

To the judges:

In June, 2021, KRLD reporter L.P. Phillips was contacted by a retired judge who was concerned about a racially-motivated arrest on a community college campus south of Dallas. Phillips was put in touch with an attorney who was outraged and was defending a student pro bono.

The case involved a student named Michael Police (his real name). On March 28, 2020, Michael and another student named Drewshard Bell were walking along a street near the Navarro College campus when they were stopped by police officer David Arnett.

Both Michael Police and Bell are Black, Arnett is white.

Police and Bell claimed that Arnett accused them of the possession of drug paraphernalia. Further, the men claimed that Arnett illegally searched them and their school dorms without a warrant.

KRLD news attempted to find the truth of the matter by, first, requesting copies of the police reports. Secondly, we understood there was law enforcement body camera video of most of the incident. We requested a copy of the video.

The Navarro County District Attorney denied access to the reports and video on grounds that the cases were part of an ongoing, misdemeanor investigation. He further submitted a request for ruling from the Texas Attorney General's office which also stated that the District Attorney did not have to turn over the requested material, due to the ongoing nature of the case.

The cases were set for trial.

KRLD news had to find another way to access the information, and learned a large part of the case was available through court discovery. Copies of the police reports and the body camera video were obtained.

The body camera video showed the officer engaging Police and Bell, and accusing them of drug possession. Both were asked by Arnett if they could be searched. Neither gave permission. It did not stop Arnett who emptied the pockets of both men.

Bell had the remnants of a small marijuana cigarette. Michael Police had a plastic tube and a baggie. Michael Police told Arnett the plastic tube was for legal CBD. Arnett did not believe him. Arnett declared the items drug paraphernalia and stated that he was going to search the dorm rooms of both men.

While Bell agreed to a search, Michael Police did not. Arnett then switched hats, declared himself to be a college administrator who did not need a warrant, and continued to search the room.

It was all recorded.

No marijuana or other illegal items were found.

The search, itself, caused reverberations. Police and Bell stated on the body camera recording that Navarro College Police had a record of harassing minority students. A second Navarro College police officer resigned over the incident.

Our story was able to use the police reports, interviews and the body camera video. We were able to interview the District Attorney on a limited basis, since the case is still a pending criminal matter.

Days after our report aired, KRLD News was informed that the FBI is investigating the matter as a civil rights violation and that interviews beyond Michael Police and Drewshard Bell have been conducted.

The FBI is not commenting.

Bell later did not contest the charge for the marijuana cigarette butt. Michael Police maintains his innocence and the Navarro County District Attorney is continuing to prosecute the case. The matter has been assigned to a Justice of the Peace who is not an attorney, rather he is a former police officer. The trial has been postponed twice and is still pending without a court date.

We feel this story represents the ability of a news organization to take an unverified claim and pursue the facts. We used legitimate tools available to reporters to gain access to documents that the Navarro College police and the District Attorney's office refused to hand over.

KRLD News is continuing to follow this story for updates on the federal civil rights investigation and the misdemeanor drug paraphernalia possession case.

<***PLEASE DO NOT ALTER LEAD***>

In Corsicana, two students and an attorney say they were arrested for low level drug charges because of their race. KRLD's L.P. Phillips has been investigating, what might be considered, a minor case with big implications.

[CLIP]

o/c soc

<What you are listening to is the search of a student's room at Navarro College in Corsicana. It was not given with permission and the police officer searching it did not get a warrant. The search was based on a college officer stopping two Black students who were walking near the campus. He suspected drug use. Neither gave permission to search them..<break>..it didn't stop officer David Arnett from searching them anyway.

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One student had the end of a marijuana roach the size of a penny. The other....Michael Police...and yes....police is his last name...had a plastic tube and a baggie. Officer Arnett called both drug paraphrenalia. Radioed in that one student allowed a search...Michael Police did not want Arnett in his apartment.

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Both were given misdemeanor citations...the one student did not contest the marijuana roach possession...Michael police was cited for possession of drug paraphrenalia. He found a friend in Dallas attorney Ray Hindeih (HINN-dee-aye)....who is taking the case for free.

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Hindeih says that's not even mentioning 5th amendment violations for questioning the two without reading their rights. Why did the officer stop the two in the first place? The university won't let us ask questions because of the pending case but on the officer's body camera, both students say it happens all the time to Black students.

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cart/Hindeih

The case has sent reverberations through the campus police. Keith Johnson, who was an officer, resigned when he heard about the case.

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LONG--navarro arrests lp (Page 2 of 2)

Navarro County District Attorney William Thompson's office is taking the case. He won't discuss the evidence because of the trial that starts tomorrow. He says he has evidence....but there is an easy out for Michael Police cart

The search of Michael Police's apartment turned up nothing. Defense attorney Hindei was unsuccessful in getting the evidence suppressed. The Justice of the peace who denied his motion is not a lawyer...he's a former police officer. soc>

FOR IRIS--navarro arrests W-1 lp

<***PLEASE DO NOT ALTER LEAD***>

A Dallas attorney says police at the Navarro College in Corsicana are targeting African American students for harassment. As KRLD's L.P. Phillips found the attorney is taking-on a case for free..and a police officer has resigned in disgust over the incident.

[CLIP]

o/c soc

<The search you are listening to is from a body camera as an officer shakes down the Navarro College room of a student named Michael Police....his real last name. Minutes earlier, he....and a friend...were walking off campus when the campus officer pulled both over...accused both of drug possession....searched them without a warrant...then demanded to search their college rooms without a warrant. Michael Police said no.

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And officer did....claiming as a college officer he can switch from a cop to an administrator to get around the warrant and toss the room. Listen as another college official tells that to the students.

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Officer Arnett found an empty plastic tube he said smelled like marijuana and a baggie that was empty....declared both drug paraphrenalia and issued a misdemeanor citation against Michael Police. Police said it was CBD the officer smelled and no marijuana was ever found. Attorney Ray Hindeih heard of the case and couldn't believe a cop could turn himself into an administrator to do a search without a warrant.

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As word of the search rippled through the department, officer Keith Johnson had enough.

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Navarro County District Attorney William Thompson is pressing ahead with a trial, starting tomorrow, claiming he thinks the evicence will hold.

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soc>

FOR IRIS--navarro arrests W-2 lp

<***PLEASE DO NOT ALTER LEAD***>

Two African American students and an attorney say they were harassed and charged with minor drug charges by a police officer who conducted two illegal searches. KRLD's L.P. Phillips has been investigating their claims.

[CLIP]
o/c soc

<That was a Navarro College police officer minutes after he stopped two Black students who were walking off campus. He said he suspected drug use. The officer searched both without their permission...finding a penny-size marijuana roach on one...and a plastic tube and baggie on the other...a student whose is actually Michael Police. Both the tube and the baggie were empty. Michael Police said he used the tube for CBD.

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Within minutes the officer...who was wearing a uniform....said he was switching from a cop to a college administrator to get around the need for a search warrant. He called for housing employees and began searching Michael Police's room without his permission.

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One of the students protested that the whole thing was racially motivated.

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Attorney Ray Hindeih (HINN dee aye) disagrees.

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He is taking Michael Police's drug paraphrenalia case for free. He says both the search outside and the search inside the apartments were illegal because neither had a warrant. A campus cop quit in disgust....and the case was sent to Navarro County District Attorney William Thompson....who refused to dismiss it and is taking the case to trial tomorrow.

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The justice of the peace hearing he case is not an attorney...he's a former cop. soc>



KEN PAXTON
ATTORNEY GENERAL OF TEXAS

August 12, 2021

Mr. Will Thompson
District Attorney
Navarro County
300 West 3rd, Suite 301
Corsicana, Texas 75110

OR2021-21797

Re: Request for incident reports regarding 2003-0085 on 03/28/20

Dear Mr. Thompson:

The Office of the Attorney General has received your request for a ruling and assigned your request ID# 900970.

After reviewing your arguments and the submitted information, we have determined your request does not present a novel or complex issue. Thus, we are addressing your claims in a memorandum opinion. You claim the submitted information may be withheld from the requestor pursuant to section 552.108(a)(1) of the Government Code. Upon review of your arguments and the submitted information, we conclude you may withhold the submitted information under section 552.108(a)(1). However, you must release the basic information pursuant to section 552.108(c) of the Government Code.

For more information on the cited exception, please refer to the open government information on our website at <https://www.texasattorneygeneral.gov/open-government/governmental-bodies/open-records-memorandum-rulings>. You may also contact our Open Government Hotline at 1-877-OPENTEX.

Enc. Submitted documents

c: Requestor
(w/o enclosures)



William Thompson
Navarro District Attorney

June 24, 2021

Mr. Ken Paxton
Texas Attorney General
Open Records Division
P.O. Box 12548
Austin, Texas 78711-2548

Re: Opinion Request - Open Records Request Regarding incident report on Michael Police and Drewshard Bell.

ADDITIONAL ARGUMENT.

Dear Mr. Paxton:

The Navarro College Police Department received a written request for information on June 3, 2021. A copy of the request is enclosed as **Attachment #1**. The Requestor, L.P. Phillips, reporter from KRLD NewsRadio 1080 (Audacy Dallas), is requesting from Navarro College Police Department "*copies of the incident report number 2003-0085 from March 28, 2020. Subjects names are Michael Police and Drewshard Bell*".

