

**IN THE SUPREME COURT OF FLORIDA**

CITY OF TALLAHASSEE, FLORIDA

Petitioner,

**CASE NO.: SC21-651**

L.T. Nos.: 1D20-2193

v.

37-2020-CA-001011

FLORIDA POLICE BENEVOLENT  
ASSOCIATION, INC., JOHN DOE 1,  
and JOHN DOE 2,

Respondents.

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**VOLUSIA SHERIFF MICHAEL J. CHITWOOD'S UNOPPOSED  
MOTION FOR LEAVE TO FILE AMICUS CURIAE BRIEF**

Michael J. Chitwood, Sheriff of Volusia County, Florida, moves under Florida Rule of Appellate Procedure 9.370(a) for leave to file an Amicus Curiae Brief in support of the Petitioner, City of Tallahassee, Florida. All parties consent to the filing of the amicus brief.

**1. Sheriff Chitwood's Interest in the Appeal.**

The Volusia Sheriff's Office, ("VSO"), is the independent constitutional sheriff's office of Volusia County, Florida. VSO is accredited by the Commission on Accreditation for Law Enforcement Agencies, Inc. (CALEA), and employs over 800 personnel including approximately 400 sworn deputies. Under the leadership of Sheriff

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Michael J. Chitwood, VSO makes a concerted effort to be transparent and accountable to the citizens that it provides law enforcement services to, especially, as it relates to de-escalation, deputy-involved shootings and the use of body worn cameras (BWC). VSO has, in the past, at the earliest opportune time, disclosed the names of deputies involved in shootings in their official capacity.

VSO is interested in this appeal as it believes that the citizens should know the names of deputies who are involved in the use of deadly force while carrying out their official duties. This disclosure of the deputies' names not only promotes transparency and accountability but helps to rebuild the eroding public trust in law enforcement. VSO desires to continue disclosing the names of deputies who are involved in the use of deadly force while in the execution of their official duties in order to continue promoting transparency and accountability.

**2. The Particular Issue Sheriff Chitwood Will Address.**

Sanctity of human life is VSO's highest priority when its deputies don the badge and uniform every day to protect and serve the citizens. Deputies are trained in the use of force continuum and de-escalation. They understand that they are only authorized to use the

amount of force that is proportional, reasonable and necessary under the circumstances, to protect themselves and/or others while performing their lawful duties. Deputies are fully aware before and after they become deputies that, although relatively rare, they may face circumstances that dictate that they use deadly force. This is a risk that deputies accept when they take the oath to serve and to protect. In cases where deputies use deadly force, Sheriff Chitwood supports the deputies involved and ensures they receive due process protections. On balance, Sheriff Chitwood, at the earliest opportune time, discloses the names of the involved deputies to be transparent and accountable to the citizens VSO serves.

The deputies who use deadly force in the execution of their lawful duties stand in the position of the “accused.” The deputy involved does not suffer a direct physical harm under Fla. Const. art. I, § 16(e), even if force is used against the deputy. The person/suspect who the deadly force is used against would be the “victim” of the deputy’s use of force. Deputies accept the risk that at some point in their careers they may have to use deadly force to protect themselves or others. They are afforded all due process protections. A finding is ultimately made as to whether the use of deadly force was authorized, justified,

or excessive. However, the deputy who uses deadly force while performing official duties was never contemplated and should never be contemplated as a “victim” under Marsy’s Law.

**3. How Sheriff Chitwood Can Assist the Court in the Disposition of the Appeal.**

Sheriff Chitwood’s amicus brief will seek to provide the Court with a law enforcement perspective that will show that transparency and accountability are imperative in rebuilding public trust in law enforcement and extending the protections of Marsy’s Law to law enforcement officers performing their official duties would further erode that trust.

**4. All Parties Consent to the Filing of Sheriff Chitwood’s Amicus Brief.**

Philip Padovano, counsel for Petitioner, Luke Newman, counsel for Respondents and Mark Caramanica, counsel for the Intervenors/Petitioners News Media Coalition, have authorized the undersigned counsel for Sheriff Chitwood to represent that they consent to his filing of an amicus brief, should the Court grant leave.

WHEREFORE, Sheriff Chitwood respectfully requests leave to appear as amicus curiae in support of the Petitioner, City of Tallahassee, Florida.

