOKS, LEDGERS, RECEIPTS, NOTES, BANK STATEMENTS, PASSBOOKS, LETTERS OF CREDIT, MONEY ORDERS, PERSONAL CHECKS, CASHIER CHECKS, AND OTHER PAPERS, SAFETY DEPOSIT BOX KEYS, MONEY WRAPPERS AND OTHER ITEMS EVIDENCING THE ACQUISITION, CONCEALMENT, TRANSFER OR EXPENDITURE OF MONEY.
4. ADDRESS AND TELEPHONE BOOKS, ROLODEX FILES, AND PAPERS RECORDING NAMES, ADDRESSES, TELEPHONE NUMBERS, PAGER NUMBERS, AND FAX NUMBERS OF CO-CONSPIRATORS, CUSTOMERS, FINANCIAL INSTITUTIONS AND OTHER INDIVIDUALS WITH WHOM A FINANCIAL RELATIONSHIP EXISTS.
5. BOOKS, PUBLICATIONS, RECORDS, NOTES, LEDGERS AND OTHER PAPERS RELATING TO THE TRANSPORTATION, ACQUISITION, MANUFACTURE, OR DISTRIBUTION OF CDS.
6. ELECTRONIC RECORDS CONTAINING INFORMATION RELATING TO THE TRANSPORTATION, ACQUISITION, MANUFACTURE, OR DISTRIBUTION OF CDS, OR THE ACQUISITION, CONCEALMENT, TRANSFER, OR EXPENDITURE OF MONEY. ELECTRONIC EQUIPMENT USED TO FACILITATE THESE ENDS, TO INCLUDE COMPUTERS, ELECTRONIC ORGANIZERS, CELLULAR TELEPHONES, STANDARD TELEPHONES, CALLER IDENTIFICATION BOXES, AND OTHER COMMUNICATION DEVICES RECORDING SUBSCRIBER INFORMATION OF OUTGOING AND INCOMING CALLS, PAGERS AND ANSWERING MACHINES.
7. PHOTOGRAPHS, NEGATIVES AND VIDEO RECORDINGS THAT DEPICT CO-CONSPIRATORS, ASSETS OR CDS.
8. KEYS, BILLS OF SALE, RENTAL, PURCHASE OR LEASE AGREEMENTS, AND OTHER ITEMS THAT EVIDENCE ACCESS, RESIDENCY, RENTAL OR OWNERSHIP OF THE PREMISES OR ASSETS DESCRIBED HEREIN.

**PLAINTIFF'S  
EXHIBIT**

A

9. PLASTIC BAGS, WIRE TWIST TIES, INERT COMPOUNDS, RAZORBLADES, TAPE, STORAGE CONTAINERS AND OTHER ITEMS ASSOCIATED WITH THE PACKAGING OF CDS.
10. MECHANICAL AND ELECTRONIC SCALES CAPABLE OF MEASURING THE WEIGHT OF CDS. CALIBRATION WEIGHTS CAPABLE OF VERIFYING THE ACCURACY OF SUCH SCALES.
11. RADIO FREQUENCY SCANNERS AND DETECTORS, VIDEO CAMERAS, NIGHT VISION DEVICES AND OTHER COUNTER-SURVEILLANCE EQUIPMENT CAPABLE OF REVEALING COVERT LAW ENFORCEMENT ACTIVITY.
12. FIREARMS AND AMMUNITION CAPABLE OF PROTECTING THE LIFE, PROPERTY OR ASSETS OF THE NAMED SUSPECT(S), INCLUDING HANDGUNS, PISTOLS, REVOLVERS, RIFLES, SHOTGUNS, AND OTHER WEAPONS. RECORDS AND RECEIPTS PERTAINING TO FIREARMS AND AMMUNITION.

WHICH IS (NAME THE LAW BEING VIOLATED):

VIOLATION OF THE GEORGIA CONTROLLED SUBSTANCES ACT, V.G.C.S.A. 16-13-30

THE FACTS TENDING TO ESTABLISH PROBABLE CAUSE THAT A CRIME HAS BEEN, OR IS BEING COMMITTED AND THE ABOVE DESCRIBED INSTRUMENTS, ARTICLES OR THINGS DESCRIBED ABOVE ARE PRESENTLY LOCATED AT THE ABOVE DESCRIBED PREMISES OR PROPERTY ARE AS FOLLOWS:

## INTRODUCTION

SPECIAL AGENT NIKKI AUTRY HAS BEEN A GEORGIA CERTIFIED LAW ENFORCEMENT OFFICER FOR APPROXIMATELY 10 YEARS AND EMPLOYED BY THE HABERSHAM COUNTY SHERIFF'S OFFICE. SPECIAL AGENT NIKKI AUTRY HAS BEEN ASSIGNED AS A SPECIAL AGENT WITH MOUNTAIN JUDICIAL CIRCUIT N.C.I.S. TEAM, WHICH SERVES HABERSHAM, RABUN AND STEPHENS COUNTY, GEORGIA, SINCE 2013. DURING HER EMPLOYMENT WITH THE MOUNTAIN JUDICIAL CIRCUIT N.C.I.S. TEAM, SPECIAL AGENT NIKKI AUTRY HAS CONDUCTED IN EXCESS OF 60 INVESTIGATIONS CONCERNING THE GEORGIA CONTROLLED SUBSTANCES ACT AND HAS WRITTEN/PARTICIPATED IN THE EXECUTION OF IN EXCESS OF 60 SEARCH WARRANTS.

