

IN THE CIRCUIT COURT OF THE SEVENTEENTH JUDICIAL CIRCUIT  
IN AND FOR BROWARD COUNTY, FLORIDA

STATE OF FLORIDA,

Plaintiff,

vs.

PETER PERAZA,

Defendant.

CASE NUMBER: 15-015844CF10A

JUDGE : USAN

**MOTION TO COMPEL PRODUCTION OF MENTAL HEALTH RECORDS**  
**AND**  
**MOTION FOR SUBPOENA DUCES TECUM**

COMES NOW, the Defendant, PETER PERAZA (“Deputy Peraza”), by and through the undersigned counsel, and moves this Honorable Court to grant this Motion and compel 1) the Broward State Attorney’s Office, the Broward Sheriff’s Office, the Federal Bureau of Investigation, the U.S. Department of Justice, and any other agency known to the Broward State Attorney’s Office (who is prosecuting this case) to produce all mental health records concerning JERMAINE MCBEAN (“McBean”) to the undersigned; and 2) to authorize the undersigned to issue a subpoena duces tecum on IMPERIAL POINT HOSPITAL for all mental health records in its possession concerning McBean, forthwith. In support thereof, Deputy Peraza states as follows:

**BACKGROUND**

1. On July 31, 2013, McBean was observed walking through the GREEN TREE APARTMENTS (“Green Tree”), located in Fort Lauderdale, Florida, while openly armed with an unconcealed rifle. Defense Exhibit 1. (Rifle Photo)

2. Multiple concerned civilians called 9-1-1 to report the suspicious behavior.
3. Shortly thereafter, Deputy Peraza and other deputy sheriffs from the BROWARD SHERIFF'S OFFICE ("BSO") arrived on scene, located McBean, and confirmed that he was in fact armed with a rifle as reported by the civilian callers to 9-1-1.
4. McBean was not only armed with a rifle, but was walking in the direction of the Green Tree swimming pool which was occupied by at least three (3) children and two (2) adult civilians. Defense Exhibit 2. (Crime Scene Photos)
5. McBean did not respond to multiple commands by the deputies as they yelled at him to drop his weapon.
6. According to one (1) eye witness, McBean was "shrugging his shoulders like he didn't care what they were saying", instead of dropping his weapon. Defense Exhibit 4. (Needleman Statement)
7. Another eyewitness described the following:

"I didn't hear it but I mean you know, like I said, it appeared...it appeared to me, okay...that they were yelling and ordering him down, ordering him to put down the rifle..."

"And instead of taking the rifle off his shoulder and putting it down he just turned around..."

"And as soon as he turned around bang, bang, bang, bang."

Defense Exhibit 3. (McCarthy Statement)
8. When McBean turned and pointed the rifle at the deputies, Deputy Peraza acted in his own self-defense and in the defense of the other deputies and members of the public who were present by using his firearm to shoot McBean three (3) times.

9. Photographic evidence proves that McBean was **not** shot in the back. Instead, all shots landed in the front of McBean's body. Defense Exhibit 5. (Hospital Photo)(Notice of Confidential Information within Court Filing for Defense Exhibit 5 has been filed separate and apart from the instant motion).
10. One (1) shot landed in McBean's chest, a second in his abdomen, and a third in his shoulder. There were no exit wounds.

### **MCBEAN'S MENTAL HEALTH PROBLEMS**

#### **I. History of Mental Illness**

11. According to McBean's family, McBean has a history for of mental illness and was diagnosed with bi-polar disorder in 2010. Defense Exhibit 6. (NBC News Article dated June 1, 2015)
12. According to McBean's brother, McBean was hospitalized for a few days before the shooting because he had stopped taking his medication. Defense Exhibit 7. (New York Times Article dated May 30, 2015)

#### **II. Mental Breakdown at Work**

13. According to documents obtained in discovery from the BROWARD STATE ATTORNEY'S OFFICE ("SAO"), McBean had been suffering from a major psychiatric breakdown on the day of this shooting and in the week leading up to the shooting.
14. On Thursday, July 25, 2013, which was a mere six (6) days before the shooting at issue in this case, McBean was hospitalized for emergency psychiatric treatment after having a mental breakdown at his place of employment.

