

STATE OF FLORIDA,
Plaintiff,

Case No. F16-25383

v.

VANESA BARCELO,
Defendant

DEFENSE PRE-FILE MEMORANDUM

The Defendant, Vanesa Barcelo, through counsel, offers this Memorandum and accompanying Defense Exhibits to the Office of the State Attorney in support of Ms. Barcelo's request to the Office of the State Attorney to decline any charges against her, and in the alternative, to actively pursue an investigation against Dave Duperon for Sexual Battery and/or Attempted Sexual Battery on an Incapacitated Victim, and for Trespassing After Warning.

I. Defense Proffer - Factual Summation

Vanesa Barcelo (hereinafter "Vanesa") is the owner of a small successful cake business named "One Love Cakes" which focuses on providing customers high quality cakes and similar baked goods for special occasions. Vanesa also competes as a beauty pageant contestant. Vanesa previously worked full-time at Mango's in addition to maintaining her cake business and competing in beauty pageants; however, she recently stopped working full time, and was focusing her energy on growing her cake business and competing in pageants. On December 21, 2016, Vanesa Barcelo hosted an "ugly sweater party" to promote her cake business and also to celebrate the holiday season.

Vanesa hosted the promotional "ugly sweater party" at her home in Hialeah, Florida. Vanesa owns this home herself, having purchased it in May of 2015. Vanesa is single and lives in the home alone. To prepare for the holiday promotional party, Vanesa and others baked a number of cakes and other baked goods, and she ordered a large canvas that included her cake

business's logo all over it for promotional purposes. The canvas was placed against a wall in the home, and the goal was for party attendees to take photos in front of the canvas in a "red-carpet" style venue, which would result in the businesses' logo being shared through photos and videos on Facebook, Instagram, and Snapchat. It was Vanesa's intention to promote her business this way.

Vanesa invited a number of family members, friends, coworkers, former coworkers, and former customers to this promotional event. One acquaintance invited to the party was Dave Duperon. Vanesa met Dave at the Clevelander in early 2015. They spoke on that day and there was no further meaningful contact between the two until July of 2015, which is when Dave was promoting a bikini contest at a Miami night club. Vanesa saw the advertisement for the bikini contest and reached out to Dave asking to participate, which she did. Other than those two occasions Vanesa never saw Dave again or had any meaningful contact or communication with him until the day of the promotional "ugly sweater party."

Vanesa knows that Dave is both a DJ for Power 96 and also that he does MC work at The Clevelander on South Beach, so on the morning of December 21, 2016, she invited him to the party through Instagram hoping that he would attend and that he would promote her cake business on social media by taking a picture in front of the canvas wall with her business logo. If a quasi-local-celebrity like Dave were to promote her business it could pay great dividends, so she invited him on December 21, 2016.

The party started at 7 pm. Dave arrived to the party between 10 and 11 pm. Dave arrived to the party with a friend and began passing out shots to a number of people at the party. Dave made rounds around the various groups at the party, very socially introducing himself to the

other party-goers and aggressively asking them to drink and dance with him because of his intoxicated state.

Just before 1:00 am, Vanesa's cousin T T began to exhibit signs of being very tired and feeling sick. These symptoms occurred very quickly. This behavior was not typical of T T At approximately 1:00 am, Vanesa's parents and her older sister and brother-in-law began preparing to leave the party. However, prior to leaving the party, Vanesa's father, Mr. Barcelo, and Vanesa, tried to get T to throw up, hoping it would make her feel better. T was unable to throw up, so Mr. Barcelo laid Vanesa's cousin T down on the couch in the downstairs living room and put a blanket over her. T began to sleep on the couch.

A short time later, Vanesa was talking to her younger sister, Jessica, and a few of Jessica's friends who attended the party. They are all listed below. At that time, Dave walked over to Vanesa and asked her where T was. Vanesa responded that T was "passed out" on the couch and Vanesa told Dave to leave Vanesa alone. Dave responded by saying that he was going to check on her. Moments later, Vanesa, while in her kitchen, observed Dave walk over to T, wake her up, and carry her into the downstairs bathroom. He closed the door behind them. At this point, Vanesa ran over to the bathroom, opened the door, and walked in. Note: this downstairs bathroom had a shower inside of it.

When Vanesa opened the door, T was lying on the floor with her head bobbing in and out of consciousness/sleep near the toilet bowl. Vanesa grabbed T head and neck and began to shake T while telling T to put her head over the toilet. At this time, T threw up on herself. It should be noted that T only threw up on her arm as she attempted to throw up into the toilet. As Vanesa was holding T head up, Dave began to rub Vanesa's leg. Dave said "don't worry I do this all the time," speaking about T intoxication. Vanesa was creeped out

by this and told Dave that she would be right back. Vanesa ran out of the bathroom and grabbed paper towels and gave them to Dave to wipe the vomit. Vanesa then told Dave to stay in the bathroom or put her back on the couch and that she would be back in a moment after she said goodbye to her younger sister Jessica and her friends, who were leaving the party.

Moments after Vanesa left the downstairs bathroom to say goodbye to her sister, Dave walked out of the bathroom with T lying over his shoulder. T was sleeping or unconscious and was literally thrown over Dave's shoulder like a dead carcass being carried by a hunter. T feet were dangling in front of Dave as her head hung by Dave's lower back, bobbing as Dave walked. T hair hung straight down by Dave's upper legs. A number of people witnessed Dave carrying T seemingly unconscious body over his shoulder as he walked out of the bathroom and carried her as she remained sleeping or unconscious across the room and upstairs.

Dave proceeded to carry T in an unconscious or sleeping state upstairs. One of the women at the party noticed this and alerted Vanesa as to what was occurring. At that moment, Vanesa told her sister Jessica and her friends not to leave the party. She said she'd be right back to walk them out after she checked on why Dave had carried T upstairs against her instruction.

Vanesa rushed upstairs and noticed that Dave had not taken T to the upstairs bathroom right at the top of the stairs. Instead, Dave took T to the most secluded bathroom in the entire house, the master bath connected only to the master bedroom. Vanesa rushed into her master bedroom and into the master bathroom. The bathroom door was closed. When Vanesa pushed open the bathroom door, only a dim light was on in the bathroom, the shower door was open, and the bath water was running. Vanesa immediately turned on the bright bathroom light.

