

CASE NUMBER 2017-CF-017869
DIVISION

IN THE CIRCUIT COURT OF THE THIRTEENTH JUDICIAL CIRCUIT OF THE
STATE OF FLORIDA IN AND FOR HILLSBOROUGH COUNTY
CIRCUIT CRIMINAL DIVISION

DEC 11 2017

_____, FALL Term, 2017

STATE OF FLORIDA

DIRECT
INFORMATION FOR:

V

MICHAEL ROBERT WENZEL
AND SPENCER BRANDON HEINTZ
AND ROBERT LEE BENAC III

COUNT ONE
AGGRAVATED CRUELTY
TO ANIMALS
F.S. 828.12 (2)
(ALL DEFENDANTS)

COUNT TWO
AGGRAVATED CRUELTY
TO ANIMALS
F.S. 828.12 (2)
(ALL DEFENDANTS)

COUNT THREE
VIOLATION OF RULES RELATING
TO FISH AND WILDLIFE
CONSERVATION COMMISSION
F.S. 379.401(2)(a)
(MICHAEL ROBERT WENZEL,
ROBERT LEE BENAC III)

IN THE NAME AND BY THE AUTHORITY OF THE STATE OF FLORIDA, ANDREW H. WARREN,
STATE ATTORNEY OF THE THIRTEENTH JUDICIAL CIRCUIT IN AND FOR THE COUNTY OF
HILLSBOROUGH, CHARGES THAT:

COUNT ONE

MICHAEL ROBERT WENZEL AND SPENCER BRANDON HEINTZ AND ROBERT LEE BENAC III, on
the 26th day of June, 2017, in the County of Hillsborough and State of
Florida, did intentionally commit an act to an animal, or owns or has custody
or control of an animal and fails to act, which resulted in excessive or
repeated infliction of unnecessary pain or suffering by shooting the animal,
or causes the same to be done.

2017-057173/
Page 1 of 5
Information

INFORMATIONS-5025 2017-057173

COUNT TWO


MICHAEL ROBERT WENZEL AND SPENCER BRANDON HEINTZ AND ROBERT LEE BENAC III, on the 26th day of June, 2017, in the County of Hillsborough and State of Florida, did intentionally commit an act to an animal, or owns or has custody or control of an animal and fails to act, which resulted in excessive or repeated infliction of unnecessary pain or suffering by dragging the animal backward behind the boat, or causes the same to be done.

COUNT THREE

MICHAEL ROBERT WENZEL AND ROBERT LEE BENAC III, on the 26th day of June, 2017, in the County of Hillsborough and State of Florida, did unlawfully violate a rule or order of the Fish and Wildlife Conservation Commission adopted pursuant to Section 9, Article IV, of the State Constitution, establishing bag, possession, or size limits or restricting methods of taking wildlife, freshwater fish, or saltwater fish, to-wit: Florida Wildlife Commission Rule 68B-44.003(2). Contrary to the form of the statute in such cases made and provided, and against the peace and dignity of the State of Florida.


STATE OF FLORIDA
COUNTY OF HILLSBOROUGH

Personally appeared before me the undersigned Assistant State Attorney of the Thirteenth Judicial Circuit in and for Hillsborough County, Florida, who, being first duly sworn, says that this prosecution is set forth in the foregoing INFORMATION are based upon facts that have been sworn to as true by the material witness or witnesses for the offense and which, if true, would constitute the offense therein charged, and that the prosecution is being instituted in good faith.


Assistant State Attorney of the
Thirteenth Judicial Circuit in and
For Hillsborough County, Florida
Florida Bar # 145742

Sworn to and subscribed before me at Tampa, Florida

This 8th day of December, 2017


Signature of Notary Public - State of Florida
JENNIFER S. REMVIGAS
Commission # GG 073879
Expires February 16, 2021
Banded Thru Troy Fain Insurance 800-385-7019

Print, Type or Stamp Commissioned Name of Notary
And Date Commission Expires

Personally known or Produced Identification

Type of Identification Produced

December 05, 2017
PAMELA F. DATO/tr

MailProcessingStaff@sao13th.com

Parent

2017057173/ MICHAEL ROBERT WENZEL

(Open)

Include N/A

Consolidate

2017-057174/ HEINTZ, SPENCER BRANDON

(Open)

2017-057175/ BENAC, ROBERT LEE III

(Open)

