

IN THE CIRCUIT COURT OF THE SIXTH JUDICIAL CIRCUIT
IN AND FOR PASCO COUNTY, STATE OF FLORIDA
CRIMINAL DIVISION

STATE OF FLORIDA,
Plaintiff,

Case No.: CRC-1400216FAES

Division: 1

v.

CURTIS J. REEVES,
Defendant.

**MOTION TO DESIGNATE ANTHONY BOSSONE AND EACH AND EVERY LISTED
WITNESS EMPLOYED BY THE PASCO COUNTY SHERIFF'S OFFICE AS
WITNESSES IDENTIFIED WITH AN ADVERSE PARTY UNDER §90.612(3), AND TO
ALLOW THE DEFENSE TO QUESTION EACH OF THEM WITH LEADING
QUESTIONS**

COMES NOW, the Defendant, CURTIS J. REEVES, by and through undersigned counsels, and pursuant to Florida Statute § 90.612(3) and moves this Honorable Court to designate Anthony Bossone and each and every listed witness employed by the Pasco County Sheriff's Office as witnesses identified with an adverse party and to allow the Defense to question them with leading questions, and states as follows:

INTRODUCTION TO SECTION 90.612(3)

The plain language of section 90.612(3) authorizes defendants to ask leading questions of certain categories of witnesses on direct examination. The law states, in pertinent part, that "[w]hen a party calls a hostile witness, an adverse party, or a **witness identified with an adverse party**, interrogation may be by leading questions." § 90.612(3), Fla. Stat. (2013) (emphasis added). As noted by Professor Ehrhardt, "[a]n inherent incentive exists in an adverse party ... to provide self-serving testimony by avoiding the question or slanting the answer." Charles W. Ehrhardt, Florida Evidence § 612.1 at 727-28 (2016) (emphasis added). In addressing this

problematic phenomenon, in 1995 the Florida Legislature amended section 90.612(3) so that "witness[es] identified with an adverse party" called to the witness stand may be interrogated with leading questions. § 90.613(3). After the amendments were implemented, once a witness is identified with an adverse party, "**leading questions are automatically permitted during direct examination.**" *Ehrhardt*, at 728 (footnotes and internal quotations omitted) (emphasis added).

The 1995 amendments were modeled on Federal Rule of Evidence 611(c)(1)-(2), which allows hostile witnesses, adverse parties, and witnesses identified with adverse parties to be subjected to leading questioning. 1995, Fla. Laws ch. 95-179, § 1, 1647 (codified as amended at Fla. Stat. § 90.612(3) (1995)). Because the "Florida evidentiary rule is patterned after its federal counterpart, federal cases interpreting comparable provisions are persuasive and routinely looked to for interpretative guidance." *L.L. v. State*, 189 So. d 252, 255 (Fla. 3d DCA 2016) (citations and internal quotations omitted).

Federal courts have had the opportunity to identify a number of circumstances when a witness is deemed to be sufficiently identified with an adverse party so as to allow them to be subjected to leading questioning on direct examination. In *Haney v. Mizell Memorial Hosp.*, 744 F.2d 1467, 1477-78 (11th Cir. 1984), a nurse employed by defendant-hospital was determined to be identified with the party. In *Perkins v. Volkswagen of Am., Inc.*, 596 F.2d 681, 682 (5th Cir.1979)¹, an employee of a party was identified with the party for the purposes of Rule 611 (c)(2). In *Stahl v. Sun Microsystems, Inc.*, 775 F. Supp. 1397, 1398 (D. Colo. 1991), the district court allowed a plaintiff to ask leading questions of *defendant's former* administrative secretary. In *Ellis v. City of Chicago*, 667 F.2d 606, 613 (7th Cir. 1981), a plaintiff was allowed to ask leading

¹ Decisions from the Court of Appeals for the Fifth Circuit preceding October 1, 1981 are binding on the Eleventh Circuit. *Bonner v. City of Prichard*, 661 F.2d 1206 (11th Cir. 1981).

questions of police officers who worked closely with defendant police officer. In *United States v. Hicks*, 748 F.2d 854, 859 (4th Cir. 1984), a plaintiff asked leading questions of the defendant's girlfriend. In *United States v. Brown*, 603 F.2d 1022, 1025-26 (1st Cir. 1979), a prosecutor was allowed to lead a witness who was a close friend of the defendant and a participant in the crime. The above-cited cases make clear that there is any number of ways to be deemed a witness identified with an adverse party.

**ANTHONY BOSSONE AND EACH AND EVERY LISTED WITNESS EMPLOYED
WITH THE PASCO COUNTY SHERIFF'S OFFICE IS IDENTIFIED WITH THE STATE
OF FLORIDA UNDER SECTION 90.612(3)**

Here, Detective Bossone and all of the other listed witnesses employed by the PCSO are clearly identified with the State of Florida, the opposing party. In the context of this case, the PCSO has been an arm of the State Attorney's Office.

