

Memo

To: Readers of the Resources section of my web site

From: Michael A. Catalano, P.A.
Attorney at Law
1531 N.W. 13 Court
Miami, FL 33125
305-325-9818
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Email: mclawyer@bellsouth.net

Re: Sandra Veiga Investigation

This is memo number 8. This PDF consists of 9 pages total.

This is the motion Veiga's attorney is filing to quash our subpoenas.

Please note, this letter makes it clear that he will accept subpoenas for her.

IN THE COUNTY COURT IN AND
FOR MIAMI-DADE COUNTY, FLORIDA
CRIMINAL DIVISION

THE STATE OF FLORIDA,

Plaintiff,

vs.

CASE NO.: 238749W

FEDERICO MENDEZ-GARCIA

Defendant.

MOTION FOR PROTECTIVE ORDER

SANDRA VIEGA, an individual, by and through the undersigned counsel hereby files this motion for protective order to preclude deposition scheduled for November 25, 2008 and in support thereof states as follows:

1. The proposed deponent, Sandra Viega, was an inspector for The Florida Department of Law Enforcement until September 9, 2008. On that date she was dismissed for allegedly making statements that were unbecoming an officer. The alleged statements were that the Intoxilizer 8000 machine test failure could be avoided by turning the machine off. The statement was not made but more importantly, on its face the statement was meaningless.
2. Based upon suspicion and inuendo, the Defense Bar has sought to vilify Ms. Veiga, and on October 29, 2008 this Honorable Court entered an order requiring her

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deposition before November 29, 2008. It is believed that this court and others have entered similar orders in other cases. The Deponent was not advised before the hearing of the issues, did not have an opportunity to be heard and now brings this motion as her testimony is irrelevant to this case, and every other case where the Defense seeks to impeach the "Intoxilyzer 8000 instrument" with out specific grounds related to the machine, records or test

3. In response to the cry for her participation the undersigned has agreed to accept subpoenas on her behalf. The undersigned has reached out to Administrative judge Sam Slom, Assistant State Attorney Pat Trice, The FDLE counsel, and the Defense Bar, including a emailing to those on the service list and the FACDL to determine their willingness to consolidate discovery.
4. It is apparent that the Defense Bar, in total seeks to create an issue about the propriety of the testing procedures for each case. This general concern about the ministerial act does not justify the Sandra Veiga's deposition in each and every DUI without more specific factual basis.
5. The burden placed upon Ms. Veiga, and created by a number of depositions she is exposed to is not justified with out more specific need for her deposition. It is clear that ministerial acts, such as machine testing by the FDLE, are not of a constitutional dimension and are subject to "substantial compliance" analysis. See *Johnson v. State* 600 So. 2d 648 (Fla. 1995) and *Gonzalez v. Vogel*, 616 So. 2d 473 (2DCA 1993).

Therefore, the evidence sought regarding Ms. Veiga's involvement in testing procedures is irrelevant to each case, unless the State of Florida would require her testimony to demonstrate some specific compliance. Her testimony is not necessary for the introduction of an FDLE annual inspection. There is also redundancy in the testing system, documentation of testing and testing procedures.

6. There has been no evidence anywhere that tests were fabricated or falsified.
7. The undersigned counsel has called Defense counsel not been able to narrow the issues, and will make every effort to do so before the hearing on this matter.
8. The undersigned has notified each counsel on the contact list to advise regarding the issues presented in this motion.

WHEREFORE, the Deponent, SANDRA VEIGA, moves this Honorable Court for a protective order precluding the deposition scheduled for November 25, 2008 with out a more comprehensive/specific basis for her involvement.

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that a true and correct copy of the foregoing was mailed to: the service list attached and Bennett H. Brummer, Public Defender, 1500 NW 12th Ave, Suite 900, Miami, FL 33136, State Attorney, 1351 NW 12th Avenue, Miami, FL 33136 21 day of November, 2008.