ISSUE CAPIAS

DEFENDANT: WENZEL, MICHAEL ROBERT

DOB : 06/07/1996

RACE : White

GENDER : Male

SSN : N/A

DL# : W524556962070-FL

HAIR : N/A

EYES : N/A

ADDRESS : 1615 4TH ST W, PALMETTO FL 34221

ISSUE CAPIAS

DEFENDANT: HEINTZ, SPENCER BRANDON

DOB : 10/14/1994

RACE : White

GENDER : Male

SSN : N/A

DL# : H532782943740-FL

HAIR : N/A

EYES : N/A

ADDRESS : 2310 8TH ST W, PALMETTO FL 34221

ISSUE CAPIAS

DEFENDANT: BENAC, ROBERT LEE III

: 04/28/1989

RACE : White

GENDER : Male

SSN : N/A

DL# : B520772891480-FL

HAIR : N/A

EYES : N/A

ADDRESS : 3917 OAK GROVE DR, SARASOTA FL 34243

Agency : Florida Fish and Wildlife Conservation Commission 2017-00012872

2017-057173/

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COUNT ONE

AGGRAVATED CRUELTY
TO ANIMALS
F.S. 828.12 (2)
3RD DEGREE FELONY
(ALL DEFENDANTS)
MISC0416

COUNT TWO

AGGRAVATED CRUELTY
TO ANIMALS
F.S. 828.12 (2)
3RD DEGREE FELONY
(ALL DEFENDANTS)
MISC0416

COUNT THREE

VIOLATION OF RULES RELATING
TO FISH AND WILDLIFE
CONSERVATION COMMISSION
F.S. 379.401(2)(a)
2ND DEGREE MISDEMEANOR
(MICHAEL ROBERT WENZEL, ROBERT LEE BENAC III)
MISC1090



State Attorney

ANDREW H. WARREN
Thirteenth Judicial Circuit
419 N. Pierce Street
Tampa, Florida 33602-4022
(813) 272-5400

**Notice to Clerk of Factors Relating to Division Assignment
in accordance with Circuit Criminal Administrative Order**

Date: December 05, 2017

To: Clerk of Court

From: SAO Personnel

Defendant's Name: MICHAEL ROBERT WENZEL

Case Number:

Division Proposed by Clerk: B

Presumed Division per SAO Research: B

X Case should be assigned to the Proposed Division that has already been assigned by the Clerk because none of the following exceptions apply.

-----EXCEPTIONS-----

In accordance with the current administrative order governing assignment of cases in the Circuit Criminal Division, please assign a division based on the following exceptions to the proposed division case assignment:

_____ Case meets the Drug Court criteria and therefore should be assigned to Division "Y."

_____ Case meets the Veterans Court criteria and therefore should be assigned to Division "V."

_____ Defendant has multiple proposed divisions. Earliest assigned proposed division is _____.

_____ Defendant has Pending Case with lowest pending case #: _____; Division _____.

_____ Co-Defendant has multiple proposed divisions. Earliest assigned proposed division is _____.

_____ Co-Defendant has Pending Case with lowest pending case #: _____; Division _____.

_____ Case is re-filed after SAO dismissed it. Original case assigned to Division _____.

Associated Cases: _____



State Attorney

ANDREW H. WARREN
Thirteenth Judicial Circuit
419 N. Pierce Street
Tampa, Florida 33602-4022
(813) 272-5400

**Notice to Clerk of Factors Relating to Division Assignment
in accordance with Circuit Criminal Administrative Order**

Date: December 05, 2017

To: Clerk of Court

From: SAO Personnel

Defendant's Name: SPENCER BRANDON HEINTZ

Case Number:

Division Proposed by Clerk: C

Presumed Division per SAO Research: B

_____ Case should be assigned to the Proposed Division that has already been assigned by the Clerk because none of the following exceptions apply.

-----EXCEPTIONS-----

In accordance with the current administrative order governing assignment of cases in the Circuit Criminal Division, please assign a division based on the following exceptions to the proposed division case assignment:

_____ Case meets the Drug Court criteria and therefore should be assigned to Division "Y."

_____ Case meets the Veterans Court criteria and therefore should be assigned to Division "V."

_____ Defendant has multiple proposed divisions. Earliest assigned proposed division is _____.

_____ Defendant has Pending Case with lowest pending case #: _____; Division _____.

X Co-Defendant has multiple proposed divisions. Earliest assigned proposed division is B .

_____ Co-Defendant has Pending Case with lowest pending case #: _____; Division _____.

_____ Case is re-filed after SAO dismissed it. Original case assigned to Division _____.

Associated Cases: _____



State Attorney

ANDREW H. WARREN
Thirteenth Judicial Circuit
419 N. Pierce Street
Tampa, Florida 33602-4022
(813) 272-5400

**Notice to Clerk of Factors Relating to Division Assignment
in accordance with Circuit Criminal Administrative Order**

Date: December 05, 2017

To: Clerk of Court

From: SAO Personnel

Defendant's Name: ROBERT LEE BENAC III

Case Number:

Division Proposed by Clerk: A

Presumed Division per SAO Research: B

_____ Case should be assigned to the Proposed Division that has already been assigned by the Clerk because none of the following exceptions apply.

