

AFFIDAVIT IN SUPPORT OF WARRANT

Your Affiants are Anthony Rodriguez and Joseph Elosegui. For most of the time this investigation was being conducted, Affiant Rodriguez was a detective with the Hialeah Police Department (ID #04-0562). On 7 January 2008, Affiant Rodriguez retired after 25 years of service. Affiant Elosegui is a detective with the Hialeah Police Department (ID #04-0958) and has also been an officer for 25 years. During their careers, your Affiants investigated numerous homicide and other serious criminal cases. Your Affiants have investigated the circumstances of and have found the following to be true to the best of their knowledge, information and belief:

This investigation began on Thursday, 20 July 2006 at approximately 6:57 p.m., when an anonymous female called the Hialeah Police Communications Section advising that an infant had been born alive and killed by the staff at a clinic located at 3671 West 16th Avenue, Hialeah, Miami-Dade County, Florida (hereinafter “the Hialeah clinic”). Investigation revealed that this call originated from a pay phone outside the Hialeah clinic. Marked Hialeah Police patrol units responded to the area of the Hialeah clinic, found that it had closed, and could not locate the caller. No further investigation was done at that time, other than making a report of the call.

On Friday, 21 July 2006 at approximately 10:00 a.m., Ms. Beatriz (“Betty”) Rojas called the Hialeah Police Department and spoke with Homicide Sergeant K. Hart (ID #04-0721). Ms. Rojas advised that she spoke with the anonymous female caller, now identified as Ms. Acela Baez, who told her that the day before an infant had been born alive in the Hialeah clinic and was subsequently killed by the staff. Ms. Rojas then verified, to Homicide Sergeant K. Hart, the address of the Hialeah clinic (3671 West 16th Avenue, Hialeah). That afternoon, Affiant Rodriguez was assigned the investigation into this matter under Hialeah Police Case Number 2006-027997.

At approximately 7:20 p.m., Ms. Rojas called Affiant Rodriguez and advised that the infant’s mother’s name was Sycloria Williams, hereinafter referred to as the Complainant, and gave her home address. Subsequent investigation confirmed that Ms. Rojas learned this information from Ms. Magela Diaz, an employee working on 20 July 2006 at another clinic within the city operated by the same owners. On the following day, 21 July 2006, Ms. Rojas got Ms. Magela Diaz’s phone number from Ms. Baez. As Ms. Magela Diaz was working at the Hialeah clinic on that date, she was able to obtain the Complainant’s name and address from her patient file.

At approximately 10:50 p.m. on Friday, 21 July 2006, your Affiants went to the Complainant’s home and spoke with her. The Complainant gave a sworn statement and advised that she had an ultrasound on 17 July 2006 at a clinic in Miramar, and she was told she was 23 weeks and 4 or 5 days pregnant. She asked if they were sure, as she had an earlier ultrasound at a Broward County hospital and had been told she 20 weeks and 4 days pregnant. Employees of the Miramar clinic again said that she was 23 weeks pregnant, and directed her to go on Wednesday, 19 July 2006 to a related clinic in North Miami.

At the North Miami clinic on Wednesday, 19 July 2006, a doctor, later identified as Pierre Renelique, M.D., began the Complainant’s elective termination of pregnancy procedure

by inserting several dilation sticks into her vagina, packing it with gauze, and giving her two prescription dilation pills with instructions to take them at 8:00 p.m. that night. The Complainant was instructed to go to a third, associated facility, the Hialeah clinic, the following morning.

The Complainant reported that on Thursday, 20 July 2006, at approximately 9:30 a.m., she and her boyfriend arrived at the Hialeah clinic for completion of her pre-scheduled, elective termination of pregnancy. She waited in pain, but the doctor was not there. Around 10:30 a.m., she was given two white pills to take, reportedly ibuprofen for pain. Her pain became heavy, and she had nausea and fever. Around 2:00 or 2:30 p.m. the Complainant gave birth while she was waiting in the recovery room of the clinic. A Hialeah clinic staff member/receptionist, later identified by the Complainant as Ms. Rosemarie Chaneton, was with her at that time.

The Complainant observed the infant moving and making noises for approximately five minutes. Staff members tried to call the doctor again. A woman the Complainant later identified as Ms. Belkis Gonzalez came into the room, cut the umbilical cord, swept the infant into a trash can with a red bag along with the gauze used during the procedure, and took the bag out of the room. Shortly thereafter, Dr. Renelique, the physician scheduled to complete the termination of pregnancy, arrived at the clinic, sedated the Complainant, and performed post delivery procedures.