The bright light momentarily awoke and startled Tessa, who was completely slouched over the bathroom sink, sleeping, so Vanesa turned the bright light back off.

As Vanesa walked into the bathroom and saw Tessa, she noticed that Dave had taken Tessa's shirt completely off. Tessa had only a bra on to cover her upper body. Vanesa yelled at Dave, "what are you doing!?" Dave said that he was going to give Tessa a shower. Vanesa responded "no way," "she doesn't need a shower" and she asked that Dave leave the bathroom and go downstairs. Dave refused to move and said that Tessa needed a shower because she threw up on her arm. Vanesa responded that Tessa only needed to have her arm and her hands washed, and she told him that Tessa could wash her hands and arm in the sink, and it was needless for Dave to undress her.

Vanesa grabbed for a shirt from her closet, which is directly next to the bathroom, and put it on Tessa. This was a long sleeve gray and pink Victoria's Secret shirt from Vanesa's closet. As Vanesa put the shirt on Tessa she forcefully told Dave that Tessa is not taking a shower, that Dave is a man who barely knows Tessa and that he has no place taking her clothes off and seeing her naked body. Vanesa said that they need to put Tessa in Vanesa's bed, where Vanesa's friend Alexis (Lexy) was already fast asleep. Dave became verbally aggressive and told Vanesa that he had to give Tessa a shower. Vanesa became very uncomfortable and began to feel threatened at that point because Dave was not listening to her and was getting louder. At that point, Vanesa came to the conclusion that Dave was intoxicated and wanted to get Tessa naked. Vanesa told Dave to come downstairs with her so they can get a female friend to help with Tessa, and not Dave. Dave refused, so Vanesa told Dave to leave Tessa alone in the master bedroom and that she would be right back with a female friend to help Tessa.

Vanesa rushed downstairs, but not only to get a female friend to help with T she also wanted to get male friends to help with getting Dave to leave the master bedroom and the party. When Vanesa left the upstairs mater bathroom, T had on her pants and the long sleeve shirt that Vanesa had put on her.

Vanesa approached her friends Gabrielle (Gaby) Brennans and a male named A.M., an adult, and asked for help with T upstairs. Vanesa told them to creep upstairs so they didn't alert Dave that they were coming. When Vanesa, Gabrielle, and A.M. got to the master bedroom, they noticed that the door to the master bathroom was closed. Vanesa grabbed the doorknob to open the door, and it was locked. The three of them began banging on the master bathroom door while yelling "open the door." Approximately one minute passed until Dave finally opened the bathroom door. When the door was unlocked Vanesa pushed the door open, and Vanesa, A.M. and Gabrielle all observed T lying on the floor, either sleeping or unconscious, with her eyes closed shut, and with her pants completely off. The shower was running. When Vanesa left the room a minute or minutes earlier, T was in the master bedroom and had on jeans and was wearing her heels.

Not only were T pants off while she was sleeping or unconscious on the ground, but T underwear was wrinkled and rolled up. The underwear was form fitting underwear, and the fact that it appeared so messy and rolled up caused Vanesa, Gabrielle and A.M. to conclude that Dave had taken off T pants and underwear when Vanesa left and when the three of them returned Dave had quickly pulled up T underwear as Vanesa and the others stood banging on the door outside of the bathroom.

Upon seeing T lying sleeping or unconscious on the bathroom floor, with no pants on, Vanesa and Gabrielle immediately got on the floor and began to shake T to wake her up.

Vanesa ran to her closet to get shorts to put them on T and Vanesa and Gabrielle then wanted to put T into the bed in the master bedroom. While this was happening, A.M. told Dave that the situation did not look good at all, and that he (Dave) should leave. The look on Dave's face as described by Vanesa, Gabrielle and A.M. was that of a "deer in headlights." Dave appeared scared, "as if he got caught red handed" one witness described. Dave immediately became defensive. Dave said that he didn't do anything wrong and was only trying to help T. A.M. responded that the situation didn't look good for him and that they (Vanesa, Gabrielle and A.M.) would take care of T from there. A.M. asked Dave to leave again.

When asked to leave a second time by A.M., Dave began to yell at A.M. saying, "you don't know what the fuck you're talking about" and he began yelling that he was trying to help T. A.M. told Dave, "it's cool, no one's calling the cops, just leave." Dave still refused to leave. Vanesa then began to tell Dave to leave. Dave and Vanesa then begin arguing. When Dave and A.M. began arguing about Dave having to leave the party, they were in the master bedroom, but the argument continued out into the upstairs hallway because the yelling in the bedroom had awoken Alexis Brown, who was sleeping on the master bed. While Dave and A.M. were arguing outside, Vanesa yelled to A.M. to tell Dave to just leave. A.M. continued to maintain his composure. A.M. tells Dave to leave one additional time, and then Dave begins screaming at A.M. "what the fuck, who are you to tell me to leave." Vanesa hears Dave yelling this and then approached the bedroom door and begins to yell at Dave, saying "this is my house, and I don't want you in my house anymore, just leave." Dave and Vanesa and A.M. all began yelling at this point.

Dave finally agreed to leave, or so everyone thought. Dave began walking down the stairs, and got to the bottom of the staircase when he paused, turned around, rushed back upstairs

and began to pound on the master bedroom door, which had been closed. Dave was yelling "I was only trying to help you." Vanesa and A.M. ran back upstairs after Dave. At this point, another male friend of Vanesa's, J.A., an adult, also ran upstairs to help get Dave out of the house.

At this point Dave is arguing with A.M. and J.A. about Dave needing to leave the party. While this was happening, Vanesa ran downstairs to grab Dave's friend (name unknown, possibly Mallick according to arrest report) to try to get Dave's friend to help the situation and get Dave to leave the house. Vanesa found Dave's friend and asked him to get Dave to leave. Dave's friend was apologizing to a number of party guests for Dave's actions as he walked to Vanesa to help her get Dave to leave. Dave's friend was a nice man by all accounts, and had not been drinking. Dave's friend did not take part in any violent acts directed at anyone at the party. Dave's friend and Vanesa go upstairs and Dave's friend began asking Dave to leave. Dave still wasn't listening.