-----EXCEPTIONS-----

In accordance with the current administrative order governing assignment of cases in the Circuit Criminal Division, please assign a division based on the following exceptions to the proposed division case assignment:

_____ Case meets the Drug Court criteria and therefore should be assigned to Division "Y."

_____ Case meets the Veterans Court criteria and therefore should be assigned to Division "V."

_____ Defendant has multiple proposed divisions. Earliest assigned proposed division is _____.

_____ Defendant has Pending Case with lowest pending case #: _____; Division _____.

___X___ Co-Defendant has multiple proposed divisions. Earliest assigned proposed division is __B__.

_____ Co-Defendant has Pending Case with lowest pending case #: _____; Division _____.

_____ Case is re-filed after SAO dismissed it. Original case assigned to Division _____.

Associated Cases: _____

CRIMINAL REPORT AFFIDAVIT/HILLSBOROUGH COUNTY, FLORIDA

17-51173 RUSH

Supplemental Page Plant City Courthouse Notice To Appear **CRA #:** FF17000006

Fel Misd (APAD) Adult Pre-Arrest Div Traffic Tampa Ord Juv Delinq JAAP Booking #:

Arrest Type: PC Warrant PC VOP/VOCC **Request:** Warrant SAO Review Direct File JUV Pick-Up Order

Court Case # **Family #** **SOID #**

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Agency: HCSO TPD PCPD TTPD FHP
 Other: EWC **Report #** 17-012872 **Report Written** Yes No

Offense Location: STATE WATERS IN HILLSBOROUGH COUNTY, TAMPA, FL **Offense Date:** 06/26/2017 **Offense Time:** 1500

Arrest Location: **Arrest Date:** **Arrest Time:**

Defendant: Last Name: **WENZEL** First Name: **MICHAEL** Middle Name: **ROBERT** Gang Name:

Race White	Gender <input checked="" type="radio"/> M <input type="radio"/> F	DOB 06/07/1996	DL# W524556962070	State FL	POB (City, State) FLORIDA
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Address Street: 1615 4TH STREET WEST **City:** PALMETTO **State:** FL **Zip:** 34221

School (JUV) **Parent/Guardian (JUV)**

CO-Defendant Last Name	First Name	Middle Name	Race	Gender	DOB
BENAC, III	ROBERT	LEE	W	<input checked="" type="radio"/> M <input type="radio"/> F	04/28/1989
HEINTZ	SPENCER	BRANDON	W	<input checked="" type="radio"/> M <input type="radio"/> F	10/14/1994

Statute	Level	Degree	Charge	Count	Citation #	DV
828.12(2)	Fel	T	CONSERVATION-ANIMALS CAUSE CRUEL DEATH PAIN AND SUFFERING two counts per defendant.	2		<input type="radio"/>
379.401(2)(b)1	Misd	S	CONSERVATION VIOL LEVEL 2 FWC RULE OR REG 1ST OFFENSE ref violation of FAC 68B-44.003(2).	1		<input type="radio"/>

The undersigned swears there are reasonable grounds to believe that the above named defendant in Hillsborough County, Florida, did:
 On July 24th, 2017, FWC received multiple complaints regarding a video that was observed on Instagram and Facebook. The video, posted by Mark Quartiano (Mark the Shark), is a 10 second video recording showing a Blacktip shark being dragged behind a vessel at high rate of speed. Through the course of the investigation a series of videos, photographs, and text type conversations were obtained through approved search warrants out of the 12th Judicial Circuit, Manatee County from social media accounts possessed by the below subjects.

The information obtained from the search warrants revealed the Blacktip shark observed in the video was shot and dragged in state waters near Egmont Key in Hillsborough County on June 26, 2017. In addition to the Black tip shark being dragged, a Black nose shark was also unlawfully taken by speargun on June 26, 2017 in state waters in Hillsborough County, Florida. Many of the day's events were recorded via Snapchat and date/time stamped in epoch time. The events of June 26, 2017 occurred as follows.

On June 26th, 2017, Michael Wenzel, Robert Lee Benac III, Nicholas Burns Easterling and Spencer Brandon Heintz departed from Michael Wenzel's waterfront home in Palmetto, Florida. Wenzel, Benac, Easterling and Heintz traveled west toward the Gulf of Mexico in a 22' center console Aquasport displaying Florida registration numbers FL 3308 CD.

While fishing in state waters near Egmont Key in Hillsborough County, Florida, Benac shot a black nose shark with a speargun around 1508 hours. Heintz took a photo of Benac holding the speargun and Wenzel holding a gaffed black nose shark with a spear completely through it. At 1521 hours Wenzel video recorded Benac, Easterling and Heintz dancing on the bow of the boat. In the video Benac is still in possession of the speargun.

Less than two hours later, Benac caught a black tip shark approximately 6ft in length on hook and line in state waters near Egmont Key in Hillsborough County. At 1708 hours, Heintz recorded Benac in the process retrieving the shark. The recording is a 10 second video, which shows the shark being pulled near the vessel on the starboard (right) side by Benac. As the shark gets within a few feet Wenzel shoots the shark one time with a .38 revolver in the left side of the head near the gills. Blood is immediately seen exiting the shark. Despite being shot, the shark takes an aggressive turn in an attempt to retreat. After the shark is shot, all occupants are heard celebrating by laughing while Heintz yells, "Get it again, get it again".

State Attorney

(SERVICE OF COURT DOCUMENTS may be served on the State Attorney's office at IMailProcessingStaff@sao13th.com)

Office of the State Attorney 13th

At 1710 hours, Heintz recorded Benac continuing the fight with the black tip shark. This 8 second video shows Wenzel shoot at the shark three times with a .38 revolver as it is pulled close to the port (left) side of the vessel. After shooting at the shark, all occupants on the vessel erupt with laughter and cheer. It is unknown if any of the bullets hit the shark. However, after being shot at, the shark takes an aggressive turn in an attempt to retreat.

