

Cherokee County Sheriff's Office

498 Chattin Dr Canton, GA 30114

Subject: Statutory Ante-Litem Notice – Unlawful Search and Attempted Seizure of Property

To Whom It May Concern,

I am writing to formally notify the Cherokee County Sheriff's Office of an incident involving an unlawful search and attempted seizure at my home, located at [REDACTED] at [REDACTED], Holly Springs, GA 30115, on January 5, 2024, at approximately 3:30 PM. This letter serves as a statutory ante-litem notice pursuant to O.C.G.A. § 50-21-26, which requires such notice for claims against a county in Georgia.

During the execution of a Temporary Protective Order (TPO) service by Deputy Guido, Cpl. Blackerby conducted actions that exceeded lawful authority. Specifically, Cpl. Blackerby attempted to locate and restrict access to firearms at my residence, despite the absence of a firearm restriction in the TPO service copy provided. There was no court directive authorizing the securing of firearms, raising concerns about the overreach of authority and violation of my rights under Georgia law.

The omission of a firearm restriction in the TPO suggests the court's doubt regarding the necessity of such actions. Therefore, Cpl. Blackerby's actions were unjustified and infringed upon my legal rights. It is crucial to balance safety concerns with respect for individual rights and legal procedures, ensuring that law enforcement actions comply with O.C.G.A. § 16-11-131, which addresses the possession of firearms by individuals under certain conditions, none of which applied in my case.

Furthermore, my lack of objection during the incident does not imply consent to the search. At most, a protective sweep was warranted, which was not performed.

Witness: John Blackerby Evidence: Video documentation of the incident

I request an acknowledgment of this notice and an investigation into the actions of Cpl. Blackerby. Please respond to this notice via email at [REDACTED]

Thank you for your attention to this matter. I look forward to your prompt response.

Sincerely,

Joshua [REDACTED]



Sheriff Frank Reynolds
June 3, 2024

CHEROKEE SHERIFF'S OFFICE
MEMORANDUM

MEMORANDUM

TO: Captain Peter Turcotte
FROM: Lieutenant Christopher Bryant
SUBJECT: AIC on Corporal Blackerby

On Thursday, May 20, 2024, I received information from Sergeant Voss regarding a complaint on Corporal John Blackerby made by Joshua [REDACTED]. The complaint stems from the service of a Temporary Protective Order (23CVE2397) on Mr. [REDACTED] (Respondent) which was signed by Judge Anthony Baker on 12/21/2023 and entered into the Clerk of Superior Court Office on the same date at 1703 hours. To paraphrase, Mr. [REDACTED] alleges a violation of his 4th Amendment Right prohibiting unreasonable searches and seizure, along with an accusation of false statements. Sgt. Voss looked into this matter and completed an Allegation/Inquiry/Commendation report form which was to be forwarded to me. On June 3, 2024, Sgt. Voss delivered information related to this allegation, and I have reviewed the documentation and related bodycam footage.

On January 5, 2024, Corporal Blackerby received a request from the petitioner to go to the address of [REDACTED] Canton, GA 30115. The nature of this request was to verify [REDACTED] had vacated the residence as he apparently stated in an email chain. The petitioner was not on-scene during this incident, nor was a copy of the Temporary Protective Order for approximately 20 minutes. Corporal Blackerby-acting in good faith, attempted to speak with someone at the front door and after receiving no answer moved around back to the rear door where he eventually opened the unlocked door leading to the interior of the structure. After opening the door and announcing his presence, he was eventually met by Mr. [REDACTED] who appeared from the stairway.

Cpl. Blackerby explained why he was at the address and Mr. [REDACTED] made verbal statements that he was aware of a Temporary Protective Order yet had not been served so that he could verify the authenticity of the document. Cpl. Blackerby began questioning Mr. [REDACTED] regarding the location of any firearms inside the residence. Mr. [REDACTED] made statements there were indeed firearms in the home; Cpl. Blackerby stepped inside and allowed Mr. [REDACTED] to lead him to various parts of the structure in what appeared to be the enforcement of what is commonly referred to as a "firearm stipulation". This stipulation may be present in protective orders that prevent the respondent from possessing firearms or ammunition until a hearing where the respondent is heard to protect their due process of rights. Further, camera footage shows Cpl. Blackerby attempt to enforce other stipulations before the arrival and serving of the actual order; backup was not requested during this incident until approximately eight minutes later.



