

It was discovered that Ms. Neese was utilized by Detective Weathers as an informant during three narcotics purchases from Frank Thomas. Those purchases took place February 18, 2016, February 25, 2016 and February 26, 2016. Sergeant O'Reilly discovered that during the February 26, 2016 buy, Ms. Neese violated provision twelve (12) of the Fort Myers Police Department's *Informant – Code of Conduct*. Provision twelve states: "I understand that I may not engage in illegal or improper conduct as long as I am working with the Fort Myers Police Department.

On the February 26, 2016 operation, Ms. Neese was equipped with an audio and video recording device. The video depicts Ms. Neese conduct what appears to be a drug purchase from a black male, identified as Frank Thomas, and then engage in oral sex with Mr. Thomas. Ms. Neese immediately reported the incident to Detective Weathers and Detective Schulze who were waiting in a vehicle nearby. Assistant State Attorney Hanna Renna was also inside the vehicle. She was participating in a "ride-along." Detective Schulze and ASA Renna stated that Detective Weathers became visibly upset and irate upon hearing the information.

Back at the police station, ASA Renna commented to those that were present; Detective Weathers, Sergeant Richard Notaro, Detective Schulze, and Detective Wolfgang Daniel that the informant, Ms. Neese should not be used anymore, that this "current" case shouldn't be prosecuted and that the event needed to be disclosed. There was mutual agreement among those present.

Sergeant O'Reilly discovered that this case (the February 26th narcotics buy) did not result in an arrest or prosecution. However, Sergeant O'Reilly's investigation revealed that Detective Weathers utilized Ms. Neese as an informant after the February 26th event against other targets that did result in arrests and prosecutions. In addition, the event that took place on the 26th was not disclosed by Detective Weathers in those cases.

Sergeant O'Reilly reviewed Detective Weathers deposition that was taken on August 18, 2016 regarding the two Frank Thomas cases that did result in prosecution. In that deposition Detective Weathers never mentioned anything about the event that took place on the 26th. In fact, he said "she has an exceptional work ethic, and she's responsible." Detective Weathers was asked, "did anything else important happen that we did not discuss?" And the detective answered "no."

Detective Weathers was also asked about "relocation" and/or moving expenses paid to Ms. Neese once she was deactivated. Sergeant O'Reilly found there to be discrepancies in what Detective Weathers said in the deposition and the receipts in Ms. Neese's confidential informant packet.

To prove the crime of perjury, there must be evidence beyond a reasonable doubt to prove the detective took an oath to speak the truth and while under oath made statements that were false and that he did not believe those statements to be true when he made them. F.S. §837.02. Here the legal issue is the last portion "not believing the statements to be true when made." Detective Weathers qualifies several answers by saying, "I think" before answering. At one point he even said "I'm sorry." I'm just so unprepared."

The language used by Detective Weathers during the deposition, makes it extremely difficult, if not impossible, to show the necessary criminal intent required by law. Therefore, based on the information provided to-date, and the law; the evidence provided is insufficient to support criminal perjury charges. Sergeant O'Reilly advised that he would provide any additional information that may come in regarding the criminal investigation.

However, based upon the review of the information submitted in its entirety, there is a legitimate concern as to Detective Donald Weathers' judgment and truthfulness. This concern significantly impacts the confidence of the State Attorney's Office and its ability to utilize him as a witness in current and future cases.

Cc: Stephen B. Russell, State Attorney
Amira D. Fox, Chief Assistant State Attorney
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FELONY AGENCY REVIEW DISPOSITION NOTICE

SAO WARRANT NO. 2372561
INTAKE ATTORNEY: Anthony W. Kunasek
AGENCY: Fort Myers Police Department
AGENCY #: 2017-009
SUBMITTED BY: Sergeant Brian O'Reilly
SUSPECT: Donald A. Weathers
SAO RECEIVE DATE: 5/24/2017 3:26:30 PM

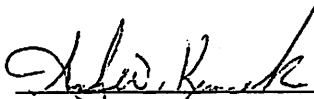
REQUESTED CHARGES

Number of Counts: 1 - Agency Review, Perjury, F.S. 837.02(1), Third Degree Felony

SAO DISPOSITION

1. Agency Review Denied: 837.02(1)
Perjury in Official Proceedings
Third Degree Felony
Insufficient Evidence to Prove Beyond Reasonable Doubt

If further evidence is developed, please resubmit with reference to above SAO Review No.



Anthony W. Kunasek

May 31, 2017

DATE

ADDITIONAL COMMENTS:

Please see attached MEMO to file.