At 1714 hours, the black tip shark had been landed and Wenzel recorded it lying over the gunnel and tail roped. During the video recording, the occupants can be heard laughing while Easterling holds the rope.

The next 10 second video recording was recorded by Benac and shows Wenzel operating the vessel while Easterling stands to his right side, Heintz is seen sitting on the port side gunnel and Benac on the starboard side gunnel. Benac records the shark as it's dragged across the top of the water at a high speed. The shark can be seen bouncing and skipping across the top of the water. As the camera pans to the port side Heintz can be seen recording the same incident. However, Heintz' recording is 30 seconds long. During both videos, all occupants can be seen and heard laughing while the shark is being dragged across the top of the water at high speed. At the end of Heintz' recording Wenzel states, "I think it's dead."

The video of the shark lying across the gunnel was viewed by Doctor Hueter (Senior Scientist and Director of Center for Shark Research/Mote Marine), Doctor Poulakis (Research Associate/FWC) and Doctor Kajiura (Prof. of Biological Sciences/Florida Atlantic University). All three doctors concluded that they observed voluntary movement made by shark, which would indicate that the shark is alive during that recording.

The doctors also viewed both videos of the shark being dragged independently. All three doctors described seeing movements of the shark that would indicate that it is alive while it is being dragged. The movements were described as being voluntary, such as the flexing of the body and moving of the jaw. Yet, the doctors could not state that within a reasonable degree of scientific certainty that the shark is alive while being dragged. However, Benac repeatedly engaged in chat style conversations via an Instagram messenger and informed several Instagram users that the purpose of dragging the shark was to kill it. Benac further described the method of dragging a shark backwards as a method used to kill sharks. One person told Benac that, "You had no right to drag it alive." Benac replied, "I had every right." As he continued his conversation about the dragging incident he told another user that, "It was excessive." Benac also messaged Instagram user "marktheshark" stating, "Black tip that we were dragging water backwards over its gills and one of my buddy's bet the other we couldn't get the boat on plane."

Wenzel and Benac are avid fisherman who regularly engage in fishing activities, to include fishing tournaments. Their social media accounts reflect that they have extensive knowledge regarding species identification and fishing practices. In addition, Wenzel is a commercial fisherman whose livelihood is dependent upon Florida's resources. Wenzel holds a valid commercial saltwater fishing license with an RS (restricted species) endorsement, Benac holds a valid recreational saltwater fishing license, Easterling holds a valid recreational saltwater fishing license and hunting license, and Heintz holds a valid lifetime recreational fishing license.

Based upon the actions of Wenzel, Benac and Heintz, the comments made by Benac, and the experience, education and knowledge of sharks the doctors agree that there is a high probability the shark was alive while it was being dragged behind the boat. Therefore, exposing the live shark to excessive or repeated infliction of unnecessary suffering which ultimately resulted in the cruel death of the shark. At no time did any of the occupants of the vessel make any attempts to stop the activity. Thereby, failing to act, and instead, laughed and recorded the shark bouncing across the top of the water at a high speed. The events that took place involving the shark dragging constitute animal cruelty and are in no way a widespread practice used in the fishing industry.

Pursuant to Florida State Statute (FSS) 828.12 Cruelty to animals.

(2) A person who intentionally commits an act to any animal, or a person who owns or has the custody or control of any animal and fails to act, which results in the cruel death, or excessive or repeated infliction of unnecessary pain or suffering, or causes the same to be done, commits aggravated animal cruelty, a felony of the third degree.

Pursuant to Florida Administrative Code (FAC) 68B-4.0083(2) it is unlawful to discharge any firearms whatsoever for the purpose of killing fish therein.

68B-4.0083 Food Fish: Gear and Other Restrictions; Use of Explosives to Kill Fish Prohibited; Certain Uses of Frame Nets Prohibited; Stop Netting Prohibited; Possession of Certain Proscribed Nets Prohibited; Use of Chemicals Prohibited.

(2) No person may throw or cause to be thrown, into any of the waters of this state, any dynamite, lime, other explosives or discharge any firearms whatsoever for the purpose of killing fish therein. The landing ashore or possession on the water by any person of any fish that has been damaged by explosives is prima facie evidence of violation of this section.

Pursuant to Florida Administrative Code (FAC) 68B-44.003(2) it is unlawful to harvest any shark from state waters by use of any gear other than hook and line.

State Attorney

(SERVICE OF COURT DOCUMENTS may be served on the State Attorney's office at IMailProcessingStaff@sao13th.com)

Agency Report # 17-012872

CRIMINAL REPORT AFFIDAVIT/
HILLSBOROUGH COUNTY, FLORIDA

CRA #: FF17000006

68B-44.003(2) Bag Limit Applicable to State Waters; Gear Restriction.
(2) The harvest or attempted harvest of any shark in or from state waters is prohibited except by use of hook and line gear.