Sheriff Frank Reynolds
June 3, 2024

CHEROKEE SHERIFF'S OFFICE MEMORANDUM

MEMORANDUM

I have spoken to Cpl. Blackerby regarding this incident and he relayed to me his presence at the home was to perform a residence check as requested by the petitioner. I have identified several issues with Corporal Blackerby's handling of this incident. First, when requested by a petitioner to go to a home to verify a respondent has vacated the property, you are acting on the assumption that the person whom you spoke with is the actual petitioner and that the individual has the legal authority to not only be at the home but to request a warrantless entry into a structure. In this instance the person who spoke with Cpl. Blackerby did have that authority, however, she was not present to revoke or remove the permission, nor were there exigent circumstances to conduct a warrantless entry into the home. The mere act of opening the door to a structure is an intrusion of one's privacy and a legitimate concern when viewed under the auspice of serving a civil order or performing a residence check.

Next, I take issue with no other unit being requested for eight minutes and the lack of an actual order on the scene for 20 minutes. Corporal Blackerby attempted to enforce stipulations he assumed were in an order, yet did not exist. It is dangerous to make assumptions related to what is contained within a court order, especially when it comes to firearms. Several times Mr. [REDACTED] appeared to walk out of sight of Cpl. Blackerby could have easily obtained a weapon.

Mr. [REDACTED] was cordial and appeared cooperative with all requests made by law enforcement during this investigation, going so far as to lead Cpl. Blackerby through the residence during his attempt to locate firearms. At no time did Mr. [REDACTED] protest, attempt to halt, or limit any search within the residence. Furthermore, Cpl. Blackerby was requested by the petitioner of the TPO to ensure Mr. [REDACTED] had vacated the residence. As a resident of the home, the petitioner had/has equal access to all areas and possesses the ability to grant access to the residence. In this instance, Cpl. Blackerby was in a location where he was legally able to be when he observed the presence of Mr. [REDACTED] inside the home.

Therefore, based on documentation and video evidence related to this case, I recommend Cpl. Blackerby be EXONERATED on the accusation of a violation of Mr. [REDACTED] 4th Amendment right. I do not have the ability to prove or disprove the allegation of false statements related to a fictitious email; absent more in-depth investigation I recommend this allegation be listed as NOT SUSTAINED.

Thank You

CKB

Cpl. Blackerby's Axon BC was running for the entirety of the TPO Service for 47 minutes. Cpl. Blackerby appears to be within the bounds of State Law and Sheriff's Office policy. You were restricted from the residence and should not have been inside.

In summary after reviewing this case I find that all of your allegations are unfounded. Cpl. Blackerby and the responding deputies were polite and professional during the entire encounter with you. His access to the property was invited by the petitioner and his lawful constitutional duties to execute a court order. His due diligence attempting to locate firearms while executing the order is not a legal or policy violation. You should have been arrested on the spot for violating the order which you were well-aware of. Instead you were allowed to collect personal belongings and leave, and arrested on a later date.

Hopefully this satisfies your concerns. If it does not, I will forward this complaint and my findings up the chain of command for further review.

Thank you

VIII. Allegation/Inquiry/Commendation Information:

How A/I/C Received: Telephone Written Form Personal Contact

A/I/C Referred to: Lt. C. Bryant

A/I/C Resolved on Initial Contact Allegation/Inquiry Withdrawn

IX. Documentation Attached: Incident Report Written Statement Other

X. Division Commanders Review: [Signature] #123 6/10/24
(Signature) (Date)

- No further Action Required.
- Refer to _____ for further investigation.
- Recommend Formal Commendation.

