THE FLORIDA SENATE

SPECIAL MASTER ON CLAIM BILLS

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DATE	COMM	ACTION
1/5/26	SM	Favorable

January 5, 2026

The Honorable Ben Albritton
President, The Florida Senate
Suite 409, The Capitol
Tallahassee, Florida 32399-1100

Re: **SB 16** – Senator Darryl Rouson
HB 6517 – Representative Berfield
Relief of Heriberto A. Sanchez-Mayen by the City of St. Petersburg

SPECIAL MASTER'S FINAL REPORT

THIS IS AN UNCONTESTED CLAIM FOR $2,300,000 FROM THE GENERAL REVENUE OF THE CITY OF ST. PETERSBURG. THIS AMOUNT IS THE UNPAID SETTLEMENT AGREEMENT BETWEEN HERIBERTO SANCHEZ-MAYEN, THE CITY OF ST. PETERSBURG, AND ST. PETERSBURG POLICE OFFICERS MICHAEL THACKER AND SARAH GADDIS, IN THEIR INDIVIDUAL CAPACITIES. THE SETTLEMENT RESOLVED A FEDERAL CIVIL ACTION ARISING FROM ALLEGED INJURIES RECEIVED BY HERIBERTO SANCHEZ-MAYEN WHILE IN POLICE CUSTODY, RESULTING IN THE AMPUTATION OF HIS LEGS.

FINDINGS OF FACT:

As noted by the U.S. District Court of the Middle District of Florida-Tampa Division, in an order granting, in part, a Motion to Dismiss in this matter, this case is unique in that "the entirety of the officers' relevant conduct…is captured on three videotapes," and "these three tapes are almost the entire case…both parties argued from the tapes without objection." The authenticity of these videos was not challenged by either party.[1]

[1] *Sanchez-Mayen v. City of St. Petersburg, et al*, No. 8:24-CV-00690-WFJ, at (M.D.Fla Mar. 10, 2025), at 1-2.

On the morning of June 8, 2023, Officer Sarah Gaddis (Gaddis) of the St. Petersburg Police Department, at approximately 10:25 a.m., responded to a call for service "regarding transients loitering in vacant lot just south of…251 15th Street North. The caller advised there were three subjects; a white male, a white female, and a Hispanic male."[2]

The property in question is a long, narrow, vacant lot owned by the City of St. Petersburg. The lot is bounded by fencing on its long sides and can be ingressed and egressed from the narrower sides. These two narrower sides were marked with metal signs on wooden posts. From Officer Gaddis' bodycam video of the incident in question, at least one sign, clearly visible from the street, stated "No Trespassing" and cited to St. Petersburg City Code 21-40. The wording of the other sign is not clear from the video; however, it is reasonable to assume it contained similar verbiage.[3] Gaddis walked further into the lot, where she found Heriberto Sanchez-Mayen (Sanchez-Mayen) asleep on his back, barefoot, and lying on a piece of cardboard with a backpack near his arm. Nearby Sanchez-Mayen is a tarp tied up amongst a bamboo clump so as to make a makeshift shelter, as are several items of clothing, a pack of cigarettes, and a beer can.[4] Various pieces of other rubbish can also be found around the lot. Gaddis arouses Sanchez-Mayen from his sleep by calling out his first name, which she clearly knows.[5]

After arousing Sanchez-Mayen, Gaddis informed him that he was trespassing and asks Sanchez-Mayen if he knew this (Sanchez-Mayen later denied seeing the no trespassing sign) and if the beer can nearby was his (which he also denied—Gaddis however, does not appear to believe this, as she states that the beer is a brand Sanchez-Mayen always drinks).[6] She instructs Sanchez-Mayen to put on his shoes, gather his belongings, and accompany her to her police cruiser nearby to be issued "a ticket."[7] However, Gaddis

[2] Deposition of Officer Sarah Gaddis, Jan. 30, 2025, at 71, unmarked Claimant's Exhibit.
[3] Gaddis also states that both signs say, "no trespassing." Bodycam video of Officer Sarah Gaddis, Jun. 8, 2023, at 0:30-32.
[4] *Id.* at 1:25-2:01.
[5] *Id.* at 0:49-52. In her deposition, Gaddis stated that "I was able to easily identify the Hispanic male as Heriberto Sanchez-Mayen, as we have had numerous previous interactions with him. He is a chronic offender of ordinances and violations downtown." Deposition of Officer Sarah Gaddis, *supra* note 2 at 74.
[6] Bodycam video of Officer Sarah Gaddis, *supra* note 3 at 0:50-2:36, unmarked Claimant's Exhibit.
[7] *Id.* at 0:50-1:06.

