



**OFFICE OF THE DISTRICT ATTORNEY
TENTH JUDICIAL DISTRICT, COLORADO
J.E. CHOSTNER
District Attorney**

21 May 2020

RE: Case Number 2020 DAIA 001

To Whom It May Concern:

This Office was appointed as Special Prosecutor, Order attached, to investigate allegations that El Paso County Commissioner for District Two, Mark Waller, moved out of the District and thereby vacated his Office pursuant to C.R.S. 30-10-306(1)(2).

Our Office reviewed all the documentary information and evidence submitted. In addition, our Office conducted interviews with several individuals to include Commissioner Mark Waller. Our Office has prepared a report, which is attached, and sets forth the substance of our Office's investigation.

A complaint was made by Mr. Douglas Bruce with the Fourth Judicial District Attorney's Office alleging the following: Commissioner Waller purchased a home in the Palmer Lake area of El Paso County. This property is not located in County Commissioner District Two. As a result, it is alleged that Commissioner Waller vacated his office pursuant to the provisions of C.R.S. 30-10-306(1). The pertinent provision of C.R.S. 30-10-306(1) that Mr. Bruce cites in his complaint is "If any commissioner, during his or her term of office, moves from the district in which he or she resided when elected, his or her office shall thereupon become vacant."

In researching this issue our Office reviewed a Colorado case that addresses the issue of Elected Office-Holder residency. People v. Espinoza 81 Colo. 198, 254 P. 778(1927) involved an election for County Commissioner. The court in Espinoza stated: "The 'removal' contemplated by former section was not a mere temporary change of place of abode from one district to another, whether it be for pleasure, temporary convenience or for business reasons. To work a vacancy in the office the removal which the general assembly had in mind must be with a fixed intention by the commissioner who goes from one district to another to give up his legal residence or home in the former, and at the same time to acquire a domicile or legal home in the latter." The court in Espinoza went on to state: "In a recent case in this court, Kay v. Strobeck, 81 Colo. 144, 254 P. 150 (1927), we had occasion, in the case of an election contest under the statute, to express our views upon the subject of removal. Among other things we there said that residence once acquired remains until one has actually abandoned the same with the intention to renounce it and to acquire a residence elsewhere."

Our Office's investigation revealed that Mr. Waller did purchase property in the Palmer Lake area, which is outside of District Two, and he spends some time there. However, our investigation also revealed that Mr. Waller still resides at 7116 Mustang Rim Drive which is located in District Two. This is based on documentation provided, to include a lease agreement, copies of checks for payment of rent, mail addressed to Mr. Waller, Mr. Waller's driver's license and vehicle registration, all of which list 7116 Mustang Rim Drive as his address. Further, interviews with neighbors and Mr. Waller corroborate that he still resides at 7116 Mustang Rim Drive. Based on the information obtained and the applicable case law, there is not a showing that Mr. Waller abandoned his residence at 7116 Mustang Rim Drive.

Accordingly, there is insufficient evidence to support that Mr. Waller vacated his County Commissioner seat. Therefore, based on the information provided and obtained as a result of the investigation our Office will not be taking or initiating any action pursuant to C.R.C.P. 106(3).

Sincerely,



J.E. Chostner

Cc:

Attorney General for the State of Colorado
Colorado Secretary of State
Colorado Republican Party, Ken Buck Chairman
El Paso County Republican Party, Vickie Tonkins, Chairman
El Paso County District Court
Mr. Douglas Bruce
Mr. Robert Gardner, Attorney to Mr. Waller

District Court, El Paso County, Colorado
Court Address: 270 South Tejon Street
Colorado Springs, CO 80903

FILED-DISTRICT & COUNTY
COURTS-EL PASO CO., CO

APR 27 2020

DIVISION 22

▲ COURT USE ONLY ▲

People of the State of Colorado

vs.

In Re: The Matter of DA #20-001 & DA #20-117

District Attorney: Daniel H. May, #11379
Address: 105 E. Vermijo, Colorado Springs, CO 80903
Phone Number: 719-520-6000

Case #:

Division #:
Courtroom #:

COURT ORDER

In response to the above motion, I appoint, the 10th Judicial District Attorney's Office as special prosecutor for this case.