Additional Comments:

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- Sustained: The evidence is sufficient to prove the allegations.
 - Not Sustained: The evidence is insufficient to either prove or disprove the allegations. **7B** False Statement allegation if NOT SUSTAINED
 - Exonerated: The evidence shows that the incident occurred and was lawful or proper. **All other allegations are EXONERATED**
 - Unfounded: The evidence shows that the allegation is false or not factual.
 - Policy Failure: The evidence is sufficient to show that the incident occurred, but was a result of flawed policy or procedures.
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VII. Supervisor's Comments/Recommendations:

"Dear Sergeant Ross,

I hope this message finds you well. My name is Joshua [REDACTED] and I am writing to formally report a serious violation of my constitutional rights by Corporal John Blackerby.

On January 5, 2024 Corporal Blackerby executed a TPO order at my home. During this incident, he violated my Fourth Amendment rights in the following ways:

- ① He conducted a search for weapons beyond the scope of my consent.
- ② He forced entry into my backdoor without consent.
- ③ He falsified statements, claiming that emails were sent which do not exist. His falsified statements established a probable cause. This differs from the HSPD case where they are covered under qualified immunity.
- ④ I have video evidence supporting these claims, including footage of Corporal Blackerby searching beyond the authorized scope and forcing entry into my home. This is a violation of my constitutional rights.

I request that this matter be thoroughly investigated and appropriate actions be taken to address these violations.

Thank you for your attention to this serious matter. I am available to provide any additional information or evidence as needed once the case is resolved with the courts.

The felony case was dismissed against HSPD. The presence of parallel false statements on both warrants leads me to conclude that this warrant was intentionally influenced by a 3rd party.

Best regards,

Joshua [REDACTED]

Greetings Mr. [REDACTED]

I am responding to you with an email because this is how you contacted me and there was no phone number provided. Your email was pretty precise and pointed, so it was easy to look into and answer. I take allegations of officer misconduct very seriously. I spent several hours investigating your allegations. This is what I have determined based on Cpl. Blackerby's 47 Minute Axon Body camera footage, 2 incident reports (SO24-000212, SO24-000308), the 30-Day Family Violence Order 23CVE2397, and the e-mail thread evidence included in the case report for your arrest.

- 1. He conducted a search for weapons beyond the scope of my consent. Cpl. Blackerby attempts to locate firearms you may possess during the TPO service even though once the service copy is delivered by Deputy Guido, it does not contain a firearm restriction typically seen on #24 of the order. There are two primary reasons Cpl. Blackerby is attempting to locate potential firearms. One is the inherent danger of serving a TPO that excludes a person from the house. Locating the firearms is a major safety concern and he will restrict the citizen's access to them while he is present by requesting to know their location. Secondly, the vast majority of 30-Day TPOs order the deputy to secure firearms. At 3:50 on the Axon BC Cpl. Blackerby advised you that he was unsure if the TPO restricted your possession of the firearms and that he would verify it before securing them and taking them into custody. Cpl Blackerby did not have a copy of the order initially and the service copy was being delivered to him by another deputy.

At 12:29 on the Axon BC Cpl. Blackerby searches a box you are carrying to your car for a potential firearm. Though the general items you are collecting aren't typically a concern of the officer, any item that may conceal a firearm while he is executing the TPO service is a safety concern. At 12:40 on the Axon BC you tell Cpl. Blackerby that his "safety is my concern." This indicating that at least at the time of this TPO service you agreed with him for safety purposes.

Eventually, Cpl. Blackerby searches the interior of your car at your direction for a potential firearm which is not located. You do not protest at this time or at any time during the TPO service when Cpl. Blackerby attempts to locate any firearms. Cpl. Blackerby also searches a closet inside the house at your direction and does not locate a firearm.

When Deputy Guido arrives, the TPO is read to you and served. #24 gun clause is left blank by the court. Cpl. Blackerby ceases to attempt to locate firearms at this time.

2. He forced entry into my backdoor without consent.

At 3:37PM Cpl. Blackerby arrived at your address to check if your house was indeed vacant and secure so the petitioner could return the residence. The petitioner [REDACTED] called Cpl. Blackerby shortly before and requested he check to see if the residence was secure and you weren't there so she could return to the house. This is #9 in the TPO order ordering the "Sheriff to assist the petitioner in the returning to the family residence." The first step to #9 is removing you from the house. Moreover, [REDACTED]'s request to Cpl. Blackerby to go to the house and complete #9 is an overt invitation from a legal resident of [REDACTED] [REDACTED] e [REDACTED] to access the property on her behalf.

