# LEGAL EAGLE

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Alexcia Cox, State Attorney
B. Krischer, Editor


# ADA and Officer Safety

Paul Cantu was "suicidal and suffering from mental distress" when Sergeant Michael Joseph encounter-ed him at 1:40 a.m. while responding to a service call. Cantu's car was off the road in a grassy field. Joseph parked behind the car and shone his spotlights on it. Cantu exited the driver's seat with a handgun drawn and aimed at the Officer. Joseph drew his own weapon and exited his cruiser to engage Cantu. His body-camera footage shows that Joseph repeatedly ordered Cantu to drop the gun and to "get on the ground." Cantu ultimately knelt; he did not drop the gun, pointing it to his own head. For the next six minutes, Joseph urged Cantu to drop the gun, to no avail.

Sgt. Joseph called for backup and requested a ballistic shield. At about 1:45 a.m., backup arrived and took a position "to provide lethal cover." About a minute later, Officer Mattingly arrived with the ballistic shield and began to position it by Joseph's cruiser. As Mattingly did so, Cantu stood up and pointed his gun towards Joseph and Mattingly, the two officers fired sixteen rounds at Cantu over the ensuing two to three seconds. Cantu was struck five times. Officers began administering first aid before Cantu was transported to a hospital, where he was later pronounced dead.

Cantu's parents sued everyone in sight, alleging Fourth Amendment violations for excessive force and Fourteenth Amendment violations for racial profiling and denial of medical treatment. They also asserted a failure-to-accommo-date claim against the Police Department under Title II of the ADA.

The trial court dismissed all claims, concluding that the Officers were entitled to qualified immunity on the § 1983 claims. The court determined that the deadly force used was reasonable. It further found that the Officers did not act with deliberate indifference to Cantu's medical needs. The trial court also held that the ADA claim failed as a matter of law. On appeal, those rulings were affirmed.

**Issue:**

Under the totality of the circumstances, was the use of force reasonable? **Yes.** Did the Americans with Disabilities Act apply to the officers' encounter with an armed subject? **No.**

**ADA Accommodation:**

The Americans with Disabilities Act of 1990 (ADA) is a landmark civil rights law that prohibits discrimination against individuals with disabilities in all areas of public life, including employment, education, transportation, and public accommo-

dations. It ensures equal opportunity, accessibility, and reasonable accommodations for people with disabilities.

With increasing frequency, police responding to calls for service intersect with a subject's mental health crisis. That interaction has produced lawsuits against officers and their agencies, to wit: that the Officers violated Title II of the Americans with Disabilities Act (ADA) by failing to "accommodate" the person's mental illness during a police-citizen contact.

A recent ruling by the U.S. Court of Appeals, 6th Circuit, in *Booth v. Lazzara*, (Jan. 14, 2026), comports with the ruling in the present case. *Booth* emphasized that, *notwithstanding the ADA, Officers are not required to alter their tactics when a subject presents a reasonably objective safety threat*.

The ADA provides that a qualified person with a disability may not be excluded from services or otherwise discriminated against by a public entity. Courts recognize two general theories under the ADA: intentional discrimination and (in appropriate cases) a duty to make *reasonable accommodations*. The courts have held that an accommodation is not 'reasonable' if it requires more than a moderate modification or would fundamentally alter the activity. In the context of an arrest, courts have repeatedly held that Officers are not required to adjust procedures when doing so would create safety concerns.

The ADA does not require officers to take additional risks. When a subject objectively poses a safety threat to officers or the public, accommodations that would require slower, softer, or less controlled tactics can be deemed unreasonable as a matter of law. That does not mean de-escalation is irrelevant. Rather, as the 6th and other Circuits have held, de-escalation is not an ADA trump card that overrides the objective realities of Officer and public safety.