Finally all of the guys - A.M., J.A. and Dave's friend - convinced Dave to leave. Dave was still in an aggressive and excited state, and he was arguing that he did nothing wrong, but he proceeded to walk back down the stairs. At this point, a crowd of party guests had gathered in the living room towards the bottom of the stairs because all of them were watching Dave's loud, aggressive, non-compliant behavior. When Dave got to the bottom of the stairs and took a step toward the front door, a wall of party guests literally formed behind him because now just about everyone inside the house at the party was watching this unfold and wanted Dave gone to end the turmoil.

As Dave was walking toward the front door he continued to be loud and aggressive, yelling that he did nothing wrong, and yelling insults about Vanesa for throwing him out. While

Dave walked toward the door, A.M. had placed his hand on Dave's upper back and was walking behind him, ensuring that he would leave. A.M. did not shove or punch Dave, he simply had his hand on the back to ensure Dave left. When Dave got about half way to the front door, Dave spun around and tried to swat away A.M.'s hand as he yelled, "don't fucking touch me." Dave turned around and began to walk toward the staircase and toward the crowd of party guests that was watching this unfold.

When Dave spun around aggressively and began to walk back into the party – after yelling insults about Vanesa for throwing him out – Jessica Barcelo, Vanesa's younger sister, was close to Dave. Vanesa's younger sister Jessica was born with _____ and is confined to a wheel chair for most of the day. Seeing how close Dave was to her sister Jessica, Vanesa immediately turned to her closet and grabbed a softball bat. She was prepared to defend herself and her sister Jessica if Dave got more violent. Dave is a large muscular man and was acting violent and crazy at this point. Vanesa was a star softball player, and still plays softball with friends on occasions, which is why she as a female owned the bat.¹ While Dave continued arguing with A.M., J.A., and other guests at the party, Vanesa stood in her living room holding the bat by her side, and continued yelling at Dave, ordering him to get out of her house.

Dave finally turned around and began to walk towards the front door. Dave walked out of the front door of the house and began walking toward the street. At this point a number of guests at the party followed Dave outside to ensure that he actually left. Dave walked toward the driveway and then turned around, yelling "fuck you Vanesa," and he took a few steps back

¹ The officer who responded and wrote the horribly inaccurate police report made comments to Vanesa that she had no need for a bat in her home because she was a female who lived alone. These comments are sexist and have no place in our society, let alone coming from the mouth of the police officer charged with investigating the commission of a serious crime.

toward the house. At that point in time, Vanesa, intimidated by and in fear of her safety being threatened by this large, drunken, aggressive man, held out her softball bat in front of her, pointing it at Dave (similar to the way a fencer would hold out a sword at the beginning of a fencing match) and yelled for Dave to get the hell off of her property and away from her house. Vanesa never swung the bat at Dave, nor did she ever touch Dave with the bat in any way. Dave jumped at Vanesa and forcefully ripped the bat right out of her hands.

At this point, Dave raised the bat above his head and started swinging the bat wildly, repeatedly, at Vanesa and the other party guests trying to get him to leave, yelling "get the fuck away from me," as he took another step toward the house, which was also the direction of where Vanesa was standing. Vanesa retreated a few steps back towards her front door and a number of the guests at the party step forward and begin yelling for Dave to drop the bat. At this point the scene outside was complete chaos. Dave continued to swing the bat wildly when A.M. and J.A. began to walk towards Dave, yelling for Dave to drop the bat. Dave refused to drop the bat, so A.M. tried to grab it. Dave struck A.M. with the bat in the area of his wrist/forearm and caused a serious injury. A.M. stumbled in pain. J.A. then stood across from Dave and was ready to try to disarm Dave as well, if needed, while other party guests continued to yell at Dave to drop the bat. At this point, with the scene loud and chaotic, a number of witnesses give slightly differing accounts, likely because of what they were focusing on as the chaos ensued.

At some point during Dave's wild swinging of the baseball bat, Tony Gomez, a security guard for the community, who had responded to Vanesa's house due to the guests parking their cars in the wrong areas of the block, also began to yell for Dave to drop the bat. Other guests at the party continued to yell for Dave to drop the bat as well. While this was all occurring, J.A. stood face to face with Dave, squared up and ready to fight Dave and/or try to disarm Dave if

necessary, as Dave held the baseball bat. At this time, A.M., who had been struck with the bat and stumbled seconds earlier, returned from behind Dave and swung a punch at Dave while Dave was focused on J.A. or on another guest at the party. Dave was struck once in the face by A.M., who was defending Vanesa, J.A., and other guests at the party from Dave's violent, aggressive, drunken, threatening behavior. Dave fell to the ground and Vanesa and a number of other party guests rushed in to ensure that Dave no longer possessed the bat. At this point, the threat of Dave becoming violent was neutralized and everyone stepped back. J.A. and others continued to tell Dave to leave.

At this point, Dave got up and walked away while screaming obscenities at Vanesa, including, but not limited to calling her a slut, a whore, Hialeah trash, and screaming that they met at a twerking contest and she's trash.

Eventually police responded. The officer who led the investigation had no patience in speaking with Vanesa or any of her party guests. The information in the A form, as an independent pre-file investigation by the Office of the State Attorney will show, is wildly inaccurate. The officer took Dave's statement first, because Dave was the most injured of the people at the scene. The officer eventually spoke to Vanesa, however, he had no patience with her, repeatedly telling her to get to the point as she tried to explain the entire story. As the cop continued to cut off Vanesa, she became flustered and said that she needed a drink of water to calm down. The officer cuffed Vanesa and forced her into the back of his cruiser prior to ever hearing her story. He did this because after she asked to drink a glass of water she turned to walk inside her house to pour herself a glass of water. The officer screamed at her and cuffed her immediately. She was never given the opportunity to tell her story to this officer. Vanesa's friends began to try to speak with the officer, however, the officer was not listening to anyone.

The officer's response was that Vanesa shouldn't have had a party at her house, and she shouldn't have been drinking either.

While Vanesa sat in the back of the police cruiser, almost two hours passed. Vanesa's father returned to the scene because he was notified of the chaos. When he returned he spoke to the officer. He attempted to tell the officer what he had heard, and asked the officer to reconsider his decision to arrest Vanesa. When the officer refused, Vanesa's father asked if the officer could take Vanesa to jail and do the report then because it was late and the police presence was embarrassing. The officer responded that he wasn't going anywhere because he didn't want any false sexual misconduct accusations being made against him so he can retire with his pension in a few months. This was clearly an unprofessional and a needless dig at the rape/attempted rape accusation that Vanesa and her guests tried to tell the officer about in relation to T and Dave. This is more proof that the officer either dropped the ball entirely here due to a lack of patience or because simply didn't take the sexual battery/attempted sexual battery accusation seriously.