15. Co-workers described his behavior as “manic,” “irrational,” “agitated,” and “incoherent.” Defense Exhibit 8. (Koeston Statement), Defense Exhibit Ex. 5 (NBC News Article dated June 1, 2015)
16. Around 9:00 a.m. that morning, co-workers also observed McBean acting erratically, speaking incoherently about irrelevant subjects without the ability to stop, and behaving extremely agitated. Defense Exhibit 8. (Koeston Statement)
17. When it became clear that McBean was having a psychiatric problem, the Director of Human Resources called for Fire Rescue help.
18. McBean’s abnormal behavior continued when Fire Rescue arrived.
19. As soon as he saw paramedics arrive, McBean “immediately stood up, sat down on the gurney, crossed his legs, and put his hands behind his head, and said ‘Ok, great.’” Defense Exhibit 8. (Koeston Statement)
20. According to a Fire Rescue report, McBean had a history for a major mental health disorder that causes hallucinations and cognitive impairment. Defense Exhibit 9. (Fire Rescue Report – EMT Grant)(Notice of Confidential Information within Court Filing for Defense Exhibit 9 has been filed separate and apart from the instant motion).
21. In fact, when law enforcement inspected McBean’s apartment following the shooting on July 31, 2013, detectives saw several prescription bottles containing medications that are used to treat bi-polar disorder as well as the other major mental illness noted in the Fire Rescue report. Defense Exhibit 10. (Detective John Curcio Report)(Notice of Confidential Information within Court Filing for Defense Exhibit

10 has been filed separate and apart from the instant motion); Defense Exhibit 11 (Medicine Cabinet Photo)(Notice of Confidential Information within Court Filing for Defense Exhibit 11 has been filed separate and apart from the instant motion).

22. The same Fire Rescue report also indicated that McBean “was yelling all the way to the hospital.” Defense Exhibit 9. (Fire Rescue Report – EMT Grant)(Notice of Confidential Information within Court Filing for Defense Exhibit 9 has been filed separate and apart from the instant motion).
23. Upon his arrival at IMPERIAL POINT HOSPITAL (“IP Hospital”), paramedics observed McBean throw his work key fobs out of the Fire Rescue truck and onto the ground. Paramedics collected these items for return to McBean’s employer. *Id.*
24. On Monday, July 29, 2013, McBean contacted the Director of Human Resources at his place of employment to report that he was out of the hospital and wanted to return to work. Defense Exhibit 8. (Koeston Statement)
25. After a brief discussion, the men agreed that McBean would return to work on Wednesday, July 31, 2013. However, McBean was instructed to report to Human Resources with a release statement from the hospital or a treating physician indicating that McBean was cleared for return to work. *Id.*
26. According to the Director of Human Resources, McBean seemed normal again that Monday. He indicated that McBean sounded like the man he knew for the past year and a half. *Id.*
27. However, this recovery was short lived.
28. Instead of showing up on Wednesday, July 31, 2013 as planned, McBean appeared

unannounced in the Director's office on Tuesday, July 30, 2013. *Id.*

29. While this may appear innocuous at first glance, his behavior began to unravel the very next day.
30. The following morning, Wednesday, July 31, 2013, which is the day of the shooting, McBean showed up at work, but the vendor he was to meet with at 9:45 a.m. cancelled at the last second. *Id.*
31. Rather than remain at work, McBean stated he was still not feeling 100% and decided to go home and take the rest of the week off. He advised that he would be returning the following week. *Id.*