4/27/2020
Date

W. M. Bain

District Judge



DISTRICT ATTORNEY
10TH JUDICIAL DISTRICT
Investigative Unit

DATE ASSIGNED: 04-28-2020

INVESTIGATOR: Kochis

REPORT DATE: 05-20-2020

INVESTIGATIVE CASE NUMBER: 20-0453

DEFENDANT NAME: Waller, Donald Mark

COURT CASE NUMBER:

CHARGES:

PROSECUTING ATTORNEY: J. Chostner

REPORTING AGENCY: PPD PCSO CSP OTHER: DA

NAMES OF CONTACTS:

NAME: Bensberg, James / AKA: Jim Bensberg

DOB: 11-08-54

ADDRESS: 1851 W Cheyenne Rd. Colo Spgs, CO 80906

HOME PHONE:

WORK PHONE:

CELL PHONE: 719-439-1964

NAME: Gaebler, Jill

DOB: 11-16-66

ADDRESS: 1828 N Royer Dr Colo Spgs, CO 80907

HOME PHONE:

WORK PHONE:

CELL PHONE: 719-229-0028

NAME: Bruce, Doug

DOB: 08-26-49

ADDRESS: 4545 Iron Horse Trl. Colo Spgs, CO 80917

HOME PHONE:

WORK PHONE:

CELL PHONE: 719-550-0010

NAME: Waller, Donald

DOB: 05-20-69

ADDRESS: 7116 Mustang Rim. Colo Spgs, CO 80923

HOME PHONE:

WORK PHONE:

CELL PHONE:

Signature

Investigator

10TH JUDICIAL DISTRICT ATTORNEY INVESTIGATIONS REPORT

NAME: Moynihan, Sylvia

DOB: 07-15-63

ADDRESS: 6705 Indian Feather Dr. Colo Spgs, CO 80923

NAME: Warner, Scott

DOB: 02-13-67

ADDRESS: 7110 Mustang Rim Dr. Colo Spgs, CO 80923

NAME: Huber, Richard

DOB: 12-28-72

ADDRESS: 602 Pioneer Havent Pt.

PHONES: 618-980-4062

Signature

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On April 28, 2020 I was assigned case 20-0453. This case is a special prosecution case out of the 4th Judicial District Court. I received a court order out of the District Court, El Paso County, Colorado. This order was signed by a district judge and states "I appoint the 10th Judicial District Attorney's Office as special prosecutor for this case". The Order and Motion referenced DA #20-001 and DA#20-117. The order was signed on 04-27-2020.

I was first notified the case (DA#20-001) involved a complaint brought forth by a male subject, Douglas Bruce DOB: 08-26-49. In his complaint, Bruce alleges that El Paso County Commissioner of District 2 (Donald Mark Waller DOB:05-20-69) does not reside in the county district in which he holds a position. Bruce references C.R.S. 30-10-306 as the basis of his complaint. C.R.S. 30-10-306 (2) is as follows:

(2) Each county having a population of seventy thousand or more which has chosen to increase the members of the board of county commissioners from three to five shall be divided into three or five districts by the board of county commissioners according to the method of election described in section 30-10-306.5 (5) or (6) or section 30-10-306.7. The districts shall be as nearly equal in population as possible based on the most recent federal census of the United States minus the number of persons serving a sentence of detention or confinement in any correctional facility in the county as indicated in the statistical report of the department of corrections for the most recent fiscal year. Each district shall be numbered consecutively, and shall not be subject to alteration more often than once every two years; except that, notwithstanding subsection (3) of this section, the board may alter the districts to conform to precinct boundaries that are changed in accordance with section 1-5-103 (1), C.R.S., based on the division of the state into congressional districts or an approved plan for reapportionment of the members of the general assembly when necessary to ensure that no precinct is located in more than one district. Commissioners shall be elected at large or from districts according to the method of election described in section 30-10-306.5 (5) or (6) or section 30-10-306.7. If any commissioner required to be resident in a district moves during his term of office from the district in which he resided when elected, his office shall thereupon become vacant. All proceedings by the board of county commissioners in formation of such districts not inconsistent with this section are confirmed and validated.