Numerous employees of the PCSO- including Detective Bossone - have been heavily involved in the investigation and prosecution of Curtis Reeves. Detective Bossone and the others are subject to the language of section 90.612(3) authorizing the questioning of him/them by leading questions.

This motion was previously filed by Defendant and was granted by the Court on February 23, 2017. *See* Exhibit A.

CONCLUSION

Given all of the above, section 90.612(3) applies to Det. Bossone. When undersigned counsel(s) call him and his colleagues to the witness stand, it is respectfully requested that the Court grant permission to ask leading questions.

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that a true and accurate copy of this has been furnished by electronic delivery to the Office of the State Attorney for the Sixth Judicial Circuit, c/o Glenn Martin, Esq., at glenmartin@co.pinellas.fl.us and via U.S postal service at P.O. Box 5028, Clearwater, Florida 33758 on this 30th day of June 2020.

/s/:Richard Escobar

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Exhibit A:
Circuit Court
Event Form
February 23,
2017

Circuit Court Event Form SAO: MARTIN, GLENN

STATE OF FLORIDA Case 2014CF000216AXES Court Date: 02/23/2017
 VS No(s): _____
 REEVES, CURTIS Defense Attorney: ESCOBAR, RICHARD
 Hearing Type: STAND YOUR GROUND MTN

Charges(s): CT 1 - MURDER IN THE 2ND DEG, 1F; CT 2 - AGG BATT, 2F
 Lesser(s): _____ F.S.

Next Court Date: reconvene at Cobb theatre on 2/24/17 @ 8:30 am, def's pres wvd at theatre WST return to courthouse around 10:15 am Victim Present