A search warrant for the Hialeah clinic issued by the Hon. Roberto M. Pineiro was obtained at 5:05 a.m. on Saturday, 22 July 2006. Ms. Gonzalez, one of the co-owners of the Hialeah clinic, was called by Dispatch and advised of a reported alarm at her premises. At 6:20 a.m., Ms. Gonzalez arrived at the Hialeah clinic, accompanied by her daughter, Ms. Natali Vergara. Officers asked that Ms. Gonzalez open the premises. Ms. Gonzalez did not have a key for the premises with her at that time, so an officer drove Ms. Gonzalez to the home of Ms. Chaneton, where they obtained a key.

At 6:40 a.m. on Saturday, 22 July 2006, officers published the search warrant and entered the Hialeah clinic at 3671 West 16th Avenue. At their request, Ms. Gonzalez described the location of their medical waste storage containers, two marked cardboard boxes containing multiple, red, biohazard bags. Thereafter, Ms. Gonzalez and her daughter Ms. Vergara were taken, voluntarily, to the Hialeah Police Department in separate, unmarked police cars. They were not handcuffed or placed under arrest.

During this search of the premises, all of the red biohazard bags were opened and searched, but positively none of the bags contained the remains of an infant. A complete room-by-room search of the entire premises, except for its dropped ceiling, proved negative for an infant. Evidence was impounded, including a blood sample collected from a smear on a recliner in the recovery room and a medical file confirming that the Complainant was treated at the facility.

An ultrasound image from these medical records dated 17 July 2006 reflects that the gestational age of the Complainant's fetus was 22 weeks, 5 days, with a noted error rate of ± 10 days. During subsequent investigation, Affiant Rodriguez obtained additional medical records from the Complainant's emergency department treatment at Broward General Medical Center

beginning on 12 July 2006. An ultrasound report dated 13 July 2006 at 12:14 a.m. reflects that the Complainant had a single, live, intrauterine pregnancy with breech presentation, estimating the gestational age at 20 weeks, 4 days, and the weight at 398 grams, and noting a fetal heart rate of 161 beats per minute. Before the 24th week of pregnancy, an elective termination of pregnancy procedure performed by a physician is allowed by Chapter 390, Florida Statutes.

While the search of the Hialeah clinic premises was still being conducted, around 7:05 a.m. on 22 July 2006, a Spanish language Miranda rights form was read to Ms. Belkis Gonzalez and a pre-interview statement was taken by Detective D. Hernandez (ID #04-0964). At 8:06 a.m., Detective Hernandez took a formal, sworn statement from Ms. Gonzalez, who identified herself as a co-owner and office manager of the Hialeah clinic, which she referred to as A GYN Diagnostic Center of Hialeah. Ms. Gonzalez asserted under oath that the Complainant's termination of pregnancy procedure on 20 July 2006 was done by Dr. Renelique with forceps and suction while she stood at his side. Ms. Gonzalez denied that the infant came out alive and crying. She stated she was unable to tell the gender of the infant because it came out in pieces. She denied cutting the umbilical cord and throwing the infant into a bag. Ms. Gonzalez reported that everything from the Complainant's procedure was put into a red biomedical waste bag, which was then kept in the office until a special pick up, normally occurring every two weeks.

At 9:45 a.m. on 22 July 2006, separate sworn statements were taken from Ms. Vergara and Ms. Chaneton, each of which conflicted with Ms. Gonzalez's account. Ms. Vergara explained that she worked at the clinic in Miramar, but on Thursday, July 20th, she was at her mother's clinic in Hialeah because she was waiting for a salon appointment she had scheduled nearby. Ms. Vergara was in the front reception area of the clinic, and Ms. Chaneton went to check on the Complainant, who was in the recovery room. Ms. Vergara was not in the recovery room when the infant was born, but she acknowledged based upon what she had heard that the infant was born before the doctor arrived. She estimated the doctor showed up about ten minutes later. Ms. Vergara stated that she did not see the infant, but that Ms. Chaneton did. Ms. Chaneton described seeing the Complainant rise up above the recliner where she was sitting and push the fetus out. Ms. Chaneton stated that the infant landed on the chair. She estimated the infant was about nine or ten inches long. Ms. Chaneton heard Ms. Gonzalez yell something, and she witnessed her cut the umbilical cord. Ms. Chaneton was there for a couple of minutes, but she stated she did not see any movement from the infant at any time. Ms. Chaneton explained that she was in shock so she left the room. Ms. Chaneton also confirmed that the doctor arrived minutes later, after the infant was born.

