

## DISPOSITION STATEMENT

IN RE LAWFUL INVESTIGATION

/ A. Borisade

DATE: June 7, 2016

DIVISION: SP

S.A. NO: 2016-024651

CASE NO: N/A

### **CHARGE(s): BATTERY**

The below-listed disposition has been made in this case for the stated reasons:

Case filed as originally charged per arrest warrant (MM Battery)

Officer: Consented at filing.

Martinez: Not contacted directly due to pending felony charges; repeated contacts via counsel. Offered meeting to counsel; through counsel, Victim indicated that no additional information was available as of 6/7/16. Counsel affirmatively declined meeting in direct conversation. Emails in file.

### REASONS:

Suspect/Defendant Borisade (5'10", 142 #) was at the time of the incident (4/27/16) a probationary JSO officer (since terminated). He has no noteworthy disciplinary record, but did have MM criminal history of nonviolent nature (Petit Theft prior to becoming officer).

Ms. Martinez is a 31 year old female (5'4", 130#) recently arrived in Jacksonville. Prior to that she had lived in Orlando area and did have a documented criminal history:

— In 2004 Martinez was a passenger in a car that robbed a restaurant drive-through. She admitted being part of the planning of the robbery, clearing a spot for the shooter to conceal himself, and acting as lookout for the police. The car pulled up to the window, the shooter got out, demanded the cash drawer, reached in, fired his gun, jumped back in the car, and then the group fled from police until crashing after a lengthy and dangerous pursuit; "At speeds of 100 mph in the oncoming traffic lane. The driver. . . overcorrected causing the vehicle to leave the roadway, flip several times, and come to rest approximately 100 feet in the swamp." Martinez pled guilty to Robbery and after violating her probation several times (including possession of marijuana) was sentenced to jail.

— In 2012 Martinez was arrested for DUI (.203/.210) and indicated she had "3 long islands" "9 to 10 shots per drink" and also smoking marijuana that day "however much I wanted." She indicated to the officer that "she smokes weed every day after masturbating then gets ready to be a stripper."

—In 2014 Martinez was arrested by the Orange County Sheriff's Office for Resisting and Disturbing the Peace at Public Lodging. She was charged and convicted for Brawling/Fighting and Disorderly conduct.

In this case, there are at least three incidents in question.

#### 1. Parking lot / Scores:

On April 27, 2016, Martinez went to Scores (an adult entertainment establishment). According to the manager, he left word that she be allowed to have a "working audition" that day to determine if she would be "hired." Martinez describes her occupation as a "yoga teacher and pole dancer on the side."

Scores' Director of Security indicated, when shown photos, that Martinez had "crazy acne" and "looked more like the "after" picture" (her booking photo) when she came in that day." (Martinez has supposedly provided a photo to a news station of how she looked prior to the incident at Scores; Security Director Brumbach stated she did not look like that photo "at all". Martinez arrived around 3:00 pm and began consuming alcohol (according to employees, "a long island drink, a double shot of Rumpleminze") and in short order was described as "her words were slurred, her balance was off," "falling down drunk," "behaving

erratically," "making no sense at all," "speaking in tongues" and "on something besides just alcohol." She was "running around the bar topless" (a violation), accused staff and customers of "being pedophiles" and "threw a temper tantrum." She gave three "VIP" dances and one customer stated that "she is making money for all the wrong reasons." She grabbed the genitals of the DJ in front of other dancers and customers and began stealing items from the bathroom attendant (perfume, etc.). Security Director, bartender and DJ each noted that the precipitous decline in Martinez's behavior seemed indicative of having taken drugs then mixed them with alcohol. According to the DJ, Martinez's male friend ("he said he was her boyfriend and then he said he was her roommate") spoke to him by phone and reported to the DJ that "honestly, she just took half a bottle of Valium" before coming in to work and asked him to call police because "she was going to get crazy." It is undetermined yet if this same individual is the person Martinez contacted on her jail calls (she refers to this person as "Mark" who tells her "when you called me at 5:15 you were yelling and you were distraught")