Having sex with an incapacitated victim is clearly sexual battery, commonly referred to as rape. Digital vaginal penetration, or even digital vaginal union, with an incapacitated victim, is also sexual battery/rape. Whether Bill Cosby, excuse me, Dave, penetrated or touched the vagina of T, or attempted to (after taking her surreptitiously upstairs into the bathroom while she was either sleeping or unconscious, and undressed her) we may never know. However, his intentions were clear, as they were to the party guests who witnessed his disgusting actions at the party that night. Vanesa should have never been arrested. T went to the ER in Miramar later that morning to report the incident and get a rape kit done. The results are pending. Dave needs to be investigated, arrested, and prosecuted for either sexual battery on an incapacitated victim, or attempted sexual battery with an incapacitated victim, and for trespassing after warning.

II. Witness List, Contact Info & Individual Proffers

1. T I

- i. She is a close friend of Vanesa, they refer to each other as cousins because they grew up together. She is the A/V of sexual battery or attempted sexual battery.
- ii. She will state that the blackout that she had that night is unlike any that she's ever had before. Her last memory of that night was around 12:30 am, and she doesn't remember anything until after 4 or 5 am. She will say further that she is very upset with Dave. She will say she's not his friend or acquaintance and barely knew this guy. If she would have asked for anyone's help that night it would have been Vanesa.
- iii. She went to Miramar hospital to report the incident and get the rape kit done.
- iv. Dave texted her on Christmas day. A screen shot of this text was provided to the State as an Exhibit. She did not have his number saved in her phone, she has no idea how he got her number, and she was very creeped out by the text from Dave on Christmas day.
- v. She never had Dave's number in her phone because they were never friends like that. Back in 2010 she worked at Passion nightclub. Dave worked there too. That said, they never hung out socially and barely even saw each other at work. They both worked at Passion for about a year. In that year they never hung out socially outside of work.

- vi. In 2015 she saw Dave at the Cleavelander. They had a quick informal conversation. She never spoke to him personally after that. Dave sent her a private message on Instagram years ago, but she had a boyfriend at the time and wasn't responsive to it. She had never seen Dave at a private party before and she never called Dave personally on the phone.
- vii. She knows that her last memory of the night of the incident was around 12:30 am, because that is when she looked at a text from her ex-boyfriend and got her phone wet, so she put it in rice while at Vanesa's party.
- viii. Although she doesn't recall anything from 12:30 am through 4:00 am or so, when she came to, she did realize that she had completely different clothes on than when she was at the party. She assumed that Vanesa changed her. She later discovered that it was Dave who took off her clothes.
- ix. She had brief conversations with Dave that night on a few occasions, as she did with many other guests at the party. She remembers talking with Alyssa about moving out of her parent's home when Dave first began to speak with her. Later that night they briefly talked about Passion night club and the Hard Rock Hotel.
- x. She took a few shots that Dave poured for her.
- xi. She would not and did not ever give consent to Dave to carry her into any bathroom, to undress her, or to shower her.
- xii. She is a very private person and recently got out of a long relationship with a man whom she was still friendly and communicating with. She

would never knowingly allow another man to do the things that Dave did to her that night.

- xiii. She does not know if Dave inserted his finger into her vagina, or if he touched her vagina. She did have her period, and had a tampon in at the time of the incident. The tampon was still in when she was given the rape kit.

2. Gabrielle (Gaby) Brennans (786)452-6775

- i. She is a close friend of Vanesa Barcelo and was at the party. She observed Dave carry T upstairs while she was either sleeping or unconscious.
- ii. When Vanesa came downstairs to ask for her help, she rushed upstairs with Vanesa and A.M.
- iii. When they got to the master bathroom, the door was locked. They stood banging on the door yelling for Dave to open the door. It took him almost a minute to open the door.
- iv. When Dave opened the door, the lights were dim, the bath was running and T was lying sleeping or unconscious on the bathroom floor.
- v. T had no pants on while she was lying on the bathroom floor either sleeping or unconscious, and her underwear appeared to have been messed with and was wrinkled as if it had been pulled up quickly.
- vi. Gaby noticed that T shirt had been changed too. She focused on helping T as Vanesa and A.M. began to ask Dave to leave.
- vii. She witnessed Dave get loud and angry, and continuously refuse to leave.

viii. She saw Dave's loud, violent, and aggressive actions in repeatedly refusing to leave, while inside and directly outside of the house. She was also focused on helping T so she was not as focused on watching Dave, although she can corroborate many of the relevant points made by other witnesses.

3. Alexis (Lexy) Brown (786)599-6274

- i. She is a close friend of Vanesa. She was at the party and went upstairs well before the chaos to go to sleep in Vanesa's bed in the master bedroom.
- ii. She was woken up by people putting Vanesa's cousin T into the master bed. She began to wake because of this, and when she was fully alert, she observed a lot of commotion in the room. The commotion spilled out into the upstairs hallway. She eventually walked into the hallway and observed Vanesa and Dave arguing. Vanesa was yelling at Dave to leave and Dave was refusing to leave.
- iii. Vanesa was calm, but persistent at first, and then got louder and angrier as Dave got louder and angrier. First Vanesa was saying please leave. Finally Vanesa said "someone please make him leave."
- iv. Dave was arguing with everyone upstairs. Eventually Dave began to walk down the stairs, but then he turned around and rushed back upstairs. Dave's actions put the people at the party in fear for their safety because he was acting like a mad man. Eventually the crowd "herded" Dave downstairs. Then the commotion got bigger.

- v. She couldn't see what happened downstairs but ran to the window upstairs to look outside. When she looked outside she saw Dave swinging a baseball bat at a bunch of people at the party.
- vi. She ran downstairs to the front door to help Vanesa and observed Dave begin to extend the baseball bat in the direction of the security guard and get punched in the face from behind and drop to the ground.
- vii. Vanesa had been drinking but she was not as drunk as the officer made her out to be. She was very angry at Dave and at the officer's not listening to her, which the cop mistook for Vanesa being drunk.