According to Sec. 552.108 of the Public Information Act, a law enforcement agency or prosecutor may withhold information that deals with "*detection, investigation, or prosecution of crime*" if "*release of the information would interfere with the detection, investigation, or prosecution of crime*" (among others).

ARGUMENTS

Both defendants mentioned above have an open criminal case in course in the Justice of the Peace, Precinct 3, Navarro County. One of the defendants, Mr. Police, is represented by a defense attorney, Mr. Raymond Mark Hindieh, who has filed a motion to suppress with the said

Justice of the Peace, asking to suppress a statement allegedly made by Mr. Police during the incident that gave rise to the offense report by Navarro College Police Department, subject to request in this matter.

The release of the police report to the Requestor may very well interfere with the prosecution of Mr. Police's charge of possession of drug paraphernalia. Although a minor charge (Misdemeanor Class C), the constitutionality of the Law enforcement's interaction with the defendants has been raised by the Defendant and this DA's Office is determined to contest it at the suppress hearing. Also, the adjudication phase of the cause itself may be also compromised.

If the police report is released to the Requestor and maybe later disseminated, there may be certain external interference with the prosecution of the case, not only in relation to the motion to suppress but also to the adjudication of the charge itself.

Therefore, this District Attorney's Office considers adequate, in the interest of Justice, to withhold the information requested until no interference with the prosecution of the case is likely to happen.

Find attached a copy of the information subject to request: the incident report case # 2003-0085 from Navarro College Police Department.

If you need any additional information, please do not hesitate to contact me.

Respectfully,

Will Thompson
District Attorney



By:

Pablo Palomeque
Assistant District Attorney

Incident Report #1

Navarro College Police Department

Case No.
2003-0085

Incident Type Drug Related	Incident Classification #1 Poss. of Drug Paraphernalia	attempted <input type="checkbox"/>	Incident Classification #2	attempted <input type="checkbox"/>
Responding To		Assignment		

Reported On Sat 03/28/2020 12:30	Occurred From	Date/Time	Occurred To	Date/Time	Beat of Occurrence	District
Dispatch Time	Arrived Time	Cleared Time	Report Date 03/28/2020	Report Time 14:00	Estimated Total Property Loss	

Primary Charge 481.125 (a) Possession/Drug Paraphernalia	UCR/NIBRS Code
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Additional Charges 481.125 (a) Possession/Drug Paraphernalia
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Location of Incident 200 Block of Miracle Dr., Corsicana, TX 75110	Location Name (if applicable) Williamsburg Apts.
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Entry Point	Method	Weapon/Tool/Force Used	Security	Evidence
Type of Premise (For Vehicles State Where Parked)				

Related Case No.'s

Officer Involved David Arnett #1349

Suspects

M-Missing, VP-Victim Police Officer, VU-Victim Unknown, VO-Victim Other, SV-Suspect Identified, R-Runtime, OL-Legal Owner, O-Other, I-Institutional, S-Suspect, VS-Victim Society/Public, VI-Victim, A-Arrestee, OR-Registered Owner, G-Parent/Guardian, C-Complainant, D-Deceased, W-Witness

Code S-1	Name: Last, First, Middle Police, Michael	Sex M	Race/Ethnicity B-Black	Date of Birth/Age 05/03/2000 19
Confidentiality <input type="checkbox"/>	Address: Street, City, State, ZIP 3238 Bacom Point Rd, Pahokee, FL 33476	Phone	Occupation NC Resident	Employer Phone
Place of Employment / School / Address	Additional Address Building 4 - Rm 114B	Address Type	Additional Phones (Cell-) (561) 708-2811	

Charge 481.125 (a) Possession/Drug Paraphernalia
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Charge Level Class "C" misdemeanor	UCR Code	NIBRS Code	NCIC Code	State Code
Warrant #	Court	Judge	Bar	

Citation # C007775	Date 03/28/2020	Time 12:30	Booking #	Date	Time
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Arrest Location	Private Person Arrest <input type="checkbox"/> Yes <input type="checkbox"/> No	Statement <input type="checkbox"/> Oral <input type="checkbox"/> Written	Charges <input type="checkbox"/> Admitted <input type="checkbox"/> Denied	Suspect Armed With
Juv. Parent/Gdn. Name/Relationship of Person Notified	Date & Time Notified	Notified By	Disposition of Juvenile/Adult	

Height 6'00"	Weight 250	Build Normal	Hair Black	Eyes Brown	Descriptors
Driver's License	State	Special Security No. 594-93-0266	Other ID (NC Student ID #) 462972		

I.D. No./Name of Reporting Officer #1341 - Arnett, David	Approval #1341 - Oakley, Heath	Date/Time 03/31/2020 09:57	Distribution Dr. Fegan, Dr. Housley, Mr. Betts, Student Services
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RECORDS	Distribution Date	By	Supervisor
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Incident Report #1 Continued

Navarro College Police Department	Incident Classification Poss. of Drug Paraphernalia	attempted <input type="checkbox"/>	Case No 2003-0085
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Code S-2	Name: Last, First, Middle Bell, Drewshard	Sex M	Race/Ethnicity B-Black	Date of Birth/Age 12/11/1998 21
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Confidentiality <input type="checkbox"/>	Address: Street, City, State, ZIP 5207 Fenton Ln., Belton, TX 76513	Phone
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Place of Employment / School/ Address	Occupation NC Resident	Employer Phone
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Additional Address Building 4 - Rm 113 A	Address Type
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Additional Phones (Cell-Phone) (254) 598-1202

Charge 481.125 (a) Possession/Drug Paraphernalia
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Charge Level Class "C" misdemeanor	UCR Code	NIBRS Code	NCIC Code	State Code
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Warrant #	Court	Judge	Ball
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Citation # C007774	Date 12/28/2020	Time 12:30	Booking #	Date	Time
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Arrest Location	Private Person Arrest <input type="checkbox"/> Yes <input type="checkbox"/> No	Statement <input type="checkbox"/> Oral <input type="checkbox"/> Written	Charges <input type="checkbox"/> Admitted <input type="checkbox"/> Denied	Suspect Armed With
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Juv. Parent/Gdn. Notified <input type="checkbox"/> Yes <input type="checkbox"/> No	Name/Relationship of Person Notified	Date & Time Notified	Notified By	Disposition of Juvenile/Adult
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Height 5'08"	Weight	Build Normal	Hair Black	Eyes Brown	Descriptors
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Driver's License 44702743	State TX	Social Security No	Other ID (NC Student ID #) 468310
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Property

Item # 1	Status/Custodial Status/Condition Seized/Evidence	Qty /Cst. Qty /Cnd.Qty 1/1	Units	Total Value
Description Marijuana Roach		Item/ Category Drugs/Narcotics		
Brand	Model	Serial Number	Owner Assigned Number	
Owner Bell, Drewshard	Received From	Current Location		

Item # 2	Status/Custodial Status/Condition Seized/Evidence	Qty /Cst. Qty /Cnd.Qty 1/1	Units	Total Value
Description Marijuana Baggie with Residue		Item/ Category Drug/Narcotic Equipment		
Brand	Model	Serial Number	Owner Assigned Number	
Owner Bell, Drewshard	Received From	Current Location ESF (Evidence Storage Rm)		

Incident Report #1 Continued

Navarro College Police Department		Incident Classification Poss. of Drug Paraphernalia	attempted <input type="checkbox"/>	Case No. 2003-0085
Item # 3	Status/Custodial Status/Condition Seized/Evidence	Qty./Cst. Qty./Cnd.Qty. 1/1	Units	Total Value
Description Glass Jar with Lid and Residue		Item/ Category Drug/Narcotic Equipment		
Brand	Model	Serial Number	Owner Assigned Number	
Owner Bell, Drewshard	Received From	Current Location ESF (Evidence Storage Rm)		
Item # 4	Status/Custodial Status/Condition Seized/Evidence	Qty./Cst. Qty./Cnd.Qty. 1/1	Units	Total Value
Description Plastic Jar with lid and Marij Residue		Item/ Category Drug/Narcotic Equipment		
Brand	Model	Serial Number	Owner Assigned Number	
Owner Police, Michael	Received From	Current Location ESF (Evidence Storage Rm)		
Item # 5	Status/Custodial Status/Condition Seized/Evidence	Qty./Cst. Qty./Cnd.Qty. 1/1	Units	Total Value
Description RAW rolling paper package		Item/ Category Drug/Narcotic Equipment		
Brand	Model	Serial Number	Owner Assigned Number	
Owner Bell, Drewshard	Received From	Current Location ESF (Evidence Storage Rm)		
Item # 6	Status/Custodial Status/Condition Seized/Evidence	Qty./Cst. Qty./Cnd.Qty. 4/4	Units	Total Value
Description Plastic Baggie Pieces		Item/ Category Drug/Narcotic Equipment		
Brand	Model	Serial Number	Owner Assigned Number	
Owner Bell, Drewshard	Received From	Current Location ESF (Evidence Storage Rm)		
Item # 7	Status/Custodial Status/Condition Seized/Evidence	Qty./Cst. Qty./Cnd.Qty. 1/1	Units	Total Value
Description Blue Marijuana Baggie		Item/ Category Drug/Narcotic Equipment		
Brand	Model	Serial Number	Owner Assigned Number	
Owner Police, Michael	Received From	Current Location ESF (Evidence Storage Rm)		

Incident Report #1 Continued

Navarro College Police Department		Incident Classification Poss. of Drug Paraphernalia	attempted <input type="checkbox"/>	Case No. 2003-0085
Item # 8	Status/Custodial Status/Condition Seized/Evidence	Qty./Cst. Qty./Cnd.Qty 1/1	Units	Total Value
Description Plstic Tube used to store Marij Blunt		Item/ Category Drug/Narcotic Equipment		
Brand	Model	Serial Number	Owner Assigned Number	
Owner Police, Michael	Received From	Current Location ESF (Evidence Storage Rm)		
Narrative				

On Saturday, March 28, 2020 at approximately 12:20PM I, Investigator David Arnett, was on routine patrol on campus when I observed two male students exit our dorm area near building 1 and walk towards the Williamsburg Apartments.