Prior to the judge signed order, Bruce contacted the 10th Judicial District by phone. I did not speak with Bruce at this time due to the fact I had not received the signed order assigning the case. Upon receiving this order on 04-28-2020, I attempted to contact Bruce by telephone numerous times with negative contact. I received a return call from Bruce who left a message. Upon calling him back I again received no answer. During the time I was attempting to contact the complainant (Bruce), two individuals contacted the 10th Judicial District Attorney Office indicating they wished to speak with the investigator on the case involving Waller. The two individuals were a Jim Bensberg DOB 11-08-54 and a Jill Gaebler DOB 11-16-66.

On May 6, 2020 at approximately 1725 Hours, I contacted Jim Bensberg by phone. I identified myself and advised Bensberg the reason for contact. Bensberg said he was aware of the case. I asked him to tell me what he knew about the matter. Bensberg told me Waller had recently gone through a divorce and had left his house he was residing in within district two. Bensberg said Waller had purchased a

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residence in October of last year and it was Bensberg's understanding Waller was living at the new residence. Bensberg told me that he went to Wallers old residence of 7116 Mustang Rim Drive on April 7, 2020. Bensberg said a young lady answered the door and directed him to another male who came to the door. Bensberg told the male he was looking for Mark Waller to which the male told Bensberg that he was "kinda his roommate". The male offered to call Waller. When the male began to call Waller Bensberg left.

Bensberg told me that he did not go inside the residence. Bensberg said he didn't see any vehicle Waller is associated with while he was at the residence. I asked Bensberg if he knew what Waller drives and he stated he did. I asked Bensberg if the male had given him (Bensberg) his name and he said he did not. I asked Bensberg when was the last time he had contact with Waller. Bensberg said he had not seen or talked to Waller directly. Bensberg told me that by a "chance sighting" on May 4, 2020 he had seen Waller off the side of the road putting up a sign. Bensberg said he did not stop and talk with Waller.

I asked Bensberg from whom he had heard that Waller had moved. Bensberg said it was "no secret". Bensberg told me that after the divorce Waller and his wife moved from an unknown residence. Waller moved in to the 7116 Mustang Rim. address separate of his wife after the divorce. Bensberg told me that he does not know if Waller ever lived at the 7116 Mustang Rim address. I asked Bensberg what led him to the specific residence of 7116 Mustang Rim. Bensberg told me it was part of his (Waller's) campaign literature.

I asked Bensberg why he personally went to the 7116 Mustang Rim address. Bensberg said "I just wanted to satisfy my own curiosity". Bensberg said that as a former County Commissioner himself, he had another commissioner move to his district and nobody did anything about it. Bensberg told me it was a "sore point" for him. I asked Bensberg who he first heard it from, that Waller was living out of his district. Bensberg said he did not remember who told him. I asked Bensberg if it was a specific person who told him or rumor. Bensberg said it was several sources (none of whom he remembers) who told him. I asked Bensberg if he ever told anyone he went to the residence? He said, "I did" and told me he talked to Helen Collins (former Councilwoman). Bensberg then said "That's the end of it"

I asked Bensberg if he knows Doug Bruce to which he said he did. I asked Bensberg "Did you ever talk to Mr. Bruce about any of this" to which Bensberg replied "No, No I haven't" (This was later contradicted during an interview with Doug Bruce). I asked Bensberg what his relationship to Bruce is and he said "Professional". I asked Bensberg what his relationship with Waller was like and Bensberg said "I'd say we were political friends". I asked Bensberg if there was anyone else for me to contact who would have any information to this and Bensberg told me "No" and explained he was the only one he knew of who had actually gone to Waller's address (This was later contradicted during an interview with Jill Gaebler). I asked Bensberg if he knew of anyone who had gone to Waller's alleged new residence. Bensberg told me he had heard that County Commissioner Tammi Brimer had gone to the new residence for a Super Bowl party. Bensberg told me he did not know for sure and that he had just heard this. Bensberg told me he heard there was a Facebook photo of this Super Bowl party so he looked for it and did not see it.

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I asked Bensberg how he had learned there was a formal complaint in this matter and he told me that he had heard from Helen Collins. Bensberg said he then contacted the Pueblo County DA Office to check if the complaint was filed. I asked Bensberg if there was anything else. Bensberg told me that there was a news article in regard to this matter which he later provided me a link. Bensberg then explained that he believed justice needed to be served here. I provided Bensberg with my contact information and then concluded my interview. This phone conversation was recorded and later entered in to the case file.