BASED UPON HIS/HER KNOWLEDGE, TRAINING, AND EXPERIENCE:

1. CDS DEALERS COMMONLY MAINTAIN AN INVENTORY OF THEIR DRUGS TO SELL. CDS DEALERS COMMONLY CONCEAL DRUGS WITHIN THEIR RESIDENCES, OUTBUILDINGS, VEHICLES, AND ABOUT THEIR PERSON.
2. CDS DEALERS COMMONLY POSSESS WEALTH AND MAINTAIN A STANDARD OF LIVING UNEXPLAINABLE BY SOURCES OF LEGITIMATE INCOME. DRUGS ARE SOLD FOR U.S. CURRENCY OR BARTERED FOR ITEMS OF VALUE. ITEMS ACCEPTED IN TRADE INCLUDE FIREARMS, VEHICLES, PRECIOUS METALS, JEWELRY, TOOLS AND ELECTRONIC EQUIPMENT. ADDITIONAL ASSETS ARE ACQUIRED THROUGH THE EXPENDITURE OF PROFIT. CDS DEALERS COMMONLY MAINTAIN A SUPPLY OF U.S. CURRENCY ON HAND TO FINANCE THE DAILY OPERATION OF THEIR ENTERPRISE. ADDITIONAL QUANTITIES OF U.S. CURRENCY ARE CONVERTED TO FINANCIAL INSTRUMENTS, SUCH AS STOCKS, BONDS, AND CERTIFICATES OF DEPOSIT. UNEXPLAINED WEALTH IS PROBATIVE EVIDENCE OF CRIMES MOTIVATED BY GREED, THE SALE OF CDS IN PARTICULAR. CDS DEALERS COMMONLY MAINTAIN ASSETS WITHIN THEIR RESIDENCES, RESIDENCES, OUTBUILDINGS, VEHICLES, AND ABOUT THEIR PERSON.
3. CDS DEALERS COMMONLY DISPOSE OF EXCESS PROFITS BY CONVERSION TO OTHER FINANCIAL INSTRUMENTS, DEPOSIT IN FINANCIAL INSTITUTIONS, THE PURCHASE OF REAL ESTATE AND OTHER ASSETS, AND CONCEALMENT. CDS DEALERS COMMONLY MAINTAIN RECORDS OF FINANCIAL TRANSACTIONS IN BOOKS, LEDGERS, RECEIPTS, NOTES, BANK STATEMENTS, PASSBOOKS, LETTERS OF CREDIT, MONEY ORDERS, PERSONAL CHECKS, CASHIER CHECKS, AND OTHER PAPERS THAT DEMONSTRATE THE

ACQUISITION, TRANSFER AND EXPENDITURE OF ILLEGAL INCOME. SAFETY DEPOSIT BOXES ARE COMMON LOCATIONS FOR THE STORAGE OF IMPORTANT DOCUMENTS AND ASSETS. SAFETY DEPOSIT BOX KEYS DEMONSTRATE ACCESS AND PERMIT FURTHER INVESTIGATION. MONEY WRAPPERS ARE USED TO ORGANIZE LARGE AMOUNTS OF U.S. CURRENCY. CDS DEALERS COMMONLY MAINTAIN THESE RECORDS AND ITEMS WITHIN THEIR RESIDENCES, RESIDENCES, OUTBUILDINGS, VEHICLES, AND ABOUT THEIR PERSON.