appears to immediately reconsider this, and asks into her radio whether the police transport van is nearby and then asks for the van to come to the lot for a trespass.[8]

Sanchez-Mayen, though seemingly groggy and potentially intoxicated, fully complies with Gaddis' instructions and is at no time combative or otherwise uncooperative.[9] Gaddis also treated Sanchez-Mayen in a professional manner and was neither abusive nor physically threatening. Gaddis proceeded to conduct a search of Sanchez-Mayen's backpack and pats him down. Sanchez-Mayen continues to be cooperative, and Gaddis continues to be professional.[10] Gaddis then informs Sanchez-Mayen that he will not be getting a ticket and will, instead, be arrested, stating that they are getting "all kinds of complaints," Sanchez-Mayen gets tickets "all the time," but does not care and continues to "not change his ways."[11]

Shortly thereafter, Officer Michael Thacker (Thacker) arrives, who is the driver of the police transport van and responsible for transporting detainees to the police station "sally port." Gaddis informs Thacker of Sanchez-Mayen's name and that the charge against him is trespass. Two other unidentified officers are nearby; however, they are not substantially involved in the arrest other than to walk with Sanchez-Mayen to the van.[12] Thacker then says to Gaddis "I think after a certain many of these, it should be a felony." Gaddis indicates her agreement with this statement.[13] Thacker then places Sanchez-Mayen in handcuffs and places a belly chain around Sanchez-Mayen's waist to which he attaches the handcuffs.[14] Gaddis again re-iterates that Sanchez-Mayen will not "change his ways," to which Thacker says, "A year in jail would probably settle it."[15] Gaddis then states, "Yeah…maybe…it's debatable."[16] The officers search Sanchez-Mayen's backpack and load his property into a bag for Thacker to take with him for transporting Sanchez-Mayen.[17]

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[8] *Id.* at 1:07-1:27.
[9] Officer Gaddis, in her deposition, stated that, from her recollection of that morning, Sanchez-Mayen did not appear intoxicated. Deposition of Officer Sarah Gaddis, *supra* note 2 at 86.
[10] Bodycam video of Officer Sarah Gaddis, *supra* note 3 at 2:42-4:12.
[11] *Id.* at 4:50-55 and 6:15-20.
[12] *Id.* at 5:01-6:02.
[13] *Id.* at 6:02-6:10.
[14] *Id.* at 5:55-6:28.
[15] *Id.* at 6:15-6:29.
[16] *Id.* at 6:30-6:34.
[17] *Id.* at 6:50-8:08.

Sanchez-Mayen is loaded into the police van, and he continues to be completely cooperative with no physical resistance whatsoever—although he does continue to appear to be groggy and potentially intoxicated.[18] The van is a Ford Police Transport Van, with two compartments. Both compartments are metal, do not appear to have any padding of any sort, and are fitted with a metal, built-in bench structure that appears to have some sort of black anti-skid tape on the seat.[19] The smaller side compartment has a single bench running the length of the compartment. This smaller compartment appears to have room for approximately one person.[20] The larger rear compartment is bifurcated with a metal partition running through the middle. The right side has a bench that runs the length of the compartment and terminates on the wall abutting the side compartment. It appears to potentially fit several transportees The left side (where Sanchez-Mayen was loaded by Thacker) also has a bench that runs the length of the compartment; however, this bench also wraps around the bulkhead of the vehicle to create an L-shaped configuration. It also appears to potentially fit several transportees. The compartments do not have seatbelts or any other similar type of restraints.[21]

It was the policy of the City of St. Petersburg, at least at the time of the incident, that detainees would be handcuffed[22] but were not required to be seat-belted or similarly restrained in police vans[23]—a policy which counsel for the Claimant, at hearing, stated they "had no problem with." However, Claimant does point out that it was safer, in the larger compartment, to have the transportee sit on the floor with their back against the bulkhead if possible, instead of on the bench. Thacker acknowledged this in his deposition and that he failed

[18] *Id.* at 7:00-7:10.
[19] Van Photo 45530-23-021625-A_11 through 17, unmarked Claimant's Exhibit.
[20] Detainee Kicking video, Jun. 8, 2023, Claimant's Exhibit 11.
[21] *Id.*
[22] St. Petersburg Police Department General Order: Transporting and Booking Prisoners, § III-10 (2016), unmarked Claimant's Exhibit, states that detainees placed in the prisoner transport van (PTV) must be handcuffed. Whether to do so in front or in back is at the discretion of the officer; however, if the prisoner is handcuffed in front, the handcuffs must be attached to a waist (i.e. belly) chain.
[23] Deposition of Officer Michael Thacker, Jan. 30, 2025, at 78-79, unmarked Claimant's Exhibit.