4. A.M. an adult (C/O Defense 1930 Harrison Street #506, Hollywood FL 33020)

- i. He is a friend of Vanesa's. This is the man who went upstairs to help Vanesa along with Gaby Brenanans initially.
- ii. He was getting the phone number of a female guest at the party when Vanesa walked over and asked him for help upstairs.
- iii. A.M. Gaby, and Vanesa rushed upstairs and he witnessed the master bathroom door locked. He stood outside the door with Gaby and Vanesa and they banged on the door until Dave, taking 45 seconds, unlocked the door.
- iv. He observed that T had no pants on when the door was opened. He also said that T was sleeping or unconscious when the bathroom door was finally opened. He saw the bath water running. Finally, he also noticed that T underwear appeared to have been quickly pulled up.

- v. He originally told Dave that “this doesn’t look good for you” and asked Dave to leave. He said Dave’s face became pale as if Dave saw a ghost, and Dave immediately became defensive.
- vi. He later argued with Dave and is a witness to Dave’s repeated refusal to leave and Dave’s violent and aggressive actions detailed above. He remembers that Dave had a sober friend. He does not recall Dave’s friend’s involvement because he was so focused on Dave.
- vii. When Dave began to walk down the stairs he eventually had an anger attack and ran back upstairs and began to scream into the bedroom that he didn’t try to rape T
- viii. When Dave was finally downstairs, the entire party was yelling at Dave telling him to leave. Dave stepped toward the front door and then quickly turned around and began to scream at A.M.
- ix. Vanesa’s younger sister, who is in a wheel chair, was next to A.M. when Dave turned and swatted away A.M.’s arm while yelling. This is when A.M. noticed Vanesa go grab her softball bat.
- x. At that point the entire party had basically formed a wall and began walking toward Dave. Dave finally began to walk out of the house as he continued to yell at Vanesa and the party guests.
- xi. When Dave walked out of the house, A.M. and J.A. walked out to the grass. At that time, they thought he was going to leave. They turned to walk back into the house. This is when they heard more commotion and

turned and saw Dave had taken steps toward Vanesa and her house and ripped the softball bat out of Vanesa's hands.

- xii. At that time, Vanesa was the closest to Dave. Dave began swinging the bat at Vanesa yelling "fuck you Vanesa." Dave then began to swing the bat in the direction of A.M., J.A. and the other party guests as he yelled "get the fuck back."
- xiii. When Dave continued raising and swinging the bat, A.M. ran at Dave and tried to grab the bat. Dave struck A.M.'s forearm with the bat, causing pain and injury. He was struck with the bat and later had to take himself to the hospital to treat his injuries (detail of injury being withheld to protect his identity) which is why he wasn't on the scene when the officer arrived.
- xiv. After being hit with the bat A.M. stumbled and then turned around and observed his friend J.A. square up in a boxers stand with Dave, who still possessed the bat and was still acting like a mad man. He ran at Dave from behind Dave and, in the middle of the commotion, sucker punched Dave while Dave was looking at J.A.
- xv. A.M. was in fear for the safety of his friend and the other party guests and intended to neutralize the serious physical threat that Dave posed to Vanesa and her guests.
- xvi. At the time A.M. swung the one punch, he believed that Dave was still holding the bat as he (Dave) was squared up with J.A. and a number of people were still yelling for Dave to drop the bat. He punched Dave in a sneaky fashion obviously so he wouldn't be struck with the bat again.

xvii. A.M. is willing to cooperate with the State and the Defense has good contact information for him. However, although counsel believes A.M. was acting in defense of others at the party, whom he reasonably believed Dave was threatening, A.M. fears that he may be arrested if he comes forward. He requests an immunity letter prior to giving a statement about this. The Defense recommends speaking with other Defense witnesses prior to A.M. to properly judge the credibility of his anticipated statement.

5. J.A. an adult (C/O Defense 1930 Harrison Street #506, Hollywood FL 33020)

- i. He is a friend of Vanesa's and was a guest at the party. He wasn't supposed to be at the party that night, but decided to attend with A.M.
- ii. He personally observed T passed out on the couch. He later personally observed Dave pick up T and throw her over his shoulder, "like a cave man," and carry her upstairs. When Dave was carrying T she was either sleeping or unconscious. J.A. didn't think it was a big deal because he assumed that the man was T boyfriend or a good friend.
- iii. Someone told Vanesa that Dave carried T upstairs. Vanesa rushed upstairs. He witnessed Vanesa come back down stairs and ask for A.M.'s help. He didn't think it was a big deal, so he remained downstairs when A.M. went up.
- iv. About a minute later he overheard Vanesa yelling "get the fuck out of my house." Jose heard a lot of screaming so he went upstairs. He saw Dave begin to walk down the stairs and then turn around and run back up the stairs screaming T name.

- v. When upstairs, J.A. saw Gaby and Vanesa yelling at Dave telling him to leave. A.M. and Dave were in each other's faces and A.M. was telling him to leave. Dave was being aggressive and loud. J.A. stood next to A.M. and began asking Dave to leave.
- vi. He is a witness to Dave's violent and aggressive actions in repeatedly refusing to leave the party as described above. He was next to A.M. as the two tried to get Dave to leave repeatedly.
- vii. They finally got Dave to go downstairs again, and J.A. thought Dave was going to leave. As Dave walked he was screaming at Vanesa and Vanesa and Gaby were yelling back at Dave telling him to leave.
- viii. When Dave was in the living room area walking toward the front door, A.M. had his hand on Dave's back. A.M. was not punching Dave or shoving Dave, A.M. simply had his arm on Dave's back as he walked behind Dave toward the front door. Dave then exploded in a violent rage and yelled "why the fuck are you touching me?"
- ix. Vanesa's younger sister was in the living room near them when Dave went into this rage. She is in a wheelchair. Seeing Dave's explosion, A.M. and J.A. got in Dave's face and said "what do you mean? Just leave."
- x. When Dave was finally outside of the house, he turned and was screaming feet away from the front door. Dave was screaming at Vanesa and continued to be angry and aggressive as he took a step or steps toward Vanesa and the house. This is when Vanesa took a step toward Dave and pointed her bat at him and said leave my house.