4. CDS DEALERS COMMONLY MAINTAIN CONTACT INFORMATION FOR CO-CONSPIRATORS AND FINANCIAL ASSOCIATES. THESE RECORDS ARE COMMONLY FOUND IN ADDRESS AND TELEPHONE BOOKS, ROLODEX FILES, AND OTHER PAPERS. CDS DEALERS COMMONLY MAINTAIN THESE RECORDS WITHIN THEIR RESIDENCES, RESIDENCES, OUTBUILDINGS, VEHICLES, AND ABOUT THEIR PERSON.
5. CDS DEALERS COMMONLY POSSESS BOOKS, PUBLICATIONS, RECORDS AND NOTES RELATING TO THE MANUFACTURE AND PREPARATION OF THEIR PRODUCT. CLANDESTINE LABORATORY OPERATORS COMMONLY POSSESS CHEMISTRY BOOKS AND LISTS OF CHEMICALS TO BE OBTAINED. CDS DEALERS COMMONLY MAINTAIN RECEIPTS, NOTES AND OTHER PAPERS DOCUMENTING TRAVEL TO LOCATIONS WHERE CDS IS OBTAINED. CDS DEALERS COMMONLY PROVIDE DRUGS TO THEIR CUSTOMERS ON CONSIGNMENT, AND MAINTAIN A LEDGER OF THE CUSTOMER NAME AND AMOUNT OF MONEY OWED. CDS DEALERS COMMONLY MAINTAIN THESE DOCUMENTS WITHIN THEIR RESIDENCES, RESIDENCES, OUTBUILDINGS, VEHICLES, AND ABOUT THEIR PERSON.
6. CDS DEALERS COMMONLY USE COMPUTERS AND COMMUNICATION DEVICES TO FACILITATE THEIR ILLEGAL ACTIVITIES. COMPUTERS CREATE, STORE AND TRANSFER TEXT, IMAGE AND FINANCIAL FILES, AND MAINTAIN A HISTORICAL RECORD OF WEB SITES VISITED THROUGH AN INTERNET CONNECTION. CELLULAR AND STANDARD TELEPHONES, CALLER IDENTIFICATION BOXES AND OTHER COMMUNICATION DEVICES RECORD SUBSCRIBER INFORMATION OF OUTGOING NUMBERS DIALED AND INCOMING CALLS RECEIVED. PAGERS STORE TEXT AND NUMERICAL MESSAGES. ANSWERING MACHINES RECORD TELEPHONE MESSAGES. CDS DEALERS COMMONLY MAINTAIN ELECTRONIC DEVICES WITHIN THEIR RESIDENCES, RESIDENCES, OUTBUILDINGS, VEHICLES, AND ABOUT THEIR PERSON.
7. CDS DEALERS COMMONLY TAKE OR CAUSE TO BE TAKEN PHOTOGRAPHS AND VIDEO RECORDINGS OF THEMSELVES, THEIR CO-CONSPIRATORS, ASSETS AND PRODUCT. CDS DEALERS COMMONLY MAINTAIN PHOTOGRAPHS, NEGATIVES AND VIDEO RECORDINGS WITHIN THEIR RESIDENCES, RESIDENCES, OUTBUILDINGS, VEHICLES, AND ABOUT THEIR PERSON.
8. CDS DEALERS COMMONLY DENY OWNERSHIP OF OR ACCESS TO PREMISES, RESIDENCES, OUTBUILDINGS AND VEHICLES. POSSESSION OF KEYS, BILLS OF SALE, RENTAL, PURCHASE OR LEASE AGREEMENTS AND OTHER ITEMS DEMONSTRATE ACCESS, RESIDENCY OR OWNERSHIP. CDS DEALERS COMMONLY MAINTAIN THESE ITEMS WITHIN THEIR RESIDENCES, RESIDENCES, OUTBUILDINGS, VEHICLES, AND ABOUT THEIR PERSON.
9. CDS DEALERS COMMONLY USE PACKAGING MATERIALS TO ORGANIZE, CONCEAL, AND PROTECT THEIR SUPPLY OF DRUGS. PACKAGING MATERIALS FOR CDS INCLUDE PLASTIC BAGS, WIRE TWIST TIES, RAZORBLADES, STORAGE CONTAINERS, TAPE, AND OTHER ITEMS. PLASTIC BAGS ARE USED TO PACKAGE SPECIFIC AMOUNTS OF DRUGS FOR SALE. WIRE TWIST TIES ARE USED TO SEAL PLASTIC BAG CORNERS CONTAINING DRUGS, ESPECIALLY COCAINE AND METHAMPHETAMINE. BAKING SODA, VITAMIN B-12, NUTRITIONAL DRINK POWDERS AND OTHER INERT COMPOUNDS ARE MIXED WITH DRUGS TO REDUCE POTENCY AND INCREASE PROFIT MARGINS. RAZORBLADES ARE USED TO CUT CRACK COCAINE INTO 'ROCKS,' AND PREPARE OTHER DRUGS FOR MIXTURE WITH INERT COMPOUNDS. DUCT TAPE AND ELECTRICAL TAPE ARE USED TO WATERPROOF PACKAGES OF DRUGS AND ASSETS PRIOR TO OUTDOOR STORAGE. STORAGE CONTAINERS ARE USED TO CONCEAL AND PROTECT DRUGS AND ASSETS. CDS DEALERS COMMONLY MAINTAIN PACKAGING MATERIALS WITHIN THEIR RESIDENCES, RESIDENCES, OUTBUILDINGS, VEHICLES, AND ABOUT THEIR PERSON.

10. CDS DEALERS COMMONLY USE ELECTRONIC AND MECHANICAL SCALES TO VERIFY THEIR PURCHASES AND ACCURATELY PREPARE DRUGS FOR RE-SALE. PRICES FOR DRUGS ARE BASED ON WEIGHT OR DOSAGE UNIT. CALIBRATION WEIGHTS ARE USED TO VERIFY THE ACCURACY OF SCALES. CDS DEALERS COMMONLY MAINTAIN THESE ITEMS WITHIN THEIR RESIDENCES, RESIDENCES, OUTBUILDINGS, VEHICLES, AND ABOUT THEIR PERSON.
11. CDS DEALERS COMMONLY PERFORM COUNTER-SURVEILLANCE OF LAW ENFORCEMENT ACTIVITY TO AVOID DETECTION AND ARREST. RADIO FREQUENCY SCANNERS PERMIT EAVESDROPPING ON LAW ENFORCEMENT RADIO COMMUNICATIONS. RADIO FREQUENCY DETECTORS PROVIDE WARNING AGAINST BODY-WORN RADIO TRANSMITTERS OF UNDERCOVER OFFICERS. VIDEO SURVEILLANCE CAMERAS AND NIGHTVISION EQUIPMENT INCREASE THE ABILITY TO DETECT APPROACHING LAW ENFORCEMENT OFFICERS. CDS DEALERS COMMONLY MAINTAIN SURVEILLANCE EQUIPMENT WITHIN THEIR RESIDENCES, RESIDENCES, OUTBUILDINGS, VEHICLES, AND ABOUT THEIR PERSON.
12. CDS DEALERS COMMONLY USE FIREARMS AND OTHER WEAPONS TO SECURE THEIR LIFE, PROPERTY AND ASSETS. WEAPONS ARE CONSIDERED TOOLS OF THE DRUG TRADE. IT IS REASONABLY FORESEEABLE THAT PERSONS INVOLVED IN THE SALE OF DRUGS WILL CARRY, POSSESS AND USE WEAPONS. CDS DEALERS COMMONLY MAINTAIN WEAPONS WITHIN THEIR RESIDENCES, RESIDENCES, OUTBUILDINGS, VEHICLES, AND ABOUT THEIR PERSON.
13. OTHER PERSONS AT A LOCATION WHERE CDS IS STORED OR SOLD ARE COMMONLY PRESENT TO PURCHASE OR DELIVER QUANTITIES OF CDS, AND THESE OTHER PERSONS COMMONLY POSSESS INSTRUMENTS, ARTICLES AND THINGS LISTED IN THIS AFFIDAVIT TO BE SEIZED. OTHER PERSONS COMMONLY MAINTAIN THESE ITEMS WITHIN THEIR VEHICLES, AND ABOUT THEIR PERSON.