We have been advised by the Williamsburg Apartment management that they do not want college students on their property smoking and loitering. We have also received numerous complaints from residents at the apartment complex about NC students smoking marijuana near their apartments. I have arrested numerous NC students in the past on Williamsburg Apartment property for marijuana.

I approached the area of the Williamsburg apartments but noticed the two black male students had walked out of site. Since the subjects disappeared so quickly, I knew they had went on to the Williamsburg property. I drove around the east side of the apartments into the resident parking lot but failed to locate the two students. I left the complex and traveled towards West 2nd Avenue from North 40th Street. I drove around the block and turned south on to Miracle drive. As I made the turn, I could see the two students sitting on the stairs of the Williamsburg Apartments on the North West end of the apartments. I noticed that they saw me approaching their location.

I stopped my patrol car near them on Miracle Drive and advised them to walk over to me. I later identify them as Michael Police (NC Resident; 462972) and Drewshard Bell (NC Resident; 468310). Mr. Police walked my direction and immediately held up the Black and Mild cigar that he was smoking. I could see that the cigar appeared to been freshly lit. Mr. Bell did not walk my direction. He chose to walk north down the sidewalk away from me. I had to ask Mr. Bell again to walk over to me. Once I got next to them, I could smell the odor of marijuana emitting from their persons.

They denied that they were smoking marijuana. They could not explain why they would walk all the way to the north end of the apartment complex just to smoke a cigar. It is important to note that the subjects walked down a public street and passed numerous other locations that a cigar could have been smoked.

I asked them if they had anything illegal on them. They denied that they did. Mr. Police gave me consent to look in the pockets of his clothing. I found a clear plastic tube in one of Mr. Police's pockets. I recognized the tube as one that is used to store marijuana "Blunts" in. I opened the lid of the tube and detected an odor of marijuana inside the tube. There was also marijuana residue on the tube. Mr. Police immediately advised that he had purchased some CBD and was storing the CBD cigarette in the tube. It was obvious that Mr. Police knew that CBD was legal so he would not be held responsible for being in possession of the tube. The tube was obviously not used to store Hemp. Mr. Police claimed that he could show me a receipt for the Hemp. Mr. Police was never able to provide me with a receipt for "Hemp".

I asked Mr. Bell to step down to my car. He gave me verbal permission to look in his pockets as well. I found a clear marijuana baggie containing fresh marijuana residue and a marijuana "Roach" in Mr. Bell's pocket. Mr. Bell immediately could be seen visibly shaking. I immediately placed Mr. Bell in wrist restraints for officer's safety.

It is important to note that the students were cooperative up until I found the contraband on their persons. They immediately claimed that I was harassing them because of their skin color. They also claimed that I performed an illegal search of their clothing to find the contraband. This was after they had given me consent to look in their pockets and I had already smelled the odor of marijuana. I then advised them that I was recording this incident with my body worn camera. Mr. Bell then advised that I failed to advise him of his Miranda Rights. I advised him that I was not required to advise him of his Miranda Rights during the initial investigation and when

Incident Report #1 Continued

Page 5

Navarro College Police Department	Incident Classification Poss. of Drug Paraphernalia	attempted <input type="checkbox"/> Case No. 2003-0085
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they were not yet being arrested for a crime.

Upon finding the contraband, I searched the area of the stairs where they were sitting for additional contraband but failed to locate it. I placed the other contraband in an evidence bag for safekeeping.

I asked the subjects what dorm they lived in on campus. They told me building 4 rooms 113 and 114. Mr. Police immediately denied me consent to search his dorm room and was very defensive about it. He became very nervous that I had asked to search his room. Mr. Bell advised I could search his room. I then called Charles Betts (Director of Residence Life) and request he meet us at building 4. I attempted to give Mr. Police and Mr. Bell a ride to the building but Mr. Police refused. I advised them they could walk there and I would meet them. I had removed the wrist restraints from Mr. Bell.

I met Mr. Betts and Whitney Smith (Residence Life Area Coordinator) at building 4. Mr. Bell and Mr. Police arrived moments later on foot. I proceeded to issue Mr. Bell citation number C007774 for "Possession of Drug Paraphernalia". Mr. Bell signed the citation and was provided a copy. I continued to deal with Mr. Bell's derogatory attitude and claims of racial motivation. I reminded Mr. Bell numerous times that he could go to jail instead of receiving the citation and that he was being treated very fairly.

We all proceeded to Mr. Police's room (Bld. 4 - 114B) to complete a Health and Safety Inspection. Upon entering the common area, there was a very strong odor of burnt marijuana in the room. Upon entering Mr. Police's personal room (Room 114B), the odor of burnt marijuana was even stronger. Mr. Police still denied that he had smoked marijuana. Upon completing the Health and Safety inspection of the room, contraband was found. A large plastic container with a lid was found inside Mr. Police's bag that contain marijuana residue and a strong odor of marijuana. Mr. Police still denied that he had any marijuana. The bathroom contained a very strong odor of burnt marijuana as well. Mr. Betts also found a small blue zip-lock style marijuana baggie in Mr. Police's personal belongings.

Mr. Police did finally admit that the clear tube that he was in possession of was used to store marijuana in and he had smoked the marijuana inside of his dorm bathroom. All evidence was placed in evidence bags. I then issued Mr. Police a Justice of the Peace citation #C007775 for "Possession of Drug Paraphernalia". Mr. Police signed the citation and retained a copy. This citation was for the clear plastic tube that he was in possession of that was on his person.

We then conducted the Health and Safety inspection of Mr. Bell's room (113A), which was straight across from Mr. Police's room. During the check, I found numerous used marijuana baggies, marijuana residue and an empty package for JOB rolling papers inside of Mr. Bell's backpack. Mr. Betts found a large glass jar with a sealed lid inside Mr. Bell's mini fridge. Mr. Bell immediately yelled out that the jar was for his protein shakes. I retrieved the jar and immediately noticed the jar contained marijuana residue inside. I opened the jar and detected a very strong odor of marijuana. Mr. Bell was still adamant that jar was for protein shakes. He continued to be agitated and derogatory.

The room checks were completed and I cleared the location. All evidence was processed according to departmental policy and procedures.

No further information.