to ask Sanchez-Mayen to do so, despite nothing preventing him from doing this.[24]

Sanchez-Mayen was loaded into the left-side portion of the rear compartment as the side compartment was already occupied by another detainee.[25] This detainee seemed to be less cooperative, exceedingly intoxicated, and kicking at the walls of the van and yelling.[26] The ride to the sally port is lengthy, however there is not a video of Sanchez-Mayen for most of this ride as Thacker admitted that he forgot to initialize the camera in the left-side of the larger compartment.[27] The failure to activate this camera was a violation of St. Petersburg Police Department protocol. According to Thacker, he heard a bump against the bulkhead of the compartment and at that point realized his error and activated the internal camera for the larger compartment.[28] This camera had a technology that, when turned on, would record the previous 30-35 seconds.

As the camera activates, the video shows Sanchez-Mayen quietly sitting upright on the metal bench. Moments later, the van appears to come to an abrupt halt.[29] Sanchez-Mayen, generally unable to brace himself due to the handcuffs and belly chain, falls, striking his head on the side of the van and then the metal bench. The fall appears to be with some force as Sanchez-Mayen's restraints made it difficult to break his fall in any meaningful way.[30]

Immediately thereafter, Sanchez-Mayen can be seen lying generally motionless on the floor of the van (there may have been some minor movement, though it is unclear if this was independent movement on Sanchez-Mayen's part or was simply the movement of the van itself). This lasts for approximately five minutes. The van then appears to park,

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[24] Deposition of Officer Michael Thacker, *supra* note 23 at 34-38, unmarked Claimant's Exhibit. In the deposition, Thacker stated that placing a detainee in this position is not always possible, some detainees are too large to fit and others are simply uncooperative and thus would not listen.
[25] *Id.* at 32-34.
[26] Detainee Kicking video, *supra* note 20.
[27] Deposition of Officer Michael Thacker, *supra* note 23 at 83.
[28] *Id.* at 83-86.
[29] The District court found that "Thacker stopped the van fairly suddenly…it was not a lurching, 'slam on the brakes' stop, but it was a fairly sudden, definitely firm stop." *Sanchez-Mayen v. City of St. Petersburg*, et al, No. 8:24-CV-00690-WFJ, at (M.D.Fla Mar. 10, 2025), at 10.
[30] Inside van video, Jun. 8, 2023, at 0:40-48.

and lights come on in the compartment, as the van arrives at the station.[31]

Thacker then opens the back door of the van to find Sanchez-Mayen lying face-down on the floor of the compartment, unresponsive. Thacker makes several attempts to arouse Sanchez-Mayen by loudly saying his name and strongly shaking at Sanchez-Mayen's leg and lower back. Thacker then firmly pulls up on one of Sanchez-Mayen's shoulders and again, repeatedly shouts Sanchez-Mayen's name and tells him to wake up. Thacker does not appear to check Sanchez-Mayen for any injuries that may have caused his unresponsiveness.[32]

Finding Sanchez-Mayen still unresponsive, Thacker then begins to pull Sanchez-Mayen out of the van by forcefully pulling on his ankles—dragging Sanchez-Mayen face-first across the floor of the van.[33] Thacker then appears to ask for help from another officer to fully remove Sanchez-Mayen from the van.[34]

Thacker then proceeds, with the assistance of another officer, to roughly pull the unconscious Sanchez-Mayen completely from the van and flip him over.[35] Sanchez-Mayen's head slunk back onto the van floor as Thacker continues to call out and shake Sanchez-Mayen to "wake up."[36] Sanchez-Mayen head then slips further and strikes the side of the van door where he momentarily ends up in a sitting position with his head wedged between the van door and fender.[37] Thacker then directs the other officer to "go get the nurse" and keeps attempting to shake and rouse Sanchez-Mayen, eventually allowing him to further fall and strike the station floor.[38] Thacker then proceeds to pull Sanchez-Mayen by his feet again, dragging him across the station floor.[39] Shortly thereafter, multiple responders arrive and begin treatment asking Thacker if Sanchez-Mayen was breathing—to which

[31] *Id.* at 5:40-50
[32] *Id.* at 5:44-6:05.
[33] *Id.* at 6:06-6:30.
[34] *Id.* at 6:30-6:32.
[35] Inside van video, Jun. 8, 2023, at 1:46-2:00.
[36] *Id.* at 2:01-2:09.
[37] *Id.* at 2:09-2:15.
[38] *Id.* at 2:15-2:20.
[39] *Id.* at 2:20-2:25.