## INVESTIGATION

WITHIN THE PAST THREE (3) DAYS, YOUR AFFIANT HAS RECEIVED INFORMATION THAT WANIS THONETHEVA WAS SELLING ILLEGAL NARCOTICS FROM HIS RESIDENCE LOCATED AT 182 LAKEVIEW HEIGHTS, CORNELIA, HABERSHAM COUNTY, GEORGIA. DURING THIS SAME TIME PERIOD, YOUR AFFIANT CONDUCTED AN UNDERCOVER DRUG INVESTIGATION DURING WHICH TIME CI#1459 WAS ABLE TO PURCHASE A QUANTITY OF METHAMPHETAMINE FROM WANIS THONETHEVA AT THONETHEVA'S RESIDENCE. CI#1459 IS A TRUE AND RELIABLE INFORMANT WHO HAS PROVIDED INFORMATION IN THE PAST THAT HAS LED TO CRIMINAL CHARGES ON INDIVIDUALS SELLING ILLEGAL NARCOTICS IN HABERSHAM COUNTY, GEORGIA.

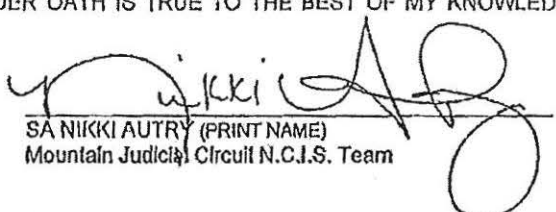
YOUR AFFIANT HAS ARRESTED WANIS THONETHEVA IN THE PAST FOR VIOLATION OF THE GEORGIA CONTROLLED SUBSTANCES ACT.

YOUR AFFIANT HAS CONFIRMED THAT THERE ARE SEVERAL INDIVIDUALS OUTSIDE OF THE RESIDENCE STANDING "GUARD" AND THAT THERE ARE SEVERAL VEHICLES IN THE DRIVEWAY.

YOUR AFFIANT HAS ALSO CONFIRMED THAT THERE IS HEAVY TRAFFIC IN AND OUT OF THE RESIDENCE.

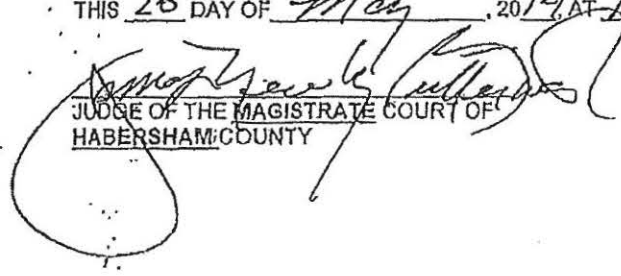
YOUR AFFIANT IS AWARE OF WEAPONS BEING PRESENT AT THE RESIDENCE ON PREVIOUS OCCASIONS. BASED ON THIS FACT, AND THE POSSIBILITY OF THE DESTRUCTION OF EVIDENCE, YOUR AFFIANT IS REQUESTING THAT THE COURT AUTHORIZE THE NO KNOCK PROVISION AS PART OF THIS SEARCH WARRANT.

I SWEAR OR AFFIRM THAT ALL OF THE INFORMATION CONTAINED IN THIS AFFIDAVIT AND ALL OTHER TESTIMONY GIVEN BY ME UNDER OATH IS TRUE TO THE BEST OF MY KNOWLEDGE AND BELIEF.

  
SA NIKKI AUTRY (PRINT NAME)  
Mountain Judicial Circuit N.C.I.S. Team

SWORN AND SUBSCRIBED TO BEFORE ME

THIS 28 DAY OF May, 2014, AT 12:15 PM

  
JUDGE OF THE MAGISTRATE COURT OF  
HABERSHAM COUNTY



**SEARCH WARRANT**  
IN THE MAGISTRATE COURT OF HABERSHAM COUNTY MAGISTRATE COURT  
STATE OF GEORGIA OF HABERSHAM CO., GA  
DOCKET NUMBER \_\_\_\_\_

TO: ALL PEACE OFFICERS OF THE STATE OF GEORGIA

2014 MAY 30 PM 2 35

AFFIDAVIT HAVING BEEN MADE BEFORE ME BY SA NIKKI AUTRY, AN OFFICER CHARGED WITH THE DUTY OF ENFORCING THE CRIMINAL LAWS, THAT HE HAS REASON TO BELIEVE THAT IN HABERSHAM COUNTY, GEORGIA ON THE FOLLOWING DESCRIBED PERSON, PREMISES, OR PROPERTY: (STATE DETAILED DESCRIPTION OF PERSON, PROPERTY, OR LOCATION)

THE PERSON(S) OF: WANIS THONETHEVA

THE RESIDENCE LOCATED AT: 182 LAKEVIEW HEIGHTS, CORNELIA, HABERSHAM COUNTY, GEORGIA.

DIRECTIONS TO THE RESIDENCE ARE AS FOLLOWS: FROM THE INTERSECTION OF CAMP CREEK ROAD AND CHASE ROAD, TAKE A LEFT ONTO CHASE ROAD. TRAVEL ON CHASE ROAD TO THE FIRST ROAD ON THE LEFT (LAKEVIEW HEIGHTS). THE RESIDENCE WILL BE THE THIRD HOUSE ON THE RIGHT. THE RESIDENCE IS A SINGLE STORY BRICK STRUCTURE WITH BLUE IN COLOR SHUTTERS. THE RESIDENCE HAS A FRONT PORCH WITH WHITE COLUMNS.