Martinez was told she was terminated immediately but she refused to leave the premises. Management called a taxi to transport her; she refused. Management told her they were calling police (an extreme step they are normally very reluctant to take given the nature of the establishment); she refused to leave. Manager called police (documented at 4:51 pm) and described her as "on some kind of drugs, acting erratic, obviously inebriated" and refusing to leave with "no one to pick her up." When police arrived (Borisade and Ofc. Vickery), Martinez still refused to leave despite being trespassed, insisting she "hadn't even gone on stage yet". As one of the employees retrieved her belongings to bring outside to Martinez (who was with police) he saw her "just swung at him [an officer] and knocked his sunglasses right off his face" and then saw her "kicking and fighting" with the officers and "kicking the roof and windows" of the police car.

An (as yet) unidentified civilian apparently recorded a portion of this encounter on dashcam video and for reasons unknown, rather than report the matter or turn over the complete recording, uploaded an unknown portion to the internet. Assuming for the moment its authenticity, the video depicts Martinez struggling violently with Borisade and Vickery in a manner consistent with that described by the officers and the Scores employee; Martinez is on the ground mainly face down while Vickery is attempting to restrain her left arm and leg (the left arm had been handcuffed by Vickery, but Martinez was able to pull her arm free and swing the handcuff about); Borisade straddles Martinez and delivers multiple strikes with one arm to Martinez's right arm (which she is flailing around) and right side. Martinez continues to kick her feet and flail on the ground throughout, repeatedly yelling "I didn't do anything to you." The two officers eventually are able to handcuff Martinez, whereupon Borisade walks over to the patrol car. As Vickery assists Martinez to her feet she pauses and delivers a deliberate "donkey kick" to his groin/leg area. The two officers then again take hold of Martinez and, as she attempts to pull away, lead her out of camera view to the patrol car. According to their reports, Martinez continued to kick and scream once in the back seat, so she was placed in full hobble TAR restraints. She denied having any injuries and so was transported to the jail. Vickery indicated that although it was necessary to forcibly subdue Martinez, he did have "a quick concern" over the number of strikes it took Borisade to do so.

This portion of video does not appear to support any charge of criminal activity on the part of either officer. It does appear to support both misdemeanor and felony charges against Martinez.

## 2. Sallyport at PTFD:

Upon arrival at the PTFD (sallyport) Officer Vickery was summoned to stakeout duty. Martinez is left with Officer Borisade. There is a lengthy delay waiting to be allowed to process into the jail, as there are multiple other prisoners being booked at that same time. During this delay, Officer Vickery states that Martinez promised to calm her behavior, so he agreed to remove her hobble restraints. She remained handcuffed. However, while standing in the sallyport, Martinez became once again abusive and combative and can be seen arguing with several persons including other officers.

### Officers in the Sallyport:

Cochran (CSX police): Martinez was so abusive that officers were begging the corrections staff to get her inside; however, apparently there was no female escort officer available. Martinez was described as saying "her dad's a lawyer, a preacher, you know, false arrest, everybody's losing their job, "you're all gonna be fired," "she never calmed down." She accused Cochran of being the one who arrested her. He saw Martinez "make a beeline" for Borisade, saw him restrain her, saw her kick Borisade twice, saw Borisade strike Martinez and believed it was inappropriate and that Borisade knew this. He also believed that Martinez only "acted" hurt, after nobody was paying attention to her.

Chastain (JSO): Arrested M. Lewis. Saw Martinez walking toward officers, Borisade push her back, her kick at Borisade. He did not actually see her leg connect, nor did he see punches thrown.

Simpson (JSO): Similar observations to Cochran. Martinez kept deliberately crossing line she was supposed to stay behind, was "all up in his face," her behavior was "horrible. . . one of the worst I've ever seen in 23 years." Martinez was saying she was "wrongly arrested, you could see she wanted attention." Martinez was repeatedly attempting to engage other inmates and officers and Simpson multiple times requested help from Corrections staff to remove her but they had no female officer available. "She kept telling him I'm from Orlando, my dad's this, I'm gonna own you, I'm gonna sue you, I'm gonna have your job, wrongful arrest,

I'm not from here." She made fun of Borisade's name. "She kept taunting him." Simpson and her arrestee were admitted into the jail before the incident became physical so they did not observe it.