Thacker said he "gasped a couple of times."[40] Thacker gives Sanchez-Mayen a "sternum rub" and the respondents then begin to give full first aid to Sanchez-Mayen, including CPR and application of Narcan—presumably due to Thacker or the responders believing that Sanchez-Mayen may have had a drug overdose.[41] Eventually, additional responders arrive and, after about 13 minutes of treatment, Sanchez-Mayen is loaded onto a gurney and wheeled away.[42] It appears that the responders did not suspect at any time that Sanchez-Mayen had a head or spinal injury.

Thacker, from the time he found the unconscious Sanchez-Mayen until the time he removed him from his van, appeared to give no effort in assessing Sanchez-Mayen for an apparent injury, protecting Sanchez-Mayen from any injury, or protecting against aggravating any injury Sanchez-Mayen may have had. The District Court characterized Thacker's treatment of Sanchez-Mayen after finding him unconscious as "giving no apparent effort whatsoever to considering bodily injury or protecting against aggravating one, other that noting 'he is unconscious," and that Thacker's handling of Sanchez-Mayen "was very rough, indeed sloppy or cavalier handling of a potentially injured person."[43] Further, the court stated that the extraction of Sanchez-Mayen was "reckless, callous, and something every Boy Scout with a First Aid merit badge would know is entirely improper."[44] These characterizations are quite accurate.

On his way to the hospital, Sanchez-Mayen was given a notice to appear on the charge of "trespass on property other than a structure or conveyance."[45] This charge was subsequently dismissed by the Pinellas County Court on February 22, 2024, on the grounds that the lot in question was not appropriately posted or marked as required under the applicable trespass statute: section 810.09, of the Florida Statutes.[46]

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[40] *Id.* at 2:28-3:12.
[41] *Id.* at 3:12-16:10.
[42] *Id.* at 4:40-2:15
[43] *Sanchez-Mayen v. City of St. Petersburg, et al*, No. 8:24-CV-00690-WFJ, (M.D.Fla Mar. 10, 2025), at 11-13.
[44] *Id.* at 24.
[45] *Sanchez-Mayen v. City of St. Petersburg, et al*, No. 8:24-CV-00690-WFJ, (M.D.Fla Mar. 10, 2025), at 13.
[46] *State of Florida v. Heriberto Sanchez-Mayen*, No 23-09240-MM-G, (Pinellas Cty. Ct., Feb. 22, 2024). "Trespass on property other than structure or conveyance," requires such property to be posted pursuant to s. 810.11(5)(a), F.S., which requires, in part, "no trespassing" signs be posted at not more than 500 feet apart along and at each corner of the boundaries of the land. The property in question here only had one (possibly two) such signs.

Sanchez-Mayen was initially taken to HCA Largo Hospital, where he was eventually, after a CT scan, diagnosed with a C3 (a thin vertebra in the neck) anterior inferior corner fracture and a perivertebral edema/hematoma from an odontoid[47] fracture. A CT angiogram also revealed a Type B aortic dissection. It was also noted that Sanchez-Mayen was able to slightly shrug his shoulders, had minimal movement in his right foot, decreased sensation to all four extremities, and was unable to move his arms—he was diagnosed with a significant spinal cord injury. In addition, Sanchez-Mayen's feet were cool and mottled. Physicians also determined that there was a low likelihood that Sanchez-Mayen would regain function of his legs. After determining that HCA Largo Hospital was unable to meet Sanchez-Mayen's needs, he was transferred to Tampa General Hospital later that same day.[48]

On August 12, owing to his traumatic injuries, Sanchez-Mayen underwent above-the-knee amputation of both of his legs. He also suffered from acute respiratory failure later that month during his stay—necessitating a tracheostomy.[49] On August 22, 2023, Sanchez-Mayen was discharged from Tampa General and moved to a skilled nursing facility.[50] Sanchez-Mayen eventually moved into his sister's residence, where he continues to receive full-time care from his sister and other health professionals.