***Source: Ken Wallentine,*** ***//www.police1.com/legal/ada-accommodation-ends-where-objective-safety-risk-begins/***

## Court's Ruling:

"Section 1983 provides a private cause of action against those who, under color of law, deprive a citizen of the United States of 'any rights, privileges, or immunities secured by the Constitution and laws. Qualified immunity shields government officials from liability if their conduct 'does not violate clearly established statutory or constitutional rights of which a reasonable person would have known.' 'To determine whether a Government official is entitled to qualified immunity, we must decide 1. whether a Plaintiff has alleged facts sufficient to establish a constitutional violation, and 2. whether the right at issue was clearly established at the time of the [Officer's] alleged misconduct.' "

"[In the present case] Plaintiffs allege that the Defendant-Officers violated their son's Fourth Amendment rights by using excessive force. To prevail on an excessive-force claim, a § 1983 plaintiff must establish: '1. an injury, 2. which resulted directly and only from a use of force that was clearly excessive, and 3. the excessiveness of which was clearly unreasonable.' '*An officer's use of deadly force is presumptively reasonable when the officer has reason to believe that the suspect poses a threat of serious harm to the officer or to others*.' 'The question is one of 'objective reasonableness,' not subjective intent, and an Officer's conduct must be judged in light of the circumstances confronting him, without the benefit of hindsight.' "

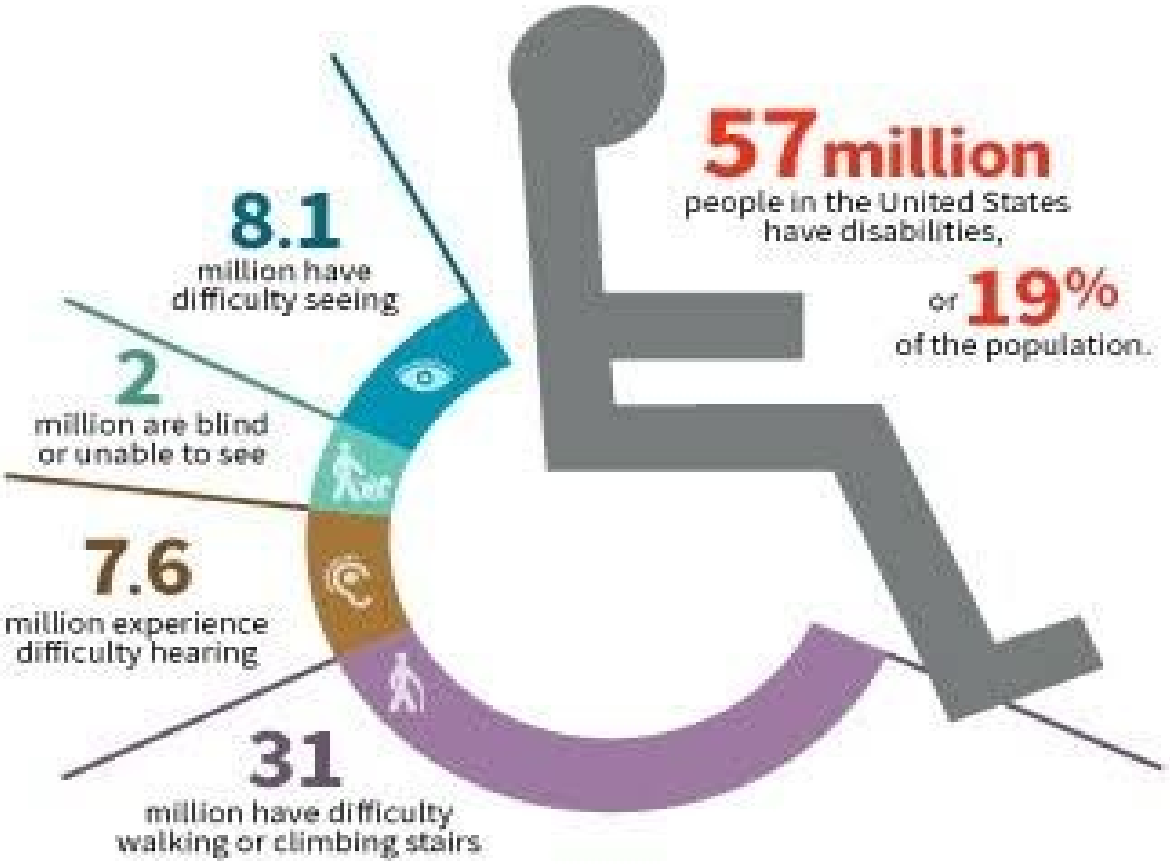
"On summary judgment, the [trial] court held that [the Officers] acted reasonably in response to Cantu's threat. Plaintiffs argue otherwise, contending Cantu was incapacitated by a single shot and thus the Officers were clearly unreasonable in continuing their fire, citing *Roque v. Harvel*, (5th Cir. 2021). Plaintiffs, however, *offer no evidence that the first shot incapacitated Cantu*. What's more, the officers' body-camera footage establishes that [the Officers] shot all sixteen rounds within just two-to-three seconds. Their response in a 'tense, uncertain, and rapidly evolv-ing' situation was not 'clearly unreasonable.' We agree with the [trial] court that the Officers' use of force was not objectively unreason-able and Plaintiffs failed to demonstrate their son's Fourth Amendment rights were violated."