THE SEARCH IS TO INCLUDE THE CURTILAGE, ALL OUTBUILDINGS, PERSONS, AND VEHICLES PRESENT UPON THE PROPERTY AT THE TIME OF THIS WARRANT'S EXECUTION THAT CAN BE REASONABLY CONNECTED TO THE VIOLATION SPECIFIED IN THIS SEARCH WARRANT.

THERE IS NOW LOCATED CERTAIN INSTRUMENTS, ARTICLES, PERSON(S) OR THINGS, NAMELY:

1. A QUANTITY OF METHAMPHETAMINE  
A CONTROLLED DANGEROUS SUBSTANCE (CDS).
2. QUANTITIES OF U.S. CURRENCY, PRECIOUS METALS, JEWELRY, FINANCIAL INSTRUMENTS (INCLUDING STOCKS, BONDS, CERTIFICATES OF DEPOSIT, ETC.) AND OTHER ITEMS OF VALUE THAT DEMONSTRATE UNEXPLAINED WEALTH.
3. BOOKS, LEDGERS, RECEIPTS, NOTES, BANK STATEMENTS, PASSBOOKS, LETTERS OF CREDIT, MONEY ORDERS, PERSONAL CHECKS, CASHIER CHECKS, AND OTHER PAPERS, SAFETY DEPOSIT BOX KEYS, MONEY WRAPPERS AND OTHER ITEMS EVIDENCING THE ACQUISITION, CONCEALMENT, TRANSFER OR EXPENDITURE OF MONEY.
4. ADDRESS AND TELEPHONE BOOKS, ROLODEX FILES, AND PAPERS RECORDING NAMES, ADDRESSES, TELEPHONE NUMBERS, PAGER NUMBERS, AND FAX NUMBERS OF CO-CONSPIRATORS, CUSTOMERS, FINANCIAL INSTITUTIONS AND OTHER INDIVIDUALS WITH WHOM A FINANCIAL RELATIONSHIP EXISTS.
5. BOOKS, PUBLICATIONS, RECORDS, NOTES, LEDGERS AND OTHER PAPERS RELATING TO THE TRANSPORTATION, ACQUISITION, MANUFACTURE, OR DISTRIBUTION OF CDS.
6. ELECTRONIC RECORDS CONTAINING INFORMATION RELATING TO THE TRANSPORTATION, ACQUISITION, MANUFACTURE, OR DISTRIBUTION OF CDS, OR THE ACQUISITION, CONCEALMENT, TRANSFER, OR EXPENDITURE OF MONEY. ELECTRONIC EQUIPMENT USED TO FACILITATE THESE ENDS, TO INCLUDE COMPUTERS, ELECTRONIC ORGANIZERS, CELLULAR TELEPHONES, STANDARD TELEPHONES, CALLER IDENTIFICATION BOXES, AND OTHER COMMUNICATION DEVICES RECORDING SUBSCRIBER INFORMATION OF OUTGOING AND INCOMING CALLS, PAGERS AND ANSWERING MACHINES.
7. PHOTOGRAPHS, NEGATIVES AND VIDEO RECORDINGS THAT DEPICT CO-CONSPIRATORS, ASSETS OR CDS.

8. KEYS, BILLS OF SALE, RENTAL, PURCHASE OR LEASE AGREEMENTS, AND OTHER ITEMS THAT EVIDENCE ACCESS, RESIDENCY, RENTAL OR OWNERSHIP OF THE PREMISES OR ASSETS DESCRIBED HEREIN.
9. PLASTIC BAGS, WIRE TWIST TIES, INERT COMPOUNDS, RAZORBLADES, TAPE, STORAGE CONTAINERS AND OTHER ITEMS ASSOCIATED WITH THE PACKAGING OF CDS.
10. MECHANICAL AND ELECTRONIC SCALES CAPABLE OF MEASURING THE WEIGHT OF CDS. CALIBRATION WEIGHTS CAPABLE OF VERIFYING THE ACCURACY OF SUCH SCALES.
11. RADIO FREQUENCY SCANNERS AND DETECTORS, VIDEO CAMERAS, NIGHT VISION DEVICES AND OTHER COUNTER-SURVEILLANCE EQUIPMENT CAPABLE OF REVEALING COVERT LAW ENFORCEMENT ACTIVITY.
12. FIREARMS AND AMMUNITION CAPABLE OF PROTECTING THE LIFE, PROPERTY OR ASSETS OF THE NAMED SUSPECT(S), INCLUDING HANDGUNS, PISTOLS, REVOLVERS, RIFLES, SHOTGUNS, AND OTHER WEAPONS. RECORDS AND RECEIPTS PERTAINING TO FIREARMS AND AMMUNITION.