Andres (JSO): Arrested L. Richardson. Martinez was loud, angry, "rambling on." "She was kind of high, maybe." "I saw [Borisade] move because she was walking towards us," Borisade pushes her toward the door telling her to stay back of the line, Martinez kicks Borisade several times, "it was a good kick man, she landed a couple of good ones, one of the kicks landed right there in, you know, his genitals." Martinez lost balance and her body became concealed by a garbage can as Borisade engaged her. He did not see the actual punch but walked around to assist and Borisade had Martinez "pinned to the wall." Martinez was still kicking at Borisade. When he released her, she cursed him. Martinez was "playing possum" for JFRD.

Smith (JSO recruit, with Andres): Martinez complained that her handcuffs were tight; Borisade told her they were not the furry kind; he saw Martinez approach, heard Borisade say "whoa, whoa" and saw him push her to wall, saw her kick at him and saw punching motions by Borisade; unsure if any of either landed. Andres intervened. JFRD arrived and Martinez was "playing the game."

Inmates waiting in the sallyport:

(M. Lewis) was unsure if Martinez was high but did not notice her being drunk or smell any alcohol. She indicated Martinez was being obnoxious and "running her mouth" and believed that is why Borisade got mad and struck Martinez. Lewis also noted that the other officers around described Martinez as "crazy" and should have gotten her help.

Witness (L. Richardson) stated that Martinez was refusing to respond to Borisade's requests; "she wasn't having it, she was on her own type of time, she was being disobedient." Borisade was telling her to get up, Martinez was saying "I'm the one you have to take care of, you have to deal with my bullshit." Borisade got agitated, told her to stand on a wall, and picked her up, and then she "kicked him two or three times." Borisade punched her in the stomach 3-4 times and shoved her. Richardson did not hear whatever Borisade said during that exchange. He said JFRD had to revive Martinez with "smelling salts" and she was also uncooperative with them. Martinez seemed intoxicated, drunk / high and he could smell alcohol.

Review of the video indicates that Martinez ignores directions to remain by the wall and instead walks around a trash can between the booking window and the officers, appearing to be approaching Borisade.

In this video, Borisade first takes hold of Martinez and pushes her back against a wall. She then kicks him in the leg. She attempts to kick him a second time but it is unclear if that was successful. Borisade then delivers three or four punches/strikes to her torso. Borisade wedges Martinez between his body and the wall, and Andres approaches the two. The officers turn and leave, and, after a pause, Martinez slides down the wall to the ground, then sits on her knees. After a brief time she bends forward over her knees and places her forehead on the floor, remaining on her knees. She does not appear to move for several minutes. During this time, officers and other inmates are standing around, conversing. Borisade walks over to her, lifts her head and leans her (still on her haunches) back against the wall. The two appear to have a conversation, and Martinez can be seen moving her right arm during this time. (1:44:55).

This video DOES appear to support criminal charges against BOTH Borisade and Martinez.

\* Of note, Evidence Technicians subsequently used the video to recreate the Sallyport scene. Based upon measurements, it was concluded that Andres, Smith, and Chastain would have had partially obstructed views while Cochran, Lewis, and Richardson would not.

JSO summoned JFRD to check on Martinez, and they arrived per their report at 7:44 pm, departing at 8:03 pm. [REDACTED]

[REDACTED]

Sworn statements of the lead officers on both Rescue and Ladder units confirmed the above; Martinez was fully conscious and responsive when they arrived, remained so throughout, had no complaints of significant injury and refused further treatment.