Court Appointed: <input type="checkbox"/> PD <input type="checkbox"/> RC <input type="checkbox"/> Conflict <input type="checkbox"/> HSNR <input type="checkbox"/> Failed To Appear <input type="checkbox"/> Estreat Bond <input type="checkbox"/> Surety <input type="checkbox"/> Cash <input type="checkbox"/> Revoke ROR <input type="checkbox"/> Issued Capias Amount:\$ _____ Count(s) _____ Amount:\$ _____ Count(s) _____ <input type="checkbox"/> Recall Capias <input type="checkbox"/> Reinstate ROR <input type="checkbox"/> Reinstate Bond <input type="checkbox"/> Surety <input type="checkbox"/> Cash	Plea of: <input type="checkbox"/> Guilty <input type="checkbox"/> Not Guilty <input type="checkbox"/> No Contest <input type="checkbox"/> Admit to VOP <input type="checkbox"/> Viol. Cond(s): _____	Verdict Of: <input type="checkbox"/> Guilty <input type="checkbox"/> Not Guilty <input type="checkbox"/> By court <input type="checkbox"/> By jury <input type="checkbox"/> VOP dismissed	Motion for: <input type="checkbox"/> Granted <input type="checkbox"/> w/ Prejudice <input type="checkbox"/> Denied <input type="checkbox"/> w/o Prejudice <input type="checkbox"/> Take Under Advisement <input type="checkbox"/> Withdrawn	To Prep Order: <input type="checkbox"/> Court <input type="checkbox"/> SAO <input type="checkbox"/> Defense Atty <input type="checkbox"/> FIOC <input type="checkbox"/> SIOC
Adjudication: <input type="checkbox"/> Guilty _____ Count(s) <input type="checkbox"/> Withheld _____ Count(s) <input type="checkbox"/> Departure <input type="checkbox"/> YO <input type="checkbox"/> HVO <input type="checkbox"/> PRR <input type="checkbox"/> Waive PRR <input type="checkbox"/> Min/Man _____ yr(s) as to count(s) _____ <input type="checkbox"/> VOP <input type="checkbox"/> Reinstate <input type="checkbox"/> Modify <input type="checkbox"/> New term <input type="checkbox"/> Revoke and Term				
Sentenced To: <input type="checkbox"/> PCDC <input type="checkbox"/> DOC <input type="checkbox"/> as to count(s) _____ <input type="checkbox"/> time served as to count(s) _____ <input type="checkbox"/> Credit T/S: _____ days <input type="checkbox"/> _____ mos / yr(s) <input type="checkbox"/> CC <input type="checkbox"/> Prob. <input type="checkbox"/> DOPO <input type="checkbox"/> Sex Off. <input type="checkbox"/> MM <input type="checkbox"/> as to count(s) _____ As to count (s) _____ <input type="checkbox"/> Concur. <input type="checkbox"/> Consec. <input type="checkbox"/> _____ mos / yr(s) <input type="checkbox"/> DOC <input type="checkbox"/> PCDC <input type="checkbox"/> CC <input type="checkbox"/> Prob. <input type="checkbox"/> DOPO <input type="checkbox"/> Sex Off. <input type="checkbox"/> MM <input type="checkbox"/> F/B: _____ mos / yr(s) <input type="checkbox"/> CC <input type="checkbox"/> Prob. <input type="checkbox"/> DOPO <input type="checkbox"/> Sex Off. <input type="checkbox"/> Concur. <input type="checkbox"/> Consec. <input type="checkbox"/> Co-Term: w/ <input type="checkbox"/> any active case <input type="checkbox"/> w/				
Conditions: <input type="checkbox"/> SA Evaluation <input type="checkbox"/> Psych Evaluation <input type="checkbox"/> Anger Management <input type="checkbox"/> BIP <input type="checkbox"/> within _____ Days <input type="checkbox"/> Random UA <input type="checkbox"/> Waive THC for 30 Days <input type="checkbox"/> Waive Search & Seizure <input type="checkbox"/> No Alcohol <input type="checkbox"/> No bars, est. where primary purp is sale alcohol <input type="checkbox"/> Curfew 10PM-6AM Except: _____ <input type="checkbox"/> NCWW <input type="checkbox"/> No contact w/Co Def. <input type="checkbox"/> Report to P&P: <input type="checkbox"/> No Mind Alt. subs, drugs <input type="checkbox"/> No poppy seeds <input type="checkbox"/> DL susp/rev. for _____ <input type="checkbox"/> All prev. cond. remain <input type="checkbox"/> Standard pharm. Cond. <input type="checkbox"/> Employed FT or 8hr c/s Per week <input type="checkbox"/> No driving w/o valid DL	<input type="checkbox"/> Remanded to PCDC <input type="checkbox"/> until bed space available <input type="checkbox"/> @ _____ <input type="checkbox"/> Enter & complete 1 st time <input type="checkbox"/> Including aftercare <input type="checkbox"/> F/B trans. housing <input type="checkbox"/> Early Term _____ <input type="checkbox"/> Early Rollover _____ <input type="checkbox"/> Auto Term _____ <input type="checkbox"/> No Early Term <input type="checkbox"/> Complete _____ hrs. C/S <input type="checkbox"/> @ rate _____ hrs. per <input type="checkbox"/> Week <input type="checkbox"/> Month (Min) <input type="checkbox"/> Waive COS while in & Waiting for program <input type="checkbox"/> May Transfer To: _____ <input type="checkbox"/> Ignition Interlock _____ <input type="checkbox"/> Victim impact panel _____ <input type="checkbox"/> Appear for all status cks <input type="checkbox"/> Forfeit Weapon to PCSO <input type="checkbox"/> DUI School <input type="checkbox"/> Advanced <input type="checkbox"/> 2 sober support meetings Per week	Court Costs: <input type="checkbox"/> Standard \$550 <input type="checkbox"/> Lessor \$500 <input type="checkbox"/> COP - \$100 <input type="checkbox"/> Attorney fee \$ _____ <input type="checkbox"/> PD <input type="checkbox"/> RC <input type="checkbox"/> Conflict <input type="checkbox"/> PD Indigent Fee \$50 <input type="checkbox"/> COI - \$ _____ to: <input type="checkbox"/> PCSO <input type="checkbox"/> NPRPD <input type="checkbox"/> FHP <input type="checkbox"/> PRPD <input type="checkbox"/> DCPD <input type="checkbox"/> ZPD <input type="checkbox"/> DV \$201 <input type="checkbox"/> RAPE CRISIS \$151 <input type="checkbox"/> Minor \$151 <input type="checkbox"/> FDLE \$100 <input type="checkbox"/> DNA - \$7 <input type="checkbox"/> State Radio \$3 <input type="checkbox"/> Crim. Use of ID \$1,001 <input type="checkbox"/> Trafficking fine & SC. <input type="checkbox"/> \$ _____	<input type="checkbox"/> Restitution \$ _____ To _____ <input type="checkbox"/> Pay min \$ _____ Per mos beg. _____ <input type="checkbox"/> Costs Imposed as Lien <input type="checkbox"/> C/S opt. \$8.05 hr <input type="checkbox"/> O/S Costs as Lien <input type="checkbox"/> Conc w/ _____ <input type="checkbox"/> Consec <input type="checkbox"/> Pay Costs Within _____ <input type="checkbox"/> \$1 per mos. 1 st Step <input type="checkbox"/> Pay _____	
Other Conditions: _____ _____ _____				

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 2017 FEB 23 PM 3:48
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Notes:

mtn to designate Anthony Boszone & each + every listed witness employed by the PCSO as witnesses identified w/ an adverse party - granted

mtn to designate Nicole Oulson as a witness identified w/ an adverse party - granted.

Circuit Court Event Form R012016