It was clear from his appearance at the hearing, which was by Web-X due to his condition and mobility issues, that Sanchez-Mayen still has extremely limited ability to use his hands and has difficulty raising his arms. A life care plan submitted by the Claimant found that Sanchez-Mayen will likely need ongoing medical care and support care throughout the remainder of his life expectancy.[51] The life care plan noted the following support needed for Sanchez-Mayen:

- Spinal injury: He cannot raise his arms above his head and lacks the ability to grasp with his hands. In addition, he has altered sensation in his lower back, down his

[47] The odontoid is a tooth-like projection from the second cervical vertebra (C2) at the top of the neck.
[48] *Life Care Plan for Heriberto Sanchez Mayen* (Robert P. Tremp Jr., Client M.D. Life Care Plans, May 16, 2025), unmarked Claimant's Exhibit, and *Discharge Summary* (Catherine Deluna, Tampa General Hospital, Jun. 8, 2023), unmarked Claimant's Exhibit.
[49] *Life Care Plan for Heriberto Sanchez Mayen, supra* note 48.
[50] *Discharge Summary, supra* note 48.
[51] *Life Care Plan for Heriberto Sanchez Mayen, supra* note 48.

legs, shoulder and muscle pain in his arms, and phantom pain in his limbs.
- Bowel/bladder: He is unable to move his bowel without digital stimulation and is incontinent. He must wear diapers which need to be changed by caregivers. Sanchez-Mayen also suffers from frequent urinary tract infections.
- Turning/transfers/attendant needs: He requires assistance to turn in bed and needs the assistance of two to transfer from bed, though he can maintain a sitting position—with his head up—once helped to this position. In addition, he is dependent on caregivers for his feeding, personal hygiene, and oral care, and essentially all daily needs.
- Complications: He reports frequent, painful, and violent spasms.[52]

The life care plan report notes three potential options, and estimated costs, for Sanchez-Mayen's continuing care:
- Option 1: Privately hired caregivers in his home at a cost of $7,088,677.
- Option 2: Hiring a team of caregivers through a home health agency at a cost of $10,105,567.
- Option 3: Full-time placement in a skilled nursing facility at a cost of $4,895,793.[53]

LITIGATION HISTORY:

On March 18, 2024, Claimant filed a complaint (in Federal Court) against the City of St. Petersburg, Thacker, and Gaddis.[54] Claimant filed an amended complaint on June 11, 2024, alleging the following against the City of St. Petersburg, Thacker (in his individual capacity), and Gaddis (in her individual capacity):

Count 1 (Federal Claim): 42 U.S.C. § 1983 Claim against Thacker—deliberate indifference toward an excessive risk to health and safety.

Count 2 (Federal Claim): 42 U.S.C. § 1983 Claim against Thacker—deliberate indifference to serious medical need.

[52] *Id.*
[53] *Id.*
[54] *Sanchez-Mayen v. City of St. Petersburg*, et al, No. 8:24-CV-00690-WFJ, at (M.D.Fla Mar. 18, 2024).

Count 3 (Federal Claim): 42 U.S.C. § 1983 Claim against Thacker—excessive force.

Count 4 (Federal Claim): 42 U.S.C. § 1983 Claim against Gaddis—false arrest.

Count 5 (Federal Claim): 42 U.S.C. § 1983 Claim against Thacker—failure to intervene as to Gaddis' false arrest.

Count 6 (Federal Claim): 42 U.S.C. § 1983 Claim against Gaddis—failure to intervene as to Thacker's deliberate indifference toward excessive risk to health and safety.

Count 7 (Federal Claim): 42 U.S.C. § 1983 Claim against Gaddis—malicious prosecution.

Count 8 (Federal Claim): 42 U.S.C. § 1983 Claim against Thacker—failure to intervene in malicious prosecution by Gaddis.

Count 9 (Federal Claim): *Monell* claim against the City of St. Petersburg for promulgation and adherence to policies in violation of Mayen's constitutional rights.

Count 10 (State Claim): Claim against Gaddis for false imprisonment.

Count 11 (State Claim): Claim against Thacker for false imprisonment.

Count 12 (State Claim): Claim against Gaddis for malicious prosecution.

Count 13 (State Claim): Claim against Thacker for malicious prosecution.

Count 14 (State Claim): Claim against Thacker for battery.

On March 10, 2025, the District Court granted, in part, a motion to dismiss claims against the City, Thacker, and Gaddis. The order dismissed with prejudice counts 4, 6, and 7 against Gaddis. The dismissal of these claims extinguished all Federal claims against Gaddis, and, therefore, the court dismissed the state court claims against Gaddis, without

prejudice, due to lack of independent subject matter jurisdiction.[55]

Regarding Thacker, the District Court dismissed, with prejudice, counts 5 and 8 against him. The court also dismissed, without prejudice, claims 1 and 2 against Thacker, stating that he "is not, at this time, entitled to a dismissal of a 'deliberate indifference' claim under qualified immunity. But, the two counts are multiplicitous and contain some assertions that are not actionable." The court directed the claimant to combine and restate the claim in any second amended complaint. However, the court did state that the allegations in the amended complaint "if true, deprive Officer Thacker of qualified immunity on this claim, at this stage."[56]

The court also dismissed, without prejudice, counts 11 and 13 against Thacker. The court dismissed these counts because it found that Gaddis had probable cause for arrest. The court doubted the claims could be reasserted successfully; however, the court allowed the Claimant to do so if they so chose.