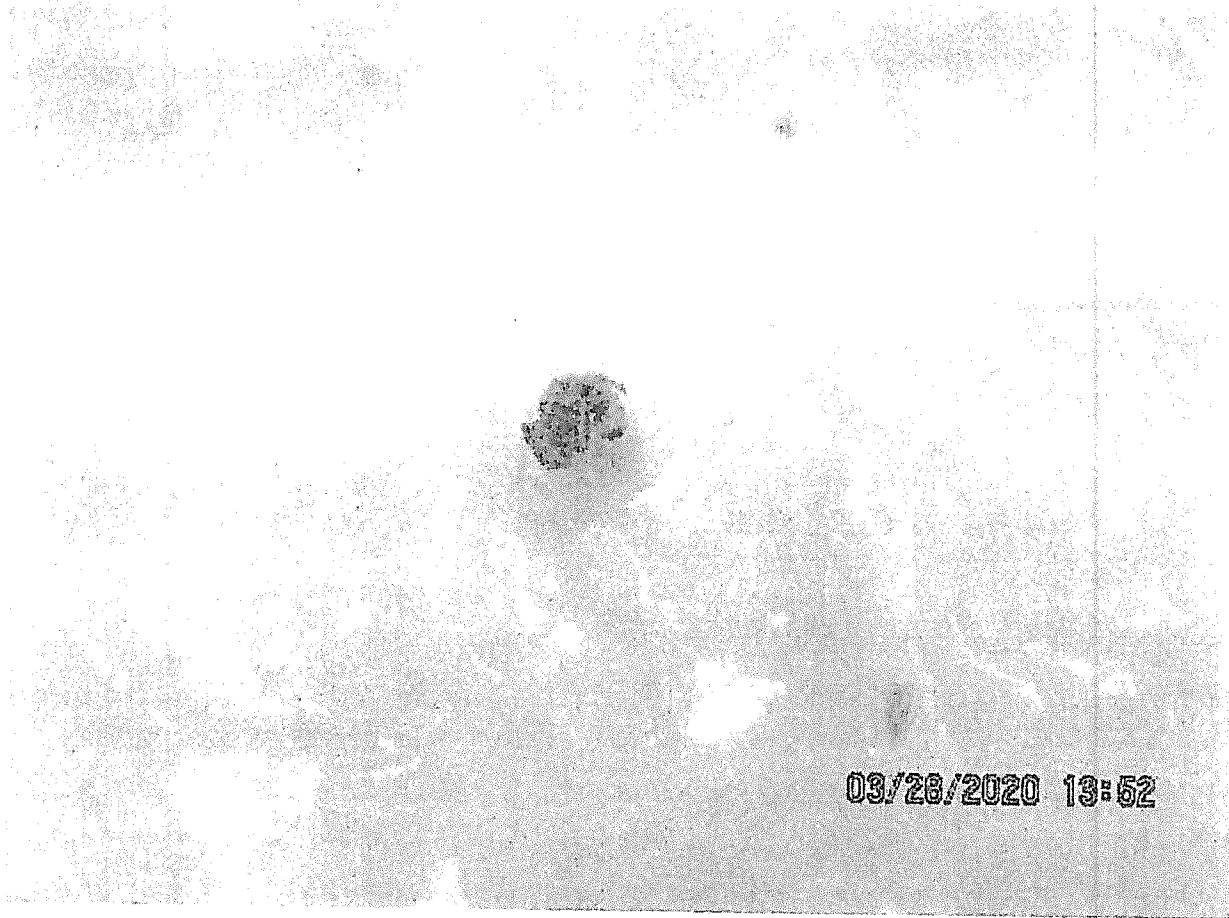
Supplemental Image Report

Navarro College Police Department

Incident No.
2003-0085

Poss. of Drug Paraphernalia

This is a picture of the marijuana residue in the plastic baggie that Mr. Bell was in possession of at the time of contact.



03/28/2020 13:52

I.D. No /Name of Reporting Officer

#1341 - Arnett, David

Approval

#1341 - Oakley, Heath

Date/Time

03/31/2020 09:45

Distribution

RECORDS

DISTRIBUTION DATE _____ BY _____

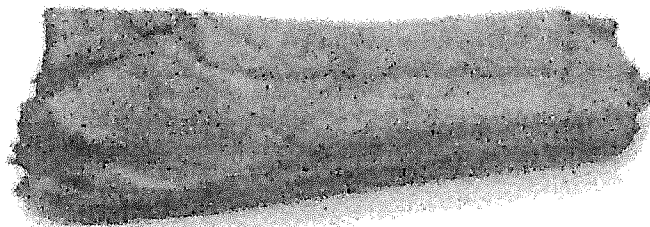
Supervisor

Supplemental Image Report #1

Supplemental Image Report Continued

Navarro College Police Department	Incident Classification Poss. of Drug Paraphernalia <input type="checkbox"/>	attempted Incident No. 2003-0085
Poss. of Drug Paraphernalia		

This is an additional picture of the marijuana roach that Mr. Bell was in possession of.

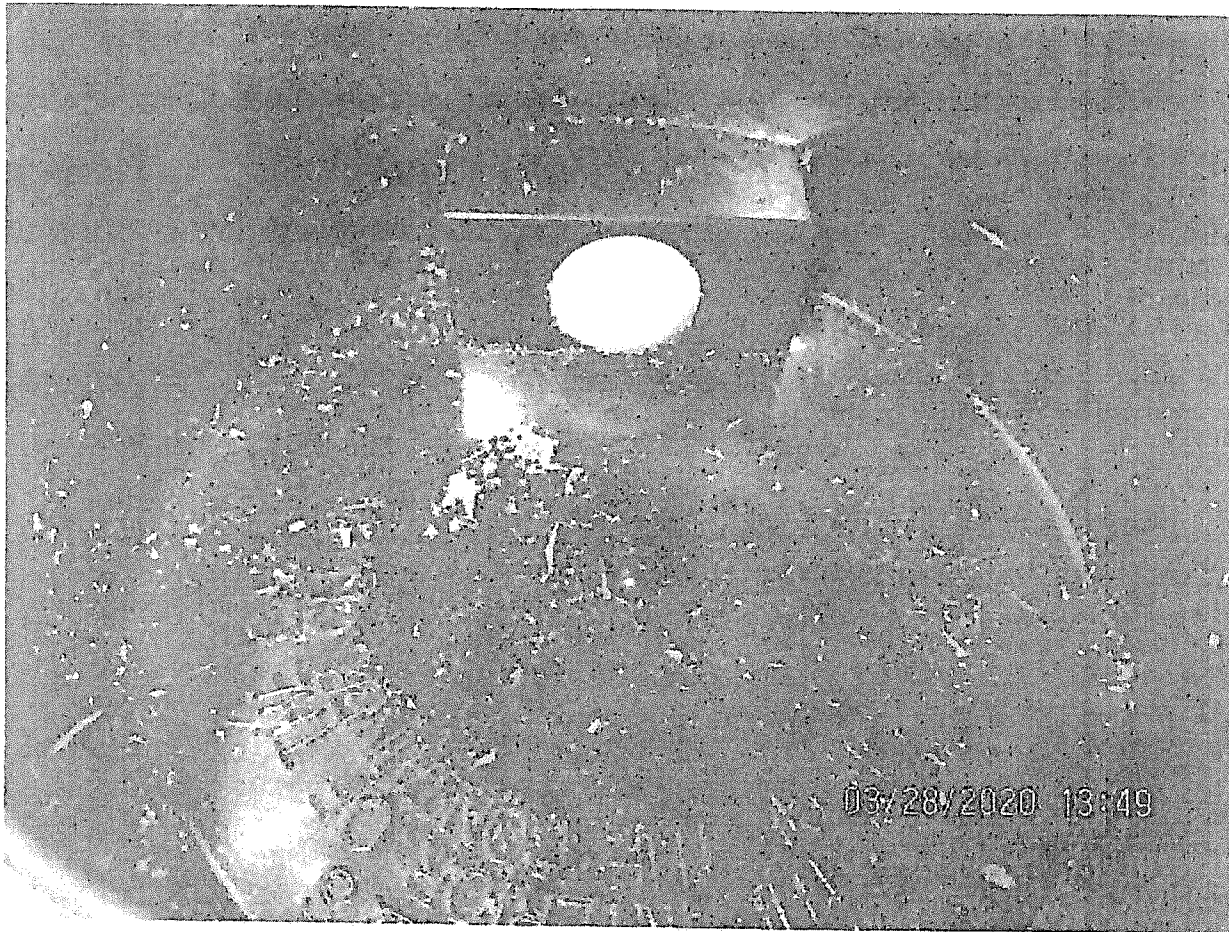


03/28/2020 13:52

Supplemental Image Report Continued

Navarro College Police Department	Incident Classification <i>Poss. of Drug Paraphernalia</i> <input type="checkbox"/>	attempted Incident No. 2003-0085
Poss. of Drug Paraphernalia		

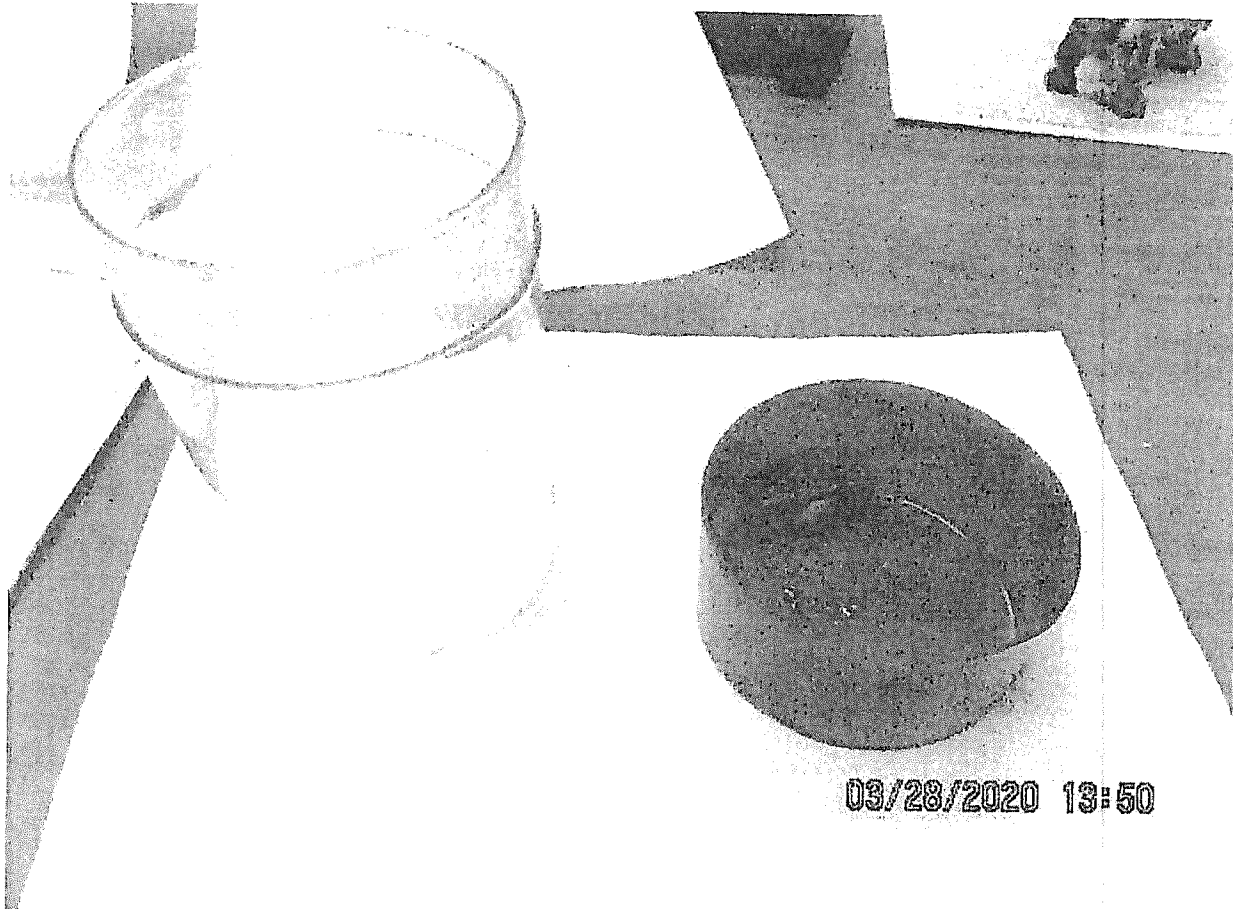
This is a picture of the marijuana inside the jar lid that was found inside Mr. Police's room.