On May 6, 2020 at approximately 1831 Hours I contacted Douglas Bruce by telephone. I identified myself and advised Bruce the reason for contact. Bruce explained to me he did not feel good and offered to call him back but he said he was fine to talk. I asked Bruce to tell me from the beginning what's going on with this matter. Bruce began by telling me he was a past County Commissioner and had a unique interest in this. Bruce continued to tell me that his successor was succeeded by Waller. Bruce also explained he was a former District Attorney as well. Bruce told me Waller has held all three offices he has held.

Bruce was difficult to keep on track and his conversation would veer off. Bruce told me he understands Waller moved out of the district and got divorced. I asked Bruce when he first discovered this information and he replied, "Last month". I asked Bruce how he found this information and he replied, "Somebody told me and gave me the information". I asked Bruce if he remembered who told him to which he did not answer and continued to tell me Waller moved out of his district. Bruce said he was not in front of his computer and did not recall the new address. I again asked Bruce who told him this information. Bruce stated, "I don't know it's necessary who told me". I asked Bruce if he knew who told him and he said he did not know how it was relevant. Bruce again did not tell me. I asked Bruce to confirm if "this person" who gave him the information was the same who had given him a photo of the house and he confirmed it was. Bruce explained he had never been to the alleged residence(s). Bruce said he had given this information and photo to El Paso DA Dan May. Bruce then said that he established the sales price of the residence through the assessor's office. It should be noted in Bruce's original complaint to the 4th JD he indicated this new residence to be 603 Pioneer Haven Pt. Bruce stated, "I know nothing about when he stopped living in the place on Mustang trail or something like that". Bruce then stated Waller's legal name is Donald Mark Waller.

I asked Bruce about the photo and assessor information he provided to the 4th Judicial District. I asked Bruce if he ever obtained any of the information himself or if it was given to him to which Bruce replied, they both were given to him by another person. Bruce then excused himself and stated he needed to get water. Bruce returned, and I asked, "The person that gave you this information, did they ask you to do anything with this information", to which Bruce said "They wanted me to file the complaint which I was willing to do". I confirmed that this person gave Bruce the information and asked he file a complaint. I explained to Bruce why I was asking for who this person was, and told Bruce I would like to talk to this person. Bruce said that he never promised this person he wouldn't give his name and if I believed it was essential he would give me the name. Bruce then told me the person was a former commissioner named "Jim Bensberg". Bruce said he didn't think it was essential, but he would

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cooperate. Bruce later told me there are a lot of people who don't like Waller. Bruce stated Bensberg preferred to be out of this.

I asked Bruce if he remembered when Bensberg gave him this information and he replied it was sometime in April. I asked Bruce if he ever looked up anything in regard to this matter and he stated he did not and just gave the information given to him. I asked Bruce if he has spoken to anyone else about this and he said he told a former City Council member named Helen Collins, multiple unnamed friends, the 4th Judicial District, and a newspaper reporter named Pam Zubec.

I asked Bruce when in April he received the information. Bruce told me the issue was not what day he (Bruce) was told but what day he (Waller) moved out of the residence. Bruce then told me that the day he was told this information is not relevant. I asked Bruce if there was anything else and he said there was not. I then concluded my interview with Bruce. The interview was audio recorded and later attached to this case file.

On May 7, 2020 at approximately 1033 Hours, I contacted Jill Gaebler by phone. I identified myself and the reason for contact. I asked Gaebler to tell me what she knows about the case. Gaebler said she had previously (a week ago) reached out to DA Dan May because she had information to which May directed her to contact the 10th Judicial District. Gaebler advised she is a Councilwoman in Colorado Springs. Gaebler explained she works alongside Waller and is supporting his (Waller) opponent in the DA election race. Gaebler said "Somewhere" along the line it was shared with her that Waller purchased a home in Palmer Lake. Gaebler did not recall who shared this information but stated it was shared with her prior to the beginning of the year. Gaebler said that at the time, they were under the assumption it was not illegal to live outside the district. Gaebler said "We were looking and we were planning to do something like get it out there just to make him look like you know he wasn't a very good county commissioner". Gaebler then stated "It was going to be something to make him look bad" as she told me they didn't know it was unlawful at the time. Gaebler said they did not know it was illegal until recently. I asked Gaebler if she had ever taken this info to anyone and she replied she had only spoke with people in the campaign for his (Waller) opponent and her (Gaebler) husband. Gaebler said "We were just kinda talking internally and sharing the evidence". Gaebler said they were "Trying to plan what..what we thought would be most harmful to his election campaign". Gaebler told me that "the campaign" had told her the case had been filed. Gaebler said she did not know how the campaign found out but knows they did not do it. Gaebler said that after learning this she began to gather her information and organizing it. Gaebler said she had gone to the Gazette and a news report was later written on it. Gaebler said that since then, she has gathered more information. Gaebler told me that there are things that they can't find out and she had a list of things that would be obvious to show the truth.