"Even if we found, contrary to our above conclusion, that [the Officers] violated Cantu's Fourth Amendment rights, they are still entitled to qualified immunity because their actions were objectively not unreasonable in light of clearly established law at the time of the shooting. The law was well-established, at the time of the shooting, that any reasonable officer would have known that [the Officers'] behavior was lawful."

As to the Plaintiff's ADA claim, the 5th Circuit ruled, "The law

*(Continued on page 9)*

# American Disabilities




# Your rights under the Americans with Disabilities Act

## What is the ADA?

The Americans with Disabilities Act (ADA) is a civil rights law that protects people with disabilities from being discriminated against (treated unfairly) because they have a disability. Signed into law in 1990, it ensures people with disabilities have the same opportunities and rights as everyone else in all areas of life.

## Who does it protect?

The law protects anyone with a physical or mental disability that substantially limits one or more major life activity, such as self-care and working. It also protects people with a past disability and anyone treated differently because someone believes they have a disability, even if they do not.

# Recent Case Law

## False Arrest

A 74-year-old woman accused her son, Jeff Fleuranville, of sexually assaulting her on multiple occasions. The victim disclosed the sexual assaults to her daughter. The arrest affidavit contained the following statement:

"The victim advised that on an unknown date, the subject called her into a bedroom in her single-family residence. Once inside, the subject pushed her onto the floor, removed her clothing, and forced penile vaginal intercourse on her. She advised that she attempted to resist the Defendant, but she was unable to do so due to his strength. During a struggle, the Defendant became upset and slapped her several times. The victim further advised that at the conclusion of the sexual assault, the Defendant demanded she perform fellatio on him, and she refused. Thereafter, the Defendant stood up and kicked her several times. After kicking her, the Defendant threatened to kill her if she called the police or told anyone of the sexual battery. The victim stated she was in fear for her life. As a result, she was unable to leave the home for several days."

Fleuranville was arrested on twelve felony counts for sexual battery, kidnapping, and battery on the elderly. Subsequently, the charges were amended to one count of kidnapping and one count of battery. The State entered a *nolle prosequi* on the remaining charges against Fleuranville, and the case was closed.

Fleuranville filed a civil rights action. He asserted false arrest claims against Miami-Dade County Police Department Officers and malicious prosecution claims; state false arrest claims against each Officer; and state malicious prosecution claims against each Officer.

In his amended complaint, he stated he "resided with and cared for his biological mother," and "was the only family member to make sure that her needs were met and that the household bills were paid." His mother "suffers from dementia and other mental health disorders and could not be left alone," and he "vehemently denies ever inappropriately touching or harming his mentally ill mother who suffers from dementia, memory loss, and other mental health disorders." He also stated that "Law Enforcement is familiar with the alleged victim as she has called the police to the home on numerous occasions for various complaints which were all unfounded."

The Officers moved to dismiss the complaint, arguing they had probable cause to arrest Fleuranville based on the victim's statement, summarized on the arrest affidavit and corroborated by the victim's daughter. The trial court granted the motion to dismiss. That ruling was affirmed on appeal.