Respectfully submitted,

/s/ Peter A.D. McGlashan  
Peter A.D. McGlashan, Esquire  
General Counsel  
Volusia Sheriff's Office  
Fla. Bar No.: 0990477  
123 West Indiana Avenue  
DeLand, FL 32720-4613  
Telephone (386) 736-5961  
Facsimile (386) 822-5074  
pmcglashan@vcso.us  
mcarlin@vcso.us

*Attorney for Michael J. Chitwood  
in his official capacity as Volusia  
Sheriff, Volusia County, Florida*

**CERTIFICATE OF SERVICE**

I certify that on February 14, 2022, I electronically filed this motion with the Clerk of the Court by using the Florida Courts E-Filing Portal and that a true and correct copy of this brief was served by E-Mail on below listed counsel:

**CASSANDRA K. JACKSON**

Florida Bar No. 650757  
**HANNAH D. MONROE**  
Florida Bar No. 102762  
CITY ATTORNEY'S OFFICE  
300 S. Adams Street  
Box A-5 Tallahassee, FL 32301  
Tel.: (850) 891-8554  
cassandra.jackson@talgov.com  
hannah.monroe@talgov.com  
*Counsel for Petitioner*

**PHILIP J. PADOVANO**

Florida Bar No. 157473  
**JOSEPH T. EAGLETON**  
Florida Bar No. 98492  
BRANNOCK HUMPHRIES &  
BERMAN  
131 N. Gadsden Street  
Tallahassee, FL 32301  
Tel. (813) 223-4300  
ppadovano@bhappeals.com  
jeagleton@bhappeals.com  
*Counsel for Petitioner*

**STEPHEN G. WEBSTER**

**LOUIS J. BAPTISTE**  
THE LAW OFFICES OF  
STEPHEN G. WEBSTER LLC  
1615 Village Square Blvd.  
Suite 5  
Tallahassee, FL 32309  
sw@swebsterlaw.net  
lb@swebsterlaw.net  
*Counsel for Respondents*

**LUKE NEWMAN**

LUKE NEWMAN, P.A.  
908 Thomasville Road  
Tallahassee, FL 32303  
luke@lukenewmanlaw.com  
*Counsel for Respondents*

**STEPHANIE DOBSON  
WEBSTER**

FLORIDA POLICE  
BENEVOLENT  
ASSOCIATION  
300 E. Brevard Street  
Tallahassee, FL 32301  
stephanie@flpba.org  
*Counsel for Respondents*

**CAROL JEAN LOCICERO**  
**MARK R. CARAMANICA**  
THOMAS & LOCICERO PL.  
601 South Boulevard  
Tampa, FL 33606  
clocicero@tlolawfirm.com  
tgilley@tlolawfirm.com  
mcaramanica@tlolawfirm.com  
dlake@tlolawfirm.com

**DANIELA B. ABRATT**  
THOMAS & LOCICERO PL.  
915 Middle River Drive, Ste. 309  
Fort Lauderdale, FL 33304  
dabratt@tlolawfirm.com  
*Counsel for Intervenors,  
News Media*

**EDWARD L. BIRK**  
MARKS GRAY, P.A.  
1200 Riverplace Blvd., Ste. 800  
Jacksonville, FL 32201  
Tel: (904) 398-0900  
ebirk@marksgray.com  
sstronng@marksgray.com  
*Counsel for Amici Curiae  
Reporters Committee for  
Freedom of the Press, Radio  
Television Digital News  
Association, Poynter Institute,  
Society of Professional Journalists  
Florida Chapter, Florida Center  
for Government Accountability,  
and Asian American Journalists  
Association Florida Chapter*

**EDWARD G. GUEDES**  
Florida Bar No. 768103  
**JOHN J. QUICK**  
Florida Bar No. 648418  
WEISS, SEROTA, HELFMAN,  
COLE & BIERMAN, P.L.  
2525 Ponce de Leon Blvd.,  
Ste. 700  
Coral Gables, FL 33134  
Tel: (305) 854-0800  
eguedes@wsh-law.com  
szavala@wsh-law.com  
jquick@wsh-law.com  
lmartinex@wsh-law.com  
*Counsel for City of Miami  
Civilian Investigative Panel*

**SHANNON K. LOCKHEART**  
**PAUL G. ROZELLE**  
PINELLAS COUNTY SHERIFF  
General Counsel's Office  
10750 Ulmerton Road  
Largo, FL 33778  
Tel: (727) 582-6274  
slockheart@pcsonet.com  
prozelle@pcsonet.com  
rreuss@pcsonet.com  
*Attorneys for Bob Gualtieri  
in his Official Capacity as  
Sheriff of Pinellas County,  
Florida*

/s/ Peter A.D. McGlashan  
Peter A.D. McGlashan, Esq.