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 1 1 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)

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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.

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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

2017-057173/ Page 2 of 5 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

day of December 2017 This ate of Florida JENNIFERS. REMUE Commission # GG 073879 Expires February 16, 2021 Bonded Thru Troy Fain Insurance 800-385-7019 Print or Stamp commissioned Name of Notary And Date Commission Expires Personally known $oldsymbol{V}$ 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 2017-057175/ BENAC, ROBERT LEE III

(Open) (Open)

ISSUE CAPIAS

DEFENDANI	:	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/ Page 4 of 5

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

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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} 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	.,,
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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 Dru	g 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:

2017-057173/ Page 1 of 1 Notice of Division

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Address Street:	1615 4TH 9			City:	ř –	PALMETTO		_L State	· · · · · ·	·····		221
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CO-Defendant: Last Na	me	First N	· · · · · · · · · · · · · · · · · · ·	- I	Middle	Name	Ra	ce	Gen		DO	В
BENAC, III HEINTZ			ROBERT SPENCER			LEE BRANDON		v v			04/28/	
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379.401(2) (b)1	Misd	S	CONSERVATION OFFENSE ref viol			FWC RULE OR REG	1ST		1			0
The undersigned swears there a On July 24th, 2017, FV video, posted by Mark behind a vessel at high conversations were ob media accounts posses The information obtain state waters near Egm Black nose shark was a Many of the day's even occurred as follows. On June 26th, 2017, M from Michael Wenzel's Gulf of Mexico in a 22' While fishing in state w speargun around 1508 shark with a spear com	VC received Quartiano (M rate of spectained through ssed by the ed from the sont Key in H also unlawfut its were reco ichael Wenz waterfront h center conso aters near E hours. Hein pletely throu	multip Mark the ed. The gh app below search illsbor illy tak orded cel, Ro ione in ole Aq igmon tz took igh it.	ble complaints re ne Shark), is a 10 rough the course proved search wa subjects. In warrants reveal ough County on en by speargun via Snapchat and bert Lee Benac in Palmetto, Flori uasport displayin t Key in Hillsbord c a photo of Bena At 1521 hours W	gardin 0 seco a of the arrants led the June 2 on Jun d date/ III, Nic da. We ng Flor pugh C ac hold /enzel	g a vid nd vid inves s out o Black 26, 20 he 26, (time s holas enzel, tida re county ding th video	deo that was observed leo recording show stigation a series o of the 12th Judicial tip shark observed 17. In addition to th 2017 in state wate stamped in epoch t Burns Easterling a Benac, Easterling a gistration numbers , Florida, Benac sh e speargun and W recorded Benac F	ved c ving a f vide Circu d in th ne Bla rs in 1 ime. 1 and Sp and 1 s FL 3 not a t	n Ins Blac os, p it, M e vid ock tij Hillsb Fhe e benc Heint 308	stagram ktip sha hotogra anatee C leo was p shark l borough events o er Branc Z travelo CD.	rk beir phs, a County shot a being Count f June lon He ad wes	ng dragg nd text ty from so nd dragg dragged, y, Florida 26, 2013 sintz depa st toward ith a	ed /pe cial ged in a. 7 arted the
bow of the boat. In the Less than two hours lat Egmont Key in Hillsbord is a 10 second video, w gets within a few feet W immediately seen exitir shark is shot, all occupa (SERVICE OF COUR)	video Benac er, Benac ca ough County hich shows /enzel shoot ig the shark. ants are hea	aught a y. At 1 the sh ts the s Desp ard celo	I in possession of a black tip shark 708 hours, Heint ark being pulled shark one time w ite being shot, th ebrating by laugh Sta nay be served or	appro: z reco near t vith a .: ne shar ning with nte At	pearg ximate rded E he ves 38 rev k take hile He torne	un. Ely 6ft in length on Benac in the proce ssel on the starboa olver in the left sid es an aggressive tu eintz yells, "Get it a y	hook ss ret ard (rig e of ti um in again,	and rievir ght) s ne he an a get	line in si ng the si side by f ead near ttempt to it again"	ate wa hark. 1 Benac. the gi retre	aters nea he recor As the s ills. Blood at. After f	ir ding shark d is the
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Agency Report #