### Issue:

Did the Officers have sufficient probable cause to effect the arrest of Defendant based on the arrest affidavit? **Yes**.

### Probable Cause to Arrest:

Probable cause exists when an Officer has reasonable grounds to believe that the Defendant committed a crime. The Courts have evaluated whether "the totality of the facts and circumstances within an officer's knowledge would cause a reasonable person to believe that an offense has been committed by the person being arrested." See, *Dahl v. Holley*, (11th Cir. 2002) (holding that "arresting officers, in deciding whether probable cause exists, are not required to sift through conflicting evidence or resolve issues of credibility, so long as the totality of the circumstances present a sufficient basis for believing that an offense has been committed.").

Probable cause is reviewed at the moment of arrest -- the clock stops, time freezes, and nothing learned or occurring afterwards matters. *Griffin v. State*, (1DCA 2014) (explaining that probable cause must be based solely on what is present and known at that point; "we stop the clock and observe the facts known to the officer."). See, *Baptiste v. State*, (Fla. 2008) ("The reasonableness of the Officers' suspicion must be measured by the information that the Officers knew before conducting the stop-and-frisk.").

"In conformity with the rule at common law, a warrantless arrest by a law officer is reasonable under the Fourth Amendment where there is probable cause to believe that a

criminal offense has been or is being committed." *Devenpeck v. Alfor*d, (S.Ct.2004). The existence of probable cause "depends upon the reasonable conclusion to be drawn from the facts known to the arresting officer at the time of the arrest." The standard is a "practical, nontechnical conception" that calls for "facts and circumstances sufficient to warrant a prudent man in believing that the (suspect) had committed or was committing an offense." *Gerstein v. Pugh*, (S.Ct.1975). "Finely tuned standards such as proof beyond a reasonable doubt or by a preponderance of the evidence have no place in the probable-cause decision." *Florida v. Harris*, (S.Ct.2013). "Probable cause ... is not a high bar: It requires only the kind of fair probability on which reasonable and prudent people, not legal technicians act." *Kaley v. United States*, (S.Ct.2014). But it is a bar. An arrest must be supported by more than a reasonable, articulable suspicion that a person committed a crime. There must be a "fair probability" or a "substantial chance" that the person seized has committed an offense. *Illinois v. Gates*, (S.Ct.1983).

"Sufficient *probability*, not *certainty*, is the touchstone of reasonableness under the Fourth Amendment." *Hill v. California*, (S.Ct.1971). As a result, probable cause may justify an Officer's arrest of an otherwise innocent person when that person reasonably fits the description of the suspect. "But the mistakes must be those of reasonable men, acting on facts leading sensibly to their conclusions of probability." **Police officers need not "always be correct," but they must "always be reasonable**." *Illinois v. Rodriguez*, (S.Ct.1990).

Law enforcement officers are afforded "substantial latitude in interpreting and drawing inferences from factual circumstances." However, "such latitude is not without limits." "First, because the totality of circumstances determines the existence of probable cause, ....an Officer contemplating an arrest is not free to disregard plainly exculpatory evidence, even if substantial inculpatory evidence (standing by itself) suggests that probable cause exists." Under the Fourth Amendment, courts must "analyze the weight of all the evidence—not merely the sufficiency of the incriminating evidence—in determining whether [an Officer] had probable cause to arrest [an individual]." Second, while Officers need not conduct a "mini-trial" before making an arrest, they "have a duty to conduct a reasonably thorough investigation prior to arresting a suspect, at least in the absence of exigent circumstances and so long as law enforcement would not be unduly hampered if the agents wait to obtain more facts before seeking to arrest."

Probable cause is a determination made by assessing whether, based on the facts and circumstances at the time of the arrest, a reasonable officer would conclude that the suspect has committed or is committing a crime. The sufficiency of the evidence for a determination of probable cause need not be enough to support a conviction or even enough to show that the officer's belief is more likely true than false. As such, "as long as a reasonably credible witness or victim informs the police that someone has committed a crime, or is committing, a crime the officers have probable cause."