There is a suggestion (including by witness Richardson) that JFRD deployed "smelling salts" to "revive" Martinez. However, lead paramedic Dixon indicates that (a) no such thing was used during the time that he was there (though not first to arrive), (b) the ammonia capsules are not used to "revive" truly unconscious patients, there are other equipment items used for that. Ammonia



is used to trigger a response in people who appear to be intentionally non-responsive; it does not "revive" truly unconscious persons. Lead ladder Lt. (Snipes) confirms that his unit was first to respond (by four minutes) and to his knowledge no such device was employed; moreover he confirms that such substances are not used to revive the unconscious, only to "get the attention of" those who are being uncooperative.

Martinez herself denied ever losing consciousness. There are no noted signs of concussion or similar diagnosis in any medical record until Martinez visits Baptist Hospital. There she complained of dizziness and was diagnosed as possibly having had a concussion [REDACTED]

Counsel for Martinez indicated concern that Borisade actually signed the form indicating that Martinez refused further medical treatment. Again, paramedics Dixon and Snipes report that Martinez herself personally refused to be treated; she denied any injuries (consistent with observations), did not wish treatment and only wanted to complain about Borisade. Because she was in custody and JSO did not (given her prior behavior) want to uncuff her hands so she could sign a form refusing treatment herself, a JSO officer (here, Borisade) signed the form affirming her refusal. This is a normal occurrence in such situations, per JFRD. Borisade signed the "refusal of treatment" form ratifying Martinez's own statements to JFRD. Had Martinez wanted treatment, JFRD would have taken her to receive it.

Finally, inquiry was made regarding advice from JFRD to JSO that "reiterated to the officers present that we felt it would be good for patient to transported for evaluation either by JFRD or themselves. JSO determined they would be transported to the hospital by jail staff." Paramedic Dixon indicated that his assessment of Martinez's physical health, documented in his report, did not suggest she needed actual treatment. However, he advised Borisade, more than once, that it would be a good idea merely from a possible future standpoint to have her transported anyway, as sometimes claims get made in the future. Snipes corroborated this; though Martinez refused to be transported to a hospital, in cases where a person is in custody, this advice from JFRD is sometimes given as a "cover yourself" recommendation even where there is no apparent medical reason for transport, no visible injury, and no desire by the patient for treatment. This is one such case. JSO (Borisade) apparently indicated to JFRD that personnel at jail would transport Martinez.

### 3. Intake and Holding Cell:

Once JFRD left, Martinez was taken inside the intake vestibule, where Martinez encountered female CO A. Smith (on video). Initially, Martinez again for some reason knelt onto the floor on her haunches. CO Smith had Martinez stand up and began to frisk her. Smith described Martinez as "acting erratically" and "speaking aggressively." She also cursed at the officers and demanded their badge numbers. Following initial search, Martinez indicated she had a bellybutton ring inserted. She then, unprompted, pulled her top down, exposing her breasts. Since other inmates and officers were nearby, Smith ordered Martinez to replace her top and go into a bathroom to remove the bellybutton ring. Martinez did so and threw the ring on the floor, followed by removing both her top and her pants and throwing them also (all on video).

Video shows Smith then attempted to restrain Martinez and a struggle begins in the bathroom. Other officers arrive and Martinez continues to struggle violently; multiple officers restrain her and eventually she is subdued and a uniform top is placed on her. She is then placed back in 1-piece restraints.

Martinez was not, in fact, transported to a hospital. This is because upon intake exam by LPN Gunn (following the encounter with Officer Smith and the other COs), the only wound evidenced was "minor scrapes caused by resisting arrest and handcuffs. Possible intoxication. Individual was yelling and crying. Could not calmly talk to anyone. Was intoxicated. Tried to take vitals but patient refused." Martinez was medically cleared and accepted into the jail.