Pursuant to Florida Statute §92.525 and under penalties of perjury, I declare that I have read the foregoing document and the facts stated in it are true to the best of my knowledge. For Notices to Appear, I also certify that a complete list of witnesses and evidence known to me is attached.

Affiant:	INV. G McCorkle Digitally signed on 2017.12.04 15:01:32	Officer # N512	DIST:	SWORN TO AND SUBSCRIBED BEFORE ME THIS DATE	Officer # N508
			SQD: S/W REGION		

Judgment requested against defendant for agency investigative cost per Florida Statute 938.27: \$9,999.00

Office of the State Attorney 13th

State Attorney

(SERVICE OF COURT DOCUMENTS may be served on the State Attorney's office at IMailProcessingStaff@sao13th.com)

CRIMINAL REPORT AFFIDAVIT/HILLSBOROUGH COUNTY, FLORIDA

17-5174

RUSBY

Supplemental Page Plant City Courthouse Notice To Appear **CRA #:** FF17000007

Fel Misd (APAD) Adult Pre-Arrest Div Traffic Tampa Ord Juv Delinq JAAP **Booking #:**

Arrest Type: PC Warrant PC VOP/VOCC **Request:** Warrant SAO Review Direct File JUV Pick-Up Order

Court Case #	Family #	SOID #

Agency: HCSO TPD PCPD TTPD FHP
 Other: EWC **Report #** 17-012872 **Report Written** Yes No

Offense Location: STATE WATERS IN HILLSBOROUGH COUNTY, TAMPA, FL **Offense Date:** 06/26/2017 **Offense Time:** 1500

Arrest Location: **Arrest Date:** **Arrest Time:**

Defendant: Last Name: HEINTZ First Name: SPENCER Middle Name: BRANDON Gang Name:

Race: White	Gender: <input checked="" type="radio"/> M <input type="radio"/> F	DOB: 10/14/1994	DL#: H532782943740	State: FL	POB (City, State): FLORIDA
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Address Street: 2310 8TH STREET WEST **City:** PALMETTO **State:** FL **Zip:** 34221

School (JUV): **Parent/Guardian (JUV):**

CO-Defendant: Last Name	First Name	Middle Name	Race	Gender	DOB
WENZEL	MICHAEL	ROBERT	W	<input checked="" type="radio"/> M <input type="radio"/> F	06/07/1996
BENAC, III	ROBERT	LEE	W	<input checked="" type="radio"/> M <input type="radio"/> F	04/28/1989

Statute	Level	Degree	Charge	Count	Citation #	DV
828.12(2)	Fel	T	CONSERVATION-ANIMALS CAUSE CRUEL DEATH PAIN AND SUFFERING 2 counts	2		<input type="radio"/>

The undersigned swears there are reasonable grounds to believe that the above named defendant in Hillsborough County, Florida, did:
 On July 24th, 2017, FWC received multiple complaints regarding a video that was observed on Instagram and Facebook. The video, posted by Mark Quartiano (Mark the Shark), is a 10 second video recording showing a Blacktip shark being dragged behind a vessel at high rate of speed. Through the course of the investigation a series of videos, photographs, and text type conversations were obtained through approved search warrants out of the 12th Judicial Circuit, Manatee County from social media accounts possessed by the below subjects.

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Less than two hours later, Benac caught a black tip shark approximately 6ft in length on hook and line in state waters near Egmont Key in Hillsborough County. At 1708 hours, Heintz recorded Benac in the process retrieving the shark. The recording is a 10 second video, which shows the shark being pulled near the vessel on the starboard (right) side by Benac. As the shark gets within a few feet Wenzel shoots the shark one time with a .38 revolver in the left side of the head near the gills. Blood is immediately seen exiting the shark. Despite being shot, the shark takes an aggressive turn in an attempt to retreat. After the shark is shot, all occupants are heard celebrating by laughing while Heintz yells, "Get it again, get it again".

At 1710 hours, Heintz recorded Benac continuing the fight with the black tip shark. This 8 second video shows Wenzel shoot

State Attorney

(SERVICE OF COURT DOCUMENTS may be served on the State Attorney's office at IMailProcessingStaff@sao13th.com)

Office of the State Attorney 13th

at the shark three times with a .38 revolver as it is pulled close to the port (left) side of the vessel. After shooting at the shark, all occupants on the vessel erupt with laughter and cheer. It is unknown if any of the bullets hit the shark. However, after being shot at, the shark takes an aggressive turn in an attempt to retreat.

At 1714 hours, the black tip shark had been landed and Wenzel recorded it lying over the gunnel and tail roped. During the video recording, the occupants can be heard laughing while Easterling holds the rope.

The next 10 second video recording was recorded by Benac and shows Wenzel operating the vessel while Easterling stands to his right side, Heintz is seen sitting on the port side gunnel and Benac on the starboard side gunnel. Benac records the shark as it's dragged across the top of the water at a high speed. The shark can be seen bouncing and skipping across the top of the water. As the camera pans to the port side Heintz can be seen recording the same incident. However, Heintz' recording is 30 seconds long. During both videos, all occupants can be seen and heard laughing while the shark is being dragged across the top of the water at high speed. At the end of Heintz' recording Wenzel states, "I think it's dead."