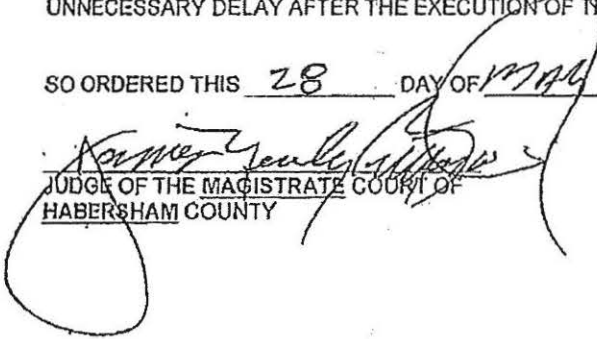
WHICH IS (NAME THE LAW BEING VIOLATED):

VIOLATION OF THE GEORGIA CONTROLLED SUBSTANCES ACT, O.C.G.A. 16-13-30

BASED UPON THE AFFIDAVIT GIVEN UNDER OATH OR AFFIRMATION AND ALL OTHER EVIDENCE GIVEN TO ME UNDER OATH OR AFFIRMATION, I AM SATISFIED THAT THERE IS PROBABLE CAUSE TO BELIEVE THAT A CRIME IS BEING COMMITTED OR HAS BEEN COMMITTED AND THAT THE PROPERTY DESCRIBED ABOVE IS PRESENTLY LOCATED ON THE PERSON, PREMISES, OR PROPERTY DESCRIBED ABOVE.

YOU ARE HEARBY COMMANDED TO ENTER, SEARCH AND SEIZE WITHIN TEN (10) DAYS OF THIS DATE, THE PERSON, PREMISES, OR PROPERTY DESCRIBED ABOVE. A COPY OF THIS WARRANT IS TO BE LEFT WITH THE PERSON SEARCHED, AND IF NO PERSON IS AVAILABLE, ON THE PREMISES OR VEHICLE SEARCHED, AND A WRITTEN RETURN, INCLUDING AN INVENTORY OF ANYTHING SEIZED, SHALL BE MADE BEFORE ME OR A COURT OF COMPETENT JURISDICTION WITHOUT UNNECESSARY DELAY AFTER THE EXECUTION OF THIS SEARCH WARRANT.

SO ORDERED THIS 28 DAY OF MAY, 2014, AT 12:15 AM.

  
JUDGE OF THE MAGISTRATE COURT OF  
HABERSHAM COUNTY

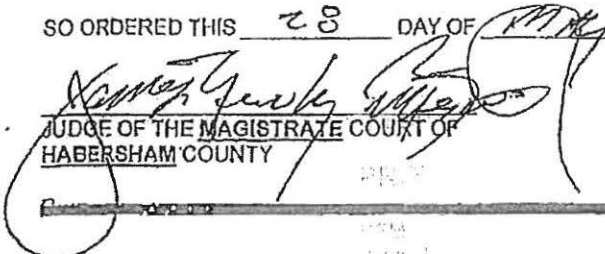
DOCKET NUMBER \_\_\_\_\_

**NO-KNOCK PROVISION (NOT VALID UNLESS SIGNED)**

IT APPEARING FROM THE AFOREMENTIONED AFFIDAVIT THAT THERE ARE REASONABLE GROUNDS TO BELIEVE THAT THE GIVING OF VERBAL NOTICE WOULD GREATLY INCREASE THE OFFICERS PERIL AND (OR) LEAD TO THE IMMEDIATE DESTRUCTION OF THE INSTRUMENTS, ARTICLES OR THINGS, ORDERED TO BE SEIZED.

IT IS, THEREFORE, ORDERED THAT ENTRY BE MADE WITHOUT KNOCKING AND THE GIVING OF VERBAL NOTICE OF THE OFFICERS AUTHORITY AND PURPOSE.

SO ORDERED THIS 28 DAY OF MAY, 2014, AT 12:15 AM

  
JUDGE OF THE MAGISTRATE COURT OF  
HABERSHAM COUNTY

---



RETURN OF SERVICE

[ ] THIS SEARCH WARRANT WAS NOT EXECUTED AND IS RETURNED TO THE JUDICIAL OFFICER WHO ISSUED IT.

X I EXECUTED THIS SEARCH WARRANT ON THE 28<sup>th</sup> DAY OF May, 20 14, AT 0217 AM, AND SEARCHED THE PERSON, PREMISES OR PROPERTY DESCRIBED IN THE WARRANT. A COPY OF THIS WARRANT:

[ ] WAS LEFT WITH \_\_\_\_\_

X WAS LEFT IN THE FOLLOWING CONSPICUOUS PLACE Kitchen Counter BECAUSE NO ONE WAS AVAILABLE TO BE GIVEN THE WARRANT.

ATTACHED HERETO IS AN INVENTORY CONSISTING OF 1 PAGES, OF THE INSTRUMENTS, ARTICLES OR THINGS WHICH WERE SEIZED PURSUANT TO THIS SEARCH WARRANT. THIS INVENTORY WAS MADE IN THE PRESENCE OF Murray Kogod, AND I SWEAR (AFFIRM) THAT THIS INVENTORY IS A TRUE AND DETAILED ACCOUNT OF ALL INSTRUMENTS, ARTICLES OR THINGS SEIZED PURSUANT TO THIS SEARCH WARRANT.

Nikki Autry  
S/A NIKKI AUTRY (PRINT NAME)  
Mountain Judicial Circuit N.C.I.S. Team

SWORN AND SUBSCRIBED TO BEFORE ME  
THIS 30 DAY OF MAY, 20 14, AT 2:29 PM

[Signature]  
JUDGE OF THE MAGISTRATE COURT OF  
HABERSHAM COUNTY

MAGISTRATE COURT  
OF HABERSHAM CO., GA  
2014 MAY 30 PM 2 35



PLAINTIFF'S  
EXHIBIT

B.