Later reports indicate Martinez was permitted to change into a jail uniform and did so, but in so doing she began yelling and kicking the holding cell door. She took off her underwear and swung them in an attempt to hit an officer who came to investigate. Another officer later located her underwear and put them with her other property. Martinez was told that unless she ceased her behavior she would be placed in a pro-strait chair (video of the hallway shows the chair wheeled outside her cell, a conversation between officers and someone inside the cell (Martinez was only person seen being placed there) occurs, then officers remove the chair). She ceased for a while then began yelling at the property room officer, so she was again placed in one-piece restraints. According to the RTR reports throughout this time Martinez continued to be antagonistic toward officers including telling them "you must be so proud of yourself for having an above-minimum-wage job."

Martinez was interviewed by JSO Integrity near midnight and is clearly coherent but obviously hostile. "Let's not waste each other's time, because the guys with the badge want to cover up for their buddies.... I don't know what happened, I don't know why I'm here, I think it's fucking bullshit and what I say doesn't matter.... You guys in the blue can stay on your team.... I don't believe in the justice system." She demands "my phone call" and keeps yelling about how she "don't belong here." According to Martinez, "Just because I'm verbally talking shit and being verbally abusive..... I don't know what happened." She stated she thought she had an outstanding unpaid traffic ticket. She indicated she remembers being told police were looking for her and then "it's all blurry." She stated she had been given "shots of Rumpelminze" and did say she needed an attorney but also consistently

reinitiated conversation.

Martinez denied any clear memory but as the interview went on seemed to be certain about some details (race of officers, number of officers, how events escalated, and Borisade calling her "white trash"),

According to Martinez, "Every time I retaliated they were like 'Stop It.'" "I'm going to retaliate, I'm going to try to fight (and) head butt you" because she felt her arrest was unreasonable. "If my verbal diarrhea is too much for you....". She remembers kicking the police car. She did state "I watch a lot of Bluebloods." She did "remember the black officer was going on and on..... I went around the trashcan to say something" and then she was grabbed and "knee spiked". When asked if she passed out she stated "I don't know... I guess I must have." "When I retaliated it got worse, but if you're already in handcuffs how would you not retaliate?"

Martinez complained at this point of injuries to ribs, arm, chest, wrist and a knot on her head, and was photographed later by an ET. She still did not wish to cooperate, indicating "I have a lot more to deal with than some big jerk guy manhandling me. I have a lot of other things..... some big jerk douchebag manhandling me." Photos indicate bruising / abrasions (appearing to be of somewhat different ages) to right arm (multiple locations), right leg / knee, left arm (elbow area), back (multiple areas) and breast. Interestingly she indicated that she does occasionally get into trouble but "If I'm going to punch a girl in the face, I make sure she's worth the bond." Martinez said this in the context of indicating she usually was well aware of the reasons for her arrests but this time she was not, so she reacted in the fashion depicted above. She told Integrity detectives they had been fair to her.

Martinez's jail calls (all made to the same Orlando-area number) indicate that she is apologetic to "Daddy" (she gave his name to Integrity as Mark) because "I know you always hear these excuses from me, how it's not my fault... no matter where I go I always end up in some predicament" and further contain a discussion that she has investigated a local bail bond agency which is willing to bond her out for less than 10% of the premium. They discuss "Bart" who is coming to Jacksonville to assist her but both Martinez and "Mark" doubt that "Bart" will either actually give Martinez money or get a divorce to continue his relationship with Martinez.. "Mark" also described Det. Cayenne as being "nice" when Cayenne called him to inform him of Martinez's arrest.

#### ADDITIONAL CONSIDERATIONS

In addition to her documented behavior and criminal history, and the fact that she is currently facing felony charges for her actions during the same events, there are a number of concerns which emerge about placing extensive reliance upon Martinez's credibility regarding the incident(s).

Martinez reported that she has been diagnosed with Bipolar disorder and had previously made suicide attempts (most recently 6 years ago) and had suicidal thoughts "depend[ing] on the mood." She indicated she had experienced hallucinations ("but not today") and had been hospitalized for mental health problems including Baker Act commitments ("ten times or more"). She indicated she was previously prescribed Zoloft and Latuda for diagnosed Cyclothymic Disorder, but hadn't taken them in over 8 months. Following this incident she was placed on self-harm watch and described by jail medical personnel as "aggressive manner. Appears to have multiple personalities. Constantly moving, fidgeting or rocking." After being observed for a period, vital signs were taken, all show as normal.