Thereafter, your Affiants continued the investigation into the whereabouts of the infant who was last seen when Ms. Belkis Gonzalez swept her into a medical waste bag and took it out of the recovery room. It was later established that other biohazardous waste from the Hialeah clinic she owned and operated had been collected by a medical waste removal service shortly before 20 July 2006, and that a subsequent medical waste pickup was not scheduled until two weeks thereafter.

On Friday, 28 July 2006, additional credible information was received as to the whereabouts of the body and/or remains of the infant. A source called and informed Affiant Rodriguez that the body of the infant was placed back inside the Hialeah clinic owned by Ms.

Gonzalez and Ms. Siomara Senises. Affiant Rodriguez applied for and obtained a second search warrant, issued by the Hon. Mark King Leban, which was executed at approximately 6:10 p.m. at the Hialeah clinic at 3671 West 16 Avenue, Hialeah. When officers searched the Hialeah clinic a second time, they saw the same two medical waste boxes that they had thoroughly searched on 22 July 2006. This time, one of the medical waste boxes contained biohazard bags with the remains of an infant, and the Complainant's placenta and an umbilical cord remnant. The Medical Examiner's office was contacted around 6:50 p.m. and a transport van was requested for an autopsy of the decedent's remains to determine the official cause and manner of death.

Detective P. Zorsky (ID #04-1037). located Dr. Pierre Renelique at his brother's home around 9:55 p.m. on 28 July 2006. He was asked to go to the Hialeah Police Station, and Dr. Renelique advised that he had contacted his attorney. Dr. Renelique then came to the station and after his attorney, Fred Muldovan, arrived, Dr. Renelique invoked his constitutional rights. Much later, on 6 August 2008, Dr. Renelique gave a sworn statement to the state attorney's office in the presence of Affiant Rodriguez. Dr. Renelique stated that he received about four phone calls from the Hialeah clinic and he was told that the patient had contractions and pain, but he explained that was usual with the medication administered. Dr. Renelique claimed that he was never told during any of the calls that the fetus had come out. He could not state for a fact that the fetus had been stillborn, because he was not there at that time. After he arrived at the Hialeah clinic, he did a pelvic examination of the Complainant and removed the membrane, the placenta and attached umbilical cord, and blood clots, which he dropped into a bucket. After he realized that the fetus was not within this block of tissues, he asked about the fetal remains, which were taken from a red bag and shown to him. Dr. Renelique reported that he advised clinic employees that the remains should be "sent to the lab." Recently, during the 6 February 2009 Florida Board of Medicine meeting that resulted in revocation of Dr. Renelique's license to practice medicine for medical malpractice concerning his treatment of the Complainant, Dr. Renelique denied moving the fetal remains and emphasized that he was not a co-owner of the clinic, he did not have a key to the door and he could not get inside the office.

On 30 July 2006, Ms. Magela Diaz gave your Affiants a sworn statement. She related that during the afternoon of 20 July 2006, Ms. Gonzalez called and told her they had a big problem there; a lady gave birth. Ms. Gonzalez admitted to Ms. Magela Diaz that the infant was alive and she had to cut the umbilical cord. Ms. Magela Diaz stated that she saw Ms. Chaneton around 6:00 p.m. that evening, and she told her the infant was born alive and she saw the infant moving. Ms. Magela Diaz also confirmed that she had told Ms. Rojas that the infant was born alive and gave her the Complainant's name and address.

On 29 July 2006, an autopsy was performed by Associate Medical Examiner Satish Chundru on the remains of S.D.O. in Miami-Dade County Medical Examiner Case No. 2006-01925. The medical examiner detailed that the female fetus' body weighed 320 grams and measured 25.5 centimeters (10 inches) from crown to heel. It was noted that the body was in a moderate state of decomposition and putrefactive changes in multiple organs, including the lungs, were observed. The internal examination included notations that the "parenchyma [of the lungs] has gas bubbles. . . [t]he lungs float in water." The work of Dr. Chundru was reviewed by Chief Medical Examiner Bruce Hyma.