Supplemental Image Report Continued

Navarro College Police Department	Incident Classification <i>Poss. of Drug Paraphernalia</i> <input type="checkbox"/>	Incident No. 2003-0085
Poss. of Drug Paraphernalia		

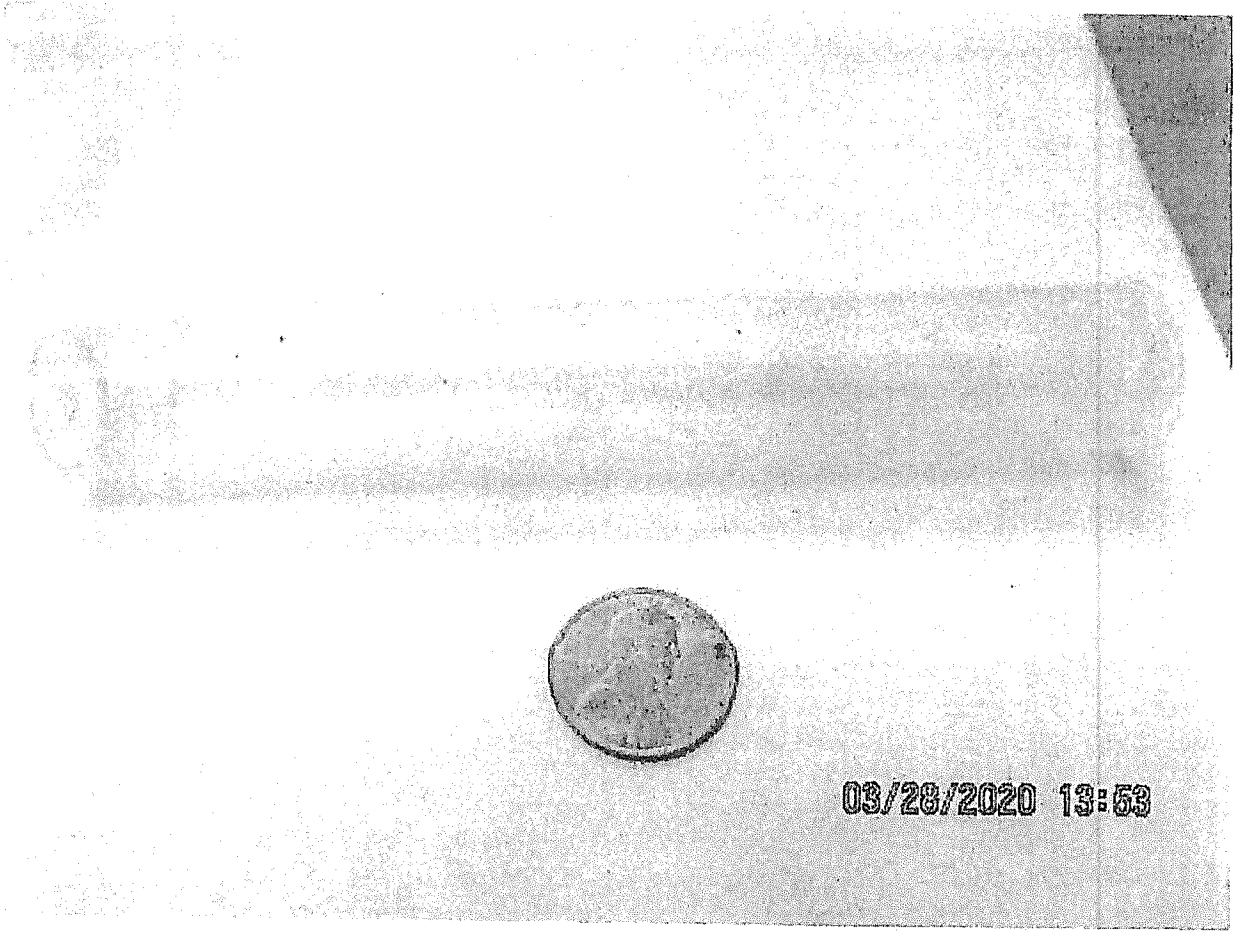
This is the plastic jar and lid found inside Mr. Police's room during the Health and Safety check. The jar and lid contained marijuana residue and a strong odor.



Supplemental Image Report Continued

Navarro College Police Department	Incident Classification Poss. of Drug Paraphernalia <input type="checkbox"/>	attempted Incident No. 2003-0085
Poss. of Drug Paraphernalia		

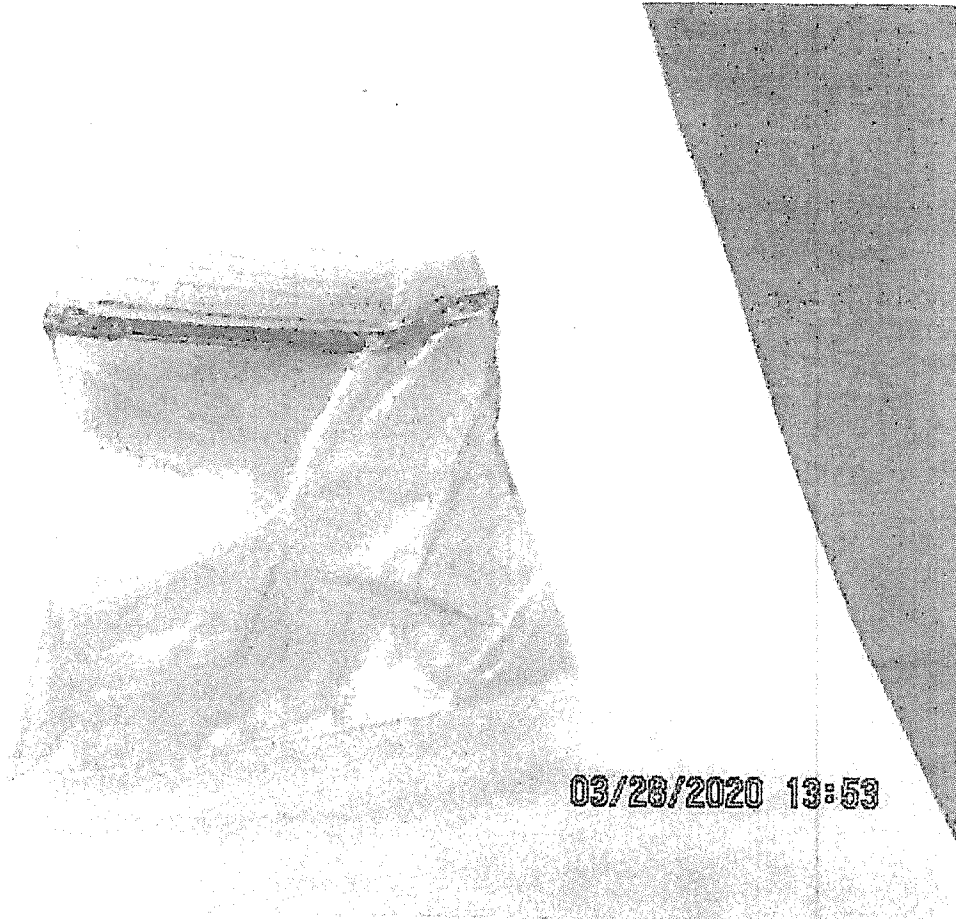
This is the plastic tube that was in the possession of Mr. Police at the time of contact. It contains the odor of marijuana. These tubes are used to store marijuana cigarettes.