## **II. Purchase of Camouflage Rifle**

32. Instead of going home to rest, McBean went to a pawn shop where he tried to purchase a shotgun. Defense Exhibit 12. (Telly Statement)
33. Because the pawn shop did not sell shotguns, the store manager showed McBean a camouflage pellet gun, which he ultimately purchased for One Hundred (\$100.00) Dollars. Defense Exhibit 1 (Rifle Photo); Defense Exhibit 13 (Pawn Shop Receipts)
34. Before leaving the pawn shop with the rifle, the store manager warned McBean **not** to carry the rifle down the street. The store manager also offered to sell McBean the gun on layaway so he could pick it up at a later time. Defense Exhibit 12. (Telly Statement)
35. McBean insisted on taking the rifle and stated that he was only going down the street with it. *Id.*
36. In response, the store manager wrapped the rifle in a garbage bag so that the

camouflage could not be seen. At most, the back handle of the rifle stuck out a little bit. *Id.*

37. After buying the rifle, McBean left the store with the gun in hand. *Id.*

### III. Eye Witnesses Describe McBean Walking with Rifle

38. Shortly thereafter, eye witnesses began calling 9-1-1 to report a man was walking down the street with a rifle.

39. One (1) witness stated that the McBean looked like he was irate and angry, that she saw him stomping his feet and walking like he was “on a mission.” Defense Exhibit 14. (Turner Statement)

40. Another witness said he felt intimidated by McBean and that he intentionally kept away from him. This same witness also stated that McBean had a “blank” look on his face. Defense Exhibit 15. (Ketchel Statement)

41. Multiple eye witnesses also stated that they saw McBean remain unresponsive to multiple police commands to “Drop the weapon!” Defense Exhibit 16. (Maher Statement)

42. Another eye witness described McBean as being “zombified”, stating that he appeared to either be a “crazy person” or “high.”

He looked to me like he was a crazy person or he was high. That’s what I took from the way he was walking and the way he was carrying himself...

He just looked *zombified*. He looked like he was under the influence of something... he wasn’t walking like a normal human being. He was out of his, he was out of his mind on something and I, I got that from looking this far away. And I thought to myself thank God, I remember thinking thank God he’s in the other side of the fence. That’s all I remember thinking...

What I remember most was he was walking like he was a *zombie*... I don't man he looked like he was under the influence of drugs. That's it. He looked like he wasn't a normal human being like you and I. Walking into public like an every day person.

*Id.*

#### **IV. Neighbor's Observation of Erratic Behavior**

43. When detectives interviewed McBean's downstairs neighbor, she said she had seen McBean talking and laughing to himself, cursing out loud, and acting disturbed for the week and half leading up to the shooting. Defense Exhibit 17. (Worrel Statement)
44. His behavior became so disturbing that she even instructed her children to come inside in case he became violent. *Id.*
45. The neighbor also reported that she heard him shouting and stomping around his apartment until three o'clock in the morning. *Id.*
46. She also confirmed that his behavior had gotten worse on the day he had the mental breakdown at work. On that day, the neighbor stated that she had heard him kicking things around and stomping on the floor. *Id.*
47. She also believed he was bi-polar because she has a family member with the same disorder and is familiar with its behavior patterns. *Id.*
48. This neighbor was also aware that McBean had been hospitalized the Thursday before the shooting. She stated that he seemed happy to see his kittens when he came back from the hospital, but that his mental state had deteriorated on the day of the shooting. *Id.*



49. Specifically, she stated that his behavior returned to the same thing as it was the prior week. She heard him shouting and cursing and was concerned that he may become violent. *Id.*

50. When detectives searched McBean's apartment, its contents were in complete disarray which is consistent with a person experiencing a mental health episode as well as the neighbors description of his behavior. Defense Exhibit 18. (McBean Residence); Defense Exhibit 17. (Worrel Statement)

51. It is also important to note that toxicology testing during McBean's autopsy revealed that he did **not** have any Anti-depressant drugs or Benzodiazepine drugs (which are used to treat people with manic disorder or bi-polar disorder) in his system at the time of his death. Defense Exhibit 19. (Autopsy Report)(Notice of Confidential Information within Court Filing for Defense Exhibit 19 has been filed separate and apart from the instant motion).

52. This final point is important because it reveals that McBean was not taking his medication, even though he was recently released from the hospital.