Martinez admits having taken illegal narcotics, smoked marijuana (a "whole bowl that morning before work" though stating she was "sober" when arriving at Scores), and that she drank alcohol "almost every day" including 1-2 bottles of wine. She told jail nurse that she had more than 8 drinks a day for 10-20 years, engaged in binge drinking of more than 15 drinks a day in the past few days, suffered withdrawal symptoms if she stopped drinking, and used marijuana on a continuous basis. Martinez further stated she was recently (12/15) sexually battered by a pair of known men (unreported) and also reports being physically abused in the past.

At the jail she was ultimately diagnosed with Severe Cyclothymic Disorder ("moods fluctuate from mild depression to hypomania and back again. In most people, the pattern is irregular and unpredictable. Hypomania or depression can last for days or weeks. In between up and down moods, a person might have normal moods for more than a month -- or may cycle continuously from hypomanic to depressed, with no normal period in between"), Severe Alcohol Abuse, and Hallucinogen and Cannabis Abuse Disorders.

Martinez immediately interviewed with a TV station and while this fact standing alone is not an issue, the claims she made to have a fractured arm (even showed her "cast"), a "concussion," and "nerve damage" are not, at least to date, borne out by subsequent medical testing. The medical records from JFRD, as well as Baptist Hospital and even Martinez's selected chiropractor and MRI doctor do not indicate any fracture to any bone (her hand, wrist, forearm, elbow, arm, chest and pelvis were all examined, x-rayed and in some cases MRI/CT scanned). Nor is there any clinical diagnosis of "nerve damage." "Neuropathy of right radial nerve" was noted at Baptist-- due to Martinez reporting numbness (in both hands); closer inspection indicates it was referred to as "handcuff neuropathy"-- a temporary condition wherein "the patient may complain of pain around the thumb while tight handcuffs

were in place. The pain decreased with handcuff removal, but there is residual paresthesia or decreased sensation over the radial side of the thumb metacarpal (or a more extensive distribution). The same injury may also be produced by pulling on a ligature around the wrist, or wearing a tight watchband. A superficial sensory cutaneous twig of the radial nerve is the branch most easily injured by constriction of the wrist. Patients may want this injury documented as evidence of "police brutality," but it can be a product of their own struggling as much as too-tight handcuffs." <http://www.ncemi.org/cse/cse0920.htm>

Indeed, upon later followup examination as they recommended, Advanced Diagnostic noted nerves appeared "intact" and "unremarkable" following imaging. There was "mild effusion" (swelling) of the right elbow. As previously indicated, a concussion was suspected at Baptist Hospital due to Martinez' report of dizziness and stating she was "unclear" as to whether she lost consciousness; however, CT scan was negative and subsequent followup exams did not indicate concussion diagnosis.

Baptist ER records indicate that Martinez was seen and released same day. [REDACTED]

[REDACTED] There was [REDACTED] No muscle weakness, ligament damage, or fractures were found. CT scan normal for head and pelvic areas, and x-rays normal for all areas.

Of note, PTDF records indicate Martinez reported an allergy to Percocet; Baptist records indicate she was prescribed Percocet.

Martinez was diagnosed by another clinic as having medial epicondylitis ("tennis elbow," a strain of the ligaments), one herniated and several bulging / desiccated discs. While such spinal conditions can be caused by a single massive physical trauma (such as the 2004 car crash), they are also caused (even in persons of Martinez's age) by the normal aging process and other, longer-term physical stresses. It is unknown at this time the extent to which Martinez had any of these conditions prior to this incident; however, relying solely on her self-report would be problematic as described above. Moreover, Martinez was ALSO diagnosed with foraminal narrowing (usually linked to longer-term degeneration) and desiccation (same, although this condition may also be caused by a massive trauma such as a car crash), levoscoliosis (a 10-degree curvature of her spine, a variety of scoliosis) and reversal of cervical lordosis (a malformation of the curvature of the neck/spine).