**MEMORANDUM OF INTER-GOVERNMENTAL AND  
INTER-AGENCY AGREEMENT  
CALENDAR YEAR 2014/GRANT YEAR 2013**

**SECTION I**

In a concerted effort to rid their respective jurisdictions of the use and influence of illicit drugs and in an attempt to reduce the incidence of violent crime, the governing bodies of the Habersham, Stephens and Rabun Counties and the City of Toccoa, have each authorized the submission of an application for funding under the 2013 Edward Byrne Memorial Justice Assistance Grant (JAG) Program. Upon the Grant Program being funded, the Mountain Judicial Circuit Narcotics Criminal Investigation and Suppression Team, hereinafter known as the NCIS Team, comprised of Habersham, Stephens and Rabun Counties (and all Cities of the Mountain Judicial Circuit, including the Cities of Alto, Baldwin, Clarkesville, Clayton, Cornelia, Demorest, Dillard, Mt. Airy, Mountain City, Sky Valley, Toccoa and Tallulah Falls) will be implemented and provided the resources necessary to facilitate the investigation, arrest, prosecution and conviction of drug and violent crime offenders, whose illicit activity impacts the collective jurisdictions.

**SECTION II**

With respect to the general management and operations of the NCIS Team, the participating units of government and agencies do hereby agree to the following particulars:

1. The Habersham County Commissioners' office shall serve as the applicant and recipient of funding on behalf of the participating units of government identified under Section I.
2. The Habersham, Rabun and Stephens County Sheriff's Office shall serve as the implementing agencies for administrative purposes. Responsibility for assuring compliance with program regulations and applicable local, state and federal laws



is the responsibility of the award recipient as identified under Section I and the implementing agencies as identified under Section II, Subsection 2 of this agreement.

3. The implementing agencies will provide proof that all employees maintain full liability coverage when conducting law enforcement activities outside the boundaries of the employees' respective agencies.
4. All federal match requirements will be met in accordance with current regulations and appropriated by participating units of government as follows:

MOUNTAIN JUDICIAL CIRCUIT N.C.I.S. TEAM  
BUDGET FOR 2013 GRANT YEAR

Agent Salaries will be budgeted 100% by the hiring Agency, a portion of which will be reimbursed to the county/city according to the actual grant award.

Agent Salary:

Habersham County	\$ 43,160.57	
Rabun County	\$ 48,491.59	
Stephens County	\$ 50,163.16	
Toccoa Police Department	\$ 44,129.01	<b>Total: \$185,944.33</b>

Commander and Grant-Funded Special Agent's Salaries are as follows:

Commander's Salary	\$ 66,586.52	
Grant-Funded Special Agent's Salary	<u>\$ 43,870.23</u>	<b>Total: \$110,456.75</b>
Total Counties/Cities Salary expense	\$296,401.08	
Anticipated CJCC Grant Funds	\$114,216.00	

100% of the Commander and Grant-Funded Special Agent Salaries will be paid by Habersham County, as the Host County. Habersham County will be reimbursed 100% of these salaries as the Grant Funds are received. Upon reimbursement of 100% of the Special Agent in Charge/Commander and Grant-Funded Special Agent Salaries paid by Habersham County, any remaining grant funds will be utilized to reimburse participating agencies based on an equal share amount.

It is hereby mutually agreed by all parties participating in this Memorandum of Understanding and Inter-agency Agreement that the sustained provision of the necessary resources to maintain N.C.I.S. Team operations is crucial and beneficial to all affected jurisdictions. Additionally, it is understood by all participating parties that grant awards are based on an understanding that continued sustainability beyond grant funding is a basis for initial grant fund approval. With a desire to continue to provide for the cost-efficient investigation, arrest, prosecution and conviction of drug and violent crime offenders whose illicit activities impact the collective jurisdictions, the governing bodies of Habersham, Stephens and Rabun counties agree to allocate additional county funds (based on a 1/3 equal share) for N.C.I.S. Team grant-funded expenditures should grant funds cease to be available. The governing bodies further agree to equally share all annual accounting and auditing expenses directly associated with the N.C.I.S. Team budget.

The NCIS Team will pay 100% of the Operational Expenses from previously seized funds. The budget amount for Calendar Year 2014/ Grant Year 2013 for expenses is \$60,400.00.

5. It is hereby agreed that the revenues received as a result of court-ordered condemnations made by the NCIS Team shall be returned to the NCIS Team to be incorporated in said NCIS Team's Master Fund account. It is agreed that 100% of revenues generated will be returned to the NCIS Team's Master Fund regardless of the jurisdiction within which the confiscations are made.

Asset division and/or revenues received in cases not initiated by the NCIS Team, but in which the NCIS Team has participated, will be determined by the District Attorney.

Assets division and/or revenues received in cases involving forfeited monies through federal forfeiture actions will be determined by the District Attorney.

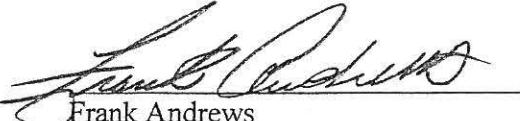
6. The balance of revenues received as a result of condemnation will be utilized by the NCIS Team and participating member agencies for continued drug and violent crime control initiatives and will not be utilized by the participating units of government to supplant local funds previously apportioned for law enforcement or other government services.