Gaebler told me "I stand on certainly wanting his opponent to win but mostly I stand on this idea as an elected official of wanting our community to have elected officials who are not above the law and are honorable and have integrity". Gaebler said that if Waller is lying about where he is living there should be recourse. Gaebler told me she is not a nefarious person. Gaebler told me she has information to show that Waller spends most his time at the new residence. Gaebler stated she believed that someone is sub-leasing the rental house (7116 Mustang Rim). I asked Gaebler if she had personally gone to the

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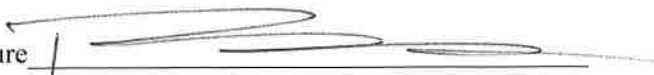
residence and she stated she has. Gaebler explained she had gone to the house and also had spoken to another person who is helping on the investigation side and told me this person helping is Jim Bensberg. Neither Gaebler nor Bensberg observed Waller or his vehicle at the 7116 Mustang Rim address at the times they went. Gaebler told me Bensberg had gone to the house in April and contacted a resident. I asked Gaebler if she had gone to the new residence outside the district (603 Pioneer Haven Pt) and she stated she had gone and had seen Waller's jeep at the residence. Gaebler said she believes this was around December of 2019. Gaebler said she saw a Christmas tree in the window which she also later observed this tree in a Facebook post of Waller's. Gaebler said you could tell it's the same house by the window. Gaebler said that now that she and Bensberg have discovered that they are both separately looking into this, Bensberg told Gaebler he has seen the cars there (At 603 Pioneer Haven Point.) and seen people walking around.

Gaebler then told me she had numerous Facebook photos of Wallers which indicate the pics are taken in the new residence. Gaebler said these photos are helpful in the investigation. Gaebler told me that Waller will probably say that he spends days there with his girlfriend (Rachel Beck). Gaebler then explained to me that she had some questions which would be relevant as she shared with me that she would like me to speak with neighbors, check utility bills, amazon delivery, if there's a sub-lease, if someone else is living in the residence, etc. Gaebler said she would send me a detailed list which she later did. Gaebler then told me that there are pictures of a Super Bowl Sunday party that Beck posted in which another county commissioner (Kami Brimer) is at the residence with Waller and Rachel. Gaebler told me she would later send all the photos and information she had.

Gaebler said that the other issue she has is that Waller is either committing fraud by living in the new residence or not because the new residence is purchased on a Veterans Affairs loan which she states requires the home owner to move in to the residence of the Veterans Affairs loan within 60 days. Gaebler said it concerns her because he is committing fraud either way. Gaebler said she would also send the VA loan to me as well.

I asked Gaebler about Bensberg and she told me the following: Gaebler said she only started talking to Bensberg a couple weeks ago. I asked Gaebler if she knew Doug Bruce and she stated she knew of him but is not friends with him, only work related. Gaebler said she had not spoken to Bruce about this. I asked Gaebler what kind of relationship she has with Bensberg? Gaebler described their relationship as professional. I asked Gaebler who else she has told this information to. Gaebler said the only other person is Sara Cutter who is the campaign manager for Michael Allen. Gaebler said she knows they are not involved in the complaint but Gaebler let Sara know she (Gaebler) is looking into this. I asked Gaebler if she knew Helen Collins and she stated she did. I asked Gaebler if she spoke to Helen about this and she stated she has not.

I asked Gaebler if there was anything else that we haven't talked about and she said there was not. I provided Gaebler with my contact information including my email. Gaebler later sent me the information we spoke about. I then concluded my interview with Gaebler. The conversation was audio recorded and later entered in to the case file.

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Gaebler sent me emails containing numerous items including; photos of the 7116 Mustang Rim address, numerous screenshots of Facebook posts, Copy of the deed of trust for 603 Pioneer Point, and a screenshot of an assessor record for 603 Pioneer Point.