The video of the shark lying across the gunnel was viewed by Doctor Hueter (Senior Scientist and Director of Center for Shark Research/Mote Marine), Doctor Poulakis (Research Associate/FWC) and Doctor Kajjura (Prof. of Biological Sciences/Florida Atlantic University). All three doctors concluded that they observed voluntary movement made by shark, which would indicate that the shark is alive during that recording.

The doctors also viewed both videos of the shark being dragged independently. All three doctors described seeing movements of the shark that would indicate that it is alive while it is being dragged. The movements were described as being voluntary, such as the flexing of the body and moving of the jaw. Yet, the doctors could not state that within a reasonable degree of scientific certainty that the shark is alive while being dragged. However, Benac repeatedly engaged in chat style conversations via an Instagram messenger and informed several Instagram users that the purpose of dragging the shark was to kill it. Benac further described the method of dragging a shark backwards as a method used to kill sharks. One person told Benac that, "You had no right to drag it alive." Benac replied, "I had every right." As he continued his conversation about the dragging incident he told another user that, "It was excessive." Benac also messaged Instagram user "marktheshark" stating, "Black tip that we were dragging water backwards over its gills and one of my buddy's bet the other we couldn't get the boat on plane."

Wenzel and Benac are avid fisherman who regularly engage in fishing activities, to include fishing tournaments. Their social media accounts reflect that they have extensive knowledge regarding species identification and fishing practices. In addition, Wenzel is a commercial fisherman whose livelihood is dependent upon Florida's resources. Wenzel holds a valid commercial saltwater fishing license with an RS (restricted species) endorsement, Benac holds a valid recreational saltwater fishing license, Easterling holds a valid recreational saltwater fishing license and hunting license, and Heintz holds a valid lifetime recreational fishing license.

Based upon the actions of Wenzel, Benac and Heintz, the comments made by Benac, and the experience, education and knowledge of sharks the doctors agree that there is a high probability the shark was alive while it was being dragged behind the boat. Therefore, exposing the live shark to excessive or repeated infliction of unnecessary suffering which ultimately resulted in the cruel death of the shark. At no time did any of the occupants of the vessel make any attempts to stop the activity. Thereby, failing to act, and instead, laughed and recorded the shark bouncing across the top of the water at a high speed. The events that took place involving the shark dragging constitute animal cruelty and are in no way a widespread practice used in the fishing industry.

Pursuant to Florida State Statute (FSS) 828.12 Cruelty to animals.

(2) A person who intentionally commits an act to any animal, or a person who owns or has the custody or control of any animal and fails to act, which results in the cruel death, or excessive or repeated infliction of unnecessary pain or suffering, or causes the same to be done, commits aggravated animal cruelty, a felony of the third degree.

Pursuant to Florida Administrative Code (FAC) 68B-4.0083(2) it is unlawful to discharge any firearms whatsoever for the purpose of killing fish therein.

68B-4.0083 Food Fish: Gear and Other Restrictions; Use of Explosives to Kill Fish Prohibited; Certain Uses of Frame Nets Prohibited; Stop Netting Prohibited; Possession of Certain Proscribed Nets Prohibited; Use of Chemicals Prohibited.

(2) No person may throw or cause to be thrown, into any of the waters of this state, any dynamite, lime, other explosives or discharge any firearms whatsoever for the purpose of killing fish therein. The landing ashore or possession on the water by any person of any fish that has been damaged by explosives is prima facie evidence of violation of this section.

Pursuant to Florida Administrative Code (FAC) 68B-44.003(2) it is unlawful to harvest any shark from state waters by use of any gear other than hook and line.

68B-44.003(2) Bag Limit Applicable to State Waters; Gear Restriction.

(2) The harvest or attempted harvest of any shark in or from state waters is prohibited except by use of hook and line gear.

State Attorney

(SERVICE OF COURT DOCUMENTS may be served on the State Attorney's office at IMailProcessingStaff@sao13th.com)

Office of the State Attorney 13th

Agency Report # 17-012872

**CRIMINAL REPORT AFFIDAVIT/
HILLSBOROUGH COUNTY, FLORIDA**

CRA #: FF17000007

Pursuant to Florida Statute §92.525 and under penalties of perjury, I declare that I have read the foregoing document and the facts stated in it are true to the best of my knowledge. For Notices to Appear, I also certify that a complete list of witnesses and evidence known to me is attached.