Respectfully submitted,

LAW OFFICES OF RICHARD J. CALDWELL, P.A.
Attorneys for Appellant
Richard J. Caldwell P.A.
Brickell Bay Club
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Suite A-One
Miami, FL 33129
305-529-1040 (phone)
(305) 445-9820 (fax)

By: 

Richard J. Caldwell
Florida Bar No. 825654

SERVICE LIST FOR SANDRA VEIGA DEPOSITION PLEADINGS

Mike Catelano, Esq.
Mclawyer@bellsouth.net

Scott Kotler, Esq.
2333 Brickell Ave, Suite A-One
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Robert C. Buschel
Las Olas City Centre, Suite 1650
401 East Last Olas boulevard
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Patrick Trese
1469 NW 13th Terrace
Miami, FL 33125

Honorable Samuel J. Slom
1351 NW 12th St, Room 513
Miami, FL 33125

EXHIBIT "A"

SUBPOENA FOR DEPOSITION - County Court DIVISION
IN THE CIRCUIT COURT OF THE ELEVENTH JUDICIAL CIRCUIT
OF FLORIDA, IN AND FOR MIAMI-DADE COUNTY

INSOLVENT

SECTION: CH

CASE NO. 238749W

THE STATE OF FLORIDA,
Plaintiff,
vs.
FEDERICO MENDEZGARCIA,
Defendant

TO: SANDRA VEIGA
5975 SW 137 AVE. UNIT # 201
MIAMI, FL. 33183

YOU ARE COMMANDED to appear before George Pabidis, Assistant Public Defender, Florida Bar No. 056666, to take your deposition at the Office of the Public Defender, 1500 NW 12th Ave, Miami, FL 33136, on November 25, 2008, at 02:00 PM. If the date and/or time indicated is inconvenient or in conflict with your schedule, within 48 hours of receipt of this notice, please contact TANIA at 2378 to reschedule your deposition. We will make every reasonable effort to accommodate your schedule. However, unless excused from this subpoena by the attorney or the court, you shall respond to this subpoena as directed. PLEASE BRING A VALID PICTURE IDENTIFICATION SUCH AS DRIVERS LICENSE, SCHOOL ID OR PASSPORT, IF YOU FAIL TO APPEAR, YOU MAY BE IN CONTEMPT OF COURT.

IF YOU NEED INFORMATION REGARDING PARKING, PLEASE CALL (305) 545-1834. PLEASE ALLOW SUFFICIENT TIME TO FIND PARKING.

SI USTED NECESITA UN INTERPRETE POR FAVOR LLAME INMEDIATAMENTE A TANIA at 2378, O SI USTED NECESITA INFORMACION EN REFERENCIA AL PARQUEO LLAME AL (305) 545-1834.

SI OU BEZWEN YON INTERPRET FE NOU KONNEN IMEDYATMAN TANIA at 2378, OUBYEN ENROMASYON POU PAKING RELE NIMEWO SA (305) 545-1834.

CERTIFICATE OF SERVICE

I certify that a true copy of this subpoena was
() Personally served to the within named witness
() Served to _____
Name / Relationship

- () Not Served because
1. Address is incomplete or needs Apt. #.
 2. No such address in Dade County.
 3. No longer resides at this address.
 4. Moved, no forwarding address.
 5. Moved, vacant property.
 6. Unable to contact after _____ attempts - last copy.
 7. No attempts/Insufficient time for service.
 8. Other (explain in detail) _____

Date: _____ Time: _____

Badge # _____ Service by: _____

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In accordance with the American Disabilities Act of 1990, persons needing special accommodations to participate in this proceeding, need to call 545-1696 no later than seven (7) days prior to the proceedings for information. If hearing impaired please call (TDD) 1-800-955-8771, or 1-800-955-8778 (V) via Florida Relay Service.

DATED on: November 6, 2008

WITNESS, HARVEY RUVIN
Clerk, and the Seal of the
Circuit Court, Criminal Division

HARVEY RUVIN, Clerk



BENNETT H. BRUMMER
Public Defender
Eleventh Judicial Circuit of Florida
County Court Division
1500 NW 12th Ave., Suite 900
Miami, FL 33136
(305) 545-3348

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Facsimile Transmittal Sheet

Date: November 21, 2008

To: George Palaidis

Destination Fax Number: 305 545 3355

From: RICHARD J. CALDWELL, P.A.

Pages: 8 including this cover sheet

Attached- Motion for protective order

Additional notes:

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