Supplemental Image Report Continued

Navarro College Police Department	Incident Classification <i>Poss. of Drug Paraphernalia</i> <input type="checkbox"/>	attempted Incident No. 2003-0085
Poss. of Drug Paraphernalia		

This is the small marijuana baggie found in Mr. Police's room.



Supplemental Image Report Continued

Navarro College Police Department

Incident Classification

attempted

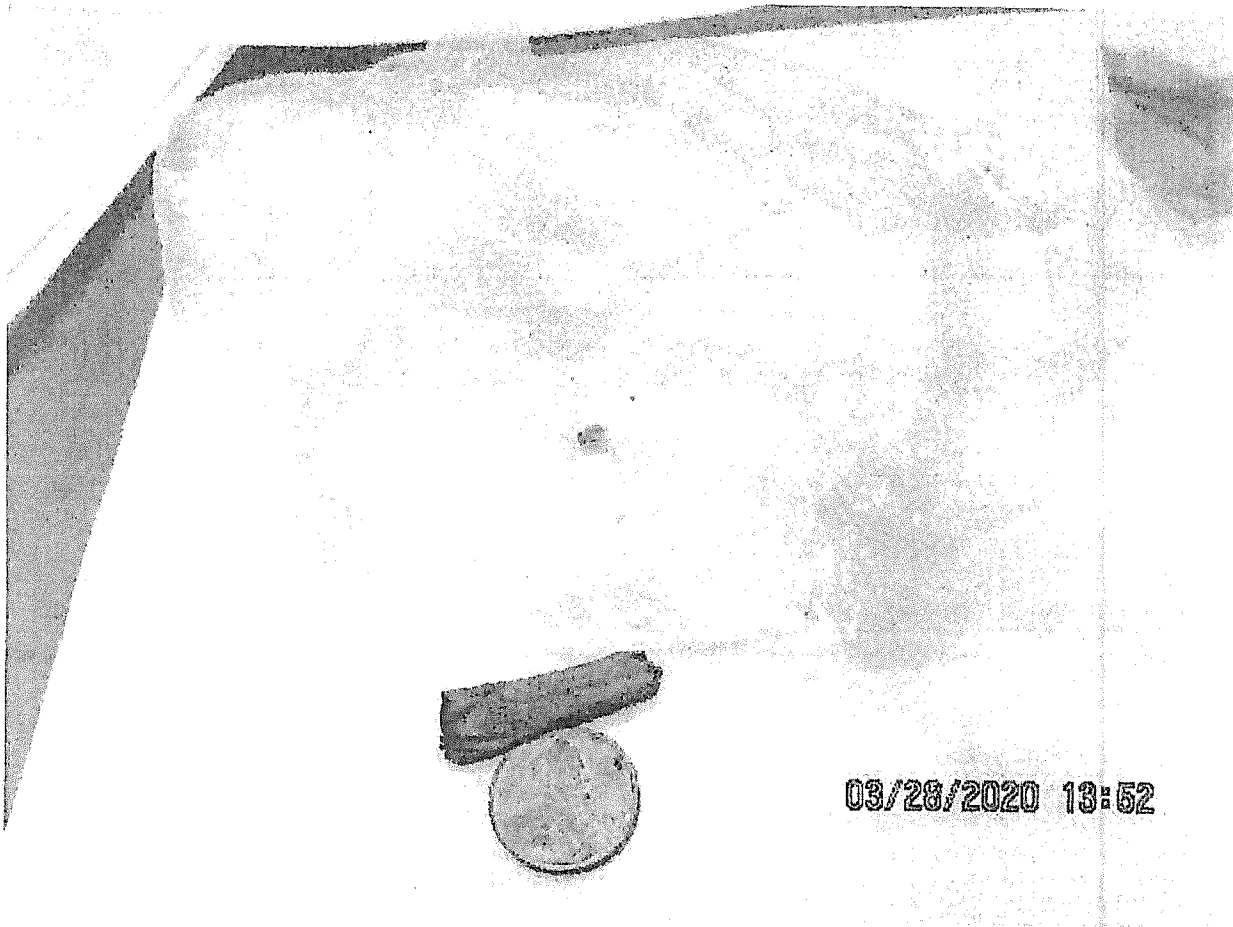
Incident No

Poss. of Drug Paraphernalia

2003-0085

Poss. of Drug Paraphernalia

This is the marijuana baggie with marijuana residue and the marijuana "Roach" that Mr. Bell was in possession of at the time of the contact.



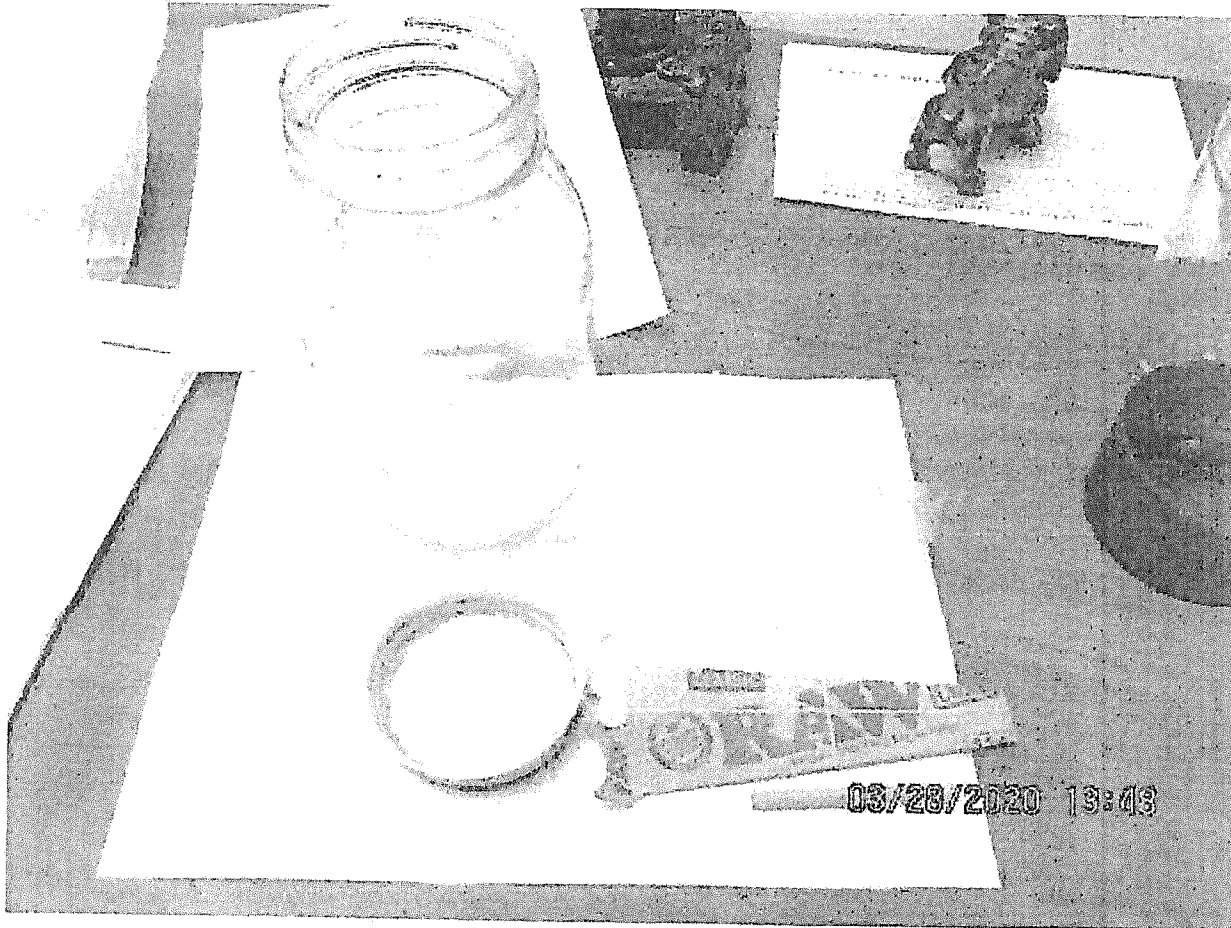
Supplemental Image Report

Navarro College Police Department

Incident No.
2003-0085

Poss. of Drug Paraphernalia

This is the glass jar and lid, rolling papers package and marijuana baggies found in Mr. Bell's dorm room. The jar contains marijuana residue and strong odor of marijuana. The jar was found inside the mini refridgerator and the other items were found inside his backpack in the closet.



I.D No /Name of Reporting Officer
#1341 - Arnett, David

Approval
#1341 - Oakley, Heath

Date/Time
03/31/2020 09:46

Distribution

RECORDS

DISTRIBUTION DATE _____ BY _____

Supervisor

Supplemental Image Report #2

Supplemental Image Report Continued

Navarro College Police Department

Incident Classification

attempted Incident No.

Poss. of Drug Paraphernalia

2003-0085

Poss. of Drug Paraphernalia

This shows the marijuana residue inside of the glass jar belonging to Mr. Bell.



03/28/2020 13:48

Supplemental Image Report Continued

Navarro College Police Department

Incident Classification

attempted

Incident No.