The court did not dismiss count 3 against Thacker. Though it found the claim "to be unusual for an excessive force case" and it was unlikely that Thacker drove the van to deliberately injure or intimidate Sanchez-Mayen, "the accusation suffices at this stage" to avoid dismissal. In addition, the court cites to the potential "battery" of Sanchez-Mayen in his removal from the van as a reason not to dismiss the claim.

The court also did not dismiss count 14 against Thacker, noting that a battery, as alleged, "would not be subject to the immunity provided by s. 768.28(9)(a) because an intentional battery would establish malice."[57]

The court also dismissed, without prejudice, count 9 for failure to state a proper cause of action.[58]

On March 14, 2025, the parties, after mediation, reached settlement on all matters in the case. That same day, the District Court acknowledged that settlement had been

[55] *Sanchez-Mayen v. City of St. Petersburg, et al*, No. 8:24-CV-00690-WFJ, at (M.D.Fla Mar. 10, 2025).
[56] *Id.*
[57] Citing to *Holland v. Glass*, 213 So.2d 320, 321 (Fla. 4th DCA 1968).
[58] *Sanchez-Mayen v. City of St. Petersburg, et al*, No. 8:24-CV-00690-WFJ, at (M.D.Fla Mar. 10, 2025).

reached in the case and dismissed it without prejudice for 60 days—after 60 days, that dismissal became with prejudice and, therefore, final.[59]

None of the pled counts in this matter at the district court were for negligence per se. All were for either deliberate indifference (a higher standard of proof than simple negligence) or intentional torts. However, the notarized settlement in this case states that it "settles the negligence claims against the City. Sanchez-Mayen withdraws the individual claims against the officers." This settlement was executed by the parties and approved by the District court in dismissing the case due to settlement.

As confirmed with counsel for the Claimant at the Special Master hearing conducted regarding this matter, the claims settled by the parties—and under consideration in the matter at hand—are the negligence claims against officers (particularly Thacker) and the vicarious liability, under the theory of respondeat superior, for the City of St. Petersburg regarding the officer's actions. Counsel for the City of St. Petersburg did not object to this characterization at the Special Master hearing, despite given a chance to do so.

Since the District court dismissed Gaddis from the matter, and the Claimant stated at the Special Master hearing that their claim of negligence was particularly regarding Thacker's conduct, any tort liability regarding Gaddis' conduct (which, consequently, did not show negligence on her part) will not be further considered here.

CONCLUSIONS OF LAW:

Section 768.28, of the Florida Statutes, waives sovereign immunity for tort liability up to $200,000 per person and $300,000 for all claims or judgments arising out of the same incident. Sums exceeding this amount are payable by the State and its agencies or subdivisions by further act of the Legislature.

Negligence, Generally

Negligence is the failure to take care to do what a reasonable and prudent person would ordinarily do under the

[59] *Sanchez-Mayen v. City of St. Petersburg, et al*, No. 8:24-CV-00690-WFJ, at (M.D.Fla Mar. 14, 2025).

circumstances.[60] Negligence is inherently relative— "its existence must depend in each case upon the particular circumstances which surrounded the parties at the time and place of the events upon which the controversy is based."[61]

Negligence comprises four necessary elements: (1) *duty*–where the defendant has a legal obligation to protect others against unreasonable risks; (2) *breach*–which occurs when the defendant has failed to conform to the required standard of conduct; (3) *causation*–where the defendant's conduct is foreseeably and substantially the cause of the resulting damages; and (4) *damages*–actual harm.[62]

Vicarious Liability

Section 768.28(9)(a), of the Florida Statutes, provides, in part, that the exclusive remedy in a tort action for an injury caused by an officer, employee, or agent of the state or of any of its subdivisions—acting within the course and scope of their employment—is an action against the government entity (not the individual employee). Thus, such government entity is vicariously liable for such person's actions under the doctrine of respondeat superior.[63]

However, if the act is outside of the officer, employee, or agent's course and scope of employment—or committed in bad faith or with malicious purpose or in a manner exhibiting wanton and willful disregard of human rights, safety, or property—then the officer, employee, or agent may be personally liable (and the government entity would not be liable).[64]