- xi. Vanesa never struck Dave with the softball bat, she just pointed it at him. J.A. saw Dave rip the bat out of Vanesa's hands and began to swing it wildly while screaming.
- xii. He and A.M. rushed to Vanesa's defense. He saw Dave strike A.M. with the baseball bat. A.M. was hurt, and J.A. saw A.M. stumble and people from the party rush to A.M. to check on his condition.
- xiii. Immediately after A.M. was hit with the bat, J.A. was the man who stepped up and squared up with Dave to defend himself, Vanesa, A.M. and other party guests against Dave by trying to get the baseball bat threat neutralized. It was when J.A. squared up with Dave and distracted him that A.M. was able to deal the single blow that finally neutralized Dave. Dave was still holding the bat when A.M. punched him.
- xiv. Dave was knocked down and someone took the bat. A security guard was also there, but didn't do anything to stop Dave. Dave was still aggressive and angry even after he was punched. J.A. told Dave to leave, and eventually Dave began to walk away.
- xv. J.A. was still at the party when the officer arrived. The officer took Dave's statement first. Vanesa started giving her statement and the officer continued to interrupt her saying "get to the point." Vanesa asked for a water break and appeared flustered at the officer not listening to her.
- xvi. Vanesa began to leave to get a glass of water from her house, and the officer cuffed her and arrested her before she could give her statement. He

does not fear prosecution and will be a will cooperate with an investigation by the State.

6. Kiara (Kiki) Edwards (954)245-2689

- i. She is friend's with Jessica Barcelo, Vanesa's younger sister, who is in a wheel chair.
- ii. Jessy's cousin (T) was fine and then one second later she was completely gone.
- iii. T was sleeping on the couch. She sees Dave bring T to the downstairs and Vanesa rush after Dave. Kiara and Jessica and their friends assumed that Vanesa was taking care of T , with Dave's help, at that point.
- iv. She personally observed Dave carrying T upstairs later. It looked like T was either sleeping or unconscious at the time Dave carried her over his back upstairs. She saw Vanesa go up soon after. After going upstairs Vanesa came back down to tell Kiara, Jessica and their other friends to wait to leave so she can walk them out. Vanesa is very protective of Jessica because Jessica is in a wheel chair.
- v. After Vanesa went upstairs Kiara heard screaming and heard Vanesa say "get out of my house right now." She observed Vanesa come back downstairs and ask for help to throw him out of the party.
- vi. She witnessed the commotion inside and outside of the house.
- vii. When Dave was walking out of the house, in the living room, he turned and swung his arm in a rage and was screaming "get the fuck off me."

- viii. Finally Dave walked outside and then went into a rage again.
- ix. Vanesa never hit Dave with the baseball bat. Vanesa just pointed the baseball bat at Dave when he was outside and turned to walk back towards the house, and she yelled at him to leave.
- x. Dave ripped the bat out of Vanesa's hands and began to swing it at her. Vanesa retreated a few steps toward her house, and A.M. ran to Vanesa's defense.
- xi. The security guard was in the area, about a hundred feet away, and did absolutely nothing except watch.
- xii. She didn't see when the punch took place and the bat was either dropped or handed over because of the commotion.
- xiii. After Dave was punched he was calling Vanesa a whore, and also saying that she was a slut and that he met her at a twerking contest.

7. Alyssa Connor (305)794-5930

- i. She is a friend of Jessica, Vanesa's younger sister. She was at the party and spoke to Dave once for about 10 minutes. While speaking to Dave, Dave picked her up and began to dance with her. He did this a number of times in an obnoxious and aggressive fashion. She did not consent to this and thought that Dave was weird.
- ii. She saw Dave dancing near T as well, but that was well before T was very drunk and was placed on the couch by Vanesa's father.
- iii. She personally observed T sleeping on the couch.

- iv. Later she personally saw T getting carried upstairs by Dave. It looked to Alyssa that T was either sleeping or unconscious and was thrown over Dave's shoulder. Dave is a big muscular guy.
 - v. She went upstairs to get Vanesa because security was at the house regarding an issue with the cars of the party guests.
 - vi. When she went upstairs she saw Vanesa in the bathroom arguing with Dave.
 - vii. She saw T and noticed that T shirt had been changed.
 - viii. She also saw Vanesa go downstairs to get her friend to help deal with Dave and help T
 - ix. Eventually she heard a lot of commotion. She heard Dave yelling and heard Vanesa yell "get out of my house." Dave continued to refuse to leave. The party guests "herded" him out of the house.
 - x. Dave began to leave but stopped in the living room and turned and started screaming and swing his arm. That's when she saw Vanesa go and grab a baseball bat.
 - xi. When the commotion went outside, she stayed inside.
8. Mr. & Mrs. Barcelo (Mr. Barcelo (754)581-1877 & Mrs. Barcelo (754)246-0444
- i. Vanesa's parents, both of whom were at the part that night. Mr. Barcelo is the more important person to speak with. He is relevant for the background info, especially because he was the one who laid T on the downstairs couch, sleeping in a drunken state, prior to leaving the party. Before laying T on the couch, he and Vanesa had noticed that she was

not doing well, and brought her outside to try to get her to throw up. When T would not throw up he laid her on the downstairs couch, fully clothed, and also put a blanket on her. T was on the couch when he left the party.

9. Noel & Julie Castellano (786)479-1820 (Noel speaks English but Julie is Spanish speaking only) (786)479-1820

- i. Noel and Julie are married, and are former co-workers of Vanesa. They worked with Vanesa at Mangos. The only people they knew at the party were Vanesa's other former co-workers from Mangos.
- ii. They were outside in the back of the house when they heard and then saw a commotion at the front of the house, so they walked there.
- iii. When they were walking to the front, they observed Dave rip the bat out of Vanesa's hands and begin to swing the bat at everyone at the party while yelling at them.
- iv. Noel is not sure how many times Dave swung the bat, but he estimates that Dave was swinging it and yelling for 3-4 minutes.
- v. Noel and another work friend at the party, Lazaro Davila, were asking Dave to drop the bat. At some point, as the guy was putting the bat down, he was punched in the face at that very second. He was not able to see what else was going on because he was focused on Dave swinging the bat and yelling and the scene was chaotic.