According to the email threads you claim to have had vacated the residence and were aware of the TPO and possessed a copy.

On Wed, Jan 3, 2024 at 3:43 PM REDACTED [REDACTED] wrote:

You can rest assured, there are no concerns. The sheriff attempted to serve me. I vacated the premises of the house....

Sent: Wednesday, January 3, 2024 12:27:33 PM

...I possess copies that have been stamped by the clerks office. I made sure to remind the clerk of courts of my appreciation for their assistance... I am waiting to receive service for the temporary protective order. I have to inspect this copy to protect myself from false allegations....

Additionally, on ^{3:03}~~3:30~~ of the Axon BC you begin to say that you are aware the order doesn't have a "gun clause" #24 but you stop speaking just short. This indicating you have read the entirety of the order and are aware of its conditions.

"Revere v. State" is a 2006 case law that in summary states that a person aware of the existence of a TPO and the restrictions within can be charged with violating the conditions of the TPO. There is plenty of evidence that you were aware of the TPO conditions and continued to violate the order.

3. He falsified statements, claiming that emails were sent which do not exist. His falsified statements established a probable cause. This differs from the HSPD case where they are covered under qualified immunity.

After reviewing the case file, I have observed the emails in question and they do not appear to be falsified.

4. I have video evidence supporting these claims, including footage of Corporal Blackerby searching beyond the authorized scope and forcing entry into my home. This is a violation of my constitutional rights.



Cherokee Sheriff's Office
Case Report

Case Number
SO24-000212
Report Type
Non-Crime Report



Narrative

Name	Date	Subject
Blackerby, John	1/5/2024	TPO Service - Joshua [REDACTED]

TPO Service – Joshua [REDACTED] 23CVE2397

On Friday January 05, 2024 at approximately 3:30pm, I served Joshua [REDACTED] with a Temporary Protective Order at [REDACTED] t [REDACTED] e [REDACTED]. (Cherokee County Civil Action No. [REDACTED] / Petitioner [REDACTED]).

I read Joshua the order in its entirety. I told him his court date and everything the judge had initialed. I then asked Joshua if he understood the order, and if he had any questions. He stated he did understand. In the order it required Justin to turn over all keys and garage door openers, and keys to a Toyota Highlander. He stated he had them and they were left on the kitchen island at the house. I then provided Joshua with his copy of the signed order and petition. Joshua gathered clothing, his medicine, and a laptop computer he stated he used for work. Joshua left the residence in a [REDACTED] 2 [REDACTED] t [REDACTED].

Nothing Further.

Cpl. J. Blackerby #518

ORI Number _____

SC-15

THE SUPERIOR COURT FOR THE COUNTY OF Cherokee

STATE OF GEORGIA

[REDACTED]

v.

[REDACTED]

:
:
:
:
:
:
:

Civil Action File

No. 23CVE2397

FAMILY VIOLENCE EX PARTE PROTECTIVE ORDER

The Petitioner having prayed pursuant to O.C.G.A. §§ 19-13-1 et seq., that a Protective Order be issued; and alleged that Respondent has committed acts of Family Violence and that Petitioner is in reasonable fear of the Petitioner's safety and the safety of Petitioner's child/ren; and it appearing to the Court that probable cause exists that family violence has occurred in the past and may occur in the future, IT IS HEREBY ORDERED AND ADJUDGED:

1. That these proceedings be filed in the office of the Clerk of this Court.
2. That this Order applies in every county throughout the state and it shall be the duty of every court and every law enforcement official to enforce and carry out the provisions of this Order pursuant to O.C.G.A. § 19-13-4 (d). Law enforcement officers may use their arrest powers pursuant to O.C.G.A. §§ 19-13-6 and 17-4-20 to enforce the terms of this Order.
3. That a copy of this Order be given to law enforcement and the Respondent be served with a copy of this Order and Petition for Temporary Protective Order instantner.

4.