I attempted to contact Waller through email. Through a return email, I learned Waller had Counsel (Robert Gardner). Waller and Robert agreed to speak with me on May 11, 2020 via telephone. Prior to this interview Waller agreed to send me numerous documentation relating to his residency. I reviewed the following documents:

1. Verizon Billing statement addressed to Mark Waller at 7116 Mustang Rim Dr.
2. 1st Bank Check in the name of Donald Mark Waller made out to A1 Property with a date of Oct 1, 2019 in the amount of \$1,915.00 (Which is the amount for rent at the 7116 Mustang Rim Dr. address)
3. 1st Bank Check in the name of Donald Mark Waller made out to A1 Property with a date of Nov 1, 2019 in the amount of \$1,915.00 (Which is the amount for rent at the 7116 Mustang Rim Dr. address)
4. 1st Bank Check in the name of Donald Mark Waller made out to A1 Property with a date of Dec 1, 2019 in the amount of \$1,915.00 (Which is the amount for rent at the 7116 Mustang RimDr.address)
5. 1st Bank Check in the name of Donald Mark Waller made out to A1 Property with a date of Jan 1, 2020 in the amount of \$1,915.00 (Which is the amount for rent at the 7116 Mustang Rim Dr. address)
6. 1st Bank Check in the name of Donald Mark Waller made out to A1 Property with a date of Feb 1, 2020 in the amount of \$1,915.00 (Which is the amount for rent at the 7116 Mustang Rim Dr. address)
7. A Lease agreement between A1 Property and Donald Mark Waller dated June 1, 2019 extending to May 31, 2020 for the residence at 7116 Mustang Rim Dr. Colorado Springs, CO. The lease agreement indicates a sum of \$1915.00 (Which matches payment in the above checks).

(The above checks are pictures of the check and not the financial institution records)

8. A Colorado Drivers License for Donald M. Waller with a listed address of 7116 Mustang Rim Dr.
9. Republican Party mail addressed to Donald M. Waller at the residence of 7116 Mustang Rim Dr.
10. OneMain Financial Mail addressed to Donald Mark Waller at 7116 Mustang Rim Dr.
11. A Colorado Vehicle registration for a 2017 Gray in color Jeep Wrangler, registered to Donald M Waller at an address of 7116 Mustang Rim Drive. (Expiration 08-31-19).

On May 11, 2020 at approximately 1033 Hours, I conducted a phone interview with Mark Waller in the presence of his counsel Robert Gardner. I advised Waller the reason for contact (residency). I asked Waller where he currently lives and he replied 7116 Mustang Rim Drive Colorado Springs, CO. I asked Waller to tell me about the property of 603 Pioneer. Gardner paused the interview at this time due to a misunderstanding of what the investigation was regarding. I advised Gardner the reason for contact. Gardner requested DA Chostner to get clarification which I agreed. I advised Gardner of C.R.S. 30-10-

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306 was the basis of the complaint. I then requested DA Chostner speak with Gardner for clarification. DA Chostner briefly spoke with Gardner and explained the reason for the investigation. Waller and Gardner then agreed to speak with me in the matter. DA Chostner then left the room while I conducted my interview.

I asked Waller if he lived at 7116 Mustang Rim Drive to which Waller explained "Yes" and advised me that a reporter contacted him at this residence. I asked Waller to tell me about the property at 603 Pioneer. Waller said he purchased a property at Pioneer Haven Pt. I asked what he considers to be his residence to which he replied "7116 Mustang Rim Drive". I confirmed with Waller that he provided me numerous documents in regard to Mustang Rim Drive.

I advised Waller that part of the complaint was that someone believed Waller lived at 603 Pioneer because there was a Facebook post in December of a Christmas tree. Waller said that his "significant other" rented an apartment downtown while he was renting at the 7116 Mustang Rim Dr. Waller said they decided to consolidate. The management at 7116 Mustang Rim did not allow pets. They began looking for houses. They found the 603 Pioneer property and fell in love with it. The property was purchased and Waller's significant other lives at the residence on Pioneer. Waller explained that he stops by and sees her and spends time with her at the 603 Pioneer residence. Waller said "It was absolutely my intent to stay at 7116 Mustang Rim Dr." Waller said he can provide photos of him at the Mustang Rim Drive residence recently. Gardner interjected and explained to me that in 2008 Waller challenged Bruce in a primary election. Gardner advised that Bruce has animosity toward Waller and this may be motive for the allegation. Gardner advised me there may be a political aspect to this matter. I then concluded my interview with Waller. The interview was recorded and later attached to the case file accordingly.