10. Tony Gomez (786)362-0519

- i. He was the security guard who was on duty that night. Company name is Miami Management. He's been there about a year.
- ii. He had never had any problems with Vanesa or her home.
- iii. He got a call from the guard house when he was returning to the guard house that there was screaming outside of Vanesa's house. He was already going to Vanesa's house because people had complained about cars parking in improper places.
- iv. When he was approaching the house he saw a large crowd of screaming people.
- v. He saw a guy with a baseball bat and the guy was swinging the bat at the crowd.
- vi. He never saw Vanesa holding the bat.
- vii. He never saw anyone (A.M.) get hit by Dave with the bat.
- viii. He never saw Vanesa hit Dave in any way, either with a bat or with her fists.
- ix. The security guard was about 100 feet away when he began to yell for the guy to drop the bat. The security guard walked closer as he continued to ask the guy to give him the bat. When the security guard got the bat he turned and then saw the guy that had the bat lying on the ground.

11. Lily Valdes (786)681-3566

- i. Corroboration witness

12. Vanesa Robinson (305)606-1007

- i. Corroboration witness

13. Nelly (a family member of Vanesa's neighbor) (973)960-6926

i. Corroboration witness

14. Erica Melina (214)980-8537

i. Corroboration witness

15. Cathy (305)588-9347

i. Corroboration witness

16. Angel Valdes (305)744-1842

i. Corroboration witness

17. Melissa Gandia & Javier Gandia. (305)924-1324 & Javier ((954)260-0859

i. Vanesa's older sister and brother-in-law. Present at the party that night.

Listed to discuss Vanesa's character and also to talk about the party that evening and Vanesa's intention when planning to host it. They had minimal interaction with Dave and left prior to the incident. Earlier in the night, Dave was drunk and made rude comments to Melissa while Melissa watched her husband playing a video game, but Melissa and her husband Javier didn't think much about it, and another man who was present yelled at Dave and Dave left the room.

III. Defense Exhibits (including but not limited to)

1. A screen shot of the text Dave sent to T T on Christmas day, four days after the incident, wherein he wrote "I'm sure once I tell you what really happen (sic) you will understand how the whole thing got out of hand in the first place. It was all a misunderstanding. *In reality you were asking for my help . . .*

- i. Note: when exactly could T . . . possibly have asked for Dave's help?
When she was sleeping or unconscious? She never asked him for help.
Why would she ask him for help? He is lying in an attempt to cover up for what he either did, or attempted to do to T
2. A screen shot showing Dave's response to a post by a Facebook user named Don Vito. Don Vito had posted "Hope you get better soon homie. Respect for not stone cold stunning her. Lol." In response, Dave wrote, "Dude, trust me I wanted to. *I had the bat in my hands at one point. I just couldn't swing it.* Can't hit a female. . ."
 - i. Note: Dave's statement here is a lie and is inconsistent with a dozen, or more, witnesses, including independent witness security guard Tony Gomez. It must be noted that these Defense witnesses, although party guests, do not all know each other and had absolutely no ability to get together to falsify their stories. Dave is again lying because the truth that he was swinging the softball bat makes him look like a drunken, violent, horrible human being, and justifies the fact that he was punched in the face by a man who was defending others at the party.
3. A screen shot of a conversation on Messenger between Dave and another person. The person wrote "No man undresses a woman he doesn't know. You're sick bro. Trust me the truth is gonna (sic) come out and I was there dork." Dave responded "You (sic) already wrong because I known (sic) T . . . for 6 years *and she undressed herself. . .*"

- i. Note: when exactly could T possibly have undressed herself? When she was sleeping or unconscious? Why would she undress herself in front of Dave? He is lying in an attempt to cover up for what he either did, or attempted to do to T. Note that when Dave wrote that T was “undressing herself” this is inconsistent with Dave texting that T was “asking for Dave’s help,” as he texted T on Christmas day. Note further that Dave never says that Vanesa undressed T
4. A screen shot of the same conversation on Messenger between Dave and another person, later in the conversation. The person wrote, “Says the one that wanted to shower her Haha your so crazy just preparate (sic) you got a serious case.” Dave responded, “I’m not worried whatsoever. **She was trying to shower herself because she throw up all over herself . . .**”
 - i. Note: when exactly was T trying to shower herself? When she was sleeping or unconscious on the downstairs couch? When Dave carried her upstairs sleeping or unconscious and repeatedly tried to undress her? Was she trying to shower herself when Vanesa, Gaby and A.M. rushed to the upstairs master bathroom, which Dave locked, and saw T sleeping or unconscious on the floor of the bathroom with no pants on? T was sleeping or unconscious and was clearly incapacitated when Dave did everything on his own volition to try to get this poor young woman naked and to do whatever else he planned to her. Why would T ever try to shower herself in front of Dave or ask for Dave’s help? He is lying in an attempt to cover up for what he either did, or attempted to do to T

5. A screen shot of a post by Ruth La Mulata-Kindelain on one of Dave's posts on Facebook. Dave had posted a Go Fund Me message to raise money for his hospital bills. In response, Ruth stated, "I just deleted my get well wishes because I found out about him. Unfortunately I had a different perception of him. They should have popped out both his eyes so he can't drop pills on girls (sic) drinks anymore. Fuck YOU Happy busted New year."
 - i. Note: Ruth is not a friend, family member or coworker of Vanesa, and she was not at the party. This post is included here because it may provide a lead to other "Williams Rule" evidence of other times that Dave tried to take advantage of other incapacitated women, which would obviously be relevant to this investigation.

Respectfully submitted,

By: /s/ James DeMiles
James A DeMiles
FL Bar # 15974
The RAIN Law Firm
1930 Harrison Street, Suite 506
Hollywood, Florida 33020
Office: (954)589-1188
Fax: (954)343-1144
JDeMiles@therainlawfirm.com

going through that is good by any means. Speedy recovery homie, keep everyone posted on that GOFUNDME Page.

5 hours ago · Like · 1 · Reply



Vivianne Maduro

Noooo!!!! Im so sorry this happened!!!! Ill be sending you some healing vibes... Hoping for a speedy recovery

5 hours ago · Like · Reply



Kelly Gottlieb

Wishing you a speedy recovery and will keep you in my prayer 🙏🙏🙏🙏

5 hours ago · Like · 1 · Reply



Arlein Pena

DONT feel sorry for this guy. He deserved everything that happened to him for being A sick bastard. Once the real story comes out, you'll realize he isn't the innocent one and that Vanessa was right in defending her self the way she did. He deserves what happened to him. Don't let him fool you ... the truth will come out in court.