### **RELEVANCE OF MENTAL HEALTH RECORDS**

53. This case presents two (2) versions of events.

54. According to prosecutors, McBean did not do anything to threaten the lives or well being of those around him.

55. According to Deputy Peraza, McBean was not only walking through an apartment complex armed with a rifle while remaining unresponsive to police commands to drop the weapon, but McBean then turned and pointed the rifle at Deputy Peraza and

other members of BSO.

56. In between both of these claims is the evidence concerning McBean's mental health status.

57. Evidence that proves McBean had multiple major mental health disorders that impair cognition, was not taking his medication, and was in the midst of a mental breakdown that resulted in hospitalization ARE ALL CONSISTENT with the fact that McBean walked down the street while brandishing a rifle and then pointed that rifle at uniformed deputies.

58. The big question that fact finders may ultimately grapple with is "Why?"

59. Why would an IT professional, with two (2) college degrees, who has no criminal record and no history of violence all of a sudden point a rifle at uniformed police officers?

60. The answer is simple: *McBean was not acting normal because he was having a mental breakdown due to his multiple mental health problems and failure to take his medication.*

61. Context is everything. The shooting in this case did not happen during a police response to a home invasion, a bank robbery, or an undercover drug deal. Such circumstances would make sense to a jury.

62. In this case, there is no robbery or drug deal. For a jury to make a fair and impartial decision, they will need to know all the facts, hear all the evidence, and understand this case in context. As prosecutors routinely argue, this case cannot be tried in a vacuum.

63. Thus, the one and only context that explains what **truly** happened in this case is the evidence surrounding McBean's mental health history and his mental health status on the day and days leading up to the shooting at issue in this case.

**PREJUDICE, DUE PROCESS IMPLICATION  
AND PREPARATION FOR TRIAL**

64. In order to prepare Deputy Peraza's defense, prepare for trial, prepare questions for cross-examination, and otherwise challenge the State's case, Deputy Peraza requires full access to all records pertaining to McBean's mental health.

65. This includes not only records relating to his hospitalization on July 25, 2013, but to his history as well.

66. Without this information, a massive gap in the evidence will be created that future fact finders will not understand. This will prejudice Deputy Peraza and will expose him to the danger of wrongful conviction, merely because the fact finder was not presented with the full picture and *all* of the evidence.

67. This will result in a denial of due process, a denial of competent and adequately prepared legal counsel, and denial of equal access to the courts, in violation of the *U.S. Constitution, Florida Statutes, and the Florida Rules of Criminal Procedure.*

**RELIEF SOUGHT**

68. First, Deputy Peraza specifically seeks access to all of McBean's mental health records that are in the possession of the Broward State Attorney's Office, the Broward Sheriff's Office, the Federal Bureau of Investigation, the U.S. Department of Justice, and any other agency known to the Broward State Attorney's Office (who

is prosecuting this case).

69. Second, Deputy Peraza seeks leave to issue a subpoena duces tecum on Imperial Point Hospital, Broward Sheriff's Office Fire Rescue, and the Fort Lauderdale Fire Department, and Oakland Park Fire Rescue for all records in their possession pertaining to McBean.

70. Other grounds to be argued Ore Tenus.

WHEREFORE the Defendant, PETER PERAZA, prays this Honorable Court to grant this Motion and compel 1) the Broward State Attorney's Office, the Broward Sheriff's Office, the Federal Bureau of Investigation, the U.S. Department of Justice, and any other agency known to the Broward State Attorney's Office (who is prosecuting this case) to produce all mental health records concerning JERMAINE MCBEAN ("McBean") to the undersigned; and 2) to authorize the undersigned to issue a subpoena duces tecum on IMPERIAL POINT HOSPITAL for all mental health records in its possession concerning McBean, forthwith.

I HEREBY CERTIFY that an original has been furnished electronically to the Florida E-Portal and a true copy to the Office of the State Attorney, 17<sup>th</sup> Judicial Circuit, on the 6<sup>th</sup> day of January, 2016.

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