Affiant: INV. G McCorkle Digitally signed on 2017.12.04 15:03:33	Officer # N512	DIST: S/W SQD: REGION	SWORN TO AND SUBSCRIBED BEFORE ME THIS DATE LT J Mack Digitally signed on 2017.12.04 15:55:49	Officer # N508
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Judgment requested against defendant for agency investigative cost per Florida Statute 938.27: \$9,999.00

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Office of the State Attorney 13th

State Attorney

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CRIMINAL REPORT AFFIDAVIT/HILLSBOROUGH COUNTY, FLORIDA

RUSH
17-5175

Supplemental Page Plant City Courthouse Notice To Appear **CRA #:** FF17000008

Fel Misd (APAD) Adult Pre-Arrest Div Traffic Tampa Ord Juv Delinq JAAP Booking #:

Arrest Type: PC Warrant PC VOP/VOCC **Request:** Warrant SAO Review Direct File JUV Pick-Up Order

Court Case #	Family #	SOID #

Agency: HCSO TPD PCPD TTPD FHP
 Other: EWC **Report #** 17-012872 **Report Written** Yes No

Offense Location: STATE WATERS IN HILLSBOROUGH COUNTY, TAMPA, FL **Offense Date:** 06/26/2017 **Offense Time:** 1500

Arrest Location: **Arrest Date:** **Arrest Time:**

Defendant: Last Name: **BENAC, III** First Name: **ROBERT** Middle Name: **LEE** Gang Name:

Race White	Gender <input checked="" type="radio"/> M <input type="radio"/> F	DOB 04/28/1989	DL# B520772891480	State FL	POB (City, State) FLORIDA
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Address Street: 3917 OAK GROVE DR. **City:** SARASOTA **State:** FL **Zip:** 34243

School (JUV) **Parent/Guardian (JUV)**

CO-Defendant: Last Name	First Name	Middle Name	Race	Gender	DOB
HEINTZ	SPENCER	BRANDON	W	<input checked="" type="radio"/> M <input type="radio"/> F	10/14/1994
WENZEL	MICHAEL	ROBERT	W	<input checked="" type="radio"/> M <input type="radio"/> F	06/07/1996

Statute	Level	Degree	Charge	Count	Citation #	DV
828.12(2)	Fel	T	CONSERVATION-ANIMALS CAUSE CRUEL DEATH PAIN AND SUFFERING 2 counts	2		<input type="radio"/>
379.401(2)(b)1	Misd	S	CONSERVATION VIOL LEVEL 2 FWC RULE OR REG 1ST OFFENSE ref violation FAC 68B-44.003(2)	1		<input type="radio"/>

The undersigned swears there are reasonable grounds to believe that the above named defendant in Hillsborough County, Florida, did:
 On July 24th, 2017, FWC received multiple complaints regarding a video that was observed on Instagram and Facebook. The video, posted by Mark Quartiano (Mark the Shark), is a 10 second video recording showing a Blacktip shark being dragged behind a vessel at high rate of speed. Through the course of the investigation a series of videos, photographs, and text type conversations were obtained through approved search warrants out of the 12th Judicial Circuit, Manatee County from social media accounts possessed by the below subjects.

The information obtained from the search warrants revealed the Blacktip shark observed in the video was shot and dragged in state waters near Egmont Key in Hillsborough County on June 26, 2017. In addition to the Black tip shark being dragged, a Black nose shark was also unlawfully taken by speargun on June 26, 2017 in state waters in Hillsborough County, Florida. Many of the day's events were recorded via Snapchat and date/time stamped in epoch time. The events of June 26, 2017 occurred as follows.

On June 26th, 2017, Michael Wenzel, Robert Lee Benac III, Nicholas Burns Easterling and Spencer Brandon Heintz departed from Michael Wenzel's waterfront home in Palmetto, Florida. Wenzel, Benac, Easterling and Heintz traveled west toward the Gulf of Mexico in a 22' center console Aquasport displaying Florida registration numbers FL 3308 CD.

While fishing in state waters near Egmont Key in Hillsborough County, Florida, Benac shot a black nose shark with a speargun around 1508 hours. Heintz took a photo of Benac holding the speargun and Wenzel holding a gaffed black nose shark with a spear completely through it. At 1521 hours Wenzel video recorded Benac, Easterling and Heintz dancing on the bow of the boat. In the video Benac is still in possession of the speargun.

Less than two hours later, Benac caught a black tip shark approximately 6ft in length on hook and line in state waters near Egmont Key in Hillsborough County. At 1708 hours, Heintz recorded Benac in the process retrieving the shark. The recording is a 10 second video, which shows the shark being pulled near the vessel on the starboard (right) side by Benac. As the shark gets within a few feet Wenzel shoots the shark one time with a .38 revolver in the left side of the head near the gills. Blood is immediately seen exiting the shark. Despite being shot, the shark takes an aggressive turn in an attempt to retreat. After the shark is shot, all occupants are heard celebrating by laughing while Heintz yells, "Get it again, get it again".

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At 1710 hours, Heintz recorded Benac continuing the fight with the black tip shark. This 8 second video shows Wenzel shoot at the shark three times with a .38 revolver as it is pulled close to the port (left) side of the vessel. After shooting at the shark, all occupants on the vessel erupt with laughter and cheer. It is unknown if any of the bullets hit the shark. However, after being shot at, the shark takes an aggressive turn in an attempt to retreat.

At 1714 hours, the black tip shark had been landed and Wenzel recorded it lying over the gunnel and tail roped. During the video recording, the occupants can be heard laughing while Easterling holds the rope.