That the Respondent appear before this Court, on the <u>9TH</u> day of <u>JANUARY</u> , 20 <u>24</u> at <u>9AM</u> . m. in room <u>2C</u> of the <u>CHEROKEE</u> County Courthouse at <u>90 NORTH STREET CANTON, GA 30114</u> to show cause why the requests of the Petitioner should not be granted.
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5. [pco01] That Respondent is hereby enjoined and restrained from doing, or attempting to do, or threatening to do, any act of injury, maltreating, molesting, following, harassing, harming or abusing the Petitioner and/or the minor child/ren in any manner. Respondent is not to interfere with Petitioner's travel, transportation, or communication. Respondent shall not follow, place under surveillance, or contact the Petitioner at any place of the Petitioner for the purpose of harassing and intimidating the Petitioner.
6. [pco02] That the Respondent is enjoined and restrained from doing or threatening to do any act of injury, maltreating, molesting, harassing, harming, or abusing the Petitioner's family or household.
7. That this Court determined that it had jurisdiction over the parties and the subject matter under the laws of the State of Georgia and the Court ordered that the Respondent be given reasonable notice and opportunity to be heard sufficient to protect the Respondent's due process rights. This Order shall be presumed valid and pursuant to 18 U.S.C. § 2265(a) shall be accorded **full faith and credit** by any other state or local jurisdiction and shall be enforced as if an Order of the enforcing state or jurisdiction.

ONLY THE FOLLOWING THAT ARE INITIALED BY THE JUDGE SHALL APPLY:

mab

8. [pco03] That until further Order by this Court, Petitioner is awarded sole and exclusive use of the family residence at _____

mab

9. Respondent is ordered to leave the family residence immediately and law enforcement Cherokee SO / Holly Springs PD (sheriff or police department) is ordered to assist Petitioner in returning to the family residence and the removal of the Respondent. Respondent is to immediately surrender to law enforcement Cherokee SO / Holly Springs PD (sheriff or police department) all and any keys, garage door openers and other security devices to the family residence and law enforcement is to ensure that these are given to the Petitioner.

N/A

10. Respondent is ordered to provide suitable alternate housing for Petitioner and/or Petitioner's children by _____.

N/A

11. Petitioner's address is ordered to be kept confidential.

mab

_____ 12. Respondent is ordered to stay away from Petitioner's and Petitioner's minor child/ren's residence at _____ Rd, Canton, MA 0115 _____ and workplace at _____ or school and any subs

[pco04]

mab

_____ 13. That until further Order of this Court, Respondent is restrained and enjoined from approaching within 500 yards of Petitioner and/or Petitioner's minor child/ren.

[pco01,04]

mab

_____ 14. Respondent is ordered not to have any contact, direct, indirect or through another person with Petitioner, by telephone, fax, e-mail or any other means of communication except as specified in this Order.

[pco05]

mab

_____ 15. _____ is awarded temporary custody of the minor child/ren, namely:
_____ sex _____
YOB _____ sex _____
_____ sex _____
YOB _____ sex _____
_____ sex _____

[pco09]

Respondent is ordered not to interfere with the physical custody of the child/ren.

mab

_____ [pco06] Check here *only if Respondent* is awarded temporary custody of child/ren.

mab

_____ 16. That Respondent is ordered to pay temporary child support for the minor child/ren to Petitioner in the amount of _____ All payments shall be made by or to:

- _____ income deduction order
- _____ child support receiver
- _____ by mail directly to the Petitioner
- or by direct deposit or transfer

_____ 17. That Respondent is ordered to pay temporary support for the Petitioner in the amount of \$2,000 every month beginning 1/1/2024
All payments shall be made by or to:

- _____ income deduction order
- _____ child support receiver
- _____ by mail directly to the Petitioner
- or by direct deposit or direct transfer

mab 18. That Respondent, **only when accompanied by local law enforcement**, shall be able to remove his/her clothing and personal items from the residence as follows:

TBD

On _____, 20____ at _____m.

mab 19. That (Respondent)~~(Petitioner)(both Respondent and Petitioner)~~ [strike through appropriate] is/are ordered not to sell, encumber, trade, damage, contract to sell, or otherwise dispose of or remove from the jurisdiction of this Court any of the property or pets of the Petitioner or joint property or pets of the parties except in the ordinary course of business.