## Court's Ruling:

"To receive qualified immunity, an 'Officer bears the initial burden to prove that he acted within his discretionary authority.' The Plaintiff then bears the burden of showing 'the defendant [Officers] violated a constitutional right' and 'the right was clearly established at the time of the violation.' Because Fleuranville does not dispute that the [Officers] were engaged in a discretionary function, he bears the burden of proving they were not entitled to qualified immunity."

"Fleuranville asserts the [Officers] violated the Fourth Amendment by falsely arresting him. 'To succeed on a false arrest claim, a plaintiff must establish 1. a lack of probable cause and 2. an arrest.' 'Accordingly, when the Government has probable cause to arrest someone, a false arrest claim necessarily fails.' *Richmond v. Badia*, (11th Cir. 2022)."

"In the context of an arrest, *probable cause exists when the facts, considering the totality of the circumstances and viewed from the perspective of a reasonable Officer, establish 'a probability or substantial chance of criminal activity*.' *District of Columbia v. Wesby*, (S.Ct.2018). In assessing whether there was probable cause for an arrest, we 'ask whether a reasonable officer could conclude that there was a substantial chance of criminal activity.' 'Probable cause does not require conclusive evidence and is not a high bar.' "

"Fleuranville contends there was not probable cause to arrest him because the [Officers] should have done a more thorough investigation before arresting him, rather than

relying solely on his mother's statement. Specifically, he asserts, 'at the moment Plaintiff was arrested the facts and circumstances within the Officers' knowledge were not sufficient to warrant a prudent police Officer to believe that the Plaintiff had committed or was committing an offense.' Fleuranville also alleges his mother suffered from dementia, memory loss, and other mental health disorders."

"We have stated that 'generally, *an Officer is entitled to rely on a victim's criminal complaint as support for probable cause*." *Rankin v. Evans*, (11th Cir. 1998). In *Rankin*, the accused asserted an Officer was not entitled to rely on the child victim's statements 'because the victim's age and inconsistencies rendered her statements unreliable.' We concluded that 'although a child victim's statements must be evaluated in light of her age,' her statements, considered along with the other supporting evidence were sufficiently reliable and trustworthy to form the basis for probable cause."

"Similarly, the [Officers] here had probable cause to arrest Fleuranville because they could rely on the victim's statements that Fleuranville had sexually assaulted her on multiple occasions. Despite Fleuranville's general allegation that 'law enforcement is familiar with the alleged victim as she has called the police to the home on numerous occasions for various complaints which were all unfounded,' he does not allege that any of the [Officers] *in this case* knew of his mother's dementia and mental health history. The victim's detailed statements provided in the complaint/arrest affidavit identifying Fleuranville as her rapist were enough for probable cause at the time of the arrest. Further, the victim also disclosed to her daughter that she was raped. Because the [Officers] had probable cause to arrest Fleuranville, they did not violate his constitutional rights. The [Officers] are entitled to qualified immunity on this claim. Additionally, as 'probable cause bars a claim for false arrest under Florida law just as it does under Federal law,' *Crocker v. Beatty*, (11th Cir. 2021), Fleuranville's claims for false arrest under Florida law also fail."

As to Fleuranville's malicious prosecution claims, the 11th Circuit dismissed them as well. "To establish a claim of malicious prosecution, a plaintiff must prove 1. 'The elements of the common law tort of malicious prosecution,' and 2. he suffered a seizure pursuant to legal process that violated the Fourth Amendment.' *Laskar v. Hurd*, (11th Cir. 2020). The elements of malicious prosecution require Fleuranville to show the officials instituted criminal process against him 'with malice and *without probable cause*' and the prosecution against him terminated in his favor. Florida law also requires the absence of probable cause to support a claim of malicious prosecution. See *Durkin v. Davis*, (Fla. 2d DCA 2002). As the [trial] court determined, the finding that the [Officers] had probable cause to arrest him also forecloses Fleuranville's federal and state law malicious prosecution claims. AFFIRMED."