Duty

Duty Element with Government Entities

To have liability in tort for a government entity, there must exist an "underlying common law or statutory duty of care with respect to the alleged negligent conduct. For certain basic judgmental or discretionary governmental functions, there has

[60] *De Wald v. Quarnstrom*, 60 So.2d 919, 921 (Fla. 1952).
[61] *Spivey v. Battaglia*, 258 So.2d 815, 817 (Fla. 1972).
[62] *Williams v. Davis*, 974 So.2d 1052, 1056–1057 (Fla. 2007).
[63] *City of Boynton Beach v. Weiss*, 120 So. 3d 606, 611 (Fla. 4th DCA 2013).
[64] *Id.*

never been an applicable duty of care."[65] Section 768.28, of the Florida Statutes, does not establish any new duty of care for governmental entities. The purpose of statute was to waive immunity that prevented recovery for breaches of existing common-law duties of care.[66]

Duty of Care to Person in Custody

A common law duty of care is owed to a person that law enforcement has taken into custody.[67] Accordingly, Thacker had a legal obligation to act as a reasonably prudent person under similar circumstances. This is because an officer, when taking a person into custody, places that person in a foreseeable zone of risk by taking away that person's normal opportunity for protection.[68] The Florida Supreme Court has recognized that when a person's "conduct creates a foreseeable zone of risk, the law generally will recognize a duty placed upon defendant either to lessen the risk or see that sufficient precautions are taken to protect others from the harm that the risk poses."[69] In addition, Florida, "recognizes that a legal duty will arise whenever a human endeavor creates a generalized and foreseeable risk of harming others," and "as the risk grows greater, so does the duty, because the risk to be perceived defines the duty that must be undertaken."[70] The City of St. Petersburg seems to recognize the inherent risk in transporting detainees as its general order regarding the transporting and booking of prisoners states that, "transporting prisoners is a potentially dangerous function…it is the policy of the St. Petersburg Police to take all necessary precautions, while transporting prisoners, to protect the lives and safety of Officers, the public, and the person(s) in custody."[71]

Certainly, any reasonable person, and especially a trained police officer, would know of the significant dangers of a person not being seat-belted. Clearly, this risk grows if such person has been handcuffed to a belly-chain and

[65] *Trianon Park Condo. Ass'n, Inc. v. City of Hialeah*, 468 So. 2d 912, 917 (Fla. 1985).
[66] *Id.*
[67] *Kaiser v. Kolb*, 543 So. 2d 732 (Fla 1989).
[68] *Henderson v. Bowden*, 737 So. 2d 532, 536 (Fla. 1999).
[69] *Kaiser* at 735, and
[70] *McCain v. Florida Power Corp.*, 593 So. 2d 500, 503 (Fla. 1992).
[71] St. Petersburg Police Department General Order: Transporting and Booking Prisoners, *supra* note 22.

could not attempt to brace themselves in any effective way. Here, Thacker knew, or should have known, the significant risk he places detainees in when he places them in the back of the police van. Transporting detainees in this situation creates a foreseeable zone of risk that said arrestee has a significantly increased chance of injury from a traffic accident or even a sudden braking incident. Thacker owed a duty to Sanchez-Mayen to account for this significant and foreseeable zone of risk.

Breach

Failure to Seatbelt or Otherwise Secure Sanchez-Mayen

As stated above, Claimant stated that they "had no problem with" the City of St. Petersburg's policy of not seat-belting or similarly restraining detainees in its police vans. However, the Claimant does point out that it was safer, in the larger compartment, to have the detainee sit on the floor with their back against the bulkhead if possible, instead of on the bench. Thacker acknowledged this in his deposition and that he failed to ask Sanchez-Mayen to do so, despite nothing preventing him from doing this.

While it may be a matter of some conjecture whether the policy of the City of St. Petersburg not to use seatbelts or similar restraints in the back of its police vans is negligent in and of itself, the claims regarding the City's overall policy are not at issue here. As affirmed by the Claimant, the negligence claim rests on the behavior of Thacker—not whether the City's policies are reasonable or prudent themselves.

Instead, it was Thacker's failure to direct Sanchez-Mayen to sit on the floor of the vehicle, against the bulkhead—despite no reason not to do so and knowing this was the safest position—that potentially breached his duty of care to Sanchez-Mayen.

In isolation, Thacker's failure to advise Sanchez-Mayen to sit on the floor may not rise to the level of breaching his duty of care to Sanchez-Mayen. However, taken with the totality of the circumstances below, Thacker's actions do breach his duty of care to Sanchez-Mayen and the failure

to direct or recommend to Sanchez-Mayen that he sit in a safer position is a contributing factor.