On May 15, 2020 I proceeded to 7116 Mustang Rim Dr. located in the City of Colorado Springs, County of El Paso, State of Colorado. I attempted to contact the resident of the address with a negative answer at the door. There was silver in color Nissan sedan (Bearing Colorado license plate KMO-214) parked in front of the residence. Thorough a computer check I later observed this vehicle was registered to a Garret Smith at an address of 5310 Whip Trail. I then attempted to contact the residents of 7122 Mustang Rim and 7128 Mustang Rim with negative answer. I attempted to contact the resident of 7110 Mustang Rim. At this address I contacted a male subject, Scott Warner DOB: 02-13-67. I asked Scott if he knew who lived next door to him at 7116 Mustang Rim. Scott replied "Doug Waller". Scott explained that Waller has lived at the residence as long as he (Scott) has lived in the area since approximately August of 2018. I then contacted the resident of 6705 Indian Feather Drive located across from 7116 Mustang Rim. I contacted a female subject, Sylvia Moynihan DOB: 07-15-63. Sylvia explained she did not know many of her neighbors and described staying to herself. Sylvia stated she believed two males lived at the residence. Sylvia said she could not even tell me what they look like. I asked Sylvia if she sees any particular vehicles there all the time to which she replied "A black or gray Jeep". Sylvia did not have any further information.

I then proceeded to the area of 603 Pioneer Haven Point in Palmer Lake. I attempted to contact the resident of 605 Pioneer Haven Point with negative answer at the door. I then contacted the resident of

Signature



Investigator

602 Pioneer Haven Pt. I identified myself to the resident, a male subject, Richard Huber DOB: 12-28-72. I asked Richard if he knew who lived at 603 Pioneer Haven Pt. to which he replied Mark Waller and his wife or girlfriend. Richard explained that he sees Waller at the residence every day and over nights. Richard explained that he believed Mark lives at the residence. I then explained to Richard that I was conducting an investigation relating to Wallers residency. I asked Richard if he knew of any other property or residence Waller has and he stated he did not. Richard did not have any further information.

On May 19, 2020 at approximately 1130 Hours I again proceeded to 7116 Mustang Rim Drive in an attempt to contact the resident (Possible roommate of Mark Waller). As I approached the front walkway, I could observe a male figure walking inside the residence past the front glass portion of the door. The front window was partially open, and I could hear the dishwasher was on. I rang the doorbell with negative answer. I knocked several times with negative answer. I again observe the silver Nissan sedan parked in front of the residence. At the time of this report I have not been able to contact anyone at the residence of 7116 Mustang Rim Dr.

Through my investigation I learned the following. The original Complainant Doug Bruce filed with the 4th Judicial District, who due to a conflict of interest, filed a motion to have the matter sent to the 10th Judicial District. An El Paso District Judge granted the motion and assigned the 10th Judicial District to investigate the matter. In his complaint, Bruce alleges that County Commissioner District 2 Mark Waller moved from his residence of 7116 Mustang Rim Dr. in Colorado Springs, Colorado in County Commissioner District 2 to a new residence of 603 Pioneer Haven Point. (outside of District 2).

Doug Bruce obtained this information from Jim Bensberg. Bruce was asked by Bensberg to file the complaint and keep his name out of it, which he agreed to do. Bruce states he did not obtain this information personally and had no knowledge whether or not Waller had moved. Bensberg and Jill Gaebler had heard that Waller had moved out of his district months prior to this complaint and both began looking in to the matter unbeknown to each other.

Waller admits to purchasing the property outside his district and states that his "significant other" lives in that residence. Waller states he spends time at the new residence. Waller states he considers 7116 Mustang Rim his residence. Waller explains he was going to remain at the 7116 Mustang Rim. Waller provided numerous documents listing his residency at the 7116 Mustang Rim address including a lease, checks for rent, mail, Colorado Drivers License, and Vehicle Registration. Neighbors at both locations were contacted. At both locations, neighbors believe Waller resides as their neighbor.

This is a summary of my investigation. No further information at this time.

Signature 
Investigator