Based upon the autopsy alone, the medical examiner could not establish a live birth. The state attorney's office then provided the medical examiner with a copy of the Complainant's sworn statement where she reported that she had heard the infant making noises and had seen the infant moving after her birth. After completion of the autopsy, DNA analysis confirmed that the remains examined were those of the Complainant's child. On 31 October 2006, the medical examiner concluded the cause of death was extreme prematurity and the manner of death to be natural. On 9 November 2006, the medical examiner issued a certificate of live birth, because nothing in the autopsy findings refuted the witness report that the infant was moving after the delivery. The autopsy findings included examination of the placenta and a remnant of umbilical cord, which had no clamps. The final autopsy protocol was signed on 27 November 2006.

Based upon measurements of the body, Dr. Hyma estimated that the gestational age of the fetus as 22 weeks. Dr. Hyma concluded that asphyxia from a potentially low volume of air inside the medical waste bag could not have been the mechanism of her death due to the severely premature infant's lack of ability to respire. He was subsequently asked whether observations of gas bubbles in the parenchyma and the lungs floating in water were proof that the infant breathed or filled her lungs with air. He opined that this could not be proven forensically, due to the combination of underdevelopment of the lungs due to severe prematurity and decomposition of the fetal remains prior to their recovery and examination. Dr. Hyma further explained that the gas bubbles are most likely a byproduct of decomposition of the fetal remains.

Several representatives of the State Attorney's Office and the Hialeah Police Department, including your Affiants, also consulted with an expert physician who is board certified in neonatal and perinatal medicine. This expert reviewed materials from the investigation and estimated within a reasonable degree of medical certainty that the gestational age of the infant at the time of the Complainant's delivery was 21.5 weeks, based upon the most reliable data available in her medical records. Based upon this 21.5 week gestational age estimate, and an estimated birth weight of 538 grams, he opined that the fetus had not reached viability as defined in s. 390.0111(4), Fla. Stat. (2006), which means "that stage of fetal development when the life of the unborn child may with a reasonable degree of medical probability be continued indefinitely outside the womb."

This expert in neonatal and perinatal medicine explained that the standard of care for a premature infant delivered at less than 23 weeks is not to attempt resuscitation, so no resuscitative efforts would have been made even if the infant had been delivered in a hospital with a Level III neonatal intensive care unit. However, the expert agreed with the medical examiner's conclusion that the infant was definitely born alive. When asked about witness reports that the infant was making a sound, the expert related that an infant at that gestational age could gasp and make respiratory efforts, but that the infant would not be capable of sustaining respiration, even if oxygen had been given. When asked about what resulted when the infant's umbilical cord was cut without clamping, he opined that the infant would have exsanguinated within two minutes, and the lack of blood flow to the brain would cause severe debilitation and result in neurological damage.

Representatives of the State Attorney's Office also consulted with another physician who is board certified in obstetrics and gynecology. They have advised your Affiants that this expert

opined that Ms. Belkis Gonzalez's actions regarding the Complainant and the infant in her Hialeah clinic on 20 July 2006, constituted the practice of medicine.

The Florida Dept of Health has no record of any license for Ms. Belkis Gonzalez to practice medicine or any other form of health care profession.

On 20 December 2007, Ms. Belkis Gonzalez was adjudicated guilty in 17th Judicial Circuit Case No. 06-21259 of Unlicensed Practice of a Health Care Profession as a principal, for acts between 17 August 2004 and 7 December 2004, in Broward County, Florida. She is currently serving a five year term of probation for this offense, with a special condition that she is not allowed to directly or indirectly own, operate, conduct, manage, or be employed or associated with any health care clinic, health care professional office, or health care business establishment. While the acts set forth herein happened after the acts for which Ms. Gonzalez is currently on probation, these acts preceded Ms. Gonzalez's term of probation and do not provide a basis for an allegation of violation.

Your Affiants now make application for a Warrant for the arrest of Ms. Belkis Gonzalez for the offenses of (1) unlicensed practice of a health care profession resulting in serious bodily injury, in violation of s. 456.065(2)(d)2., Fla. Stat. (2006), a second degree felony with a minimum penalty of a fine of \$1,000 and a minimum mandatory period of incarceration of one year, and (2) tampering with or fabricating physical evidence, in violation of s. 918.13(1)(a), Fla. Stat. (2006), a third degree felony.

Affiant/Anthony Rodriguez

Affiant/Joseph Elosegui

Sworn to and subscribed before me this ____ day of _____, 2009.

CIRCUIT COURT JUDGE
ELEVENTH JUDICIAL CIRCUIT