Poss. of Drug Paraphernalia

2003-0085

Poss. of Drug Paraphernalia

This is another picture of the marijuana baggies and the rolling papers that was found inside Mr. Bell's backpack inside his room.



Student Discipline - Probation

April 16, 2020

LOP

Michael Police

Student ID: 0462972
3238 Bacom Point Rd
Pahokee, Florida 33476

2003-0085

Dear Michael:

Upon review of the incident that occurred on or about March 28, 2020, it has been determined that your involvement demonstrated "student misconduct" as described in the Code of Student Conduct section of the current Navarro College Student Handbook located online at <http://navarrocollege.edu/handbook>. The areas of violation include:

1. Committing a criminal act under federal, state or municipal law, or supporting or assisting with the violation of any of those laws on or off campus.
2. Violating any college policy, procedure, rule or regulation.
6. Participating in repetitious offenses and/or failing to fulfill all probationary requirements.
15. Illegal possession, use, sale, manufacture or distribution of any quantity, whether usable or not, of any drug, narcotic or controlled substance. Drug paraphernalia of any type, including bong, clips, pipes, residue, seeds, oil, a smoke-filled room or any other items used in the preparation or consumption of illegal drugs is prohibited. Knowingly remaining within the presence of narcotics, controlled substances, or drug paraphernalia is strictly prohibited; supporting or assisting with such possession is also prohibited.
17. Violating any rule or regulation that applies to residential facilities owned by Navarro College or breaking a residence hall contract. Specific housing regulations are available from the Residence Life Manual.

Based on your involvement in this incident, you are hereby notified of the following sanctions:

1. Student Services Disciplinary Probation for the Fall 2020 and Spring 2021 semesters. As part of your probation, you must meet with a member of the Student Services department on a monthly basis. Your first meeting will be on 09/14/20 at 2:00 p.m.

2. Drug/Alcohol Screening

You are required to meet with the designated counselor for an intake/assessment session. The counselor may require additional guidance sessions or make a referral to an off-campus counseling center. You must contact the counselor within (5) business days of the date of this signed document.

Page 1 of 2

COPY

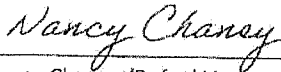
3. Marijuana Education

You are required to participate in the online Marijuana Education course.

As indicated within this letter, your probationary status is for two full semesters. Failure to appear for monthly check-ins and show progress with other probation requirements (i.e., student guidance, drug screening, and drug/alcohol education) will result in your inability to register for the next semester and extension of your probation. If any further discipline concerns, altercations, or violations of these sanctions occur, it may result in suspension from Navarro College.

Your receipt of this letter via email will document your understanding of the above information and due process as described under the Due Process and Timeframe section of the current online Navarro College Student Handbook.

Sincerely,



Nancy Chaney/Rafael Vargas
Coordinator of Student Guidance

c: Dr. Kevin Fegan Dr. Carol Hanes Ms. Maryann Hailey Dr. Rebecca Tuerk Mr. Charles Betts
Interim Chief Heath Oakley

Page 2 of 2

NO. 2020-111-8001-4

THE STATE OF TEXAS

V.

MICHAEL POLICE

§
§
§
§
§

IN THE JUSTICE OF THE

PEACE COURT NO. THREE OF

NAVARRO COUNTY, TEXAS

DEFENDANT'S MEMORANDUM OF LAW IN SUPPORT OF DEFENDANT'S MOTION TO

SUPPRESS EVIDENCE

TO THE HONORABLE JUDGE OF SAID COURT:

COMES NOW, MICHAEL POLICE, by and through his attorney of record, Raymond Hindieh, and files this Memorandum of Law in support of the above captioned motion to suppress, saying more particularly in support hereof as follows:

PROCEDURAL HISTORY

The Defendant allegedly committed the offense which is the subject of Cause No. 2020-111-8001-4 on March 28, 2020. The Defendant was arrested as a result of this offense and was charged by complaint for the offense of Possession of Drug Paraphernalia on March 28, 2020. This offense was filed in the Navarro County Justice of the Peace, Precinct 4. Defense Counsel requested to remove this case to Navarro County Justice of the Peace, Precinct 3 where the case remains active today because Precinct 4 is dedicated to bench trials only and because Defendant never waived his right to a jury trial.

I. STATEMENT OF FACTS

The persons connected to the arrest are as follows:

1. Michael Police, Defendant ("Police")
2. Drewshard Bell, Defendant ("Bell")
3. Investigator D. Arnett, Badge No. 1341 ("Officer")

On March 28, 2020, defendants Michael Police (Police) and Drewshard Bell (Bell) were sitting near the Williamsburg apartment complex located on Miracle Drive near the Navarro College campus. Officer David Arnett (Officer) stopped his patrol car and ordered Police and Bell to walk over towards him. Police and Bell Identified themselves by giving their names and dates of birth. Police was smoking a cigar. Both Police and Bell denied smoking marijuana. Officer asked Police if he could search his person and Police advised Officer that he could. Officer found a clear empty cigar tube. Officer claimed he could smell a faint odor of marijuana emanating from the tube but did not find any residue in or around the tube whatsoever. Police advised that the tube was used to store CBD in it and also advised the officer of the type of CBD product one may lawfully purchase that is marketed and sold in the same type of clear plastic tube. Officer then turned to Bell and asked Bell "do you mind if I search you?" Bell, replied "yes." This type of answer is common when police officers with little street training ask the question in the negative because it elicits an unclear response from a suspect in terms of consent. Because of the unclear question to obtain consent, Bell predictably denied giving consent after the search was conducted. A search of Bell revealed a very small "roach" containing what Officer believed to be marijuana. At this time the substance has not been tested by a laboratory. Bell was immediately placed in handcuffs.

After conducting a search of Police and Bell's persons, the Officer ordered the defendants up towards the stairwell of the apartment complex they were sitting in before he ordered them over to his patrol car. He searched the area of the stairwell and repeatedly asked Police and Bell where the marijuana was. The Officer continued to interrogate Police and Bell at this time without a Miranda warning.

After a search of the stairwell turned up no marijuana or other contraband, the Officer asked Police and Bell if he could search their rooms; both denied consent. The Officer replied, "that's okay,

I'm going to search it anyway." At this point, the Officer began to write a citation for Police for drug paraphernalia and a citation for Bell for Drug Paraphernalia. Before completing the citation, the Officer then told Police and Bell to meet him over by their dormitory rooms. Upon arrival at the dormitory, the Officer continued to write out citations for Police and Bell. Before finishing the citations, Navarro College campus administration officials arrived; the Officer had called in the administration officials and told them to open up the dormitory rooms of Police and Bell and to assist the Officer in the search of the dormitory rooms. At this time, the Officer had not obtained a warrant to search the domiciles. The Officer had also advised Police and Bell that since they had denied consent to search their dormitory rooms, that any contraband or evidence of a crime would not be prosecuted in a criminal court of law but could be used against them in a college administrative punishment proceeding. At this time, the Officer had also failed to administer Miranda warning to either Police or Bell.

The Officer began searching Police's dormitory room. The entire search is recorded on video from the Officer's body camera. Police is seated on his bed while the Officer and the two college campus administration officials search throughout Police's room. The Officer went through all of Police's personal possession in his bedroom and in the bathroom. Throughout the prolonged search, the Officer continued to interrogate Police and ask him repeatedly where the marijuana was located in the dormitory room. Police repeatedly denied having any marijuana. Eventually, the search of Police's room ends with the Officer never discovering marijuana. The Officer claims that after the video ended, Police finally confessed to using the clear tube to store marijuana in it. This admission is not seen at any time on video and was made under repetitive interrogation without a Miranda warning.

A search of Bell's room was conducted which, likewise, revealed no marijuana. The Officer finished up writing the citations and issued them to both Police and Bell. The Officer can be heard on

his body camera repeatedly mocking Police and Bell for believing that they were being targeted for being African American students.

The entire interaction and prolonged detentions are on videotape which will be incorporated by reference and introduced into the record during the hearing.

II. VIDEO TIMELINE

1. Officer sees Police and Bell walking down the street and pulls around to the next street to try to follow them.
2. Officer locates Police and Bell sitting near the Williamsburg apartment complex.
3. Officer calls over Police and Bell to his squad car.
4. Police immediately complies with Officers command to walk towards him, whereas Bell continues to walk down the street. Officer repeats order to Bell to walk over to him.
At this point it is reasonable to find Police and Bell believed they were being detained
5. Officer asks Police if he can search his person. Police consents. Officer discovers a clear plastic tube.
6. Officer asks Bell if he minds if he searches him. Bell replied "yes." Officer finds a small "roach" containing what Officer believes is marijuana and places Bell in handcuffs.
This is consent to search is incredibly questionable, however. Bell is not the subject of this motion and so we will move on.
7. Officer orders Police and Bell towards the stairwell and lines them up against the wall while he interrogates them as to the whereabouts of marijuana.
At this point time, it is beyond reasonable to find that Police and Bell believed they are being detained.

8. Officer fails to find marijuana located near the stairwell of the Williamsburg apartment complex where he believed they were smoking marijuana.