**Lessons Learned:**

Probable cause is a determination made from assessing whether, based on the facts and circumstances at the time of the arrest, a reasonable Officer would conclude that the suspect has committed or is committing a crime. The sufficiency of the evidence for a determination of probable cause need not be enough to support a conviction or even enough to show that the Officer's belief is more likely true than false. As such, "as long as a reasonably credible witness or victim informs the police that someone has committed a crime, or is committing, a crime, the Officers have probable cause."

Additionally, "this court has emphasized that once probable cause has been established, officials have no constitutional obligation to conduct further investigation in the hopes of uncovering potentially exculpatory evidence." *Spiegel v. Cortese*, (7th Cir.1999).

*Nerio v. Evans*, (5th Cir. 2020), was a mistaken arrest case involving two half-brothers with the same name, Carlos Nerio. "We carefully considered the Plaintiff's claims and found them wanting. We noted that '*reasonable mistakes by police officers, even leading to the arrest of the wrong person, do not implicate the Fourth Amendment*.' And the officers' identification of the Plaintiff was just that sort of mistake. We therefore concluded that the Officers hadn't violated his Fourth Amendment rights at all, much less any rights that were clearly established."

**Fleuranville v. Miami-Dade Cnty**
**U.S. Court of Appeals, 11th Cir.**
**(April 4, 2025)**

## Auto Theft Elements

The State charged J.N.S. in a delinquency petition with stealing "A Nissan automobile, the property of another, to-wit: Barbara Redenti, as

owner or custodian therof." The victim testified at the hearing that her 2017 red Nissan Sentra was stolen from its parking space outside her home, and the keys were taken from a table on her porch while she was inside the home. She testified she retrieved the car from a police tow yard about a week later with dents in it and two flat front tires.

In addition, several police officers testified about their arrest of J.N.S. after he fled from the red Nissan Sentra when it was stopped by police. An Officer testified she called for surveillance of a red Nissan Sentra as a possible stolen vehicle. Her testimony included the vehicle's license plate number. Another officer testified to stopping the surveilled red Nissan Sentra and J.N.S.'s exiting the passenger side and fleeing on foot before being apprehended by another officer. The Defendant spoke with the Officer after *Miranda* warnings were provided. Officer asked him, "So, what happened today, man?" J.N.S. confessed, "I was in a stolen car." He described the car as a "Nissan, red," and said he took it after finding it unlocked and running with the keys in it. J.N.S. said he did not know where he found the car or who owned it, and he did not say when he took it.

After the State's case concluded, J.N.S. moved for judgment of dismissal, arguing the State failed to prove the car J.N.S. was arrested in was the same car stolen from Redenti. The trial court denied the motion. The court found J.N.S. guilty of grand theft of a motor vehicle and sentenced him to one year of juvenile probation. On appeal, that ruling was reversed.

## Issue:

Did the State prove the ownership of the automobile it charged J.N.S. with stealing? **No**.

## Auto Theft Elements:

*Morgan v. State*, (3DCA 1966), is directly on point here. "A careful review of the transcript shows that there is no evidence as to the description or identity of the car which the Defendant possessed and was stopped by Officer Boyd, nor is there any testimony at the aforesaid time that the described car had been stolen. The record failed to show that the car identified by Officer T. A. Rice and [victim] Marian Streifert as stolen was the same car found in the possession of the Defendant."

"The burden was on the State to prove every essential element of the crime charged (Larceny) beyond a reasonable doubt. The evidence of identity of the automobile, which was found in the possession of the accused, *is not connected by competent evidence to the identity of the stolen automobile* or that Defendant was in possession of a stolen car, and, we think, legally insufficient to support a judgment and sentence. For these reasons, the judgment and conviction of the Defendant, Willie James Morgan, for larceny of automobile is reversed and the defendant discharged from this cause. It is so ordered."

Simply put, "to convict a person of grand theft auto, the State is required to present evidence that the vehicle in possession of that person was the vehicle identified by the victim as stolen." *Joseph v. State*, (4DCA 2007). Where the State fails to prove that a conveyance that was recovered by police is the same conveyance that was burglarized or stolen, a conviction or adjudication for burglary or theft cannot stand."