Removal of Sanchez-Mayen from Police Van

Even if Thacker believed Sanchez-Mayen had simply passed out from intoxication or a drug overdose, the careless and reckless manner in which he removed Sanchez-Mayen from the van presented an unacceptably high potential of serious injury. Something any reasonable person, especially a trained law enforcement officer, should have ascertained. In addition, that Sanchez-Mayen was completely unconscious and unresponsive should give any reasonable person, especially trained law enforcement personnel, wariness that Sanchez-Mayen may be experiencing some kind of neurological or spinal injury. Such a reasonable person would have taken reasonable precautions to protect his head, neck, and spine. Thacker, instead, did exactly the opposite—subjecting Sanchez-Mayen to additional and needless spinal and head trauma after Sanchez-Mayen likely had already suffered significant trauma from his initial fall. While it is difficult, if not impossible, to assess to what extent Sanchez-Mayen's injuries were from his initial fall or subsequent handling by Thacker, there is little doubt Thacker's actions exacerbated an already perilous situation.

Failure to Note Potential Neurological and Spinal Trauma

Thacker also breached his duty of care to Sanchez-Mayen by not activating his camera per department protocol, and, thus, did not see Sanchez-Mayen fall in the van (he only activated the camera presumably after hearing Sanchez-Mayen fall against the bulkhead). Had he seen Sanchez-Mayen fall, he may have conducted himself differently after seeing Sanchez-Mayen motionless on the floor. In addition, after seeing Sanchez-Mayen motionless on the floor of the van, Thacker did not reasonably assess whether Sanchez-Mayen may have been injured in a fall.

Given the foreseeable risk of injury of a potential fall in the van, Thacker should have at least been cognizant of a potential head or spinal injury and conducted himself accordingly. Further, his lack of care in assessing the

situation was a contributing factor to Sanchez-Mayen not receiving more prompt care for his spinal injuries. Had Thacker undertaken a better assessment of the situation, Sanchez-Mayen may have had an improved outcome or some of his injuries could have been better mediated by medical personnel.

Causation

Thacker's negligence was the cause of Sanchez-Mayen's injuries in three ways:

1. Thacker failed, without any reasonable cause, to instruct Sanchez-Mayen to sit at the bottom of the transport van, despite knowledge that this was the safest place in the larger compartment. While this element, taken in isolation, may not be the complete cause of Sanchez-Mayen's injuries, it was certainly a significant factor.
2. Thacker failed to be reasonably wary of a potential spinal or neurological injury after observing Sanchez-Mayen motionless and unresponsive. This was compounded by Thacker's failure to turn on his camera per department protocol.
3. Even without suspecting a spinal or neurological injury, Thacker's handling of a motionless and unresponsive Sanchez-Mayen was reckless and callous, and, even without an existing spinal or neurological injury to Sanchez-Mayen, could have done serious harm.

Thacker's actions during the time Sanchez-Mayen was in his custody, taken in totality, were the actual and proximate cause of Sanchez-Mayen's injuries.

Damages

Through the provision of records and evidence showing Sanchez-Mayen's injuries, the Claimant has established that the settlement of $2,500,000 (of which $200,000 has already been paid to Sanchez-Mayen by the City of St. Petersburg) was reasonable and should not be disturbed.

The cost of Sanchez-Mayen's needed continuing care,[72] as provided by the Claimant, demonstrates that the settled award is appropriate.

At the Special Master hearing, the Claimant provided that it was their intention that the potential proceeds of the claim bill, if approved, would be placed within a special needs trust to maintain some of Sanchez-Mayen's public benefits while also using the trust proceeds to pay for his other needs. Counsel for the Claimant also provided, in their statement of funds, that the funds would also be used to settle outstanding Medicare liens of $96,792.72 and $175,734.11 (along with an associated fine related to those liens of $4,285.00) relating to Sanchez-Mayen's previously received care.

ATTORNEY FEES:

Section 768.28(8), of the Florida Statutes, states that no attorney may charge, demand, receive, or collect for services rendered, fees in excess of 25 percent of any judgment or settlement.

The Claimant's attorney has submitted an affidavit to limit attorney fees to 25 percent of the total amount awarded and has not sought any attorney fees for her lobbying effort on behalf of Sanchez-Mayen.

RECOMMENDATIONS:

Based upon the foregoing, I recommend that SB 16 be reported FAVORABLY.

Respectfully submitted,

Kurt Schrader
Senate Special Master

cc: Secretary of the Senate

[72] As mentioned above, the least expensive option provided in the life care plan for Sanchez-Mayen, was $4,895,793.