At this point the initial reason for the search of Bell, Police and the surrounding area has ended and Officer is required to issue a citation, make an arrest or release Police and Bell from detention.

9. Officer asks Police and Bell if he can search their dormitory rooms. Police and Bell unequivocally deny consent to search.

At this point officer lack exigency to search the dormitory rooms and is required to obtain a search warrant.

10. Officer tells Police and Bell to meet him over by their dormitory rooms.

11. Officer, Police and Bell arrive at the dormitory.

12. Two college administrative officials also arrive at the dormitory and open up Police's dorm room.

At this point Officer has no warrant or exigent circumstances to search a domicile. Furthermore, Police and Bell are still being detained while Officer is writing their citation and not free to leave. At this point Police and Bell have STILL not been Mirandized.

13. Search of Police's dorm room commences with the two college administration officials assist the officer in the search.

14. Search of Police's room continues for a prolonged period of time. Officer and the administration officials search through his personal belongings in the living room, bedroom and bathroom.

15. While the search progresses Officer continuously interrogates Police as to the whereabouts of the Marijuana he believes is housed in the dorm room somewhere. Police is seated on the bed.

At this point Police is still detained pursuant to the officer writing the drug paraphernalia citation. Police is in his own home, seated on the bed while Officer searched his domicile. He is subject to custodial interrogation because it is reasonable to believe he does not think he can end the police interaction and leave at this time. He is still not Mirandized.

16. Search of Police's room ends without Officer or the administration officials having ever found Marijuana. Search of Bell's room commences. Interactions with Police end and at some point, off-video, Officer claims Police made an admission that he used the clear plastic tube to house Marijuana in it. This admission is used as the basis to charge Police with Drug Paraphernalia according to the Officer's report – even though from the video it's clear that Officer had already begun to write out a citation to Police for Drug Paraphernalia.

Once Officer began to detain Police and move his person to the apartment complex Police was being detained and reasonably believed he could not end the interaction with Officer. His Co-Defendant had also already been placed in handcuffs. Police was seated in his home while a law enforcement Officer ransacked his domicile. Police reasonably believed he was being detained and so any admission made by him that were not Mirandized are subject to suppression by this Court.

III. ISSUES

Because, at this time, it appears Officer does not intend to charge Police with any offense resulting from items seized during the search of Police's room and because the questionable consensual

search of Bell is not subject to this motion, the only issue for this Court will be the off-video, un-mirandized admission by Police that he used the plastic tube as a storage container for Marijuana.

1. Whether the officer violated Article 38.22 § 3(a)(2) of the Texas Code of Criminal Procedure in obtaining an unmirandized admission from Police that the plastic tube was used as an instrument of Drug Paraphernalia.

IV. AUTHORITY

Miranda v. Arizona, 384 U.S. 436 (1966) – holding that Under the Fifth Amendment, any statements that a defendant in custody makes during an interrogation are admissible as evidence at a criminal trial only if law enforcement told the defendant of the right to remain silent and the right to speak with an attorney before the interrogation started, and the rights were either exercised or waived in a knowing, voluntary and intelligent manner.

Article 38.22 § 3(a) of the Texas Code of Criminal Procedure:

No oral or sign language statement of an accused made as a result of custodial interrogation shall be admissible against the accused in a criminal proceeding unless:

- (1) an electronic recording, which may include motion picture, video tape, or other visual recording, is made of the statement;
- (2) prior to the statement but during the recording the accused is given the warning in Subsection (a) of Section 2 above and the accused knowingly, intelligently, and voluntarily waives any rights set out in the warning.

VI. Argument

The Defendant's statements regarding the alleged contraband found in the vehicle were solicited in violation of Article 38.22 § 3(a)(2) of the Texas Code of Criminal Procedure and

should be suppressed under Article 38.23(a) of this same code as the product of an improper custodial interrogation.

Miranda safeguards take effect whenever a person in custody is subjected to either express questioning or its functional equivalent. *Rhode Island v. Innis*, 446 U.S. 291, 300-01 (1980), See also *Miranda v. Arizona*, 384 U.S. 436, 444 (1966). *Miranda* prohibits the prosecution from using statements, whether exculpatory or inculpatory, stemming from custodial interrogation of the defendant unless it shows the use of procedural safeguards sufficient to secure the privilege against self-incrimination. *Innis*, 446 U.S. 291 at 297. Custodial interrogation is defined as “questioning initiated by law enforcement officers after a person has been taken into custody or otherwise deprived of his freedom of action in any significant way.” *Id.* at 298 (quoting *Miranda*, 384 U.S. at 444 (1966)).

The protections afforded by *Miranda* are not limited to questioning related to the reason for the arrest. See *Mathis v. United States*, 391 U.S. 1, 4-5, 88 S.Ct. 1503 (1968). In *Mathis*, the Supreme Court held that nothing in the *Miranda* opinion calls for a curtailment of the warnings to be given persons under interrogation by officers based on the reason why the person is in custody. *Id.*

Additionally, Article 38.22 § 3(a)(2) provides that “[n]o oral...statement of an accused made as a result of custodial interrogation shall be admissible against the accused in a criminal proceeding unless:
...

(1) an electronic recording, which may include motion picture, video tape or other visual recording, is made of the statement.

(2) prior to the statement...the accused is given the warning in Subsection (a) of Section 2 above and the accused knowingly, intelligently, and voluntarily waives any rights set out in the warning.”

In the present case, the interrogation of the Defendant while in custody for a citation for the offense of possession of Drug Paraphernalia allegedly found on the Defendant's person was illegal since the officer failed to give the Defendant the required *Miranda* warning, codified in Article 38.22 § 3(a)(2) of the Texas Code of Criminal Procedure, prior to questioning. In Officer's report, he stated that the warrantless search of Police's dorm room was subject to college administrative search for contraband. Officer advises Police that nothing found will be used against him in a criminal prosecution. However, Police is still detained subject to a criminal investigation, and Officer begins to interrogate Police while he is in custody in his dorm room while the search is conducted. Police's alleged, off-video, uncharacteristic admission was in response to the officer's questioning. Police was clearly in custody because he had been detained, searched, ordered to move over to his dorm room, was in his domicile while the warrantless search was conducted and was still being detained while Officer wrote out a citation for Drug Paraphernalia. It is clear from the video (not so much from Officer's report) that Police is being detained and is subject to custodial interrogation. Therefore, the questioning of the Defendant was clearly a custodial interrogation given that the Defendant was under arrest when questioned about the ownership of the alleged contraband. Additionally, there is no evidence that the Defendant was *Mirandized* or in any way informed of his statutory rights prior to the interrogation as required by Article 38.22 § 3(a)(2) of the Texas Code of Criminal Procedure. Because of the officer's violation, the Defendant's statement should be suppressed pursuant to Article 38.23(a) of the Texas Code of Criminal Procedure as the product of an illegal custodial interrogation.


Furthermore, the protections offered under *Miranda* are expanded by the Texas Code of Criminal Procedure. Pursuant to Article 38.22 § 3(a)(1) of the Texas Code of Criminal Procedure, any statement made by Police subject to custodial interrogation is required to be made pursuant to "an electronic recording, which may include motion picture, video tape, or other visual recording, is made of the

statement.” Here, Officer claims that Police made an admission that he used the tube to store marijuana. But in the video, Police is subject to interrogation while he sits on his bed for a prolonged period of time. Police never admits to having or storing marijuana. He repeatedly denies possessing marijuana in his room or on his person. Then, *suddenly*, the offense report states that the Officer alleges an off-video confession by Police is spontaneously made to having used the tube to store the marijuana that was never found pursuant to the warrantless search and to which Police repeatedly denied he was in possession of. It is beyond plausible for a Court to find that Police never made this statement. It is contrary to what is viewed on the video and is uncharacteristic of Police’s behavior throughout the recorded interaction. It is for these reasons that Texas has ordained that these statements be recorded. This is so that the veracity of their true existence is beyond reproach. Because Police was clearly subject to custodial interrogation at the time he was arrested, seated in his room subject to a warrantless search, while being questioned – the statement needed to have been recorded on Officer’s body camera or other appropriate recording device. Here, it wasn’t, and so the statement allegedly made by Police must be suppressed by this Court.

CONCLUSION AND PRAYER

The Defendant’s alleged statement regarding the use of the tube allegedly found on the Defendant’s person should be suppressed under Article 38.23(a) of the Texas Code of Criminal Procedure because it was solicited in contravention of Article 38.22 § 3(a)(2) of this same code. It was also not made on a recording pursuant to Article 38.22 § 3(a)(1) of this same code. For the foregoing reasons, the Defendant respectfully requests this court to find that the custodial interrogation of the Defendant was illegal, given that the Defendant was not informed of his rights prior to questioning, and suppress the Defendant’s statements in response to this improper questioning.

Respectfully submitted,

By: 
Raymond Mark Hindieh
Attorney and Counselor at Law
Puente & Hindieh, PLLC
Rhindieh@phflaw.com

CERTIFICATE OF SERVICE

This is to certify that on 3rd day of June 2021, a copy of *Defendant's Brief in Support of Defendant's Motion to Suppress* was delivered to the Criminal District Attorney of Navarro County, Texas.



Raymond Mark Hindieh