Martinez reported to that clinic that she had a history of diagnosis of "Depression." She now claimed to be suffering from "fatigue, morning stiffness, personality change, urinary urgency, numbness (hands / pinky), memory problems, irritable bowels, ringing in ears, depression, noise sensitivity, slowed thoughts, impaired concentration, and dizziness." She indicated NO trouble bending, standing, reaching, climbing, pushing, pulling, gripping, twisting, lifting, writing, lifting arms, turning head, kneeling, sitting, squatting, walking, or typing. She described pain in neck, back, and arms.

The examiner (Dr. Badii) indicated his clinical impression as "Anxiety Disorder, PTSD, and Right Elbow Contusion." She was prescribed stretching and strengthening exercises including "inner core" work and "reverse crunches".

Martinez also, as is her right, has announced that she intends to file civil lawsuit(s) regarding these matters. The law would permit a defense attorney for Borisade to cross-examine her about such matters to attempt to show bias, motive, or to attack her credibility.

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Martinez has inquired regarding the possibility of an enhanced Felony Battery charge.

**784.041. Felony battery**

(1) A person commits felony battery if he or she:

(a) Actually and intentionally touches or strikes another person against the will of the other; and

(b) Causes great bodily harm, permanent disability, or permanent disfigurement.

"Florida courts have generally defined 'great bodily harm' as 'great as distinguished from slight, trivial, minor or moderate harm, and as such does not include mere bruises as are likely to be inflicted in a simple assault and battery.' " T.W. v. State, 98 So.3d 238, 243 (Fla. 4th DCA 2012) (citing Gordon v. State, 126 So.3d 292, 295 (Fla. 3d DCA 2011); Nguyen v. State, 858 So.2d 1259, 1260 (Fla. 1st DCA 2003); Heck v. State, 774 So.2d 844, 845 (Fla. 4th DCA 2000); C.A.C., 771 So.2d at 1262; Guthrie v. State, 407 So.2d 357, 358 (Fla. 5th DCA 1981)). "[T]he state 'must prove more than that the Victim suffered some harm.' " Id. (quoting C.A.C., 771 So.2d at 1262).

Smith v. State, 175 So. 3d 906, 907 08 (Fla. 4th DCA 2015), reh'g denied (Sept. 30, 2015).

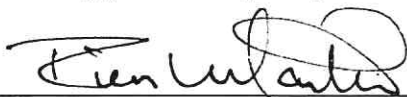
Martinez, unfortunately, is described as essentially having picked a fight with many of the people she encountered on April 27<sup>th</sup>— the supervisors at Scores, the initial responding officers, the officers simply waiting to enter the PTDF in the Sallyport, the corrections staff (male and female), the jail nurse. Given the confluence of conditions it is not possible to conclude, especially beyond a reasonable doubt, that any single particular, or any combination, or all, or none of the documented injuries were caused by the incident(s) herein, especially any potentially meeting the "great bodily harm" threshold; further, it is virtually impossible to determine which single or combined episode(s) was /were the cause(s) as it relates to any individual injury.

Typically such things as prolonged loss of consciousness, scarring, swollen/damaged eyes and organ damage have been held up as examples of "great bodily harm," at least where occurring in conjunction. In this case, it is certainly not apparent that Martinez suffered this type of injury at the hands of Borisade in the Sallyport. It is somewhat noteworthy that Martinez did not complain of back pain to either JFRD or jail medical personnel, and even to Integrity officers she specifically DENIED back pain (main complaint was wrist).

None of the foregoing excuses the Sallyport battery committed by Borisade.

However, the totality of the available evidence does not permit a reasonable possibility of conviction for enhanced felony charges against Borisade given the evidence and the law. Indeed, it would likely not survive a motion to dismiss.

Accordingly, MM Battery charges remain.



Richard W. Mantei, SA#1356, Director

6/3/16

Date