mab 20. That (Respondent)~~(Petitioner)(both Respondent and Petitioner)~~ [strike through appropriate] is/are ordered not to disconnect or have disconnected the home utilities, change or have changed and/or cancel or have canceled auto, health or life insurance for Respondent, Petitioner, and/or Petitioner's child/ren or interfere with Respondent, Petitioner's and/or Petitioner's child/ren's mail.

mab

____ 21. That Petitioner is awarded temporary sole possession of the vehicle: Make Toyota Model Highlander Year 2020 Color Silver. Respondent shall immediately surrender all keys, proof of insurance, and registration to this vehicle to law enforcement, and law enforcement shall immediately turn over said items to Petitioner.

N/A 22. That Petitioner shall be allowed to remove the following property from the family residence for Petitioner and/or Petitioner's child/ren's use: _____

On _____, 20____ at _____ law enforcement _____ (sheriff or police department) is hereby ordered to assist the Petitioner during this removal.

N/A 23. That Respondent shall be required to return the following property for Petitioner and/or Petitioner's children's use: _____

On _____, 20____ at _____ and law enforcement _____ (sheriff or police department) is hereby ordered to assist the Petitioner during this return.

24. It is further Ordered:

[pco08]

SO ORDERED this _____ day of 12/21/2023, 20____.

JUDGE, SUPERIOR COURT

M. Anthony Baker

_____ County

Print or stamp Judge's name

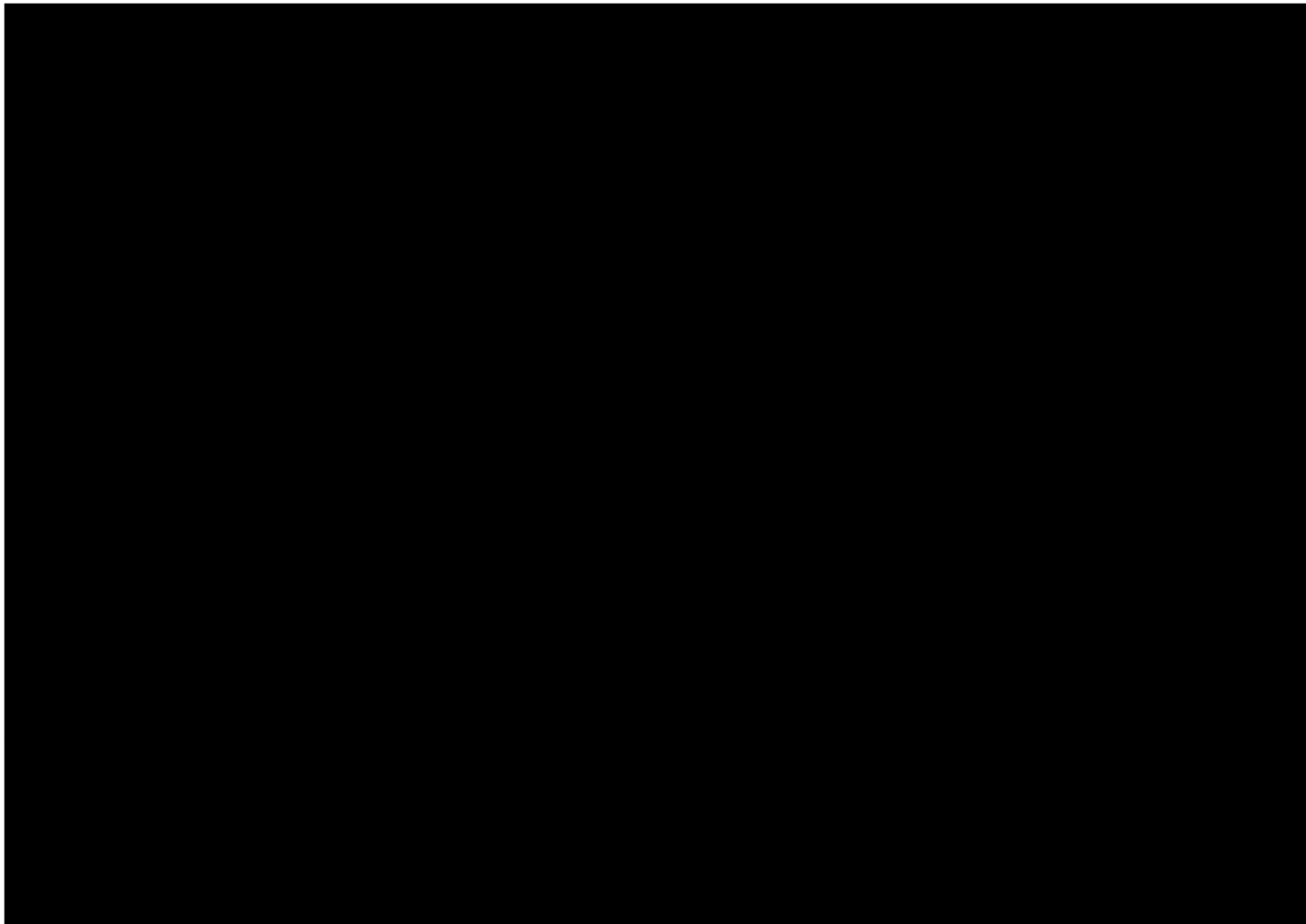
Violation of the above Order may be punishable by arrest.