CRIMINAL REPORT AFFIDAVIT/ HILLSBOROUGH COUNTY, FLORIDA

CRA #: FF17000006

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) Page 2 of 3 Agency Report #

17-012872

CRIMINAL REPORT AFFIDAVIT/ HILLSBOROUGH COUNTY, FLORIDA

CRA #: FF17000006

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Affiant:		Officer #	DIST:	SWORN TO AND SUBSCRIBED BEFORE ME THIS DATE	Officer #
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State Attorney (SERVICE OF COURT DOCUMENTS may be served on the State Attorney's office at IMailProcessingStaff@sao13th.com) Page 3 of 3

CRIMINAL REPORT AFFIDAVIT/HILLSBOROUGH COUNTY, TROPINAL

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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".

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

State Attorney

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CRIMINAL REPORT AFFIDAVIT/ HILLSBOROUGH COUNTY, FLORIDA

CRA #: FF17000007

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 at a high speed. The shark can be seen bouncing and skipping across the top of the water at a high speed. The shark can be seen bouncing and skipping across the top of the water at a high speed. The shark can be seen bouncing and skipping across the top of the water at a high speed. The shark 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.

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 !MailProcessingStaff@sao13th.com) Page 2 of 3

Agency
Report #

CRIMINAL REPORT AFFIDAVIT/ HILLSBOROUGH COUNTY, FLORIDA

FF17000007 CRA #:

Affiant:		Officer #	DIST:	SWORN TO AND SUBSCRIBED BEFORE ME THIS DATE	Officer #
	INV. G McCorkle Digitally signed on 2017.12.04 15:03:33	N512	SQD: S/W REGION	LT J Mack Digitally signed on 2017.12.04 15:55:49	N508
Judgment	requested against defendant for agency in	vestigative cost p	er Florida Statute 9	;38.27: \$9,999.00	<u> </u>
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Other: Two Report # 17-012872 ● Yes No Offense Location: STATE WATERS IN HILLSBOROUGH COUNTY, TAMPA, FL Offense Date: 06/26/2017 Offense Time: 1500 Arrest Location: EXAMPLE Arrest Date: Arrest Date: Arrest Time: 1500 Defendant: Last Name First Name BENAC, III ROBERT LLEE Name: ELORIDA Race Gender DOB DL# B520772891480 State FL PDB (City, State) FLORIDA Address Street: 3917 OAK GROVE DR. City: SARASOTA State: FL Zip: 34243 School (JUV) Parent/Guardian (JUV) Parent/Guardian (JUV) 0M F DOB CO-Defendant: Last Name First Name Middle Name Race Gender DOB Katute Level Degree Charge Count Citation # DV Statute Level Degree Charge Count Citation # DV 373-4012(b)1 Midd S CONSERVATION-NOIL LEVEL 2 FWC RUE OR REG IST <td< th=""><th colspan="12">CRIMINAL REPORT AFFIDAVIT/HILLSBOROUGH COUNTR FLORIDA</th></td<>	CRIMINAL REPORT AFFIDAVIT/HILLSBOROUGH COUNTR FLORIDA											
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State Attorney												

(SERVICE OF COURT DOCUMENTS may be served on the State Attomey's office at !MailProcessingStaff@sao13th.com) Page 1 of 3 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

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CRIMINAL REPORT AFFIDAVIT/ HILLSBOROUGH COUNTY, FLORIDA

CRA #: FF17000008

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(2) The Pursuant t	o Florida Statute §92.525 and under penalties of pe	shark in or fro	om state	e waters	is prohibited except by use of hook and li going document and the facts stated in it are true to the	
knowledge Affiant:	e. For Notices to Appear, I also certify that a comple	r	1	dence know	n to me is attached. SWORN TO AND SUBSCRIBED BEFORE ME THIS DATE	
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