47 minutes ago · Like · Reply



Ruth La Mulata-Kindelan

Just deleted my get well wishes because I found out about him. Unfortunately I had a different perception of him. They should have popped out both his eyes so he can't drop pills on girls drinks anymore. Fuck YOU Happy busted New year

3 minutes ago · Like · Reply



Write a comment...



< Requests

Dave Duperon
Messenger



Dave Duperon

1 mutual friend: Jacky Rodriguez

Emcee at Cleveland and Radio Jockey at Power96

Lives in Miami, Florida

6:47 PM

Stay off my page and get your facts straight. You weren't even there. ~~The police know what happen and so does~~
~~I~~ : ~~Ain't nobody take advantage of anyone.~~ Your on the wrong side of this. I don't care if she's your friend or not. Stay out of it because your going to feel real stupid at the end of all this. Stay away from me



Ignore

Accept



Just got home from surgery. I been hearing the allegations. Your cousin aside, I hope you know deep down in your heart that is would never do anything to hurt you or take advantage of you. I consider you a friend and I have a lot of history with you. I know you were completely out of it, but I'm sure once I tell you what really happen you will understand how the whole thing got out of hand in the first place. It was all a misunderstanding. In reality you were asking for my help and I was doing everything I could to help you. It's sucks that we are all in this situation right now. I wish none of us had



100%





first place. It was all a misunderstanding. ~~In reality you were asking for my help and I was doing everything I could to help you.~~ It's sucks that we are all in this situation right now. I wish none of us had to go through this. I got a metal plate put into my face because I had a broken face and orbital socket. ~~I really hope to find the guy who's instigated this whole thing.~~ My face will never be same and I will be recovering and unable to work for the next 3 months. Either way, Merry Christmas. May the lord guide us all.



The sender is not in your contact list.
Report Junk



Message



133 people reacted to this.

Done



Welly Fernandez

Yoo just saw the news bro sucks that it happened...this what happens when you give good dick to the wrong ppl #pause lol they get hooked lol hope u recover soon fam.

Like · 👍 1 · Reply · More · 5 hours ago



Don Vito

Hope you get better soon homie 🤝 respect for not stone cold stunning her. Lol

Like · 👍 1 · Reply · More · 5 hours ago



Dave Duperon

Dude, Trust me I wanted too. I had that bat in my had at one point. I just couldn't swing it. Can't hit a female. Had to take the "L" like a man. Smh. I'll handle it in court though

Edited · Like · 👍 3 · Reply · More · 5 hours ago



Don Vito

Smart man!

Like · 👍 1 · Reply · More · 5 hours ago



Write a comment...

Post

< Home (4)

Dave Duperon >
Messenger

No man undresses a women he doesnt know .. you're sick bro Trust me the truth is gonna come out. And I was there dork

Your already wrong because ~~known~~
~~for 6 years and she undressed~~
~~herself.~~ Your already wrong about 2 things. Imagine what else your wrong about. Trust me



Says the one that wanted to shower her haha your so crazy just preparate you got a serious case



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123



espacio

intro

< Home (4)

Dave Duperon >

Active now

Says the one that wanted to shower her ... haha your so crazy just prepárate you got a serious case

I'm not worried what so ever. ~~She was trying to shower by herself because she~~ throw up all over herself because she drank to much. If you were there taking care of her instead of me then maybe you would know the facts. I have zero worries on my mind. Only thing I did is stop her from breaking her face on the tile because she kept falling over. Thank god I was there.



I have nothing else to say to you.



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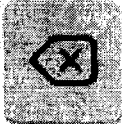
C

V

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123



espacio

intro

130 people reacted to this.

Done



Cristian TheManor Toro



Like · 👍 1 · Reply · More · 5 hours ago



Ralph Capdevila

God Bless, let me know if you need anything brother

Like · 👍 1 · Reply · More · 5 hours ago

Dave Duperon replied · 1 reply



Leo Chavez

Damn bro hope recover quick and finish the job with that hialeah trash and her friend / put them in jail !!!!

Like · 👍 2 · Reply · More · 5 hours ago



Dave Duperon

Trust me I will! Thanks my bro

Like · Reply · More · 5 hours ago



Write a reply...

Done



Write a comment...

Post


133 people reacted to this.

Done



Dominique Dunn


I was wondering, smh I hope the bitch get what she deserves...acting like that smh

Like ·  1 · Reply · More · 2 hours ago



Jen Jen Panetto


Feel better soon..

Like ·  1 · Reply · More · 2 hours ago



Tony Tone

What no way . Get better brother . And sue the f out of her .

Like ·  1 · Reply · More · 1 hour ago



Dave Duperon

Already on it papa. Thankyou

Like · Reply · More · 50 minutes ago



Write a reply...

Reply



Veronica Adames

Omg I'm so sorry you had to go through this hun



Write a comment...

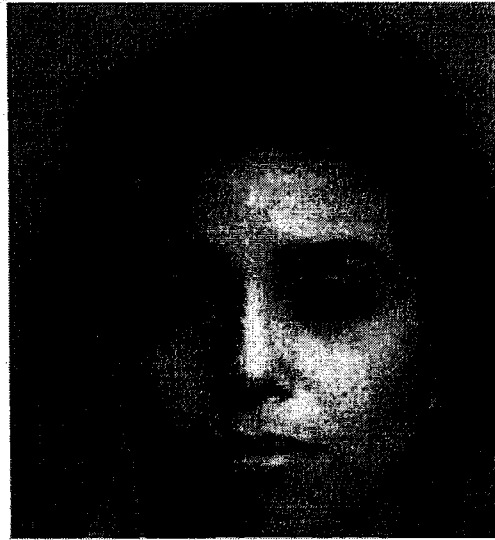
Post



Dave Duperon

2 hrs · Hialeah, FL, United States ·

For those of you asking why I got surgery on my face:



VIDEO: Florida Beauty Queen Arrested, Charged With Attacking Local Radio DJ At Her Home |
spacecoastdaily.com

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72

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