The next 10 second video recording was recorded by Benac and shows Wenzel operating the vessel while Easterling stands to his right side, Heintz is seen sitting on the port side gunnel and Benac on the starboard side gunnel. Benac records the shark as it's dragged across the top of the water at a high speed. The shark can be seen bouncing and skipping across the top of the water. As the camera pans to the port side Heintz can be seen recording the same incident. However, Heintz' recording is 30 seconds long. During both videos, all occupants can be seen and heard laughing while the shark is being dragged across the top of the water at high speed. At the end of Heintz' recording Wenzel states, "I think it's dead."

The video of the shark lying across the gunnel was viewed by Doctor Hueter (Senior Scientist and Director of Center for Shark Research/Mote Marine), Doctor Poulakis (Research Associate/FWC) and Doctor Kajiura (Prof. of Biological Sciences/Florida Atlantic University). All three doctors concluded that they observed voluntary movement made by shark, which would indicate that the shark is alive during that recording.

The doctors also viewed both videos of the shark being dragged independently. All three doctors described seeing movements of the shark that would indicate that it is alive while it is being dragged. The movements were described as being voluntary, such as the flexing of the body and moving of the jaw. Yet, the doctors could not state that within a reasonable degree of scientific certainty that the shark is alive while being dragged. However, Benac repeatedly engaged in chat style conversations via an Instagram messenger and informed several Instagram users that the purpose of dragging the shark was to kill it. Benac further described the method of dragging a shark backwards as a method used to kill sharks. One person told Benac that, "You had no right to drag it alive." Benac replied, "I had every right." As he continued his conversation about the dragging incident he told another user that, "It was excessive." Benac also messaged Instagram user "marktheshark" stating, "Black tip that we were dragging water backwards over its gills and one of my buddy's bet the other we couldn't get the boat on plane."

Wenzel and Benac are avid fisherman who regularly engage in fishing activities, to include fishing tournaments. Their social media accounts reflect that they have extensive knowledge regarding species identification and fishing practices. In addition, Wenzel is a commercial fisherman whose livelihood is dependent upon Florida's resources. Wenzel holds a valid commercial saltwater fishing license with an RS (restricted species) endorsement, Benac holds a valid recreational saltwater fishing license, Easterling holds a valid recreational saltwater fishing license and hunting license, and Heintz holds a valid lifetime recreational fishing license.

Based upon the actions of Wenzel, Benac and Heintz, the comments made by Benac, and the experience, education and knowledge of sharks the doctors agree that there is a high probability the shark was alive while it was being dragged behind the boat. Therefore, exposing the live shark to excessive or repeated infliction of unnecessary suffering which ultimately resulted in the cruel death of the shark. At no time did any of the occupants of the vessel make any attempts to stop the activity. Thereby, failing to act, and instead, laughed and recorded the shark bouncing across the top of the water at a high speed. The events that took place involving the shark dragging constitute animal cruelty and are in no way a widespread practice used in the fishing industry.

Pursuant to Florida State Statute (FSS) 828.12 Cruelty to animals.

(2) A person who intentionally commits an act to any animal, or a person who owns or has the custody or control of any animal and fails to act, which results in the cruel death, or excessive or repeated infliction of unnecessary pain or suffering, or causes the same to be done, commits aggravated animal cruelty, a felony of the third degree.

Pursuant to Florida Administrative Code (FAC) 68B-4.0083(2) it is unlawful to discharge any firearms whatsoever for the purpose of killing fish therein.

68B-4.0083 Food Fish: Gear and Other Restrictions; Use of Explosives to Kill Fish Prohibited; Certain Uses of Frame Nets Prohibited; Stop Netting Prohibited; Possession of Certain Proscribed Nets Prohibited; Use of Chemicals Prohibited.

(2) No person may throw or cause to be thrown, into any of the waters of this state, any dynamite, lime, other explosives or discharge any firearms whatsoever for the purpose of killing fish therein. The landing ashore or possession on the water by any person of any fish that has been damaged by explosives is prima facie evidence of violation of this section.

Pursuant to Florida Administrative Code (FAC) 68B-44.003(2) it is unlawful to harvest any shark from state waters by use of any gear other than hook and line.

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Agency Report # 17-012872

CRIMINAL REPORT AFFIDAVIT/
HILLSBOROUGH COUNTY, FLORIDA

CRA #: FF17000008

68B-44.003(2) Bag Limit Applicable to State Waters; Gear Restriction.
(2) The harvest or attempted harvest of any shark in or from state waters is prohibited except by use of hook and line gear.

Pursuant to Florida Statute §92.525 and under penalties of perjury, I declare that I have read the foregoing document and the facts stated in it are true to the best of my knowledge. For Notices to Appear, I also certify that a complete list of witnesses and evidence known to me is attached.

Affiant:	INV. G McCorkle Digitally signed on 2017.12.04 15:04:56	Officer # N512	DIST:	SWORN TO AND SUBSCRIBED BEFORE ME THIS DATE LT J Mack Digitally signed on 2017.12.04 15:54:43	Officer # N508
			SQD: S/W REGION		

Judgment requested against defendant for agency investigative cost per Florida Statute 938.27: \$9,999.00

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