Cherokee Sheriff's Office
Case Report

Page 2 of 3

Case Number
SO24-000308
Report Type
Crime Report



On January 3, 2024 I was made aware of an email conversation Deputy John Brandon had been included in. Deputy Brandon informed me he had contacted Joshua [REDACTED] in reference to a TPO (civil action #23CVE2397). Mr. [REDACTED] had emailed Deputy Brandon, Officer Bastress with Holly Springs PD, and Caption Casey Barton with Holly Springs PD. On January 3, 2024 at 12:27pm Joshua emailed stating he possessed copies of the TPO which were stamped by the Clerks Office. At 3:43pm he sent another email stating he had vacated the premise, and would be meeting with someone from the Sheriff's Office after 5pm. Joshua never met anyone and would not schedule a time for us (Sheriffs Office Warrant and Civil Unit) to meet him.

On January 5, 2024 at approximately 3:30pm I went to [REDACTED] Rd in reference to checking the residence to make sure Joshua [REDACTED] had vacated the residence like his email had stated. I knock on the front door and looked through the blinds that were lifted up. The house was cluttered, but no one was visible and the lights and television were off. I walked around to the left side of the house, and through the fence, not locked. I came to the back door knocked and found it



Cherokee Sheriff's Office

Case Report

Case Number
SO24-000308
Report Type
Crime Report

unsecured. I announced myself and a voice from upstairs responded. Joshua [REDACTED] came downstairs. I introduced myself and why I was at the residence. I asked Joshua why he was still at the residence even though he had gotten a copy of the TPO and sent an email stating he had vacated the residence. Joshua was served with the Sheriff's Office copy of the TPO. Joshua retrieved his belongings, a laptop, and his 2022 Chevrolet Blazer. He was informed he could not come back to the property, and if he for got anything he would have to have the judge do an order for us to come back to the property. Joshua stated he understood, and left the property. When we left after Joshua there was NO lock on the gate, Deputy Guido shut it. There was no internal lock on the front door, which Joshua had to show me how to take it off.

On January 8, 2024 I secured a warrant for Misdemeanor violation of a Family Violence Order (16-5-95). I returned to service without incident, Nothing Further.

On January 9, 2024, I went to the Cherokee County Court House (90 North St). I went to Judge Baker's court room and Joshua [REDACTED] was in attendance. I waited for his proceedings to finish at which time Judge Baker informed Joshua he had a warrant for his arrest. Myself and Deputy Lindsey handcuffed Joshua checking for proper fit and double locking the handcuffs. I walked Joshua out to my patrol car and transported him to the jail. Joshua was released to jail deputies for booking. I filled out all paperwork and executed Joshua's two(2) warrants. I returned to service without incident.

Reference SO24-000212

Cpl. J. Blackerby #518