## Court's Ruling:

"Relevant here, the statute defining grand theft of a motor vehicle requires proof of taking 'the property of another.' 'It is grand theft of the third degree and a felony of the third degree ... if the property stolen is ... [a] motor vehicle ....'). Sec. 812.012 (3) (defining 'Obtains or uses' to include 'Taking or exercising control over property'); sec. 812.012(5) ('Property of another' means property in which a person has an interest upon which another person is not privileged to infringe without consent ....'). Thus, a conviction requires the State to prove, as a material element of the crime, who has an ownership or other interest in the motor vehicle the Defendant is charged with stealing—i.e., that the car taken by the Defendant is the 'property of another.' See, *D.S.S. v. State*, (Fla. 2003) (The crime of ... theft requires proof that the ... stolen property belonged to 'another.' The purposes of the ownership element are to prove the accused does not own the property and to sufficiently identify the offense to protect the accused from a second prosecution for the same offense.' "

"The delinquency petition charged J.N.S. with stealing Redenti's 'Nissan automobile.' But *neither J.N.S.'s confession, witness testimony, nor other evidence established that Redenti's 2017 red Nissan Sentra, stolen from its parking space at her home, was the same red Nissan Sentra police stopped, and J.N.S. confessed he took from an unknown location*. There was no evidence matching the vehicle identification

number (VIN) of Redenti's stolen car and the car recovered from J.N.S. There was police testimony of the license plate number of the recovered car, but no Redenti or police testimony matching the plate to Redenti's car. There was bodycam video of J.N.S.'s confession, but no video of the car he confessed to taking for Redenti to identify as hers. Redenti testified to observable damage to her car when it was returned to her at the police tow yard, but the only police officer to testify about damage to the car recovered from J.N.S. did not recall seeing any damage. Nor did police testify that the recovered car was taken to the tow yard, where Redenti's stolen car was returned to her."

"The matching general description of the car recovered from J.N.S. to Redenti's stolen car (color, make, and model) and the temporal proximity of the recovery to when Redenti's car was stolen (three days) were insufficient, without additional identifying evidence, to establish the car J.N.S. took was Redenti's stolen car—i.e., to establish the 'property of another' element of the Grand Theft charge. See, e.g., *J.A.R. v. State,* (2DCA 2020) (reversing conviction where evidence matching stolen vehicle to vehicle recovered one day later was limited to 'silver-gray Jeep Grand Cherokee'). REVERSED."

## Lessons Learned:

To support a conviction for Grand Theft Auto, the evidence presented must establish that the car identified by the arresting Officer as stolen was the same car reported stolen by the rightful owner, and the same car found in the possession of the Defendant.

The burden is on the State to prove each and every essential element of the crime charged (Theft) beyond a reasonable doubt. In the present case, the evidence of identity of the automobile which was found in the possession of J.N.S. was not connected by competent evidence to the identity of the stolen automobile.

Simply put, "to convict a person of Grand Theft Auto, the State is required to present evidence that the vehicle in possession of that person was the vehicle identified by the victim as stolen." *Joseph v. State*, (4DCA 2007). Where the State fails to prove that a conveyance that was recovered by police is the same conveyance that was burglarized or stolen, a conviction or adjudication for burglary or theft cannot stand."

While not an issue in the present case, it is important to note that, ordinarily, the State must prove that the value of the stolen property at the time of the theft was $300 or more for a grand theft charge. "Value may be established by direct testimony of fair market value or through evidence of the original market cost of the property, the manner in which the items were used, the condition and quality of the items, and the percentage of depreciation of the items since their purchase." However, in the case of a motor vehicle the theft statute provides that "an offense will be charged as Grand Theft in the third degree if the property stolen is: a motor vehicle." Which, as a total aside, is the same rule for theft of a firearm.