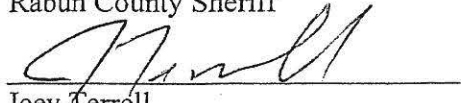
7. All operational and management policies shall be established and unanimously approved by a N.C.I.S. Team Control Board comprised of the primary executive officer of each participating agency. The N.C.I.S. Team Control Board will have regularly scheduled meetings and will record and maintain written meeting summaries.
8. The N.C.I.S. Team Control Board will adopt or amend by unanimous vote bylaws governing the conduct of its routine oversight responsibilities. Said bylaws will provide the following:
  - A. Identification of N.C.I.S. Team Control Board membership;
  - B. Requirements for a quorum;
  - C. Establishment of selection process for Chairman and Vice-Chairman;
  - D. Approval and adoption of Standard Operating Policies and Guidelines upon which NCIS Team activities will be based;
  - E. Approval and adoption of personnel selection and oversight policies.
9. Standard Operating Policies and Guidelines governing activities of the NCIS Team will be adopted by unanimous vote of the N.C.I.S. Team Control Board and will include, but not be limited to, the following:
  - A. A statement of purpose;
  - B. Policies regarding training of NCIS Team personnel;
  - C. A policy for coordination and monitoring of cases to ensure proper timing of investigative and prosecutorial activities;
  - D. A policy for the conduct and coordination of investigative seizure, surveillance and use of force, and;
  - E. A policy to address property, evidence and fund accountability.
10. All personnel assigned to the NCIS Team will meet, or exceed, the minimum qualifications established by the Criminal Justice Coordinating Council and the N.C.I.S. Team Control Board.

11. All NCIS Team personnel will attend appropriate training sessions offered at the Georgia Public Safety Training Center and at other locations deemed appropriate by the Special Agent in Charge/Commander.
12. The NCIS Team shall cooperate and coordinate its efforts with local law enforcement agencies, all district attorneys from the affected region, authorized state law enforcement agencies, the Federal Drug Enforcement Administration and the Federal Bureau of Alcohol, Tobacco and Firearms.
13. The NCIS Team efforts shall be coordinated with the District Attorney's office. The District Attorney has been invited to be a participating agency of the NCIS Team.
14. The NCIS Team Control Board Members concur with the NCIS Team Strategic Plan included in the 2013 Edward Byrne Memorial Justice Assistance Grant (JAG) Program application.


This MEMORANDUM OF INTER-GOVERNMENTAL AND INTER-AGENCY AGREEMENT is hereby agreed to by the following signatories, who also agree that this memorandum is subject to revision, as deemed appropriate by the N.C.I.S. Team Control Board.

  
Frank Andrews  
Rabun County Sheriff

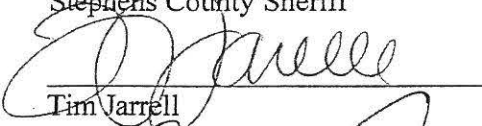
02-25-2014  
Date

  
Joey Ferrell  
Habersham County Sheriff


3-7-14  
Date

  
Randy Shirley  
Stephens County Sheriff

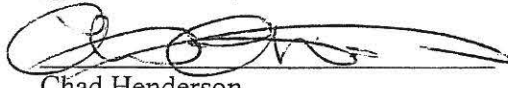
3-13-14  
Date

  
Tim Jarrell  
Toccoa Police Department

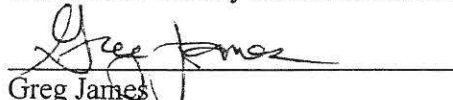
4/14/14  
Date

  
Brian Rickman  
District Attorney for the Mountain Judicial Circuit

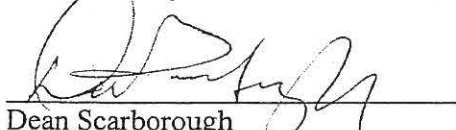
4-25-14  
Date

  
Chad Henderson  
Habersham County Board Chairman

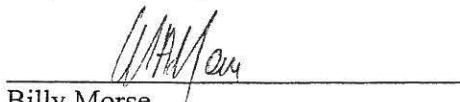
2/25/2014  
Date

  
Greg James  
Rabun County Board Chairman

2/25/2014  
Date

  
Dean Scarborough  
Stephens County Board Chairman

3/25/2014  
Date

  
Billy Morse  
Toccoa City Manager

4/14/14  
Date



BEFORE THE GEORGIA  
PEACE OFFICER STANDARDS  
AND TRAINING COUNCIL

IN THE MATTER:

MYSTI N AUTRY

Respondent

\*  
\*  
\*  
\*  
\*  
\*  
\*

CASE NO. \_\_\_\_\_

VOLUNTARY SURRENDER

I, MYSTI N AUTRY, holder of Certification Number(s)  
PBLE102018S permitting me to practice as a Peace Officer in the  
State of Georgia pursuant to O.C.G.A. chapter 35-8, as amended,  
hereby freely, knowingly and voluntarily surrender said  
certification to the Georgia Peace Officer Standards and  
Training Council, hereinafter referred to as the Council. I  
hereby acknowledge that this surrender shall have the same  
effect as revocation of my certification, and I knowingly  
forfeit and relinquish all rights, titles and privileges of  
practicing as a peace officer in the State of Georgia, unless  
and until such time as my certification may be reinstated, in  
the sole discretion of the Council.

I understand that I have a right to a hearing in this  
matter, and I hereby freely, knowingly and voluntarily waive



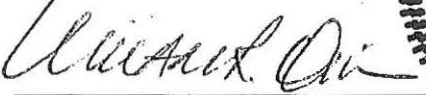
such right. I also understand that should any request for reinstatement be entertained by the Council, the Council shall have access to the entire investigative file in this matter.

The surrender shall become effective immediately upon acceptance thereof by the Georgia Peace Officer Standards and Training Council. I understand that this document will be considered a public record entered as the final disposition of disciplinary proceedings presently pending against me, and that this action shall be considered and may be recorded as the final order of the Council.

This 6th day of OCTOBER 2014.

  
MYSTI NAUTRY  
RESPONDENT

Sworn to and subscribed  
before me this 6<sup>TH</sup>  
of OCTOBER

  
NOTARY PUBLIC  
My commission expires:



This surrender constitutes resolution of case number

\_\_\_\_\_.