Lastly, relying on possession of recently stolen property has its own problems. "In order to prove the crime of grand theft of a motor vehicle, the State was required to prove that C.T. knowingly obtained or used the motor vehicle of another. To establish that C.T. knew the car he was driving was stolen, the State relied solely on the inference set forth in section 812.022(2), F.S., which provides that 'proof of possession of property recently stolen, unless satisfactorily explained, gives rise to an inference that the person in possession of the property knew or should have known that the property had been stolen.' The inference is sufficient to support a theft conviction. The reasonableness of a Defendant's explanation for possession of a stolen item is ordinarily a question of fact for the jury to determine. … However, where a reasonable explanation for possession of recently stolen property is totally unrefuted, and there is no other evidence of guilt, the court must grant a directed verdict for the Defendant." *C.T. v. State*, (3DCA 2017).

While, in the present case, the Defendant admitted the theft, it is important to understand that the statutory presumption is not limited to recent possession of stolen property, but rather to recent **unexplained** possession of stolen property. Where the Defendant is able to provide what on its face is a reasonable explanation, the investigation needs to go forward to include other evidence pointing to guilt. Such as physical damage to the vehicle (the ignition popped out), any explanation or comment regarding the keys used to operate the vehicle, i.e., were they original equipment or key blanks, and /or Defendant's statements at the scene or after *Miranda* warnings were given.

**J.N.S. v. State**
**6th D.C.A.**
**(Dec. 12, 2025)**

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## ADA and Officer Safety

in this circuit is unequivocal: **The ADA 'does not apply to an officer's on-the-street responses to ... incidents, whether or not those calls involve subjects with mental disabilities, prior to the officer's securing the scene and ensuring that there is no threat to human life**.' Plaintiffs acknowledge this precedent but argue an issue of material fact exists as to whether the scene was 'secure' considering Cantu was the only person in the field. We disagree."

"*To require the officers to factor in whether their actions are going to comply with the ADA, in the presence of exigent circumstances and prior to securing the safety of themselves, other officers, and any nearby civilians, would pose an unnecessary risk to innocents*."

"The Officers here faced unsecure, exigent circumstances while Cantu brandished his weapon and therefore were under no duty to reasonably accommodate Cantu's mental illness. AFFIRMED."

### Lessons Learned:

The 11th Circuit had the occasion to develop further the concept of "accommodation" in *Bircoll v. Miami-Dade County*, (2007). "The question is whether, given criminal activity and safety concerns, any modification of police procedures is reasonable before the police physically arrest a criminal suspect, secure the scene, and ensure that there is no threat to the public or Officer's safety. The reasonable-modification inquiry in Title II–ADA cases is 'a highly fact-specific inquiry.' See, *Holbrook v. City of Alpharetta*, (11th Cir. 1997) (stating, in a Title II–ADA reasonable accommodation case, that 'what is reasonable for each individual employer is a highly fact-specific inquiry that will vary depending on the circumstances and necessities of each employment situation'). We emphasize that terms like reasonable are relative to the particular circumstances of the case, and the circumstances of a DUI arrest on the roadside are different from those of an office or school, or even a police station. What is reasonable must be decided case-by-case based on numerous factors."

An Officer detaining a subject for the purpose of hospitalization needs to document the facts that establish probable cause of danger to him or her self or others, including family statements, threats, barricade behavior, refusal to engage, access to weapons, refusal to disarm, movement toward the public, and any struggle for weapons.

The 11th Circuit has made clear that the court's approval of the stop turned on the objective record. So, when force is used, the police report must articulate the danger the Officer was addressing immediately before exercising reasonable force, deploying the K-9, or going hands-on. A detailed factual recitation matters most when the scene is chaotic, and events are moving fast. Not to be forgotten, body-cam video has saved the day repeatedly.

Importantly, the *Booth* case teaches that the ADA can require reasonable modifications in some Government services. But it **does not require Officers to gamble with safety in the face of an armed, objectively dangerous subject having a health crisis**. In that setting, both the ADA and the Fourth Amendment analysis are anchored to the same reality: the Officer's *reasonable grounds to believe* that the suspect poses a threat of serious harm to the Officer or to others, or bystanders. Florida case law is clear that Officers are entitled to claim self-defense, see, F.S. 776.012; *State v. Peraza*, (4DCA 2017).

**Cantu v. Austin P.D.**
**U.S. Court of Appeals, 5th Cir.**
**(Jan. 17, 2025)**